

CODIFIED ORDINANCES
OF
SHELBY
MICHIGAN

Current through November 1, 2015

CERTIFICATION

We, Paul Inglis, President, and Julie Schultz, Clerk, hereby certify that the general and permanent legislation of the Village of Shelby, Michigan, as revised, arranged, compiled, numbered, codified and printed herewith in component codes, is correctly set forth and constitutes the Codified Ordinances of the Village of Shelby, Michigan, 2000, current through November 1, 2015.

/s/ Paul Inglis
President

/s/ Julie Schultz
Clerk

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VILLAGE OF SHELBY
DIRECTORY OF OFFICIALS
(2015)

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AMERICAN LEGAL PUBLISHING
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to

all officers and employees
who assisted in the preparation
of these Codified Ordinances.

ORDINANCE NO. 2000-01

AN ORDINANCE TO APPROVE, ADOPT AND ENACT THE CODIFIED ORDINANCES OF SHELBY, MICHIGAN, 2000, BEING A CONSOLIDATION, CODIFICATION AND REVISION OF THE GENERAL BODY OF VILLAGE ORDINANCES; TO REPEAL ORDINANCES IN CONFLICT THEREWITH; AND TO APPROVE, ADOPT AND ENACT NEW MATTER THEREIN.

WHEREAS, Council has had the matter of codification and general revision of the ordinances before it for some time; and

WHEREAS, it has heretofore entered into a contract with The Justinian Publishing Company to prepare and publish such codification and general revision; and

WHEREAS, the codification and general revision of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed, are before the Council; now therefore

THE VILLAGE OF SHELBY ORDAINS:

Section 1. The ordinances of the Village of Shelby, Michigan, of a general and permanent nature, as revised, codified, arranged and consolidated into component codes, titles, chapters and sections, are hereby approved, adopted and enacted as the Codified Ordinances of Shelby, Michigan, 2000.

One book-form copy of the Codified Ordinances shall be certified as correct by the Village President and the Village Clerk, attached to this ordinance as a part hereof, and filed with the permanent records of the Village of Shelby, Michigan.

Section 2. All ordinances or parts thereof enacted prior to January 1, 2000, which are inconsistent with any provision of the Codified Ordinances, are hereby repealed as of the effective date of this ordinance, except as follows:

- (a) The enactment of the Codified Ordinances shall not be construed to affect a right or liability accrued or incurred under any legislative provision prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purposes of revision and codification.

- (b) The repeal provided above shall not affect:
- (1) The grant or creation of a franchise, license, right, easement or privilege;
 - (2) The purchase, sale, lease or transfer of property;
 - (3) The appropriation or expenditure of money or promise or guarantee of payment;
 - (4) The assumption of any contract or obligation;
 - (5) The issuance and delivery of any bonds, obligations or other instruments of indebtedness;
 - (6) The levy or imposition of taxes, assessments or charges;
 - (7) The establishment, naming, vacating or grade level of any street or public way;
 - (8) The dedication of property or plat approval;
 - (9) The annexation or detachment of territory;
 - (10) Any legislation enacted subsequent to January 1, 2000.

Section 3. All sections and subsections in the Codified Ordinances without a legislative history or with the words "Adopting Ordinance" at the end thereof are or contain new matter ordained by this ordinance, which new matter was found to be necessary to properly update and revise the legislation of the Village to conform to current practice and to render the legislation internally consistent. The following sections and subsections in the Codified Ordinances are or contain new matter and such sections and subsections are hereby approved, adopted and enacted.

- 202.01 Designation; citation; headings.
- 202.02 Amendments and supplements; numbering.
- 202.03 Definitions and interpretation.
- 202.04 Separability.
- 202.05 Sections and ordinances repealed.
- 202.06 Exemptions from repeal.
- 202.99 General Code penalty; complicity; Municipal civil infractions.
- 410.01 Adoption (of Uniform Traffic Code) by reference.
- 410.02 Governmental unit defined.
- 410.03 Publication of chapter and notice; file and distribution copies.
- 410.04 Amendments.
- 420.03 Deposit of ashes, rubbish, debris or snow in streets and alleys.
- 420.04 Through traffic stop streets.
- 420.99 Penalty.
- 430.99 Penalty.
- 440.01 Operation on sidewalks.
- 440.99 Penalty.
- 450.04 Parking near fire hydrants or ambulance garage.

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- 450.05 Parking on First Street.
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- 610.01 Running at large.
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- 1020.02 Notice to build or rebuild; condemnation.
- 1040.01 Water roll; collection of charges; penalty and shut-off for delinquent payments.
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- 1420.03 File and distribution copies.
- 1420.04 Conflicts of laws.
- 1420.05 Enforcing agency.
- 1420.99 Penalty.

Section 4. The following technical code, adopted by reference in the Codified Ordinances, is hereby approved, adopted and enacted: The State Construction Code. The purpose of this Code is to provide construction and material specifications for all occupancies named in such Code.

Printed copies of such Code shall be kept in the office of the Village Clerk available for inspection by and distribution to the public at all times. A complete copy of such Code is available for public use and inspection at the office of the Village Clerk.

Section 5. This ordinance shall take effect twenty (20) days after publication thereof.

Passed and approved at a regular meeting of the Village Council of the Village of Shelby, Michigan, held in the Council Chambers in said Village on the 10th day of April, 2000; and ordered published in Oceana's Herald Journal in its issue of April 20, 2000.

Countersigned:

Betty L. Poort /s/
Village Clerk

Jack H. Cheever /s/
Village President

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EDITOR'S NOTE

The numbering system used in these Codified Ordinances is consistent with the best accepted practice for codification. Each section is self-identifying as to code, chapter and section number. For example, 238.02 indicates that the code number is 2, the chapter number is 238 (or the 38th chapter within code 2), and the section number is .02. The code and chapter numbers appear left of the decimal, with the code number preceding the first two digits left of the decimal, and the chapter number being the first two digits left of the decimal. The section number appears to the right of the decimal. As another example, 408.01 indicates that the code number is 4, the chapter number is 408 (or the 8th chapter within code 4), and the section number is .01.

With this numbering system, the Codified Ordinances may be expanded almost endlessly. Codes, titles and chapters are initially, with few exceptions, even-numbered, thus reserving the use of odd numbers for future legislation. Sections within chapters are consecutively numbered, except that penalty provisions are usually assigned the number .99. Newly created sections subsequent to the original codification may be indicated by three digits right of the decimal in the event the law properly belongs between two consecutively numbered sections. For example, newly created 660.041, 660.042 and 660.043 follow 660.04 and precede 660.05 to be placed in their logical position.

Section histories enable a user to trace the origin of the law contained in the section. The history indicates the derivation by reference to either its passage date and the ordinance number originally assigned to it at that time, or to its inclusion in any prior code. Sections and subsections without histories or with the words "Adopting Ordinance" at the end thereof are or contain new matter ordained by the Adopting Ordinance that enacts these Codified Ordinances.

The Comparative Section Table is included to show the disposition of every ordinance and resolution included in these Codified Ordinances. It indicates whether a given ordinance or resolution was consolidated with another into one section or split into two or more sections. Cross references direct the user to subject matter reasonably related to material contained within a given chapter.

GENERAL INDEX

EDITOR'S NOTE: References are to individual Code sections.

As additional aids for locating material, users are directed to:

- (a) The Comparative Section Table, which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
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THE GENERAL LAW

VILLAGE ACT

1895 PA 3, MCL 61.1 et seq.

AN ACT to provide for the government of certain villages; to define their powers and duties; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by villages subject to this act; to define the powers and duties of certain state and local officers and entities; to define the application of this act and provide for its amendment by villages subject to this act; to validate prior amendments and certain prior actions taken and bonds issued by villages subject to this act; to provide for the disincorporation of villages; and to prescribe penalties and provide remedies.

The People of the State of Michigan enact:

Chapter I Incorporation

Incorporation of villages; charter.

(MCL 61.1)

Sec. 1. This act is the charter for all villages incorporated under this act.

Definitions.

(MCL 61.1a)

Sec. 1a. As used in this act:

(a) "Appointed officer" means any officer, except an officer who is appointed to fill an elective but vacant seat on the council.

(b) "Civil infraction action", "municipal civil infraction", and, except as used in section 2 of chapter VI, "civil infraction" mean those terms as defined in section 113 of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.

(c) "Council" or "members of council", with respect to voting procedure, means 1 of the following:

(i) The president and 6 trustees, if the village has not adopted an ordinance reducing the number of trustees under chapter II.

(ii) The president and 4 trustees, if the village has adopted an ordinance reducing the number of trustees under chapter II.

(d) "Elector" means an individual who has the qualifications of an elector under section 492 of the Michigan election law, 1954 PA 116, MCL 168.492.

(e) "Officer" means the village president, clerk, or treasurer, a village trustee or an appointed person authorized by the council.

(f) "Quorum" means, except as otherwise defined, 1 of the following:

(i) Three council members, if the village has adopted an ordinance reducing the number of trustees under chapter II.

(ii) Four council members, if the village has not adopted an ordinance reducing the number of trustees under chapter II.

Construction of act; validation of bonds.

(MCL 61.1b)

Sec. 1b. No provision of this act shall apply or be construed as having heretofore applied to any village incorporated or reincorporated under Act No. 278 of the Public Acts of 1909, as amended, being sections 78.1 to 78.28 of the Compiled Laws of 1948, unless specifically adopted by the electors as a part of its village charter. The provisions of this act shall be deemed to be in the nature of charter provisions for any village incorporated thereunder or subject thereto and any such provision may be altered or removed by amendment adopted by the electors as provided in Act No. 278 of the Public Acts of 1909, as amended, provided that the effect of the amendment is such as might legally be accomplished by charter provision in the case of a village operating under Act No. 278. All such amendments heretofore so adopted by any village incorporated under or subject to this act, and all actions heretofore taken and all bonds heretofore issued under or in accordance with such amendments, are hereby validated to the same effect as if the foregoing provision had been in effect when such amendments were adopted.

Emergency financial manager; authority and responsibilities.

(MCL 61.1c)

Sec. 1c. Notwithstanding any provision of this act, if an emergency financial manager has been appointed under the local government fiscal responsibility act, Act No. 101 of the Public Acts of 1988, being sections 141.1101 to 141.1118 of the Michigan Compiled Laws, with respect to a village governed by this act, then that emergency financial manager may exercise the authority and responsibilities provided in this act to the extent authorized by Act No. 101 of the Public Acts of 1988.

(MCL 61.2-61.11 Repealed.)

The repealed sections pertained to incorporation of villages.

Village incorporated; body politic; powers.

(MCL 61.12)

Sec. 12. A village Incorporated under this act is a body politic and corporate under the name designated for it upon incorporation. By that name, the village may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the purposes for which it was incorporated, have a common seal, change the common seal at pleasure, and exercise all the powers under this act.

(MCL 61.14, 61.15 Repealed)

The repealed sections pertained to the village board of registration.

Chapter II Officers

Village officers; council.

(MCL 62.1)

Sec. 1. (1) Except as provided in subsections (2) and (3), in each village, the following officers shall be elected: a president, 6 trustees, 1 clerk, and 1 treasurer. The president and trustees constitute the council. In all votes for which not less than a majority vote of council is required, the calculation of the number of votes required shall be based on the maximum number that constitutes council.

(2) The council by a vote of 2/3 of the members of council may provide by ordinance for the reduction in the number of trustees to 4 who with the president shall constitute the council. If village trustees are elected biennially for staggered 4-year terms or annually for staggered 2-year terms, the ordinance shall as nearly as possible maintain staggered terms and provide for an equal number of seats to be filled at each election. The ordinance may extend but shall not shorten the term of an incumbent trustee. The ordinance may extend a prospective term. The ordinance shall not shorten or eliminate a prospective term unless the nomination deadline for that term is not less than 30 days after the effective date of the ordinance. An ordinance adopted under this subsection shall satisfy both of the following conditions:

(a) The ordinance shall be voted on and adopted at a meeting that occurs not less than 10 days after the initial meeting or public hearing at which the ordinance was considered.

(b) Notice of each meeting at which the ordinance is considered indicating that an ordinance reducing the size of the council will be 1 of the subjects of the meeting shall be published not less than 10 days before the meeting in a newspaper of general circulation in the village.

(3) The council by a vote of 2/3 of the members of council may provide by ordinance for the nomination by the president and the appointment by the council of the clerk or the treasurer or both for such a term as the ordinance may provide. The ordinance shall apply beginning with the first term the nomination deadline for which would have been not less than 30 days after the effective date of the ordinance or shall apply when the office is vacated, whichever occurs first.

(4) The council shall provide that an ordinance adopted under subsection (2) or (3) takes effect 45 days after the date of adoption unless a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, in which case the ordinance takes effect upon approval at an election held on the question. Notice of the delayed effect of the ordinance and the right of petition under this subsection shall be published separately at the same time, and in the same manner, as the ordinance is published pursuant to section 4 of chapter VI. The village clerk shall verify the signatures on the petitions. If a petition bearing the required number of valid signatures of electors is filed, the question of adoption of the ordinance shall be submitted at the next general or special election. The ballot language for the question shall be prepared by the village clerk, unless the question concerns the appointment of the clerk under subsection (2), in which case the ballot language shall be prepared by the village council.

(5) A village that has adopted an ordinance reducing the number of trustees to 4 or providing for the appointment by the council of the clerk or treasurer may increase the number of trustees to 6 or provide for the election of the clerk or treasurer by the same process as provided in subsection (2) or (3), respectively, and in subsection (4).

Additional officers; appointment.

(MCL 62.2)

Sec. 2. (1) The president may nominate and the council appoint such officers as shall be provided for by resolution or ordinance of the council. The council may provide by ordinance or resolution for the appointment of other officers whose election or appointment is not specifically provided for in this act, as the council considers necessary for the execution of the powers granted by this act. The powers and duties of such officers shall be prescribed by the council. The council may require that the officers perform their duties faithfully and that proper measures be taken to punish neglect of duty by an officer.

(2) This section is subject to an ordinance adopted under section 8 of chapter V.

Appointments; time.

(MCL 62.3)

Sec. 3. Appointments to office, excepting appointments to fill vacancies, shall be made on the second Monday in April in each year, unless a different time shall be prescribed in the ordinance or resolution creating the office; but appointments which, for any cause, shall not be made on that day, or on the day provided in the ordinance or resolution creating the office, may be made at any subsequent regular or special meeting of the council.

Term of office.

(MCL 62.4)

Sec. 4. Unless otherwise provided by ordinance, the president, clerk, and treasurer shall hold their respective offices for the term of 2 years from the second Monday of March of the year when elected and until their successors are elected and qualified.

Village trustees; term of office; exemption by resolution; ordinance providing for election and terms of office; forwarding copy of resolution and ordinance.

(MCL 62.5)

Sec. 5. (1) Except as otherwise provided in this section, 3 village trustees shall be elected at each biennial village election for the term of 4 years from the second Monday in March of the even numbered year when elected and until their successors are qualified. As an alternative, if provided by an ordinance adopted by the village before January 1, 1974, all 6 village trustees shall be elected at the biennial village elections for the term of 2 years and until their successors are qualified.

(2) If a village exempted itself from subsection (1) by council resolution adopted before January 1, 1974, the village shall continue to elect its trustees annually on the second Monday in March with 3 trustees to be elected annually. The trustees shall hold their offices for the term of 2 years and until their successors are qualified.

(3) A village that exempted itself as described in subsection (2) may subsequently provide by ordinance that the village shall elect trustees biennially. The ordinance shall be applicable to the even year village election to be held not less than 6 months next following the adoption of the ordinance. The ordinance shall provide for a system of electing trustees as described in subsection (1). The ordinance may extend the terms of incumbent trustees for not more than 1 year if necessary to provide for the biennial election of trustees. In any event, a trustee shall serve until his or her successor is qualified.

(4) A copy of each resolution and ordinance adopted pursuant to this section shall be forwarded to the director of the bureau of elections of the department of state.

Appointive officers; term.

(MCL 62.6)

Sec. 6. All appointive officers, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the second Monday of April next after such appointment, and until their successors are qualified unless a different term of office is prescribed in this act, in an ordinance authorized by this act, or in the ordinance or resolution creating the

office. An officer appointed to fill a vacancy in an elective office shall hold office until the next regular village election, and until his or her successor is elected and qualified. An officer appointed to fill a vacancy in an appointive office shall hold office until his or her successor is appointed and qualified.

Qualifications for office; void votes; "in default" defined; oath.

(MCL 62.7)

Sec. 7. (1) A person shall not be elected to an office unless he or she is an elector of the village.

(2) A person in default to the village is not eligible for any office in the village. All votes in an election for or any appointment of a person in default to the village are void. As used in this subsection, "in default" means delinquent in payment of property taxes or a debt owed to the village if 1 of the following applies:

(a) The taxes remain unpaid after the last day of February in the year following the year in which they are levied, unless the taxes are the subject of an appeal.

(b) Another debt owed to the village remains unpaid 90 days after the due date, unless the debt is the subject of an administrative appeal or a contested court case.

(3) Not more than 30 days after receiving notice of his or her election or appointment, an officer of the village shall take and subscribe the oath of office prescribed by the constitution of the state and file the oath with the clerk. An officer who fails to comply with the requirements of this subsection shall be considered to have declined the office.

Official bonds; deposit time.

(MCL 62.8)

Sec. 8. Every officer elected or appointed in the village, before entering upon the duties of his office, and within the time prescribed for filing his official oath, shall file with the village clerk such bond or security as may be required by law, or by any ordinance or resolution of the council, and with such sureties as shall be approved by the council, conditioned for the due performance of the duties of his office, except that the bond or security given by the clerk shall be deposited with the treasurer.

Additional bonds; removal from office.

(MCL 62.9)

Sec. 9. The council may, at any time, require any officer to execute and file with the clerk additional or new official bonds, with such new or further sureties as said council shall deem requisite for the interest of the corporation. Any failure to comply with such requirement within 15 days shall subject the officer to immediate removal from office by the council.

Vacancies in Office**Resignations.**

(MCL 62.10)

Sec. 10. Resignations of officers shall be made to the council.

Office vacancies.

(MCL 62.11)

Sec. 11. If any elected officer shall cease to be a resident of the village during his or her term of office, the office shall be thereby vacated. If any officer is alleged to be in default as defined in section 7 of this chapter, the office shall be declared vacated.

Failure of officer to give or maintain bond.

(MCL 62.12)

Sec. 12. If any person elected or appointed to office fails to give or maintain the bond or security required for the due performance of the duties of his or her office, within the time specified under section 8 or 9 of this chapter, the council shall declare the office vacant, unless the officer gives the requisite bond or security before the council makes its declaration.

Vacancies; filling; special elections; procedure; expenses.

(MCL 62.13)

Sec. 13. Any vacancy occurring in the office of president, trustee, or any other elective office shall be filled by appointment by the council, and the appointee shall hold office until the next regular village election. All vacancies in any other office shall be filled by the president, by and with the consent of the council. If by reason of removal, death, resignation, or otherwise, the membership of the council is reduced to less than a quorum, the remaining council members shall call a special election for the purpose of filling all vacancies in the office of trustee, if a petition signed by not less than 10% of the qualified voters of the village is filed with the village clerk within 10 days after the vacancy or vacancies occur. If a petition is not filed within the time stated, then the remaining council members may either call a special election, or may proceed to appoint a sufficient number of trustees to constitute with the members in office a quorum of the

council, who shall then fill the remaining vacancies as provided in this section. If all the officers and trustees of a village have died or removed from the village, and no successors have been elected or appointed to fill the vacancies, the township clerk of the township within which the village is situated shall, upon petition of 10% of the qualified voters residing in the village, call a special election for the election of the officers and trustees of the village, at a date and place to be fixed by the township clerk, which date shall be not more than 30 days after the receipt of the petition. The township board of the township shall perform all of the other duties with respect to the election as the village might have done had the vacancies not existed, including the preparation of ballots, the appointment of election inspectors, the counting and canvassing of the ballots, and the certification of the persons elected to the offices for which the election was held. All of the expenses of the election shall be a charge upon the village.

Surety not exonerated.

(MCL 62.14)

Sec. 14. The resignation or removal of an officer or the appointment or election of a successor to the officer does not exonerate the officer or the officer's sureties from any liability incurred by the officer or the officer's sureties.

Property delivered to successor.

(MCL 62.15)

Sec. 15. When an officer resigns or is removed from office, or when the elected term of office expires, he or she shall deliver over to his or her successor in office books, papers, money, evidence of debt, and other property as required by section 480 of the Michigan penal code, 1931 PA 328, MCL 750.480.

Chapter III Elections

Biennial election; exception; place.

(MCL 63.1)

Sec. 1. Except with regard to villages that hold annual elections pursuant to section 5(2) of chapter 2, the election of officers shall be held biennially on the second Monday in March in each even numbered year. An election shall be held at such place in the village as the council shall designate.

Special election.

(MCL 63.2)

Sec. 2. Special elections may be called by resolution of the council. The resolution shall state the purpose and object of and, subject to the election laws of this state, the date of the election.

Village elections as partisan; ordinance requiring elections to be nonpartisan.

(MCL 63.3)

Sec. 3. (1) Except as provided in this section, village elections shall be partisan. The council by a vote of 2/3 of the members of council may provide by ordinance that village elections shall be nonpartisan. The ordinance shall apply beginning with the first village election for which the nomination deadline is not less than 30 days after the effective date of the ordinance.

(2) The council shall provide that an ordinance adopted under subsection (1) takes effect 45 days after the date of adoption unless a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, in which case the ordinance takes effect upon approval at an election held on the question. Notice of the delayed effect of the ordinance and the right of petition under this subsection shall be published separately at the same time, and in the same manner, as the ordinance is published pursuant to section 4 of chapter VI. The village clerk shall verify the signatures on the petitions. If a petition bearing the required number of valid signatures of electors is filed, the question of adoption of the ordinance shall be submitted at the next general or special election. The ballot language for the question shall be prepared by the village clerk.

(3) A village that has adopted an ordinance providing for nonpartisan elections may revert to partisan elections by the same process as provided in subsections (1) and (2).

Voting requirements.

(MCL 63.4)

Sec. 4. An individual who is a registered elector of the township in which the village is located and who is a resident of the village may vote at any election in the village.

(MCL 63.5, 63.6 Repealed.)

The repealed sections pertained to board of elections commissioners, and opening and closing of polls.

Conduct of election; placing of term on ballot.

(MCL 63.7)

Sec. 7. All elections in the village shall be conducted as nearly as may be in the manner provided by law for holding general elections in the state, except as provided in this act. If at any election vacancies are to be filled, or if any person is to be elected for less than a full term of office, the term shall be designated on the ballot.

(MCL 63.8-63.12 Repealed.)

The repealed sections pertained to canvass of votes, determination of election results and ties, notice to elected persons, and failure to file oath or bond.

(MCL 63.13 Repealed.)

The repealed section pertained to division of villages into precincts.

Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

(MCL 63.14)

Sec. 14. A petition under section 13 of chapter II, section 8 of chapter V, or section 18a of chapter XIV, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

Chapter IV Duties of Officers

President

President as chief executive officer; duties generally.

(MCL 64.1)

Sec. 1. The president is the chief executive officer of the village. He or she shall preside at the meetings of the council. The president is a voting member of the council. The president shall give the council information concerning the affairs of the village, and recommend measures which he or she considers expedient. Unless otherwise provided in an ordinance adopted under section 8 of chapter V, the president shall exercise supervision over the affairs of the village and over the public property belonging to the village. The president shall see that the laws relating to the village and the ordinances and regulations of the council are enforced.

Village president; duties as conservator of peace.

(MCL 64.2)

Sec. 2. The president is a conservator of the peace and may exercise within the village the power to suppress disorder. The president may command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the council in cases of emergency or disaster, subject to the applicable limitations of state law.

Suspension or removal of officer; examination and inspection of books, records, and papers; additional duties of president; section subject to ordinance.

(MCL 64.3)

Sec. 3. The president may suspend any officer authorized by this act or appointed pursuant to this act for neglect of duty, and with the approval of the council remove any officer appointed by the council when the president considers it in the public interest. The president may at any time examine and inspect the books, records, and papers of any agent, employee, or officer of the village, and shall perform generally all duties prescribed by the ordinances of the village. This section is subject to an ordinance adopted under section 8 of chapter V.

Acting president.

(MCL 64.4)

Sec. 4. In the absence or disability of the president, the president pro tempore of the council shall perform the duties of the president.

Clerk

Clerk; duties.

(MCL 64.5)

Sec. 5. (1) The clerk shall keep the corporate seal and all the documents, official bonds, papers, files, and records of the village, not by this act or the ordinances of the village entrusted to some other officer. The clerk is the clerk of the council and shall attend its meetings.

(2) In case of the absence of the clerk, or if from any cause the clerk is unable to discharge, or is disqualified from performing, his or her duties, the council may appoint a council member, or some other person, to perform the duties of the clerk for the time being.

(3) The clerk shall record all the proceedings and resolutions of the council, and shall record, or cause to be recorded, all the ordinances of the village.

(4) The clerk shall countersign and register all licenses granted.

(5) When required, the clerk shall make reproductions pursuant to the records media act, 1992 PA 116, MCL 24.401 to 24.403, of the papers and records filed and kept in his or her office and shall certify the reproductions under the seal of the village. The admissibility in evidence of such reproductions is governed by section 3 of 1964 PA 105, MCL 691.1103.

(6) The clerk may administer oaths and affirmations.

Clerk as general accountant; duties; check disbursement.

(MCL 64.6)

Sec. 6. (1) The clerk shall be the general accountant of the village.

(2) Claims against the village shall be filed with the clerk for adjustment. After examination, the clerk shall report the claims, with the accompanying vouchers and counterclaims of the village, and the true balance, to the council for allowance. After the claims are allowed by the council, the clerk shall present check disbursement authorizations to the treasurer for payment of the claims, designating the fund from which payment is to be made, and take proper receipts.

(3) The clerk shall not present check disbursement authorizations upon a fund after the fund is exhausted. When a tax or money is levied, raised, or appropriated, the clerk shall report the amount to the village treasurer, stating the objects and funds for which it is levied, raised, or appropriated, and the amounts to be credited to each fund.

Clerk; duties.

(MCL 64.7)

Sec. 7. Unless otherwise provided by ordinance, the clerk shall do all of the following:

- (a) Have charge of all the books, vouchers, and documents relating to the accounts, contracts, debts, and revenues of the corporation.
- (b) Countersign and register all bonds issued, and keep a list of all property belonging to the village, and of all its debts and liabilities.
- (c) Keep a complete set of books, exhibiting the financial condition of the village in all its departments, funds, resources, and liabilities, with a proper classification, and showing the purpose for which each fund was raised.
- (d) Keep an account of all the money received for each of the several funds of the village, and credit all check disbursements drawn, keeping an account with each fund.

Duties; financial report to council; contents.

(MCL 64.8)

Sec. 8. The clerk shall report to the council, whenever required, a detailed statement of the receipts, expenditures, and financial condition of the village, of the debts to be paid, and moneys necessary to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the council may require.

Functions subject to ordinance.

(MCL 64.8a)

Sec. 8a. The functions of the village clerk are subject to an ordinance adopted under section 8 of chapter V.

Treasurer**Village treasurer; duties.**

(MCL 64.9)

Sec. 9. The treasurer shall do all of the following:

- (a) Have the custody of all money, bonds other than official bonds filed with the clerk under chapter II, mortgages, notes, leases, and evidences of value belonging to the village.

- (b) Receive all money belonging to, and receivable by the corporation.
- (c) Keep an account of all receipts and expenditures.
- (d) Collect and keep an account of all taxes and money appropriated, raised, or received for each fund of the village, and keep a separate account of each fund.
- (e) Pay check disbursement authorizations out of the particular fund raised for the purpose for which the disbursement was authorized.
- (f) Perform duties prescribed by this act relating to assessing property and levying taxes.

Treasurer; reports; contents.

(MCL 64.10)

Sec. 10. The treasurer shall report to the clerk on the first Monday of every month, if required, the amounts received and credited to each fund, on what account received, the amounts paid out from each fund during the preceding month, and the amount of money remaining in each fund on the day of the report. The treasurer shall also exhibit to the council annually within 45 days after the end of the fiscal year, and as often and for such period as the council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of the treasurer's last annual report, classifying them by the funds to which the receipts are credited and out of which the disbursements are made, and the balance remaining in each fund.

Treasurer; vouchers.

(MCL. 64.11)

Sec. 11. The treasurer shall take vouchers for all money paid from the treasury, showing the amount and fund from which payment was made. Upon settlement of the vouchers with the proper officers of the village, the treasurer shall file the vouchers with the clerk.

Treasurer; disposition of money; private use prohibited.

(MCL 64.12)

Sec. 12. The treasurer shall keep all village money in depository accounts authorized by law. The treasurer shall not use, either directly or indirectly, the village money, warrants, or evidences of debt for his or her own use or benefit, or that of any other person. On proof of the violation, the village council shall declare the office vacant and appoint a successor for the remainder of the term.

Functions subject to ordinance.

(MCL 64.12a)

Sec. 12a. The functions of the village treasurer are subject to an ordinance adopted under section 8 of chapter V.

Marshal

(MCL 64.13-64.16 Repealed.)

The repealed sections pertained to powers and duties of marshal.

Surveyor

(MCL 64.17 Repealed.)

The repealed section pertained to powers and duties of surveyor.

Street Commissioner

(MCL 64.18, 64.19 Repealed.)

The repealed sections pertained to powers and duties of street commissioner.

Assessor

(MCL 64.20 Repealed.)

The repealed section pertained to powers and duties of assessor.

Compensation**Village officers; compensation.**

(MCL 64.21)

Sec. 21. The president and each trustee shall receive compensation for the performance of the duties of the office of president or trustee only as provided by ordinance. The ordinance shall specify how the compensation is determined due and paid. Except as otherwise provided by law, these officers shall receive no other compensation for services performed for and on behalf of the village during their term of office. Except as otherwise provided in this act or by other law regulating fees for services, other officers shall receive such compensation as may be prescribed by the council.

Chapter V
Village Council

Legislative authority vested in village council.

(MCL 65.1)

Sec. 1. The legislative authority of villages shall be vested in the council.

Village council; president.

(MCL 65.2)

Sec. 2. The president shall be president of the council, and preside at the meetings of the council.

Village council; president pro tempore.

(MCL 65.3)

Sec. 3. On the second Monday in April in each year, or as soon thereafter as possible, the council shall appoint 1 of their number president pro tempore of the council, who in the absence of the president shall preside at the council meetings, and exercise the powers and duties of president. In the absence of the president and president pro tempore, the member with the longest current period of continuous service on the council shall preside unless otherwise provided by council rules.

Village council; regular meetings; conducting business at public meeting; notice of meeting; special meetings.

(MCL 65.4)

Sec. 4. The council shall hold regular meetings for the transaction of business, at times as it shall prescribe, at least 1 shall be held in each month. The business which the village council may perform shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The president or 3 members of the council may appoint special meetings.

Village council; rules and record of proceedings; quorum; adjournment; compelling attendance; vote; ordinance or resolution appropriating money; publication of proceedings and vote; availability of certain writings to public.

(MCL 65.5)

Sec. 5. (1) The council shall prescribe the rules of its own proceedings, and shall keep a record of those proceedings. A majority of the members of council shall be a quorum for the transaction of business. A lesser number may adjourn and compel the attendance of absent members in a manner as prescribed by ordinance.

(2) An office shall not be created or abolished; a street, alley, or public ground vacated; real estate or an interest in real estate purchased, leased, sold, or disposed of; or a public improvement ordered, except by a majority vote of the members of council. The vote shall be taken by yeas and nays, and entered in the journal. However, a tax shall not be increased or a special assessment imposed except by an affirmative vote of 2/3 of the members of council.

(3) Money shall not be appropriated except by ordinance or resolution of the council. An ordinance appropriating money shall not be passed, or a resolution appropriating money shall not be adopted, except by a majority vote of the members of council. The vote shall be taken by yeas and nays, and entered in the journal. Within 15 days after a meeting of the council, a synopsis or the entirety of the proceedings, including the vote of the members, prepared by the clerk and approved by the president showing the substance of each separate decision of the council shall be published in a newspaper of general circulation in the village or posted in 3 public places in the village.

(4) A writing prepared, owned, used, in the possession of, or retained by the council or by the clerk, treasurer, or other officer of the village in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(MCL 65.6 Repealed.)

The repealed section pertained to village council members' conflict of interest and forfeiture of office.

Village council; audit of accounts; procedure; defenses to action or proceeding.

(MCL 65.7)

Sec. 7. (1) The council shall audit and allow all accounts chargeable against the village. An account or claim or contract shall not be received for audit or allowance unless it is accompanied with a certificate of an officer of the village, or an affidavit of the person rendering it, that the services therein charged have been actually performed or the property delivered for the village, that the sums charged therefor are reasonable and just, and that to the best of his or her knowledge and belief, no set-off exists, and no payment has been made on account thereof, except such set-offs or payments as are endorsed or referred to in the account or claim. Each account shall exhibit in detail all the items making up the amount claimed, and the date of each. The council may adopt a different procedure for the audit and allowance of accounts, claims, and contracts than that provided by this subsection.

(2) It shall be a sufficient defense in any court, to an action or proceeding for the collection of any claim against the village for personal injuries or otherwise that it has never been presented, certified to, or verified to the council for allowance as provided in this section or as may be required under different procedures adopted by the council; or, if the claim is founded on contract, that the claim was presented without the certificate or affidavit required by this section and was rejected for that reason; or, that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it.

Village manager; term; employment contract; powers and duties; ordinance assigning responsibilities to manager.

(MCL 65.8)

Sec. 8. (1) The council may employ a village manager.

(2) The manager shall serve at the pleasure of the council.

(3) The council may enter into an employment contract with a village manager for a period extending beyond the terms of the members of council but not exceeding 6 years. An employment contract with a manager shall be in writing and shall specify the compensation to be paid to the manager any procedure for changing compensation, any fringe benefits, and any other conditions of employment. The contract shall state that the manager serves at the pleasure of the council. The contract may provide for severance pay or other benefits in the event the employment of the manager is terminated at the pleasure of the council. Unless otherwise provided by ordinance adopted under subsection (4), the council may assign to the manager only those powers and duties not required by law to be assigned to or performed by another official of the village.

(4) The council may adopt an ordinance assigning to the manager an administrative duty imposed by this act on the council; an administrative duty imposed by this act on the village president; the authority to appoint, remove, direct, or supervise any employee or appointed official of the village; or supervisory responsibility over the accounting, budgeting, personnel, purchasing, and related management functions imposed by this act on the village clerk and the village treasurer. The council shall provide in the ordinance that the assignment becomes effective 45 days after the date of adoption and that if a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, the ordinance shall not become effective until after the ordinance is approved at an election held on the question. Notice of the delayed effect of the ordinance and the right of petition under this subsection shall be published separately at the same time, and in the same manner, as the ordinance is published pursuant to section 4 of chapter VI. The village clerk shall compare the

signatures on the petitions to the signatures of those electors as they appear on the appropriate registration cards. If a petition bearing the required number of valid signatures of electors is filed, the clerk shall perform the acts required for the submission of the question of adoption of the ordinance at the next general or special election. An ordinance adopted before December 2, 1985 that conforms substantially with the requirements of this subsection is valid to the same extent as if the ordinance had been adopted on or after December 2, 1985.

Chapter VI Ordinances

Ordinance; style; passage; days required to be effective.

(MCL 66.1)

Sec. 1. The style of an ordinance shall be: "The village of _____ ordains." An ordinance, except as otherwise provided in this act, requires for its passage the concurrence of a majority vote of the members of council. An ordinance shall state its effective date, which may be upon publication, except that an ordinance imposing a sanction shall not take effect before the twentieth day after its passage or before the date of its publication, whichever occurs first.

Violation of ordinance; sanction; designation as civil infraction; civil fine; act or omission constituting crime; penalty.

(MCL 66.2)

Sec. 2. (1) Except as otherwise provided in this act, the council of a village authorized to pass an ordinance may prescribe a sanction for a violation of the ordinance. If a sanction is prescribed, it shall be prescribed in the ordinance.

(2) Consistent with any of the following statutes, the village council may adopt an ordinance that designates a violation of the ordinance as a civil infraction and provides a civil fine for that violation:

(a) The Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(b) Act No. 235 of the Public Acts of 1969, being sections 257.941 to 257.943 of the Michigan Compiled Laws.

(c) Act No. 62 of the Public Acts of 1956, being sections 257.951 to 257.954 of the Michigan Compiled Laws.

(3) The village council may adopt an ordinance that designates a violation of the ordinance as a municipal civil infraction and provides a civil fine for that violation. An ordinance may not designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under subsection (2). A statute may provide that a violation of a specific type of ordinance is a municipal civil infraction whether or not the ordinance designates the violation as a municipal civil infraction.

(4) An ordinance shall not make an act or omission a municipal civil infraction if that act or omission constitutes a crime under any of the following:

(a) Article 7 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7101 to 333.7545 and 333.17766a of the Michigan Compiled Laws.

(b) The Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.1 to 750.568 of the Michigan Compiled Laws.

(c) Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(d) The Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws.

(e) Part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws.

(f) The aeronautics code of the state of Michigan, Act No. 327 of the Public Acts of 1945, being sections 259.1 to 259.208 of the Michigan Compiled laws.

(g) Part 821 (snowmobiles) of Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82159 of the Michigan Compiled Laws.

(h) Part 811 (off-road recreation vehicles) of Act No. 451 of the Public Acts of 1994, being sections 324.81101 to 324.81150 of the Michigan Compiled Laws.

(i) Sections 351 to 365 of the railroad code of 1993, Act No. 354 of the Public Acts of 1993, being sections 462.351 to 462.365 of the Michigan Compiled Laws.

(j) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.

(5) An ordinance not described in subsection (2) or (3) may provide that a person who violates the ordinance is subject to either, or both, of the following:

(a) Punishment by imprisonment for not more than 90 days or by a fine of not more than \$500.00, or both.

(b) Payment of court costs.

Recreational trailway; posting ordinance; prohibited operation of vehicle as municipal civil infraction; penalty.

(MCL 66.2a)

Sec. 2a. (1) An ordinance regulating a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(2) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by an ordinance is a municipal civil infraction, whether or not so designated by the ordinance. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the ordinance or \$500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that section 2 of chapter VI prohibits an ordinance from designating as a municipal civil infraction.

Record of ordinances; authentication.

(MCL 66.3)

Sec. 3. Upon enactment, each ordinance shall be recorded by the clerk of the council in a book to be called "the record of ordinances," and the president and clerk shall authenticate each ordinance by placing his or her official signature upon the ordinance.

Codification of ordinances.

(MCL 66.3a)

Sec. 3a. A village may codify, recodify, and continue in code the village's ordinances, in whole or in part, without the necessity of publishing the entire code in full. The ordinance adopting the code and ordinances repealing, amending, continuing, or adding to the code shall be published as required by section 4 of this chapter. The publication shall state where a copy of the entire code can be reviewed and obtained. The ordinance adopting the code may amend, repeal, revise, or rearrange ordinances or parts of ordinances by references to the title only.

Publication of ordinance or synopsis; certificate of publication; certificate as evidence; adoption of plumbing, electrical, or building code by reference; identification, statement of purpose, and printing of code; inspection or distribution of code; notice.

(MCL 66.4)

Sec. 4. Within 15 days after the passage of an ordinance, the ordinance or a synopsis of the ordinance shall be published in a newspaper circulated in the village. Immediately after publication, the clerk shall enter in the record of ordinances, in a blank space to be left for that purpose under the record of the ordinance, a certificate under the clerk's hand, stating the time and places of the publication. The certificate shall be prima facie evidence of the due publication of the ordinance or the synopsis. A village may adopt a plumbing code, electrical code, mechanical code, fire protection code, building code, or other code promulgated by this state, by a department, board, or other agency of this state, or by an organization or association which is organized or conducted for the purpose of developing a code by reference to the code in an adopting ordinance and without publishing the code in full. The code shall be clearly identified in the ordinance and a statement of the purpose of the code shall be published with the adopting ordinance. Printed copies of the code shall be kept in the office of the village clerk available for inspection by or distribution to the public during normal business hours. The village may charge a fee that does not exceed the actual cost for copies of the code distributed to the public. The publication in the newspaper shall contain a notice to the effect that a complete copy of the code is available for public use and inspection at the office of the village clerk.

(MCL 66.5 Repealed.)

The repealed section pertained to laws, regulations, or ordinances as proof in court.

Violation of ordinance; commencement of prosecution; judicial district; powers of court.

(MCL 66.6)

Sec. 6. (1) An action for violation of an ordinance shall be commenced not more than 2 years after the violation occurs.

(2) An action for the violation of an ordinance shall be brought in the district court or municipal court in the judicial district in which the village is located unless the person alleged to have violated the ordinance admits responsibility at a parking violations bureau or a municipal ordinance violations bureau as permitted by law. That court may hear, try, and determine causes and actions arising under an ordinance of the village, and impose sanctions for a violation of an ordinance as provided in the ordinance.

Violation of ordinance; civil action to recover penalty; warrant; law governing proceedings.

(MCL 66.7)

Sec. 7. If a penalty is incurred for the violation of an ordinance, and a provision is not made for the imprisonment of the offender upon conviction of the violation, the penalty may be recovered in a civil action. If a corporation incurs a penalty for the violation of an ordinance, the corporation shall be sued in a civil action. Except in the case of a civil infraction action or an action against a corporation, an action for a violation of an ordinance of the village may be commenced by warrant for the arrest of the offender. The warrant shall be in the name of the people of this state, shall set forth the substance of the offense complained of, and shall be substantially in the form, and be issued upon complaint made, as provided by law in misdemeanor cases. The proceedings relating to the arrest and custody of the accused during the pendency of the action, the pleadings, and the proceedings upon the trial of the cause, in procuring the attendance and testimony of witnesses, and in the rendition of judgments and the execution of judgments, except as otherwise provided by this act, are governed by and shall conform as nearly as may be to the provisions of law regulating proceedings in misdemeanor cases.

Use of county jail; expenses.

(MCL 66.8)

Sec. 8. Every village shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons sentenced to imprisonment under the ordinances of the village, or under any of the provisions of this act; and the sheriff, or other keeper of the jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed until lawfully discharged. The expense of receiving and keeping a prisoner shall be borne by the county if the imprisonment is for a violation of a penal law of this state and by the village if the imprisonment is for a violation of a village ordinance.

Sufficient statement of cause; right to trial by jury; selecting and summoning jurors; inhabitant of village as juror; applicability of section to civil infraction.

(MCL 66.9)

Sec. 9. (1) An action for the violation of an ordinance need not state or set forth the ordinance, or the provisions of the ordinance in a complaint, warrant, process, or pleading, but shall recite the ordinance's title or subject and the ordinance's section number.

(2) It is a sufficient statement of the cause of action in a complaint or warrant to set forth substantially, and with reasonable certainty, as to time and place, the act complained of, and to allege the act to be in violation of an ordinance of the village, referring to the ordinance by its title and the section number and effective date. Either party may require a trial by jury in an action for violation of the ordinance.

(3) The jury, except when other provision is made, shall consist of 6 persons. In actions commenced by warrant, the jury shall be selected and summoned as in misdemeanor cases before the court in which the prosecution for the village ordinance violation is brought. In a civil action to recover penalties for a village ordinance violation, the jury shall be selected and summoned as in any other civil action before the court in which the action is brought. An inhabitant of the village is not incompetent to serve as a juror in a cause in which the village is a party or interested, on account merely of the interest that the inhabitant may have, in common with the inhabitants of the village, in the results of the action.

(4) This section does not apply to an ordinance violation that constitutes a civil infraction.

Appeals to circuit court; proceedings.

(MCL 66.10)

Sec. 10. A person convicted of a violation of an ordinance of the village in an action commenced by warrant as set forth in section 7 may appeal the judgment to the circuit court for the county in which the village is located, by appeal, and the time for the appeal, the proceedings for the appeal the bond or security to be given on the appeal, and the proceedings and disposition of the cause in the circuit court shall be the same as in misdemeanor cases on appeal from the court that tried the village ordinance violation. In actions to which the village is a party, brought to recover a fine for a violation of a village ordinance, either party may appeal from the judgment to the circuit court, and similar proceedings shall be had on that appeal and similar bond or security shall be given as in cases of appeal in civil actions before the court that tried the village ordinance violation, except that the village shall not be required to give a bond or security on that appeal.

Village lockup or holding facility.

(MCL 66.11)

Sec. 11. The council shall have power to provide and maintain a village lockup or holding facility, and may provide for the confinement of persons sentenced to imprisonment or detention under the ordinances of the village. All persons sentenced to confinement and all persons imprisoned on execution for nonpayment of fines for violation of the ordinances of the village in the lockup or holding facility may be kept at hard labor during the term of their imprisonment, either within or without the prison, under such regulations as the council may prescribe.

Security for costs; filing by complaining witness; liability.

(MCL 66.12)

Sec. 12. In prosecutions for violations of the ordinances of the village, commenced by a person other than an officer of the village, the court may require the complaining witness to file security for the payment of the costs of the proceedings, in case the defendant is determined not to be responsible. But the judge or magistrate before whom the complaint is made or trial is had shall order that the complaining witness is not liable for the payment of costs if the magistrate or judge determines that there was probable cause for the making of the complaint.

Fines; payment.

(MCL 66.13)

Sec. 13. Except in cases in which a fine is paid to a parking violations bureau or a municipal ordinance violations bureau pursuant to section 8395 or 8396 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.8395 and 600.8396 of the Michigan Compiled Laws, a fine imposed for a violation of an ordinance of the village shall be received by the clerk of the court in which judgment or conviction was had. If the fine is collected upon execution, the person receiving the fine shall immediately pay the money collected to that clerk. If the defendant is committed, the fine and costs imposed shall be paid to the sheriff or other keeper of the jail or prison, who shall, within 30 days after receiving payment, pay the money to that clerk for distribution pursuant to law.

Suit against collector; failure to pay over fines; larceny.

(MCL 66.14)

Sec. 14. If a person who collects a fine or part of a fine fails to pay over the amount collected pursuant to section 13, the village attorney may sue the person in the name of the village to recover the fine. If the failure to pay over the fine is willful, the person is guilty of larceny and shall be punished accordingly.

Chapter VII Powers of Council

General powers of council.

(MCL 67.1)

Sec. 1. A village subject to this act has, in addition to other powers that are conferred, the general power and authority granted in this chapter. The council of a village subject to this act may enact ordinances relating to the powers described in this section as it considers proper, including, but not limited to, ordinances relating to 1 or more of the following:

- (a) To restrain and prevent vice and immorality.
- (b) To punish vagrants, disorderly persons, and prostitutes.
- (c) To abate nuisances and preserve the public health.
- (d) To prohibit and suppress disorderly houses and gaming houses.
- (e) To regulate, license or suppress billiard tables and ball alleys, public dance halls, and soft drink emporiums.
- (f) To suppress gaming.
- (g) To regulate and license public shows and exhibitions.
- (h) To license auctioneers, license and regulate hawkers and peddlers, to regulate or prohibit sales of property at auction except sales made pursuant to an order of a court or public law, to require transient traders and dealers to obtain a license before engaging in business, and to regulate by ordinance the terms and conditions of issuing those licenses.
- (i) To license and regulate hacks and other public vehicles.
- (j) To provide for and regulate the inspection of provisions.
- (k) To regulate or prohibit bathing in the rivers, ponds, streams, and waters of the village.
- (l) To regulate or prohibit the selling, storing, or transportation of combustible or explosive substances or materials within the village, and to regulate and restrain the making of fires in the streets or other open spaces in the village.

(m) To provide for the organization and regulation of a fire department, to provide for the prevention and extinguishment of fires, and to establish and maintain definite fire limits.

(n) To license and regulate solicitors for passengers or baggage for any hotel, tavern, public house, boat, or railroad, and draymen, carmen, truckmen, porters, runners, drivers of cabs, hackney coaches, omnibuses, carriages, sleighs, express vehicles, and other vehicles used and employed for hire, and to fix and regulate the amount and rate of compensation of those individuals.

(o) To require horses, mules, or other animals attached to any vehicle or standing in any street, lane or alley in the village to be securely fastened, hitched, watched, or held.

(p) To prevent and punish horse racing and immoderate driving in any street, park, or alley and to authorize the stopping and detaining of any person who is immoderately driving or riding in any street, park or alley in the village.

(q) To prevent the running at large of dogs, to require dogs to be muzzled, and to authorize the destruction of dogs found at large in violation of an ordinance of the village.

(r) To establish lines and grades upon which buildings may be erected, and beyond which buildings shall not extend.

(s) To prevent the erection and provide for the removal of buildings considered unsafe.

(t) To regulate the placement and provide for the preservation of horse posts or hitching posts.

(u) To declare and define the powers and duties of the officers of the village whose powers and duties are not specifically prescribed in this act.

(v) To require the treasurer or marshal of the village, and other officers of the village as the council considers proper to give bonds for the discharge of their official duties.

(w) To see that the officers of the village perform their duties faithfully and that proper measures are taken to punish neglect of duty by any officer of the village.

(x) To provide for the care, custody, and preservation of the public property of the village.

(y) To investigate any matter that may come under the jurisdiction of the village and that is pursuant to the authority vested in the council or in any officer under this act. The council by majority consent of the council members serving may serve upon a person a subpoena that has been authorized by a court of proper jurisdiction in the county in which the village is located compelling the person to appear before the council or any committee of the council to be examined under oath or to produce a document or object for inspection or copying. If a person objects to or otherwise fails to comply with the written notice served upon him or her, the council may file in that court an action to enforce the subpoena. The court may issue an order requiring the person to appear to be examined or to produce a document or object for inspection or copying. Failure to obey the order of the court is punishable by the court as a contempt.

(z) To adopt other ordinances and make other regulations for the safety and good government of the village and the general welfare of its inhabitants that are not inconsistent with the general laws of this state.

(aa) To regulate or prohibit public nudity within village boundaries. As used in this subdivision "public nudity" means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola.

Public nudity does not include any of the following:

(i) A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

(ii) Maternal as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.

(iii) Sexually explicit visual maternal as defined in section 3 of Act No. 33 of the Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

Locomotives; enforceability of ordinance prescribing maximum speed limit.

(MCL 67.1a)

Sec. 1a. Notwithstanding any other provision of this act, on and after the effective date of a passenger railroad maximum speed limit specified in a final order of the director of the state transportation department, an ordinance of a village prescribing the maximum speed limit of locomotives used in passenger train operations or of passenger railroad trains shall not be enforceable as to a speed limit other than the limit set forth in the order.

Powers and immunities of village.

(MCL 67.1a)

Sec. 1a. (1) Unless otherwise provided or limited in this chapter, the village is vested with all powers and immunities, expressed or implied, that villages are, or hereafter may be, permitted to exercise under the constitution and laws of the state of Michigan. The enumeration of particular powers or immunities in this act is not exclusive.

(2) The village may do all of the following:

(a) Exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government whether such powers are expressly enumerated or not.

(b) Do any act to advance the interests, good government, and prosperity of the village.

(c) Through its regularly constituted authority, pass and enforce all laws, ordinances, resolutions, and rules relating to its municipal concerns subject to the constitution and laws of the state.

(3) The powers of the village under this act shall be liberally construed in favor of the village and shall include those fairly implied and not prohibited by law or constitution.

(4) The specific powers listed in section 1 of this chapter shall not be construed as limiting the general powers set forth in subsections (1), (2), and (3).

Licenses**Licenses; issuance; revocation; sanctions; support of poor.**

(MCL 67.2)

Sec. 2. (1) The council may prescribe the terms and conditions upon which a license shall be granted and may require payment of a reasonable and proper sum for a license. The person receiving the license shall, if required by the council or an ordinance of the village, before the issuing of the license, execute a bond to the village in a sum prescribed by the council, with 1 or more sufficient sureties, conditioned for a faithful performance of the laws relating to the village and the ordinances of the council, and otherwise conditioned as the council may prescribe. A license is revocable by the council. If a license is revoked for noncompliance with the terms and conditions upon which it was granted, or on account of a violation of an ordinance or regulation

passed or authorized by the council, the person holding the license shall, in addition to any other sanctions imposed, forfeit payments made for the license. The council may provide sanctions for a person who, without license, does something for which a license is required by an ordinance of the council.

(2) The council of a village may provide for the support and relief of poor persons residing in the village and, for that purpose, may provide, by ordinance or resolution, for the appointment of a director of the poor for the village and may prescribe the director's duties and vest him or her with authority proper for the exercise of those duties.

Pounds

Animal pound.

(MCL 67.3)

Sec. 3. The council may maintain an animal pound and provide for all of the following:

- (a) The impoundment of animals at large contrary to the terms of an ordinance.
- (b) The destruction of animals not retrieved or for their sale to recover expenses.
- (c) The payment by the owner of fees, charges, and penalties incurred for retrieval of the animal.

Public Buildings, Grounds and Parks

Acquisition, purchase, and erection of public buildings; purchase, appropriation, and ownership of real estate; purposes; sale of buildings, grounds, or parks.

(MCL 67.4)

Sec. 4. A village may acquire, purchase, and erect public buildings required for the use of the village, and may purchase, appropriate, and own real estate necessary for public grounds, parks, markets, public buildings, and other purposes necessary or convenient for the public good, and for the exercise of the powers conferred in this act. Such buildings and grounds, or any part thereof, may be sold at a public or private sale, if authorized by an ordinance, or may be leased. A public park shall not be sold without the consent of a majority of the electors of the village voting on the question at an election.

Village lockup, holding facility, or hospital; location outside corporate limits; regulations; enforcement.

(MCL 67.5)

Sec. 5. If the council considers it in the public interest, grounds and buildings for a village lockup or holding facility or hospital may be purchased, erected, and maintained beyond the corporate limits of the village. In such a case, the village may enforce beyond the corporate limits of the village, and over such lands, buildings and property, in the same manner and to the same extent as if they were within the village, ordinances and police regulations necessary for the care and protection thereof, and for the management and control of the persons kept or confined in the lockup or holding facility or hospital.

Public parks and grounds; powers of council.

(MCL 67.6)

Sec. 6. The council may lay out or establish public parks and grounds within the village, and improve, light, and ornament public parks and grounds within the village. The council may regulate the use of public parks and grounds and protect the public parks and grounds and their appurtenances from obstruction, encroachment, and injury.

Streets and Sidewalks**Public highways, bridges, grounds; supervision; liability for damages; bridges.**

(MCL 67.7)

Sec. 7. The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks, and public grounds within the village, and shall have the authority over these that is given by the general laws of the state. A village is not liable in damages sustained by any person in the village, either to his or her person or property, by reason of a defective street, sidewalk, crosswalk, or public highway, or by reason of an obstruction, ice, snow or other incumbrance upon a street, sidewalk, crosswalk, or public highway, situated in such village unless within 120 days after the injury occurs a person serves or causes to be served a notice in writing upon the clerk or deputy clerk of the village. The notice shall set forth substantially the time when and place where the injury took place, the manner in which it occurred, the known extent of the injury, and that the person receiving the injury intends to hold the village liable for damages sustained by him or her. However, the road or highway bridges within the limits of a village laid out by any authority other than the village, shall be built, controlled, and kept in repair by the county or this state, whichever has jurisdiction. All other bridges in the village shall be built, controlled, and kept in repair by the village.

Sidewalks; construction; maintenance; expenses; allocation.

(MCL 67.8)

Sec. 8. The council shall have control of all sidewalks in the public streets and alleys of the village and may prescribe or change the grade of the sidewalks when considered necessary. The council may build, maintain, and keep in repair sidewalks and crosswalks in the public streets and alleys, and charge the expense of constructing and maintaining the sidewalks upon the lots and premises adjacent to and abutting upon the walks. The council may require the owners and occupants of lots and premises to build, rebuild, and maintain sidewalks in the public streets adjacent to and abutting upon the lots and premises and to keep them in repair at all times, and to construct and lay the sidewalks upon such lines and grades, and of such width, materials, and manner of construction, and within such time as the council shall, by ordinance or resolution, prescribe, the expense thereof to be paid by the owner or occupant. The council may by a 2/3 vote of the members pay such part of the expense of building or rebuilding such walk as they may consider proper from the general street fund, or from the street district fund of any street district in which the sidewalk is located.

Sidewalks; removal of snow and ice; ordinance authorized.

(MCL 67.9)

Sec. 9. The council may, either by ordinance or resolution, require the owners and occupants of a lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to the lot and premises, and to keep the sidewalks free from obstructions, encroachments, incumbrances, filth and other nuisances. The council may by a majority vote of members of council provide by ordinance for the rebuilding, maintaining, and keeping in repair of all sidewalks within the village, for the removing of all ice and snow from the sidewalks, and for keeping them free from incumbrances, and may pay the expense from the general street fund.

Sidewalks; failure of abutting owner; assessment; collection.

(MCL 67.10)

Sec. 10. If the owner or occupant of a lot or premises fails to construct or maintain a sidewalk, to keep the sidewalk in repair, to remove the snow, ice, and filth from the sidewalk, or to remove and keep the sidewalk free from obstructions, encroachments, incumbrances, or other nuisances, as required under section 8 or 9 of this chapter, or to perform any other duty required by the council in respect to a sidewalk, the council may cause the work to be done at the expense of the owner or occupant, and may cause the amount of the expenses incurred, together with a penalty of 10% to be levied by them as a special assessment upon the lot or premises adjacent to and abutting upon the sidewalk. The special assessment is subject to review after proper notice has been given as in all other cases of special assessments provided for by law. When confirmed, the assessment shall be a lien upon the lot or premises the same as other special assessments, and

the council shall order the treasurer of the village to spread the amount, together with the penalty, upon the roll as a special assessment upon the lot or premises. The assessment shall be collected in the same manner as other village taxes. The village may instead collect the amount, together with the penalty in a civil action, together with costs of suit.

Sidewalks; regulation of things on, over and under.

(MCL 67.11)

Sec. 11. The council shall have power to regulate and prohibit the placing of signs, awnings, awning posts and other things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks, and of all vaults, structures and excavations under the same.

Public improvement; powers of council; expenses; assessment.

(MCL 67.12)

Sec. 12. The council may lay out, establish, open, make, widen, extend, straighten, alter, close, vacate, or abolish a highway, street, lane, alley, sidewalk, sewer, drain, water course, bridge, or culvert in the village if the council considers it to be a public improvement, or necessary for the public convenience. Private property required for these purposes may be taken in the manner provided in this act. The expense of the improvement may be paid by special assessments upon the property adjacent to or benefited by the improvement, in the manner provided by law for levying and collecting special assessments, or in the discretion of the council, a portion of such costs and expenses may be paid by special assessment, and the balance from the general highway fund.

Vacating, discontinuing, or abolishing highway, street, lane, alley, or public ground; resolution; meeting; objections; notice of meeting; filing objection; record.

(MCL 67.13)

Sec. 13. When the council considers it advisable to vacate, discontinue, or abolish a highway, street, lane, alley, or public ground, or a part of a highway, street, lane, alley, or public ground, it shall by resolution declare its intent and appoint a time not less than 4 weeks after the date of the resolution, when it shall meet and hear objections to the resolution. Notice of the meeting, with a copy of the resolution, shall be given in the manner prescribed by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. An objection to the proposed action of the council may be filed with the clerk in writing, and if an objection is filed, the highway, street, lane, alley, or public ground, or a part of the highway, street, lane, alley, or public ground, shall not be vacated or discontinued, except by a resolution or ordinance stating, if applicable, the name of the plat or plats affected and adopted by a majority vote of the members of council or

by order of the circuit court in the county in which the land is situated as provided by the land division act, 1967 PA 288, MCL 560.101 to 560.293. The clerk of the municipality within 30 days shall record a certified copy of the resolution or ordinance with the register of deeds and file a certified copy with the department of consumer and industry services.

Public highways; survey; vacation resolution, recording, evidence.

(MCL 67.14)

Sec. 14. The council may cause all public streets, alleys, and public grounds to be surveyed, and may determine and establish the boundaries thereof, and cause the surveys and descriptions thereof to be recorded in the office of the clerk in a book of street records, and they shall cause surveys and descriptions of all streets, alleys, and public grounds opened, laid out, altered, extended, or accepted and confirmed by them to be recorded in like manner, and such record shall be prima facie evidence of the existence of such streets, alleys or public grounds, as in the records described. Every resolution or ordinance discontinuing or vacating any street, alley or public ground shall also be recorded in said book of street records and the record shall be prima facie evidence of all matters therein set forth.

Street grades; conformity with adjacent lands; record, diagram.

(MCL 67.15)

Sec. 15. The council shall have authority to determine and establish the grade of all streets, avenues, alleys and public grounds within the village, and to require improvements and buildings, adjacent to, or abutting upon such streets, alleys or grounds to be made and constructed in conformity with such grade; and the council may change or alter the grade of any street, alley or public ground, or of any part thereof whenever in their opinion the public convenience will be promoted thereby. Whenever a grade shall be established or altered a record and diagram thereof shall be made in the book of street records in the office of the clerk.

Street or sidewalk grades; change; damage to property owner; payment; assessment.

(MCL 67.16)

Sec. 16. (1) Whenever the grade of any street or sidewalk is established, and improvements are made by the owner or occupant of the adjacent property in conformity to the grade, the grade shall not be changed without compensation to the owner for all damages to the property resulting from the grade change. The damages shall be ascertained in the manner provided by the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, or agreed upon by the village and the owner or occupant of premises. After the damages are ascertained or agreed upon, the damages shall be paid by the village, or the council may cause the damages, or such part thereof as may be just and proper, to be assessed upon real estate to be benefited by the change of grade.

(2) If the council decides to assess the damages, or any part thereof, upon the property benefited, it shall determine and define a district in the village which in its judgment is benefited by the improvement out of which the damages arise. The damages or part thereof shall be assessed upon the real estate in the district, in proportion as nearly as may be to the advantage or benefit each lot, parcel, or subdivision is deemed to acquire by the improvement out of which the damages arise. The property on account of which the damages were awarded shall not be included in the district. The assessment shall be made, and the amount levied and collected in the same manner as other assessments on a district deemed to be benefited, in the grading and improvement of streets, as provided by law; and the provisions of chapter VIII relative to special assessments shall apply. The damages determined upon by the village or determined and collected by special assessment shall be paid to the person entitled to the damages.

Paving and Improvements

Bridges, culverts, and streets; construction; maintenance.

(MCL 67.17)

Sec. 17. The council shall have authority to construct and maintain bridges and culverts where needed; and to grade, pave, curb, gravel, plank, and otherwise improve and repair the highways, streets, lanes, avenues and alleys of the village.

Bridges, streets, and highways; expenses; payment; tax levy; "paving" defined.

(MCL 67.18)

Sec. 18. The expense of constructing and maintaining bridges, and the whole, or such part as the council shall determine, of the expense of improving and working upon the streets and highways, including grading, paving, and graveling, may be paid from the general highway fund, to be raised by tax upon all the property in the village. All or part of the expense of grading, paving, or graveling any street may also be defrayed by a special assessment upon the lots and premises abutting upon the improvement, in proportion to their number of feet front upon the street. The lots and premises to be assessed according to their frontage upon a street improvement constitute a special assessment district. As used in this section, "paving" includes curbing and the construction of crosswalks in the paved streets.

Bridges, streets, and highways; principles of tax apportionment.

(MCL 67.19)

Sec. 19. Assessments made under section 18 upon exempt public lands may be paid from the general highway fund, or may be apportioned to the other assessable lots, at the option of the council. If because of the shape or size of any lot an assessment thereon in proportion to its frontage would be unjust and disproportionate to the assessment upon other lots, the council making the assessment may assess the lot for such number of feet frontage as in their opinion is just.

Street Regulations

Obstructions, encroachments; removal; offenders; punishment.

(MCL 67.20)

Sec. 20. The council shall have the power to prohibit and prevent obstructions and incumbrances in and encroachments upon the public highways, streets, and alleys of the village, and remove the same; and to punish those who shall obstruct, encumber, encroach or maintain any encroachment, upon or in any such highway, street or alley; and to require all such persons to remove every such obstruction, incumbrance or encroachment.

Trees in highways; street lighting.

(MCL 67.21)

Sec. 21. The council may provide for and regulate the planting of shade and ornamental trees in public highways, streets and avenues of the village, and for the protection thereof, and the trimming of all trees in or that overhang such highway, streets, or avenues, or which obstruct public lighting, and may light the streets and public places, and regulate the setting of lamps and lamp posts therein and protect the same.

Public streets; excavation; regulation.

(MCL 67.22)

Sec. 22. The council may regulate the making of all openings in and removals of earth from public streets, for the laying or repair of sewers, drains, tunnels, gas pipes, water pipes, or for any other purpose; and may prohibit and prevent all such openings and removals of earth except by permission of the council, and at such times and upon such terms and regulations as they may prescribe.

Public streets; regulations; enforcement; council; powers.

(MCL 67.23)

Sec. 23. The council may regulate the use of public highways, streets, avenues, and alleys of the village, subject to the right of travel and passage therein. The council may prescribe the stands for all vehicles kept for hire, or used for the transportation of persons or property for hire; designate the places where loads of wood, coal, hay, and other articles may stand for sale; regulate traffic and sales in the streets and upon sidewalks; regulate or prohibit the display, use, or placing of signs, advertisements, banners, awnings, posts, poles, or lamps in or over the streets; regulate or prohibit sports, amusement proceedings, and gatherings of crowds in the streets that may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; prohibit and prevent the running at large of animals in the streets or elsewhere in the

village, and impose sanctions upon the owners or keepers responsible; cleanse and purify the streets; prohibit, prevent, remove, and abate all nuisances in the streets, require a person creating or maintaining a nuisance to remove or abate it, sanction the person for the creation or maintenance of the nuisance, and generally prescribe and enforce regulations concerning the public streets as may be necessary to secure good order and safety to persons and property in their lawful use and to promote the general welfare. In addition, the council shall have the same authority and powers over and in respect to the public streets of the village as are conferred by law upon the board of county road commissioners.

Sewers, Drains and Watercourses

Sewers, drains, watercourses; construction; condemnation.

(MCL 67.24)

Sec. 24. The council of any village may establish, construct, and maintain sewers, drains, and watercourses whenever and wherever necessary. These improvements shall be of such dimensions and materials, and under such regulations as the council considers proper for the drainage of the village. Private property may be taken therefor in the manner provided by this act for taking private property for public use. But in all cases where the council shall consider it practicable, such sewer, drain, and watercourses shall be constructed in the public streets and grounds.

Sewers, drains, and watercourses; expense of construction; methods of payment.

(MCL 67.25)

Sec. 25. The expense of constructing sewers, drains, and watercourses may be paid by general tax upon the taxable property in the village; or the expenses may be defrayed by special assessment upon the lands and premises benefited in proportion to the benefits resulting to each lot or parcel of land respectively; or such part of the expense as the council shall determine may be defrayed by special assessment, and the remainder may be paid by general tax.

Sewers, drains, watercourses; special assessment; map of sewer district; contents; filing with cost estimate; hearing; notice; special assessments.

(MCL 67.26)

Sec. 26. (1) Before proceeding to the construction of any sewer, drain, or watercourse, all or part of the expense of which is to be defrayed by special assessment, the council shall cause a map to be made of those lands and premises which in their opinion will be benefited and which they intend to assess for the cost. Those lands shall constitute a special assessment district; and the map shall show the boundaries and divisions of all the lots and premises in the district, the proposed route and location of the improvement through the district, and the depth, grade, and

dimensions of the improvement. The map, with an estimate of the cost of the proposed work, shall be deposited with the clerk, and notice shall be given by publication in a newspaper of the village for 2 weeks or by posting copies of such notice for 2 weeks, in 3 public places in the village, of the intention to construct the improvement, and where the map and estimates can be found, and appointing a time when the council will meet to hear any suggestions and objections from persons interested or liable to be assessed for the work.

(2) The special assessments shall be made in the manner provided by law.

(MCL 67.27 Repealed.)

The repealed section pertained to the declaration of resolution to construct sewer, drain, or watercourse.

(MCL 67.28 Repealed.)

The repealed section pertained to special assessments.

Private drains; construction, regulation; work at private expense.

(MCL 67.29)

Sec. 29. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.

Private drains; connection with public sewers.

(MCL 67.30)

Sec. 30. The owners and occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the council shall prescribe.

Private drains; connection to public sewers; charge; collection.

(MCL 67.31)

Sec. 31. The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, a reasonable sum in proportion to the amount of drainage through the private drain. The charge shall be a lien upon the premises, and may be collected by special assessment.

(MCL 67.32 Repealed.)

The repealed section pertained to assessments for providing ditches and improving watercourses.

Sewers, ditches, water systems, and watercourses; repair expense.

(MCL 67.33)

Sec. 33. The expenses of repairing public sanitary sewers, drains, ditches, storm water systems, water supply systems, and watercourses may be paid by general tax. The expenses of reconstructing these improvements may be defrayed in the manner prescribed in this chapter for paying the expenses of constructing such improvements.

Public sewers and drain ordinances.

(MCL 67.34)

Sec. 34. The council may enact ordinances necessary for the protection and control of the public sanitary sewers, drains, ditches, storm water systems, water supply systems, and watercourses, and to carry into effect the powers conferred in this chapter in respect to the drainage of the village.

Harbors, Wharves and Harbor Masters

Public wharves, piers and levees; construction; regulation; leasing of privileges.

(MCL 67.35)

Sec. 35. The council of any village located upon or adjacent to any of the navigable waters of the state shall have the power to establish, construct, maintain, and control public wharves, docks, piers, landing places, and levees, upon any lands or property belonging to or under the control of the village, including property at the foot or end of public streets; and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than 10 years, and in such manner as to preserve the right of all persons to a free passage over the same with their baggage.

Public wharves; conformity with grade; line limit.

(MCL 67.36)

Sec. 36. The council shall have authority also to require and cause all docks, wharves and landings, whether upon public grounds or upon the property of private individuals, to be constructed and maintained in conformity with such grade as may be established therefor by the council, and to prescribe the line beyond which any such wharf, dock, or landing shall not be constructed or maintained.

Public wharves; rates and charges.

(MCL 67.37)

Sec. 37. The council shall have authority to prohibit the encumbering of the public wharves and landings, and to regulate the use of all wharves, docks and landing places within the village; to regulate the use and location of wharf-boats; and to regulate and prescribe the rates and charges for landing, wharfage, and dockage at all public wharves, docks and landings, and to collect wharfage and dockage from boats, watercraft, and floats landing at or using any public landing place, wharf, or dock within the village.

Preservation of purity of water; regulation of navigable waters; duties of council.

(MCL 67.38)

Sec. 38. The council may do all of the following:

(a) Provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the village.

(b) Control and regulate the anchorage, moorage, and management of all boats, watercraft, and floats within the jurisdiction of the village.

(c) Regulate and prescribe by ordinance, or through a harbor master or other officer, the location of any boat, craft, vessel, or float, and the changes of station in, and use of the harbor as may be required to promote order and the safety and convenience of all boats, craft, vessels, and floats.

(d) Regulate the opening and passage of bridges.

(e) Adopt and enforce ordinances and regulations not inconsistent with the laws of the United States, or this state, as in the opinion of the council shall be most conducive to the orderly, safe, and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers, and landing places within the village.

Harbor master; appointment; duties; compensation.

(MCL 67.39)

Sec. 39. The president may nominate and the council may appoint a harbor master. The harbor master shall enforce all such ordinances and regulations as the council may lawfully enact and prescribe in respect to and over the navigable waters, harbors, wharves, docks, landings, and basins within the village, and in respect to the navigation, trade, and commerce of the village. The council may prescribe the powers and duties of the harbor master and fix his or her compensation.

Ferries

Ferry licenses; terms and restrictions; sanctions.

(MCL 67.40)

Sec. 40. The council of a village may regulate and license ferries from the village, or a place in the village; require the payment of a reasonable sum for a ferry license; impose reasonable terms and restrictions, in relation to the keeping and management of ferries and the time; manner, and rates of carriage and transportation of persons and property by ferry; provide for the revocation of a ferry license and for the imposition of sanctions for a violation of an ordinance prohibiting unlicensed ferries or regulating ferries established and licensed.

Markets

Markets; establishment; regulation.

(MCL 67.41)

Sec. 41. The council of any village may establish and regulate markets and marketplaces, for the sale of meats, fish, vegetables, and other food products and prescribe rules and regulations relating to hours of business, sanitation, traffic, and other matters normally incidental to the proper management of a market consistent with the market authority act of 1956, 1956 PA 185, MCL 123.671 to 123.680.

Regulations; adoption; enforcement.

(MCL 67.42)

Sec. 42. The council may adopt and enforce such regulations as may be necessary to prevent fraud and to preserve order in the markets; and may authorize the immediate arrest, and removal from the market, of any person violating such regulations, together with any article in his possession; and may authorize the seizure and destruction of tainted or unsound meats, or other provisions exposed for sale therein, or elsewhere in the village.

Partition Fences

Ordinances and laws; fence viewers.

(MCL 67.43)

Sec. 43. The council is authorized to enact all such ordinances and laws as it may deem proper relative to the building, rebuilding, maintaining and repairing of partition fences by the owners and occupants of adjoining lots, enclosures and parcels of land in the village; and relative to the assigning to the owners or occupants of such adjoining pieces of land, the portion of such partition fences to be maintained by them respectively; and may provide for the recording of such

assignments and divisions when made; and may provide for the recovery of damages from any owner or occupant who shall fail to comply with the provisions and requirements of any ordinance relative to such partition fences. And the council may appoint fence viewers and prescribe their duties and mode of proceeding in all cases relating to partition fences in the village.

Police

(MCL 67.44-67.46a Repealed.)

The repealed sections pertained to village police force.

Public Health

(MCL 67.47-67.54 Repealed.)

Cemeteries

Interments; regulation.

(MCL 67.55)

Sec. 55. Any village may acquire, hold and own such cemetery or public burial place or places, either within or without the limits of the corporation as in the opinion of the council shall be necessary for the public welfare, and suitable for the convenience of the inhabitants, and may prohibit the further interment of the dead within the village, or may limit such interment therein to such cemetery or burial place as the council may prescribe. And the council may cause any bodies buried within the village, in violation of any rule or ordinance made in respect to such burials, to be taken up and buried elsewhere.

Cemeteries; appropriation by council.

(MCL 67.56)

Sec. 56. The council may, within the limitations in this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds, and for the improvement, adornment, protection, and care of the cemetery grounds.

Board of cemetery trustees; appointment; terms; removal; compensation.

(MCL 67.57)

Sec. 57. (1) Whenever any village owns, purchases, or otherwise acquires any cemetery or cemetery grounds, the council may appoint a board of cemetery trustees. The council may provide that the powers conferred upon a board of cemetery trustees by this act shall be exercised by the department of public works director, or the village manager, if any.

(2) A board of cemetery trustees shall consist of 3 individuals. The trustees shall hold their office for the term of 3 years, except that at the first appointment, 1 shall be appointed for 1 year, 1 for 2 years, and 1 for the term of 3 years from the second Monday in April of the year when appointed. One trustee shall be appointed annually thereafter. The council may remove any trustee so appointed for inattention to his or her duties, want of proper judgment or skill in or for the proper discharge of his or her duties, or other good cause. The board shall serve without compensation.

Board of cemetery trustees; chairperson; clerk; powers; duties.

(MCL 67.58)

Sec. 58. The board of cemetery trustees shall appoint 1 of their number chairperson and the village clerk shall be clerk of the board, and the council may by ordinance invest the board with such powers and authority as may be necessary for the care, management, and preservation of the cemetery, including the cemetery grounds, tombs, monuments, and appurtenances. The board shall perform such other duties as the council may prescribe.

Board of cemetery trustees; duties; directions of council.

(MCL 67.59)

Sec. 59. Said board subject to the directions and ordinances of the council, shall have the care and management of any such cemetery or burial place or places and shall direct the improvements and embellishments of the grounds, cause such grounds to be laid out into lots, avenues and walks, the lots to be numbered and the avenues and walks to be named and plats thereof to be made and recorded in the office of the village clerk. The board shall fix the price of lots and make the sales thereof. The conveyances of such lots shall be executed on behalf of the village by the clerk and be recorded in his office at the expense of the purchasers.

Board of cemetery trustees; cemetery employees; ordinances, enforcement; rules.

(MCL 67.60)

Sec. 60. Said board shall appoint the necessary superintendents and employees for the cemetery, expend the money provided for the care and improvement of the grounds, enforce the ordinances of the village made for the management and care thereof and make such regulations for the burial of the dead, the care and protection of the grounds, monuments and appurtenances of the cemetery and the orderly conduct of persons visiting the grounds, as may be consistent with the ordinances of the village and the laws of the state.

Board of trustees; cemetery fund; use; reports to council; contents; verification.

(MCL 67.61)

Sec. 61. (1) Money raised for any public cemetery authorized by this act, and money received from the sale of lots or from other cemetery operations, shall be paid into the village treasury and constitute the "cemetery fund". The cemetery fund shall be used exclusively for cemetery purposes. The board of trustees shall report to the council annually, on the first Monday in March, and more often when the council requires, all of the following:

(a) For money received into and owing to the cemetery fund, the amount, source, and the payor or debtor.

(b) For expenditures and liabilities incurred, the date, amount, items, and purpose, and to whom paid, and to whom incurred.

(c) Such other matters as the council shall require to be reported.

(2) The report under subsection (1) shall be verified by the oath of the clerk of the board.

Necessary ordinances; enforcement.

(MCL 67.62)

Sec. 62. The council of a village owning a burial place, whether within or without the village, may pass and enforce an ordinance necessary to carry into effect the provisions of this act concerning burial places, to control or regulate the burial place and the improvement of the burial place, to protect it and its appurtenances from injury, and to impose sanctions for a violation of a lawful order or regulation made by the board of cemetery trustees.

Cemetery trustees; power to accept gifts; use.

(MCL 67.63)

Sec. 63. The board of cemetery trustees may receive in trust money or other property as gifts, grants, devises, or bequests for cemetery purposes. The money or other property shall be held in trust by the board, subject to the terms and conditions on which it was given, granted, devised, or bequeathed, and shall constitute a trust fund. The money shall, unless otherwise expressed by those making such gifts, grants, devises, or bequests, be invested as permanent fund in undoubted real estate security, U.S. bonds, state bonds, or municipal bonds, and the interest thereon after fulfillment of such conditions expressed shall be used in improving the cemetery under the control of the cemetery board. The gifts, grants, devises, or bequests shall be used exclusively for cemetery purposes.

Board of cemetery trustees; rules and bylaws; recording bylaws; appointment, duties, and bond of treasurer; conducting business at public meeting; notice of meeting; availability of certain writings to public.

(MCL 67.64)

Sec. 64. (1) The board of cemetery trustees may make all requisite and necessary rules and bylaws to carry into effect the powers vested and duties required by section 63. The bylaws shall be recorded in a book kept for that purpose. The board of cemetery trustees shall also appoint a treasurer from the membership of the board, whose duties shall be, under the direction of the board, to receive, account for, and invest all money received by the board under section 63. The treasurer shall give and execute a bond to the board of cemetery trustees in a sum fixed by the council.

(2) The business which the board of cemetery trustees may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Chapter VIII Improvements and Assessments

(MCL 68.1-68.22 Repealed 1974 PA 4.)

Expense of local public improvement or repair; special assessments.

(MCL 68.31)

Sec. 31. The council of the village by adopting a resolution pursuant to section 5 of chapter V may determine that the whole or a part of the expense of a local public improvement or repair shall be defrayed by special assessments upon the property specially benefited.

Ordinance providing special assessment procedure; contents; additional assessments; disposition of excess assessments; payment of future due installments.

(MCL 68.32)

Sec. 32. The complete special assessment procedure to be used, including the time when special assessments may be levied; the kinds of local public improvements for which a hearing is required on the resolution levying the special assessments; the preparing of plans and specifications; estimated costs; the preparation, hearing, and correction of the special assessment roll; the collection of special assessments; the assessment of single lots or parcels; and any other manners concerning the making of improvements by the special assessment method, shall be provided by ordinance. The ordinance shall authorize additional assessments, if the prior assessment proves insufficient to pay for the improvement or is determined to be invalid, in whole or in part, and shall provide for the refund of excess assessments; however, if the excess is less than 5% of total cost as defined by ordinance, it may be placed in the general fund of the village. The payment of future due installments of a special assessment against a parcel of land may be made at any time in full, with interest accrued to the due date of the next installment.

Special assessment as lien and debt; collection.

(MCL 68.33)

Sec. 33. From the date of confirmation of a roll levying a special assessment, the full amount of the assessment and the interest thereon shall constitute a lien on the premises subject thereto and that amount shall be a debt of the person to whom assessed until paid and, in case of delinquency, may be collected as delinquent village property taxes or by a suit against the person.

Action to contest collection of special assessment; illegal assessment roll.

(MCL 68.34)

Sec. 34. An action to contest the collection of a special assessment shall be instituted under the tax tribunal act, 1973 PA 186, MCL 205.701 to 205.779.

Bonds.

(MCL 68.35)

Sec. 35. The village council may borrow money and issue bonds of the village therefor in anticipation of the payment of special assessments in 1 or more special assessment districts, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the village. The village council may issue general obligation bonds to defray that portion of the cost and expense of a local public improvement chargeable to the village at large.

Energy conservation improvements; resolution; payment; scope of improvements; acquisition of improvements by contracts or notes; reports; forms.

(MCL 68.36)

Sec. 36. (1) The council of a village may provide by resolution for energy conservation improvements to be made to village facilities and may pay for the improvements from operating funds of the village or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The council of a village may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the village, payable from tax levies and the general fund as pledged by the council of the village. The notes shall be subject to the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws. The notes shall bear interest at a rate determined by the council of the village, not to exceed the rate provided in section 1a of chapter III of the municipal finance act, Act No. 202 of the Public Acts of 1943, being section 133.1a of the Michigan Compiled Laws. This subsection does not limit in any manner the borrowing or bonding authority of a village as provided by law.

(3) If energy conservation improvements are made as provided in this section, the village council shall report the following information to the Michigan public service commission within 60 days of the completion of the improvements:

(a) Name of each facility to which an improvement is made and a description of the conservation improvement.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the village council shall report to the Michigan public service commission, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the Michigan public service commission.

Chapter IX
Finance and Taxation

Authority of council to levy taxes; general fund.

(MCL 69.1)

Sec. 1. (1) Actions taken by the council under this chapter are subject to the voting requirements of section 5 of chapter V. However, the council shall not increase a tax or impose a special assessment except by an affirmative vote of 2/3 of the members of council.

(2) The council may raise, by general tax upon the real and personal property liable to taxation in the village (exclusive of taxes for highway and street purposes and not otherwise provided for in this act), a sum not exceeding in any 1 year 1-1/4% of the assessed value of that property, to defray the general expenses and liabilities of the village, and to carry into effect the powers in this act granted. The money so raised constitutes a "general fund".

Authority of council to levy taxes; general highway fund.

(MCL 69.2)

Sec. 2. The council shall also have power to raise, by general tax upon all real estate and personal property aforesaid, such sum not exceeding 1/2 of 1 per cent of the assessed value of said property, as they shall deem necessary for highway and street purposes. Such moneys shall constitute a "general highway fund," and shall be expended exclusively for working and improving the highways, streets, lanes and alleys of the village and for the construction and repair of bridges therein.

(MCL 69.3 Repealed.)

The repealed section provided for levy and collection of poll tax.

Authority of council to levy taxes; cemeteries; tax limit.

(MCL 69.4)

Sec. 4. The council may for the purpose of purchasing grounds for a cemetery, raise by general tax a sum not exceeding in any 1 year, 1/4 of 1% of the taxable value of the property in the village. However, the total sum that may be raised for the purchase of grounds for that purpose shall not at any time exceed \$5,000.00. The council may, for the purpose of maintaining the cemetery, raise by general tax a sum not exceeding in any 1 year 1/10 of 1% of the taxable value of the property in the village.

Authority of council to levy taxes; street and other local improvements; special assessment proceeds; use.

(MCL 69.5)

Sec. 5. The council may raise by special assessment upon the lands in sewer districts and special assessment districts, for the purpose of defraying the cost and expense of grading, paving, and graveling streets, and for constructing drains and sewers, and for making other local improvements, charged upon the lands in the district in proportion to frontage or benefits, such sums as they shall consider necessary to defray the costs of the improvements. Money raised by special assessments to defray the expense of any such local improvement shall be held as a special fund to pay the expense, or to repay money borrowed for the improvement.

Taxation for payment of interest, principal, sinking fund deposits, evidences of indebtedness, assessments, or contract obligations; credit for surplus money.

(MCL 69.6)

Sec. 6. The council shall raise annually by taxation an amount such that the estimated collections will be sufficient to promptly pay when due the interest, that portion of the principal, and the required sinking fund deposits on the outstanding bonds or other evidences of indebtedness, or assessments or contract obligations in anticipation of which bonds were issued, falling due prior to the time of the following year's tax collections. The tax shall be without limitation as to rate or amount and in addition to any other tax the village may levy but shall not be in excess of the rate or amount necessary to pay the principal and interest or assessments or contract obligations. If at the time of making an annual tax levy, surplus money is on hand for the payment of principal or interest and provision for disposition of the money was not made, then credit for the surplus may be taken against the amount to be raised for principal or interest as the case may be. The money so raised shall be used solely for the purpose stated in this section.

Auditing and settling accounts; statement.

(MCL 69.7)

Sec. 7. Within 2 weeks after an annual village election for members of the council, the council shall audit and settle the accounts of the treasurer and other officers of the village, and so far as practicable, of all persons having claims against the village. The council shall prepare a statement summarizing the results of the audit.

Commencement of fiscal year.

(MCL 69.7a)

Sec. 7a. The fiscal year of a village shall commence on March 1 of each year. The council may by ordinance adopt another date for the commencement of the village's fiscal year. The fiscal year of any village subject to this act that commences on a date other than March 1 on the effective date of the amendatory act that added this section is hereby ratified and shall continue until changed or modified pursuant to this section.

Village taxes; annual assessment roll; contents; certification of determination.

(MCL 69.8)

Sec. 8. The treasurer of a village subject to this act shall, in each year, at and within the same time as required by the general laws of this state for the assessment of property in the townships of this state, make an assessment roll containing a description of all the real property and the aggregate amount of all the personal property liable under the laws of the state to taxation in the village, and the name of the owner, agent, or other person liable to pay taxes. The treasurer shall record on the roll the valuation of such property, at its value, as determined by the assessor of the township where the property is located, placing the value of the real and personal property in separate columns. In fulfilling the requirements of this section, the treasurer shall conform to and be governed by the law governing supervisors of townships performing like services, unless otherwise in this act provided. However, if in any year it is not necessary to raise any money by taxation in a village, the council of the village may so determine by resolution, and shall certify the determination to the treasurer. The treasurer shall not make any assessment roll of property in the village for that year.

Assessment roll; review by township board of review.

(MCL 69.9)

Sec. 9. The board of review of the township where the village is located shall review the assessment roll in the same manner, at the same time and place, and pursuant to the same processes as provided in sections 28 to 33 of the general property tax act, 1893 PA 206, MCL 211.28 to 211.33.

(MCL 69.10, 69.11 Repealed.)

The repealed sections related to board of review of assessments; power and duties; and changes in tax roll.

Annual assessment roll; certification of board of review.

(MCL 69.12)

Sec. 12. Immediately after the review of the assessment roll, the secretary of the board of review shall file the assessment roll with the council.

Assessment roll; council's certificate to treasurer; contents.

(MCL 69.13)

Sec. 13. The council, after an examination of the assessment roll, shall certify to the treasurer the assessment roll, together with the amount which they require to be raised by general tax, for highway and other general purposes and all amounts of special assessments which they require to be reassessed upon any lands or premises with a particular description of the lands and property to be reassessed, and the amounts to be reassessed upon each parcel of land, and the name or names, so far as known, of the persons chargeable with the taxes and assessments. The certificate shall be endorsed upon or annexed to the roll and signed by the president and clerk.

Assessment roll; tax apportionment by assessor.

(MCL 69.14)

Sec. 14. Upon receiving the assessment roll, with the certificate of the several amounts to be raised, as provided in section 13 of this chapter, the treasurer shall estimate, apportion, and set down in columns opposite to the several valuations of real and personal property on the roll, in proportion to the individual and particular estimates and valuations, the respective sums in dollars and cents, apportionable to each; placing the general fund taxes and all general taxes, except those for highway purposes, in 1 column; the general highway taxes in another column; the street district taxes, if any, in a third column; all special assessment taxes in a fourth column; and the total of all taxes assessed to each valuation in the last column of the roll. The treasurer shall also foot up the amounts carried to the last column, and certify upon the roll the aggregate amounts of the taxes levied.

Delivery of certified assessment roll to treasurer; collection warrant; renewal of warrant.

(MCL 69.15)

Sec. 15. The warrant of the president of the village shall be annexed to the roll, directing and requiring the treasurer to collect from the persons named in the roll the sums mentioned opposite their respective names, as a tax or assessment, and authorizing him or her, in case any person named on the roll shall neglect or refuse to pay the sums, to collect the sums, together with fees and charges, in the manner provided in section 17 of this chapter. The warrant shall direct the treasurer to collect all taxes by a certain day as determined under section 18 of this chapter. The president may renew the warrant from time to time, by order of the council, and for a time as the council shall direct, except that the time shall not be extended later than the last day of February of the year following the levy of the village taxes.

Taxes; treasurer to collect; fees.

(MCL 69.16)

Sec. 16. Immediately upon receiving the tax roll, with the warrant annexed, as provided in section 15 of this chapter, the treasurer shall proceed to collect the taxes levied according to the direction of the warrant, together with the fees authorized by law.

Taxes; collection by seizure of personal property.

(MCL 69.17)

Sec. 17. If a person, including a firm or corporation, does not pay a tax imposed upon real or personal property belonging to that person, the treasurer shall collect the tax by seizing the personal property of that person located in this state in an amount sufficient to pay the tax, the fees, and charges for subsequent sale of the property. No property of the person shall be exempt from such seizure. The treasurer shall comply with the requirements of section 47 of the general property tax act, 1893 PA 206, MCL 211.47. The treasurer shall have the same powers and perform the same duties, so far as applicable, as township treasurers, in the collection of taxes levied in townships.

Taxes as lien against property; interest; fees and charges; taxes returned delinquent; resolution; tax bill or enclosure to specify where delinquent taxes to be paid; adding fees and interest to taxes; return of unpaid taxes on real property to county treasurer; collection; rate of interest and fees; delinquent taxes as lien; return to department of treasury.

(MCL 69.18)

Sec. 18. (1) Taxes collected by a village shall become a lien against the property on which assessed on July 1. Taxes collected on or before September 14 in each year shall be without interest. Taxes collected after September 14 of any year shall bear interest at the rate imposed by section 59 of Act No. 206 of the Public Acts of 1893, being section 211.59 of the Michigan Compiled Laws, on delinquent property tax levies which became a lien in the same year. The village taxes which are collected by a village shall be subject to the same fees and charges the village may impose under section 44 of Act No. 206 of the Public Acts of 1893, being section 211.44 of the Michigan Compiled Laws. All interest and property tax administration fees that are imposed prior to the date these taxes are returned delinquent and that are attributable to village taxes shall belong to the village. Interest and, to the extent permitted by section 44 of Act No. 206 of the Public Acts of 1893, fees shall be included in the unpaid tax rolls or the delinquent tax rolls returned to the county treasurer on September 15, or not later than March 1 if the warrant is extended.

(2) Taxes collected by the village shall be returned delinquent to the county treasurer on September 15 unless the governing body of the village by resolution adopted on or before June 1 of each year determines that the village taxes shall be returned to the county treasurer on the same date that county taxes are returned delinquent for collection. The resolution shall be forwarded to the county treasurer before July 1 each year. The village tax bill for each year or a separate enclosure with the tax bill shall specify where such delinquent taxes are to be paid.

(3) If the unpaid village taxes are returned to the county treasurer prior to March 1 of the year following the levy of the village taxes, the county treasurer shall add to such taxes fees and interest in the same amount as would have been added if collected by the village treasurer. As of March 1, the accumulated interest and the fees on such taxes which may be imposed and returned delinquent shall be added to and become a part of the village tax subject to the interest and fees charged by the county treasurer on the delinquent taxes pursuant to section 59 of Act No. 206 of the Public Acts of 1893.

(4) Within 1 week after the expiration of the time limited in the warrant for the collection of the taxes levied on the roll, or within 1 week after the time to which the warrant may have been renewed or extended, if the treasurer has been unable to collect any of the taxes on the roll on real property, the treasurer shall return all unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers. The taxes returned shall be collected in the same manner as other taxes returned to the county treasurer are collected pursuant to the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, with the same rate of interest and fees. All taxes upon real property returned as delinquent shall be and remain a lien on the property until paid. The county treasurer at the time that he or she makes the return to the department of treasury of delinquent taxes assessed under the general property tax act, Act No. 206 of the Public Acts of 1893, shall also make a return of all village taxes that were returned delinquent to his or her office and remaining unpaid on March 1 of the year in which the return is made.

Tax sales; proceeds, deposit with county treasurer.

(MCL 69.19)

Sec. 19. Moneys received for such sale shall be paid over to the village treasurer. All of the provisions of the general tax law relative to the sale and redemption of lands returned for delinquent taxes shall apply to the sale and redemption of lands returned for delinquent taxes assessed under the provisions of this act.

Tax on personal property; collection suit.

(MCL 69.20)

Sec. 20. If the treasurer is unable to collect a tax assessed upon personal property in the village, the treasurer of the village may bring an action, in the name of the village, for the recovery of the tax, against any persons against whom the tax was assessed, before a court of competent jurisdiction, and take and use all lawful means provided by law for the collection of debts to enforce the payment of the tax. In such cases, the provisions of law applicable to suits and the evidence therein, brought by township treasurers in the name of their township for such purposes, apply. The court may order the person or persons assessed the personal property tax to pay the amounts authorized under section 47 of the general property tax act, 1893 PA 206, MCL 211.47.

Borrowing in anticipation of revenue sharing or taxes.

(MCL 69.21)

Sec. 21. Subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, the council may borrow money, and give notes of the village, in anticipation of 1 or more of the following:

(a) The receipt of revenue sharing payments under the state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

(b) The collection of taxes.

Raising additional amounts by tax or loan; approval of electors; limitation on taxation and indebtedness; exclusions from limitation; validation of prior bonds or obligations.

(MCL 69.22)

Sec. 22. (1) Should any greater amount be required in any year for any lawful purpose than can otherwise be raised by the council under this chapter, the amount may be raised by tax or loan, or partly by tax and partly by loan. If approved by a majority vote of the electors at an annual or special village election, the council may levy a tax which, in any year, shall not exceed 2% of the assessed valuation of the real and personal property within the village, as shown by the last preceding assessment roll of the village.

(2) The amount of indebtedness incurred by the issue of bonds or otherwise, including existing indebtedness, shall not exceed 10% of the assessed valuation of the real and personal property within the village subject to taxation as shown by the last preceding assessment roll of the village. Bonds issued in anticipation of the collection of special assessments even though the bonds are a general obligation of the village, motor vehicle highway fund bonds even though they are a general obligation of the village, revenue bonds, or bonds issued or contract or assessment

obligations incurred to comply with an order of the department of environmental quality or a court of competent jurisdiction, even though they are a general obligation of the village and bonds issued or contract or assessment obligations incurred for water supply, sewage, drainage, or refuse disposal necessary to protect the public health by abating pollution even though they are a general obligation of the village, are not included in this limitation. Money on hand in a sinking fund limited to the payment of indebtedness may be treated as a reduction of the indebtedness to that extent. In case of fire, flood, or other calamity requiring an emergency fund for the relief of the inhabitants of the village, or for the repairing or rebuilding of any of its municipal buildings, works, bridges, or streets, the council may borrow money due in not more than 3 years and in an amount not exceeding 1/4 of 1% of the taxable valuation of the village, notwithstanding that the loan may increase the indebtedness of the village beyond the limitations fixed by this section. If a village is authorized to acquire or operate a public utility, the village may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by this section. The mortgage bonds issued beyond the limit of general indebtedness prescribed by this section shall not impose any liability upon the village, but shall be secured only upon the property and revenues of the public utility, including its franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the public utility; which franchise shall not extend for a period of more than 20 years from the date of the sale of the utility and franchise on foreclosure. All bonds issued, or contract or assessment obligations incurred, before January 30, 1974 are validated.

(MCL 69.22a Repealed.)

The repealed section pertained to acquisition or operation of public utility.

Bonds; approval of electors required; exemption of certain bonds and obligations.

(MCL 69.23)

Sec. 23. Bonds may not be issued, except special assessment bonds, bonds for the portion of the cost of local improvements to be paid by the village at large not to exceed 40% of the cost of such improvements, emergency bonds, and bonds which the council is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting thereon at an annual or special village election. The election shall be conducted in accordance with the general laws governing the conduct of elections. This section does not apply to obligations incurred by the village evidenced by contracts, notes, or assessments.

Disbursements; procedures.

(MCL 69.24)

Sec. 24. Disbursements may be made from the treasury under either of the following procedures:

(a) Upon appropriation by the council and the warrant of the clerk, countersigned by the president. The warrant shall specify the fund from which the money is payable, and shall be paid from no other fund. A warrant shall not be drawn upon the treasury after the fund from which it should be paid has been exhausted, and such a warrant is void.

(b) Pursuant to an ordinance or resolution under section 5 of chapter V.

Loans; limitation; issuance and execution of bonds; validation of prior bonds or indebtedness.

(MCL 69.25)

Sec. 25. A loan may not be made by the council or by its authority in any year, exceeding the amounts prescribed in this act. For a loan lawfully made, the bonds of the village may be issued subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3. Interest on the bonds shall not exceed the maximum rate permitted by the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3. The bonds shall be executed in the manner directed by the council. Bonds issued or indebtedness incurred by a village before January 30, 1974 are validated.

(MCL 69.26, 69.27 Repealed.)

The repealed sections pertained to bonds and contractual obligations.

Chapter X
Fires and Fire Department, Police Department

Ordinances and regulations; fire department and fire companies; fire fighters; rules and regulations.

(MCL 70.1)

Sec. 1. The council may adopt ordinances and regulations to protect against fires and may establish and maintain a fire department and organize and maintain fire companies. Unless otherwise provided in an ordinance adopted under section 8 of chapter V that delegates the authority to the fire chief, the council may employ and appoint fire fighters; and make and establish rules and regulations for the government of the department, the employees, fire fighters, and officers of the department; and for the care and management of the vehicles, equipment, property, and buildings of the department. Fire fighters shall comply with the fire fighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377.

Vehicles and equipment; water supply.

(MCL 70.2)

Sec. 2. The council may purchase and provide suitable vehicles and equipment for the extinguishment of fires; and provide for a convenient supply of water for the use of the fire department.

Necessary buildings for keeping vehicles and equipment.

(MCL 70.3)

Sec. 3. The council may also provide or erect all necessary buildings for keeping the vehicles and equipment of the fire department.

Chief of fire department; appointment; duties; section subject to ordinance.

(MCL 70.4)

Sec. 4. The council may provide by ordinance or resolution for the appointment of a chief of the fire department, who shall be subject to the direction of the president and the regulations of the council. The chief of the fire department shall supervise and direct the department, and the care and management of the vehicles, equipment, and property of the department. This section is subject to an ordinance adopted under section 8 of chapter V.

(MCL 70.5 Repealed.)

The repealed section pertained to failure of person to comply with command of fire department chief.

Storage and handling of hazardous substances; prevention and suppression of fires; ordinance; fire inspectors; authority subject to state and federal law.

(MCL 70.6)

Sec. 6. (1) The council may provide by ordinance for the storage and handling of combustible, explosive, or other hazardous substances.

(2) The council may provide by ordinance for the prevention and suppression of fires. The ordinance may prescribe, but need not be limited to, the manner of construction of buildings and other structures within the village or certain districts of the village.

(3) The council may provide by ordinance for the appointment of fire inspectors, and may appoint fire inspectors. The ordinance may provide for the periodic examination by the fire inspectors of the stoves, furnaces, and heating apparatus and devices in all dwellings, buildings, and structures within the village, and in all places where combustible or explosive substances are kept, and authorize fire inspectors to require stoves, furnaces, and heating apparatus and devices that pose a fire hazard to be put in a safe condition.

(4) The authority granted under this section is subject to state and federal law.

(MCL 70.7, 70.8 Repealed.)

The repealed sections pertained to erection or construction of wooden buildings and to restriction of certain dangerous trades or shops.

Building or structure as nuisance; abatement or removal.

(MCL 70.9)

Sec. 9. Every building or structure erected, placed, enlarged, or kept, in violation of any ordinance or regulation lawfully made for the prevention of fires, is a nuisance, and may be abated or removed by the direction of the council under procedures set forth in an ordinance adopted for that purpose.

Compensation of officers, fire fighters, and employees; compensation for injuries.

(MCL 70.10)

Sec. 10. The officers, fire fighters, and employees of the department shall receive compensation as the council may provide. The council may provide suitable compensation for an injury to person or property which a fire fighter receives in consequence of the performance of the fire fighter's duty at a fire.

Authorized razing of buildings; damages; determination by jury.

(MCL 70.11)

Sec. 11. (1) The chief in charge of the department at any fire, with the concurrence of the president or any 2 trustees, may cause any building to be pulled down or destroyed to arrest the progress of the fire.

(2) If a building is so pulled down or destroyed, a person having an interest in the building may present a claim for damages to the council of the village. The council shall pay the claimant damages as may be just under all the circumstances, taking into consideration whether or not such loss would probably have occurred to the building even if it had not been pulled down or destroyed, and whether the building was insured or not.

(3) If the council and the claimant are not able to agree upon the amount of damages to be paid, then the amount of damages shall be ascertained by the appraisal of a jury to be selected in the same manner as in cases of a jury to appraise damages for taking private property for public use. The jury may visit the premises and may hear all the proofs in the case, and shall allow the claimant the amount of damages as they may consider proper under the standard set forth in subsection (2).

(4) If the jury is not able to agree, a new jury shall be empanelled as provided in subsection (3) until a jury is obtained that does agree.

(5) The council shall pay such claimant the amount of damages fixed by a jury under subsection (3) or (4).

Watercraft on navigable streams; regulation.

(MCL 70.12)

Sec. 12. The council of a village located upon any of the navigable waters of the state may by ordinance prescribe regulations, to be observed by owners, masters, and employees of watercraft, necessary to prevent fires in a harbor and to prevent the communication of fire from watercraft, and may prescribe in such an ordinance the manner of collecting any sanction imposed by the ordinance.

Police force; employment; compliance with standards.

(MCL 70.13)

Sec. 13. (1) The council may establish a police force, and may authorize the president to appoint, with the consent of the council, the number of police officers and other personnel that the council considers expedient for the good government of the village and protection of persons and property. The council by ordinance may delegate authority to the police chief to employ police officers and other personnel. This subsection is subject to an ordinance adopted under section 8 of chapter V.

(2) The police force shall comply with the minimum employment standards for law enforcement officers published by the law enforcement council under the Michigan law enforcement officers training council act of 1965, 1965 PA 203, MCL 26.601 to 26.616.

Police officers; powers, duties, and authority.

(MCL 70.14)

Sec. 14. The council shall adopt rules for the government of the police, prescribe the powers and duties of police officers and other personnel, and invest them with authority necessary for the preservation of quiet and good order in the village. The police shall suppress riots, disturbances, and breaches of the peace; arrest any person fleeing from justice; apprehend upon view any person found violating a state law or village ordinance in a manner involving a breach of the peace and, unless the violation constitutes a civil infraction, take the offender before the proper magistrate or officer, to be punished; make complaints before the proper magistrate of any person known or believed by the police to have violated a state law or village ordinance; serve process that may be delivered to the police for that purpose; and generally perform duties required by the council for the good government of the village.

Police chief; nomination; appointment; service; duties.

(MCL 70.15)

Sec. 15. The president may nominate and the council may appoint a chief of police of the village. The police chief shall serve at the pleasure of the council, unless the council has agreed to some other condition of appointment, and is subject to the direction of the president and council, or, if provided by ordinance adopted under section 8 of chapter V, the village manager. The police chief shall see that all the ordinances and regulations of the council, made for the preservation of quiet, and good order, and the protection of persons and property, are promptly enforced.

Village police officer; powers vested; authority.

(MCL 70.16)

Sec. 16. (1) A police officer of the village, within the village, is vested with all the powers conferred upon sheriffs for the preservation of quiet and good order and has the power to serve and execute all process directed or delivered to the police chief, in all proceedings for violations of the ordinances of the village.

(2) A police officer of a village has the same authority within the village as a deputy sheriff to execute a bench warrant for arrest issued by a court of record or a municipal court.

Department of public safety; creation; director; officers; structure.

(MCL 70.18)

Sec. 18. (1) The council may by ordinance create a department of public safety and delegate to it all the power, authority, and duties which may be exercised by a fire department or a police department or both. If the ordinance provides for the combination of existing police and fire entities, it shall provide for a right of referendum and become effective as provided in section 1(4) of chapter II.

(2) The department of public safety shall be headed by the director of public safety, who shall be the commanding officer of the department. The president shall nominate and the council appoint the director of public safety. The director of public safety is subject to the direction of the president and council, or, if provided by ordinance adopted under section 8 of chapter V, the village manager.

(3) If authorized by ordinance, the director of public safety may employ public safety officers and other personnel. The director of public safety shall direct the police and fire work of the village and be responsible for the enforcement of law and order, the protection of life and property against fire, and the performance of other public services of an emergency nature assigned to the department of public safety.

(4) If a department of public safety is established, a reference to the chief of police or the chief of the fire department contained in a state statute or village ordinance shall be considered to refer to the director of public safety.

(5) The council may structure the department of public safety so that separate police and fire entities may be continued.

Chapter XI Water Works

Water works; establishment; maintenance.

(MCL 71.1)

Sec. 1. Any village may purchase or construct and may maintain water works to provide the village with pure water.

Water works or filtration plant; authorized acquisitions, construction, and maintenance.

(MCL 71.2)

Sec. 2. The village may acquire, purchase, erect, and maintain the reservoirs, canals, aqueducts, sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes, and other apparatus, appurtenances, and machinery, and may acquire, purchase, appropriate, and own such grounds, real estate, rights, and privileges that are necessary and proper for securing, constructing, rebuilding, repairing, extending, and maintenance of those water works or filtration plants.

Borrowing; purpose; limitations.

(MCL 71.3)

Sec. 3. It shall be lawful for any village, subject to the provisions of this act, to borrow any sum of money, that will not make the total indebtedness of such village greater than the limitations imposed in chapter 9, to be used exclusively for the purpose of purchasing, constructing, repairing, rebuilding, extending and maintaining water works, or filtration plants as provided in the 2 preceding sections, and for the payment of any indebtedness incurred by the village in purchasing, constructing, repairing, rebuilding, extending, and maintaining water works or filtration plants.

Estimate of expense; specially assessing cost of certain water improvements.

(MCL 71.4)

Sec. 4. Before any money shall be borrowed, appropriated, raised, or expended for the purchase, construction, repairing, rebuilding, or extending of water works or filtration plants in any village, or for the payment of any Indebtedness incurred by the village, in purchasing, constructing, repairing, rebuilding, extending, and maintaining water works or filtration plants, the council shall cause to be made an estimate of the expense thereof. The council may determine to specially assess any portion of the cost of water improvements to property especially benefited thereby pursuant to chapter 8.

Private connections; manner; permit; repairs at owner's expense.

(MCL 71.5)

Sec. 5. The connecting or supplying pipes, leading from buildings or yards to the distributing pipes, shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be connected with the main pipe until a permit is obtained from the village. Connecting or supply pipes shall be constructed and connected in the manner prescribed by ordinance.

Water rates; ordinance; terms.

(MCL 71.6)

Sec. 6. The council shall establish just and equitable water rates to be charged and paid for water supply. The council shall periodically either modify, amend, increase, or diminish the water rates. The council may prescribe by ordinance when and to whom such water rates shall be paid, and what steps shall be taken to enforce payment of the water rates, including, but not limited to, notice to persons who fail to pay the rates that their supply of water may be shut off, and may provide, in case of nonpayment, that the supply of water may be shut off or stopped as to any person or persons neglecting or refusing to make payment.

Water works; ordinances.

(MCL 71.7)

Sec. 7. The council may enact such ordinances, and adopt such resolutions, as may be necessary for the care, protection, preservation, and control of the water works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the construction, management and control of such water works.

Water works; location outside corporate limits; control by council.

(MCL 71.8)

Sec. 8. If the council considers it in the public interest, the village may purchase or construct and may maintain a water works beyond the corporate limits of the village. In such case the council may enforce beyond the corporate limits of the village, have control over the buildings, machinery, and other property belonging to and connected with the water works, in the same manner and to the same extent as if located within the village, and adopt and enforce ordinances and police regulations as may be necessary for the care, protection, preservation, management, and control of the water works. However, nothing in this section prohibits another local governmental unit from enforcing its ordinances within its limits.

Water works; use of street or highway.

(MCL 71.9)

Sec. 9. For the purpose of operating or constructing and maintaining such water works, the village may, after obtaining appropriate rights as provided by law, use the ground or soil under any street, highway, or road for the purpose of introducing water into and through any and all portions of the village, and repairing and relaying water pipes.

Water works; condemnation.

(MCL 71.10)

Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property for the construction, maintenance, or operation of water works, the right to occupy and hold the same and the ownership or easement rights may be acquired by the village in the manner provided by the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

Water supply contract; use of streets, wharves, and public grounds.

(MCL 71.11)

Sec. 11. The council may contract from year to year, or for a period not exceeding 10 years, with a person to supply the village with water and may grant to the person the right to the use of the streets, alleys, wharves, and public grounds of the village as necessary to construct, maintain, and operate proper works for the supply of water for the village upon terms and conditions specified in the contract.

Street administrator; duties.

(MCL 71.12)

Sec. 12. Unless otherwise provided by ordinance adopted under section 8 of chapter V, as directed by the council, the street administrator designated under section 13 of 1951 PA 51, MCL 247.663, shall perform, or cause to be performed under his or her supervision, labor, repairs, and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds, and parks within the village.

Street administrator; report.

(MCL 71.13)

Sec. 13. The street administrator shall provide the council, in writing and on oath once in each month, an exact report of all labor performed by the street administrator, or under his or her supervision, and the charges therefor; the amount of material used, and the expense thereof; the street or other place where the material was used, or labor performed; and the items and purpose of all expenses incurred since his or her last preceding report.

Department of public works; performance of duties of administrator; director.

(MCL 71.14)

Sec. 14. The council by ordinance may establish a department of public works to perform the duties of the street administrator and other duties authorized by this act or by the council. The ordinance shall provide that the president shall nominate and the council shall appoint a director of public works. The council may designate the village manager as director of public works in an ordinance enacted pursuant to section 8 of chapter V.

Chapter XII Lighting

Authorized village lighting.

(MCL 72.1)

Sec. 1. A village may purchase or construct, and operate and maintain either independently or in connection with the water works of the village, either within or without the village, works to supply the village with gas, electric, or other lights, at such times and on such terms and conditions as directed by the council under this chapter.

(MCL 72.2 Repealed.)

The repealed section pertained to authorization of lighting by council.

Authorized village lighting; acquisition estimate; referendum; restriction on council.

(MCL 72.3)

Sec. 3. To exercise the powers granted by section 1 of this chapter, the council shall adopt a resolution declaring that it is expedient for such village to acquire by purchase or construction, as applicable, works to supply the village with electric or other lights, and shall make and record in their proceedings an estimate of the expense. The question of financing the estimated amount or that part of the estimated amount not in excess of limitations on indebtedness of the village provided by law shall be submitted to the electors of the village at its annual election, or at a special election called for that purpose by the council as provided in this act. Approval of the proposal requires the affirmative vote of 2/3 of the electors voting at such election by ballot. If the voters approve financing a part of the estimated amount not in excess of the limitations on indebtedness of the village, the council shall not incur any indebtedness for lighting works on the general faith and credit of the village until the charter is amended to permit the issuance of mortgage bonds on the proposed lighting plant, its revenues and franchise, in excess of the general limitations on indebtedness as provided by this act, in an amount equal to the difference between the indebtedness authorized by this act, and the estimated amount.

Authorized village lighting; borrowing; limitation; payment; bonds; terms.

(MCL 72.4)

Sec. 4. (1) A village may borrow a sum of money not exceeding 5% of the taxable value of the property in the village as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing or constructing and maintaining lighting works as provided in this chapter. The council may fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and issue bonds of the village therefor, but the rate of interest shall not exceed 6% per annum, and the bonds shall not be sold for less than their par value.

(2) The total amount expended for the purchase or construction of the lighting works shall not exceed the amount of the estimate of expense therefor provided for in section 3 of this chapter.

Lighting works; repairs, alterations, or extensions; raising and expenditure of funds; title retention contract providing for payment from available net revenues; construction; approval or disapproval of contract by department of treasury or successor agency; exception; factors; borrowing money and issuing bonds; prior approval requirement of subsection (2) subject to MCL 133.10 and 133.11; department of treasury order providing or denying exception from prior approval.

(MCL 72.5)

Sec. 5. (1) After lighting works have been purchased or constructed in the village as provided in this chapter, the council may raise and expend money to repair, alter, or extend the lighting works without submitting the question to the electors of the village. However, the sum to be so raised, in any 1 year, shall be included in, and shall not increase the total amount that the council is authorized to raise under section 1 of chapter IX.

(2) Instead of raising such funds by tax, the council may, by a contract that does not impose a general obligation on the village, provide for repairs, alterations, or extensions of the lighting works. The contract shall provide for payment of the contract out of the net revenues which, after payment of obligations due, provision for payment of obligations to become due, and payment of legitimate and necessary operating and other expenses are available from the operation of the lighting works after completion of the repairs, alterations, or extensions. The contract shall provide for the retention of title to materials furnished in the seller until paid for in full. However, a contract made under this section does not deprive the people of the village of any right vested in them by the constitution or the laws of this state, grant a franchise or its operating equivalent, or convey title to property to any person not possessed of such title before the execution of the title retaining contract. Unless an exception from prior approval is available under subsection (4), a title retaining contract shall be approved by the department of treasury or its successor agency before becoming binding upon the village. The department of treasury or its successor agency shall determine its approval or disapproval upon all of the following factors:

(a) Whether the contract conforms to this act.

(b) Whether after payment of legitimate and necessary operating and other expenses, and payments due or to become due on any existing obligations, the probable revenues pledged to the payment of the contract will be sufficient to pay the principal and interest on the contract when due.

(c) Whether the cost of the repairs, alterations, or extensions to be paid by the contract are excessive.

(3) Instead of raising funds to repair, alter, or extend the lighting works by tax as provided by section 1 of chapter IX, or using funds available from the operation of the lighting works, as provided in this section, the council may borrow money and issue bonds in the manner provided in section 3 of this chapter for the acquisition or construction of lighting works, except that approval of the proposal requires the affirmative vote of 3/5 of the electors voting on the question.

(4) The requirement of subsection (2) for obtaining the prior approval of the department of treasury or its successor agency before a title retaining contract may become binding is subject to sections 10 and 11 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.10 and 133.11, and the department of treasury shall have the same authority as provided by section 11 of chapter III of the municipal finance act, 1943 PA 202 MCL 133.11, to issue an order providing or denying an exception from the prior approval required by subsection (2) for a title retaining contract authorized by this section.

Light rates.

(MCL 72.6)

Sec. 6. The council may fix the just and equitable rates for supplying the village with lights.

Lighting; condemnation of property.

(MCL 72.7)

Sec. 7. If it is necessary in the judgment of the council to appropriate private property for the construction and maintenance, or for the due operation of lighting works, the village may do so in the manner provided in the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

Lighting; contract; users of streets, wharves, public grounds.

(MCL 72.8)

Sec. 8. The council may contract from year to year, or for a period not exceeding 10 years, with a person to supply the village with gas, electric, or other lights and may grant to the person the right to the use of the streets, alleys, wharves, and public grounds of the village as necessary to construct, maintain, and operate proper works for the supplying of such light upon terms and conditions specified in the contract.

Lighting works; control and preservation; ordinances and resolutions.

(MCL 72.9)

Sec. 9. The council may enact such ordinances and adopt resolutions for the care, protection, preservation, and control of the lighting works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected with or belonging to the lighting works, and to exercise the powers granted by this chapter.

Chapter XIII
Appropriation of Private Property

Condemnation.

(MCL 73.1)

Sec. 1. Private property may be taken for public use in a village for opening, widening, altering, and extending streets, alleys, and avenues; for the construction of bridges, public buildings, and other public structures; for public grounds, parks, marketplaces, and spaces; for public wharves, docks, slips, basins, and landings on navigable waters; for the improvement of sanitary sewers, drains, ditches, storm water systems, water supply systems, and watercourses; for public hospitals; and for other lawful and necessary public uses.

Condemnation; acquisition of property; resolution.

(MCL 73.2)

Sec. 2. To initiate the acquisition of private property, the council shall adopt a resolution describing the private property, declaring that the acquisition of the property is necessary for an improvement described in section 1 necessary for the use and benefit of the public, and designating the public improvement. The resolution shall direct that procedures to acquire the property be commenced under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

Condemnation; record of proceedings; admissible as evidence.

(MCL 73.3)

Sec. 3. If a verdict and judgment in an action under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, is rendered in favor of the village in the circuit court, then, after the verdict and judgment become final, unless the cause was discontinued, the village clerk shall procure copies of the judgment of the circuit court as well as of the verdict of the jury, and record them in a book of records kept by the village clerk. The book of records of the proceedings kept by the village clerk, or certified copies thereof, shall be admissible in evidence and have the same evidentiary effect as a copy of the order judgment or decree of the circuit court authenticated by the judge or clerk of the court under seal thereof, as provided in section 2106 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2106.

Condemnation; assessment.

(MCL 73.4)

Sec. 4. (1) After the village clerk records the final judgment and verdict as provided in section 30 of this chapter, the proper and necessary proceedings may be taken by the council for the collection of the sum awarded by the jury.

(2) If the council believes that real estate in the village in the vicinity of the proposed improvement will be benefited by the improvement, the council may, by an entry in its minutes, determine that the whole or any just proportion of the compensation awarded by the jury, and of the costs and expenses incurred in connection with the proceedings, be assessed upon the owners or occupants of real estate determined to be benefited. The council shall, by resolution, fix and determine the district of the village benefited, and specify the amount to be assessed upon the owners or occupants of the benefited real estate. In determining the amount of such costs and expenses, the council may include all costs and expenses incurred or paid for jurors' fees, expenses of abstracts, all surveys and maps, and all other necessary expenses. The amount of the benefit thus ascertained shall be assessed upon the owners or occupants of the benefited real estate, in proportion, as nearly as may be, to the advantage which each such lot or parcel is deemed to acquire by the improvement.

(3) The assessment shall be made and the amount levied and collected in the same manner and by the same officers and proceedings, as near as may be, provided in sections 31 to 35 of chapter VIII. The assessment roll, when ratified and confirmed by the council, shall be final and conclusive and prima facie evidence of the regularity and legality of all proceedings prior thereto, and each assessment shall be a lien on the premises on which it is assessed until the assessment is paid.

(4) Whatever amount or portion of such awarded compensation, costs, and expenses is not raised by special assessment shall be assessed, levied, and collected upon the taxable real estate of the village, the same as other general taxes are assessed and collected. The village may purchase assessed premises or any portion sold for nonpayment of the amount assessed.

(5) If there is on the private property taken a building or other structure, it may be sold by or under the direction of the council. The amount produced by the sale shall belong and be paid to the fund for paying the compensation awarded for the property taken, and the council shall cause such amount to be credited and applied in reduction pro rata of the assessment and apportionment made to pay for the property taken.

Condemnation by negotiation and purchase.

(MCL 73.5)

Sec. 5. This chapter does not prohibit a village from obtaining private property for a public use specified in section 1 of this chapter by negotiation and purchase. Further, this chapter does not permit a village to acquire property by condemnation that is located outside of the village limits.

(MCL 73.6-73.36 Repealed.)

The repealed sections pertained to condemnation proceedings.

Chapter XIV
Miscellaneous

Village; construction.

(MCL 74.1)

Sec. 1. The term village, whenever used in this act, shall be construed to mean a village incorporated under this act or subject to its provisions.

Village not to own stock.

(MCL 74.2)

Sec. 2. No village shall become the owner or holder of stock or shares in any incorporated company.

Affidavit or certificate of publication; filing; evidence.

(MCL 74.3)

Sec. 3. If, under this act, notice of any matter or proceeding is required to be published or posted, an affidavit or certificate of the publication or posting made by the clerk of the village, or by some other person in the employ of the village knowing the facts shall be prima facie evidence of the facts therein contained if filed with the village clerk within 6 months from the date of the last publication or posting of the notice.

(MCL 74.4 Repealed.)

The repealed section pertained to bonds for payment of judgments or decrees.

Board of trustees; construction.

(MCL 74.5)

Sec. 5. If in any other act the governing body of a village is described as the board of trustees, the trustees, or common council, it shall be construed to mean the body described in this act as the council.

Changing boundaries; order; copy to secretary of state; evidence.

(MCL 74.6)

Sec. 6. Whenever the council of any village shall determine by resolution to alter the boundaries of such village, either by taking in lands and premises adjoining thereto or by taking out any lands and premises included in such village, or both, they shall petition the board of supervisors of the county in which such lands and premises affected thereby are situated to make such change. Such petition shall contain a description by metes and bounds of the lands and premises proposed to be added to or taken out of such village, and shall set forth the reasons for

the proposed change, and shall contain a copy of the resolution of the council in relation thereto, and shall be signed by the president and clerk of such village. Before such petition shall be presented to the board of supervisors notice shall be given by the clerk of the time and place when the same will be presented for consideration, by publishing the same in a newspaper published in such village for at least 3 weeks immediately preceding the presentation of the same, and if no newspaper is published in such village, then by posting the same in at least 3 of the most public places within the village, and in at least 3 of the most public places of the territory directly affected thereby. Such notice shall also contain a description of the premises proposed to be taken in or out of the boundaries of such village. At the time of presenting such petition all parties interested may appear before such board of supervisors and be heard touching the proposed boundaries of such village, and after such hearing and due consideration of such petition, it shall be the duty of the board of supervisors to order and determine as to whether the prayer contained in the petition or any part thereof shall be granted, and they shall make an order of such determination, which order shall be entered upon their records, and thereupon the boundaries of such village shall be fixed and shall exist as provided in such order, and a certified copy thereof shall be transmitted to the clerk of such village and to the secretary of state, and such order shall be prima facie evidence of such change of boundaries of such village and of the regularity of such proceedings in all courts and places.

Petition for annexation or detachment; prohibition.

(MCL 74.6a)

Sec. 6a. The county board of commissioners shall not consider the petition of a village council for annexation or detachment of territory under section 6 of this chapter if the petition is presented during the pendency of a petition to disincorporate the village filed under section 18a of this chapter.

Reincorporation of villages; repeal.

(MCL 74.7)

Sec. 7. Villages incorporated before February 19, 1895 under any general or special law of this state, are reincorporated under and made subject to this act, effective February 25, 1895. General or special laws under which those villages were incorporated are repealed effective February 25, 1895.

Reincorporation of villages; rights; obligations; remedies.

(MCL 74.8)

Sec. 8. All villages reincorporated under and made subject to the provisions of this act, as provided in the preceding section, shall succeed to and be vested with all the property, real and personal, moneys, rights, credits and effects, and all the records, files, books and papers belonging to such villages as formerly incorporated, and no rights or liabilities, either in favor of or against such former corporation, existing at the time of its reincorporation, under or subject to the provisions of this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of the new corporation, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made: Provided, that when a different remedy is given in this act, which can be made applicable to any rights existing at the time of the incorporation of the village under or subject to this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

(MCL 74.9 Repealed.)

The repealed section pertained to effect of reincorporation relating to present officers.

Reincorporation; existing by-laws, ordinances, rules and regulations.

(MCL 74.10)

Sec. 10. The by-laws and ordinances of any such village, and the rules and regulations of the council and of any board of such village heretofore in force and not inconsistent with this act, shall remain in force after the passage of this act, and are hereby declared to be reenacted, by virtue of and under the powers conferred by this act, until altered, amended or repealed by the council or board as the case may be.

(MCL 74.11 Repealed.)

The repealed section pertained to effect of reincorporation relating to special assessments.

Reincorporation; granted licenses.

(MCL 74.12)

Sec. 12. All licenses granted by any such village under its former act of incorporation shall be and remain in full force and virtue until the expiration of the time for which they were granted.

(MCL 74.13 Repealed.)

The repealed section pertained to effect of reincorporation relating to elections.

(MCL 74.15 Repealed.)

The repealed section pertained to effect of reincorporation relating to platted and subdivided land.

(MCL 74.17, 74.18 Repealed.)

The repealed sections pertained to vacating incorporation of village.

Disincorporation of village; procedure.

(MCL 74.18a)

Sec. 18a. (1) To initiate the disincorporation of a village, there shall be filed with the village clerk a petition signed by not less than 15% of the registered electors of the village requesting a vote on the question of whether the village shall disincorporate.

(2) A petition shall designate the township or townships into which the village is proposed to be disincorporated. A village shall be disincorporated into the township or townships in which it is located, along existing township boundaries.

(3) After the petition is filed with the village clerk a petition affecting the village shall not be filed with the state boundary commission and a petition requesting disincorporation of the village into a different township shall not be filed under this act until the disincorporation process provided for by this act has concluded.

(4) By not more than 14 days after the petition is filed, the village clerk shall verify the signatures and determine the sufficiency of the petition. Unless the council proceeds under sections 23 to 23i of this chapter, if the clerk determines that the petition is sufficient, the question of the disincorporation of the village shall appear on the ballot at the next general or special election to be held in the village, subject to section 646a of the Michigan election law, 1954 PA 116, MCL 168.646a. The village clerk shall prepare the ballot language, in substantially the following form:

"Shall incorporation of the village of _____ be vacated?

() Yes

() No".

(5) The county election commission of the county in which the greatest number of electors of the village reside shall provide ballots for the election.

(6) The clerk and election officials of the village and each township into which the village is proposed to be disincorporated shall conduct the election on the proposed disincorporation in the village and the portions of the township outside the boundaries of the village, respectively.

(7) If the election on the proposed disincorporation is to be held in conjunction with a general election or a state primary election immediately preceding a general election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the county in which the greatest number of electors of the village reside shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(8) The results of the election on the proposed disincorporation shall be canvassed by the board of canvassers of the village and the board of canvassers of each township in which the village is located.

(9) The disincorporation of the village shall take place pursuant to this section only if 2/3 of the electors voting on the questions vote "yes". If the disincorporation is approved, the council shall immediately cause a transcript of all the proceedings in the case to be certified to both of the following:

(a) The county clerk of the county in which the village or the principal part of the village is located.

(b) The secretary of state.

Vacating incorporation of village; submission of transcript to county board of commissioners.

(MCL 74.19)

Sec. 19. Upon receiving the transcript of the proceedings in submitting to a vote of the electors the question of vacating the incorporation of any village as provided in section 18a of this chapter, the county clerk shall submit the transcript to the county board of commissioners, which shall at its next regular annual meeting pass a resolution vacating the incorporation of the village.

Vacation of village incorporation; disposition of village property; assessment; levy; placement in separate fund.

(MCL 74.20)

Sec. 20. (1) Upon the vacation of the incorporation of any village under sections 18a and 19 of this chapter, the officers of the village shall immediately deposit all books, papers, records, and files relating to the organization of or belonging to the village that are in their custody as village officers with the county clerk of the county in which the village or the principal part of the village is located for safe keeping and reference. The indebtedness of the vacated village, whether bonded or otherwise, shall be assessed, levied, and collected upon the territory embraced within the boundaries of the village immediately prior to the vacation. The township board of the township or townships in which the territory formerly embraced within the limits of the vacated village shall levy upon the assessment roll or rolls of the township upon the property formerly embraced within the limits of the village, the indebtedness of the village, or such portion of the village that is apportioned to the part of the territory formerly constituting the village that lies within the township as provided in subsection (2). This levy shall be made not more than 1 year after the date that the village incorporation is vacated. However, if the indebtedness falls due at a specified time, an assessment shall be made that will satisfy the indebtedness when it falls due.

(2) The taxes assessed and levied under subsection (1) shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness. The manner of the payment of the indebtedness shall be fixed by resolution of the township board or boards described in subsection (1).

Vacation of village incorporation; apportionment of indebtedness; village in more than one township or county.

(MCL 74.21)

Sec. 21. (1) If the territory formerly embraced within a village vacated pursuant to sections 18a and 19 of this chapter consists of territory of 2 or more townships in the same county, the township boards shall apportion, among their townships, the amount of the indebtedness of the vacated village that each township shall bear.

(2) If a village vacated pursuant to sections 18a and 19 of this chapter was comprised of territory from 2 different counties, the county boards of commissioners of the 2 counties shall determine what portion of the indebtedness of the vacated village each county shall bear, using as a basis the last preceding assessment roll of the vacated village before its vacation. The indebtedness, when so apportioned, shall be assessed, levied, and collected as provided in section 20 of this chapter.

Placing property outside corporate limits; procedure; resolution; board of supervisors.

(MCL 74.22)

Sec. 22. In case any person or persons want their property placed without the corporate limits of any village, they may make application to the board of supervisors of the county in which such village is located, to change the boundaries thereof in such manner as will place the property of the person or persons applying therefor without the corporate limits of such village. Such application shall be filed with the county clerk of each county at least 10 days prior to the annual session in October of such board of supervisors, and shall be signed by 100 taxpayers of the village or by 1/10 of the taxpayers of such village. Any person intending to apply to the board of supervisors to have his property placed without the corporate limits of any village shall give or cause to be given at least 15 days' notice of such application to the clerk of said village and by posting the same in at least 3 conspicuous public places within such village. Upon receiving the application aforesaid, the board of supervisors shall have power, by resolution, to change the boundaries of such village, as described and mentioned in such application.

Resolution for election of procedures.

(MCL 74.23)

Sec. 23. Not later than the next meeting of council held after the clerk verifies the petition signatures and determines the sufficiency of the petition under section 18a of this chapter, the council may by resolution elect to proceed under this section and sections 23a to 23i of this chapter.

Disincorporation commission; composition; appointment of members.

(MCL 74.23a)

Sec. 23a. (1) A disincorporation commission shall be composed of 3 members representing each township into which the village is proposed to be disincorporated and a number of members representing the village equal to the number of members representing townships.

(2) The village president with approval of the village council, shall appoint the members representing the village. The township supervisor of a township, with approval of the township board, shall appoint the members representing the township.

(3) Disincorporation commission members may be village or township officials.

Disincorporation commission; oath of office; vacancy.

(MCL 74.23b)

Sec. 23b. (1) An individual appointed to the disincorporation commission shall take the constitutional oath of office.

(2) A vacancy in the disincorporation commission is created in the manner provided in section 3 of 1846 RS 15, MCL 201.3.

(3) If a member of a disincorporation commission vacates office, the vacancy shall be filled by appointment in the same manner as provided in subsection (1).

Disincorporation commission; chairperson; secretary; officers; bylaws; quorum; conducting business at public meetings.

(MCL 74.23c)

Sec. 23e. (1) The president of the village shall appoint 1 of the village members as chairperson of the disincorporation commission.

(2) The village clerk shall call the first meeting of the disincorporation commission and shall serve as secretary of the commission and keep its minutes and records.

(3) At its first meeting, the disincorporation commission shall elect such other officers it considers advisable.

(4) The disincorporation commission shall adopt bylaws to govern the conduct of its business.

(5) A majority of the members of the disincorporation commission constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members are required for official action of the disincorporation commission.

(6) The disincorporation commission shall conduct its business at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275

(7) A writing prepared, owned, used, in possession of, or retained by the disincorporation commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Disincorporation commission; contract for consultants and advisors; funds.

(MCL 74.23d)

Sec. 23d. (1) The disincorporation commission may contract for such consultants and advisors as may be reasonably necessary in its discretion to carry out its responsibilities.

(2) The village council shall appropriate for the disincorporation commission sufficient funds for the commission to reasonably carry out its responsibilities.

(3) The disincorporation commission may accept any private or public funding.

Disincorporation plan; elements to be included; findings.

(MCL 74.23e)

Sec. 23e. (1) The disincorporation commission may adopt a disincorporation plan for the village. Adoption of a disincorporation plan requires the affirmative vote of 2/3 of the members representing the village and 2 of the members representing each township of the disincorporation commission.

(2) The disincorporation plan shall provide an orderly process for disincorporation of the village. The disincorporation plan shall include all of the following elements:

(a) An interim land use plan and interim zoning of the property within the limits of the village.

(b) Provision for payment of all indebtedness of the village, including any outstanding judgments, or judgments that may result from pending or future litigation to which the village may become a party.

(c) Disposition of real and personal property and other assets, including funds, deposits, and investments.

(d) Disposition of all public records of the village in accordance with a records retention plan as provided by law, including files, books, and papers.

(e) Transfer or termination of employees, and contracts of employment, and disposition of employee benefits, including retirement, health and life insurance, unemployment compensation, accrued sick and vacation leave, and any other benefits.

(f) Jurisdiction over streets, roads, bridges, alleys, sidewalks, and any public easements in the village, and for their maintenance and repair, including street lights and snow removal.

(g) Jurisdiction over traffic control and traffic control devices.

(h) Provision for any special assessments or special assessment districts within the village, including, but not limited to, street maintenance, street sweeping, and private road service.

(i) The transfer or termination of public utilities and public services of the village, including, but not limited to, water, sewer, drainage, cable television, street lighting, electric service, and garbage and refuse service.

(j) Regulation or orderly transfer of responsibility for any special districts, including, but not limited to, established historic districts, downtown development districts, tax increment financing districts, and land subject to any land transfer agreements.

(k) Provision for any authorities that the village has established or in which the village is a member.

(l) Findings as to the fiscal impact of dissolution upon the township or townships into which the village is proposed to be disincorporated and the residents of the village, including the estimated revenues gained by the township and losses to each municipality from property taxes and from state revenue sharing and from gas and weight tax revenues distributed by this state to the village and any township into which the village is proposed to be disincorporated.

(m) A process for the resolution of any dispute that may arise over the implementation of the plan, if adopted, and the procedure that a party to any such dispute may utilize for this process.

(3) The disincorporation commission may make findings as to the effect of disincorporation upon collateral matters including, but not limited to, property values, public service levels and costs, and local property tax rates.

Disincorporation plan; submission; ratification.

(MCL 74.23f)

Sec. 23f. A disincorporation plan adopted under section 23e shall be submitted to the council and to the township board of each affected township. The council and township board or boards may ratify the disincorporation plan. If the council and the township board of each affected township ratify the plan, the question of disincorporation pursuant to the plan shall be

placed on the ballot pursuant to section 23g of this chapter. If the council or the township board of each affected township fails to ratify the disincorporation plan, the question of disincorporation shall be submitted to the electorate as described in section 18a of this chapter not more than 1 year after the date the disincorporation was filed under section 18a of this chapter.

Disincorporation plan; approval; ballot; form; special election; failure of commission to adopt plan.

(MCL 74.23g)

Sec. 23g. (1) If the disincorporation plan is approved pursuant to section 23f of this chapter, the clerk of the disincorporation commission shall prepare and certify to the county clerk of each county where the village is located ballot language describing the proposed disincorporation and that includes the following in substantially the following form:

"Shall the village of _____ be disincorporated pursuant to the plan adopted by the disincorporation commission?"

() Yes

() No".

(2) The clerk of the disincorporation commission shall certify the proposed disincorporation for inclusion on the ballot at the next general election, the state primary immediately preceding the general election, or a special election not occurring within 45 days of a state primary or a general election, as specified by the clerk of the disincorporation commission. However, the clerk of the disincorporation commission shall not certify the proposed disincorporation for inclusion on the ballot at either of the following:

(a) An election to be held less than 60 days after the date of certification.

(b) An election to be held more than 1 year after the village clerk verifies the petition signatures and determines that the petition is sufficient under section 18a of this chapter.

(3) If a special election is requested by the clerk of the disincorporation commission, the county clerk of the county in which the greatest number of electors of the village reside shall request approval of a special election date from the county election scheduling committee of that clerk's county. The proposal shall be submitted to the qualified and registered electors residing in the village and each township into which the village is proposed to be disincorporated on the date approved by that county election scheduling committee.

(4) If a disincorporation commission fails to adopt a plan under section 23e of this chapter or the clerk of the disincorporation commission does not certify the proposed disincorporation for inclusion on the ballot pursuant to this section, the question of disincorporation shall be submitted to the electors as described in section 18a of this chapter not more than 1 year after the date the disincorporation petition was filed under section 18a of this chapter.

Disincorporation; approval by electors.

(MCL 74.23h)

Sec. 23h. (1) The proposed disincorporation is approved by the electors and shall take place pursuant to the plan adopted under section 23e of this chapter only if a majority of each of the following votes cast on the question of the proposed disincorporation are in favor of the disincorporation:

(a) The votes cast by electors of the village.

(b) The votes cast by the electors of each township into which the village is proposed to be disincorporated, counted separately, and excluding votes cast by residents of the village.

(2) Unless the proposed disincorporation is approved as provided in subsection (1), the proposed disincorporation pursuant to a plan adopted under section 23e of this chapter is disapproved by the electors and the village shall not be disincorporated pursuant to the plan.

Filing new petition; limitation.

(MCL 74.23i)

Sec. 23i. A new petition shall not be filed under section 18a of this chapter less than 2 years after the election if the disincorporation is disapproved by the electors at an election held pursuant to section 18a or 23g of this chapter.

Modification of act.

(MCL 74.24)

Sec. 24. A village incorporated under this act may locally modify this act by complying with the provisions governing the amendment of a charter under the home rule village act, 1909 PA 278, MCL 78.1 to 78.28.

Short title.

(MCL 74.25)

Sec. 25. This act shall be known and may be cited as "the general law village act".

Chapter XV**Elections for Borrowing Money and Issuing Bonds; Issuance of Bonds and Levy of a Tax to Pay Principal and Interest Thereof**

(MCL 75.1 -75.12 Repealed.)

COMPARATIVE SECTION TABLE

EDITOR'S NOTE: The 2000 Codified Ordinances of Shelby, Michigan comprises ordinances and resolutions enacted by Council or new matter ordained by the Adopting Ordinance. Sections and subsections of the 2000 Codified Ordinances without a history or with the words "Adopting Ordinance" at the end thereof are or contain new matter ordained by the Adopting Ordinance, i.e. the ordinance that approves, adopts and enacts these Codified Ordinances. In the following table the disposition of all source material in the 2000 Codified Ordinances of Shelby, Michigan, is indicated.

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
4	6-27-1892	610.01(b)	101	5-2-52	420.04(c)
10	7-11-1892	420.02	112	6-23-58	Repealed
11	7-11-1892	1022.01, 1022.02	115	5-28-62	1440.08
12	7-11-1892	690.01	116	4-10-61	Ch. 208
16	7-11-1892	1020.03, 1020.04	119	5-28-62	1440.01 to 1440.03, 1440.05(a), 1440.06, 1440.07
17	7-11-1892	420.01			
33	10-9-05	670.09			
45	7-28-15	852.01(b) to (f)	120	8-13-62	1440.05(b), (c)
48	7-1-18	1040.01(a) to (d), (f) to (i)	121	10-24-66	660.02(a), (b)
			122	6-26-67	670.01 to 670.04, 670.06, 670.07
58	8-11-24	450.07			
65	2-28-27	Ch. 208	123	11-27-67	1440.04
66	11-14-27	1040.02	125	11-11-68	1044.01 to 1044.18
73	5-25-31	450.01	125A	8-14-72	1044.06
76	8-27-34	850.01	127	10-27-69	1046.01 to 1046.07
77	8-27-34	860.01 to 860.05	130	3-22-71	280.01 to 280.05
78	5-13-35	450.08	137	3-26-73	1040.04
79	9-23-35	850.02, 850.03, 852.02	138	5-29-73	1042.01 to 1042.05
			143	5-12-75	670.08
87	11-24-41	450.02	145	7-14-75	Ch. 208
88	9-14-42	430.01	147	9-13-76	Ch. 208
89	9-28-42	420.04(b)	151	4-25-77	660.01
90	10-12-42	420.04(a)	154	10-24-77	610.02
92	7-22-46	450.08	155	1-23-78	812.01 to 812.05
93	7-22-46	450.03	157	6-23-78	670.08
98	6-11-51	1040.03	165	3-26-90	220.01

COMPARATIVE SECTION TABLE

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
166	8-27-90	440.01(a), (b)	2009-20	10-12-09	270.01
167	8-13-90	636.01 to 636.07	2010-15	8-23-10	670.10
167A	9-9-91	670.05	2010-20	8-23-10	670.99
168	9-24-90	1044.06	2012-001	8-13-12	640.04, 640.09
169	10-6-93	810.01 to 810.18	2012-002	8-13-12	690.02
170	11-22-93	1422.01 to 1422.06	-	8-27-12	670.03
171	1-10-94	Ch. 208	2013-002	4-22-13	240.01 to 240.09
173	7-25-94	640.01 to 640.08, 640.99	-	7-28-14	690.02
175	11-23-98	Ch. 208	-	9-8-2014	Repeals 1020.01
176	5-24-99	440.01(a), (b)	01-2015	10-12-15	620.01, 620.99
			02-2015	10-12-15	1041.01 to 1041.09, 1041.99
Adopting Ordinance		202.01 to 202.06, 202.99, 410.01 to 410.04, 420.03, 420.04(d), 420.99, 430.99, 440.01(c), 440.99, 450.04 to 450.06, 610.01(a), 660.02(c), 660.99, 852.01(a), 1020.02, 1040.01(e), 1046.99, 1420.01 to 1420.05, 1420.99			
-	4-23-01	610.03, 610.04, 610.99			
011112	11-12-01	450.09			
2002-2	10-14-02	870.01 to 870.20			
2002-04	12-23-02	670.01 to 670.99			
2003-01	7-14-03	880.01 to 880.26			
670.10	7-25-05	670.10			
Res.					
2006-01	2-27-06	220.01			
Res. 6	4-24-06	1040.05			
2007-03	7-23-07	246.01 to 246.06			
8	10-9-07	242.01 to 242.06			
2007-09	12-10-07	890.01 to 890.19			
2008-001	8-11-08	610.01			
2008-02	9-22-08	670.10			
2009-15	8-24-09	Ch. 208			

CODIFIED ORDINANCES OF SHELBY

PART TWO - ADMINISTRATION CODE

TITLE TWO - General Provisions

- Chap. 202. Codified Ordinances.
- Chap. 204. Official Standards.
- Chap. 206. Boundaries.
- Chap. 208. Franchises.

TITLE FOUR - Legislation

- Chap. 220. Council.
- Chap. 222. Ordinances and Resolutions.

TITLE SIX - Administration

- Chap. 230. President.
- Chap. 234. Manager.
- Chap. 238. Attorney.
- Chap. 240. Village Administrator.
- Chap. 242. Clerk.
- Chap. 246. Treasurer.
- Chap. 250. Engineer.
- Chap. 254. Street Administrator.
- Chap. 258. Zoning Administrator.
- Chap. 262. Department of Public Works.
- Chap. 266. Police Department.
- Chap. 270. Fire Department.
- Chap. 278. Employees Generally.

TITLE EIGHT - Boards and Commissions

- Chap. 280. Development and Planning Commission.
- Chap. 282. Board of Zoning Appeals.

(Cont.)

TITLE TEN - Judiciary

Chap. 290. Oceana County District Court.

CODIFIED ORDINANCES OF SHELBY

PART TWO - ADMINISTRATION CODE

TITLE TWO - General Provisions

- Chap. 202. Codified Ordinances.
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CHAPTER 202

Codified Ordinances

- 202.01 Designation; citation; headings.
- 202.02 Amendments and supplements; numbering.
- 202.03 Definitions and interpretation.
- 202.04 Separability.
- 202.05 Sections and ordinances repealed.
- 202.06 Exemptions from repeal.
- 202.99 General Code penalty; complicity; Municipal civil infractions.

CROSS REFERENCES

- Fines and penalties - see CHTR. Ch. VI, §2
- Recording of ordinances - see CHTR. Ch. VI, §3
- Codification of ordinances - see CHTR. Ch. VI, §3a
- Publication of ordinances; adoption of technical codes - see
CHTR. Ch. VI, §4
- Ordinances and resolutions - see ADM. Ch. 222

202.01 DESIGNATION; CITATION; HEADINGS.

(a) This volume consists of all ordinances of a general and permanent nature of the Municipality, as revised, codified, arranged, numbered and consolidated into component codes, titles, chapters and sections, and as such shall be known and designated as the Codified Ordinances of Shelby, Michigan, 2000, for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code." Sections may be referred to and cited by the designation "section" followed by the number, such as "Section 202.01."

202.02 AMENDMENTS AND SUPPLEMENTS; NUMBERING.

(a) The Codified Ordinances of Shelby may be amended or supplemented at any time and, when any amendment or supplement is adopted in such form as to indicate the intention of Council to make the same a part thereof, such amendment or supplement shall be incorporated in, and deemed a part of, the Codified Ordinances, so that a reference to the Codified Ordinances shall be understood and construed as including the Codified Ordinances of Shelby and any and all such amendments and supplements.

(b) All amendments and supplements enacted as a part of the Codified Ordinances shall be integrated therewith by following the form of arrangement and plan set forth in the original Codified Ordinances as follows: each Code shall be subdivided into titles and/or chapters, and each chapter shall be subdivided into sections, which shall be numbered in accordance with the decimal numbering system. The numbering of all sections, except penalty sections, shall be consecutive within each chapter commencing with the first section of Chapter 202, which shall be numbered 202.01, the first "2" signifying Code 2, and the two figures "02" before the decimal signifying the chapter within the Code, and the two figures "01" after the decimal signifying the first section in Chapter 202 of the Code. Penalty sections shall be designated "99" and shall be the last section of a chapter.

202.03 DEFINITIONS AND INTERPRETATION.

In the construction of these Codified Ordinances, or any provision thereof, the following rules and definitions shall control, except those which are inconsistent with the manifest intent of Council as disclosed in a particular provision, section or chapter:

(1) Adopting Ordinance. "Adopting Ordinance" means the ordinance of the Municipality adopting the Codified Ordinances of Shelby.

(2) Authority. Whenever in the Codified Ordinances authority is given to an officer or an act is required to be performed, such authority may be exercised and such act may be performed, at the instance of such officer, by a deputy or subordinate, unless contrary to law or to the clear intent of any such particular provision.

(3) Calendar-Computation of Time. The terms "month" and "year" mean the calendar month or year. The time expressed in days within which an act is to be done or a period is to expire shall be computed by excluding the first and including the last day, unless the last day is a Sunday, in which case it shall be excluded. If time is expressed in hours, the whole of Sunday shall be excluded.

(4) Conjunctions. "And" includes "or" and "or" includes "and," if the sense so requires.

(5) Council. "Council" means the legislative authority of the Municipality.

(6) County. "County" means the County of Oceana, Michigan.

(7) Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.

(8) General Rule. Except as otherwise provided in this section, words and phrases shall be construed according to the common usage of the language, provided, however, that technical words and phrases and such others as may have acquired a special meaning in the law shall be construed according to such technical or special meaning.

(9) Joint Authority. Words giving authority to a board, commission, authority or to three or more officers or employees or other persons shall be construed as giving authority to a majority thereof, unless otherwise specifically provided.

(10) Keeper and Proprietor. "Keeper" and "proprietor" mean persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.

(11) Land and Real Estate. "Land" and "real estate" include rights and easements of an incorporeal nature.

(12) Municipality or Village. "Municipality" or "Village" means the Village of Shelby, Michigan.

(13) Number. Words in the plural include the singular and words in the singular include the plural number.

(14) Oath. "Oath" includes affirmation. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken by a person having conscientious scruples about taking an oath. An affirmation shall have the same force and effect as an oath.

(15) Ordinance. "Ordinance" means and includes any ordinance of the Municipality, including any provision of these Codified Ordinances.

(16) Owner. "Owner," when applied to property, includes a part owner, joint owner or tenant in common of the whole or any part of such property.

(17) Person. "Person" includes any individual, copartnership, corporation, association, club, joint venture, estate, trust and any other group or combination acting as a unit, and the individuals constituting such group or unit.

(18) Premises. "Premises," when used as applicable to property, extends to and includes land and buildings.

(19) President. "President" means the chief executive officer of the Municipality.

(20) Property. "Property" includes real and personal property and any mixed and lesser estates or interests therein. "Personal property" includes every kind of property except real property; "real property" includes lands, tenements and hereditaments.

(21) Public Place. "Public place" means any place to or upon which the public resorts or travels, whether such place is owned or controlled by the Village or any agency of the State or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied.

(22) Publish. "Publish" means to print in a newspaper of general circulation in the Municipality the entire document or a brief summary thereof with a listing of places where copies have been filed and times when they are available for inspection.

(23) Reasonable Time. In all cases where provision is made for an act to be done or notice to be given within a reasonable time, it shall be deemed to mean such time only as may be necessary for the prompt performance of such act or the giving of such notice.

(24) Residence. "Residence" means an abode in which a person permanently resides.

(25) Responsibility. Whenever any act is prohibited by a provision of these Codified Ordinances or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do such act.

(26) Shall and May. "Shall" is mandatory; "may" is permissive.

(27) Sidewalk. "Sidewalk" means that portion of a street between the curb lines or lateral lines and the right-of-way lines, which is intended for the use of pedestrians.

(28) State. "State" means the State of Michigan.

(29) Street, Highway and Alley. "Street," "highway" and "alley" mean the entire width subject to an easement for public right of way, or owned in fee by the Village, County or State, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public as a matter of right for purposes of public travel. The word "alley" means any such way or place providing a secondary means of ingress and egress from a property.

(30) Tenant and Occupant. "Tenant" and "occupant," as applied to buildings or land, shall extend and be applied to any person holding a written or oral lease of, or who occupies the whole or any part of, a building or land, alone or with others.

(31) Tenses. The use of any verb in the present tense includes the future.

(32) Time. Whenever any time established in the Codified Ordinances for the taking of any action expires on a Sunday or a legal holiday, such time shall not expire on such day but shall expire on the next week day.

202.04 SEPARABILITY.

It is the legislative intent of Council in adopting these Codified Ordinances that all provisions and sections of these Codified Ordinances be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the Village. Should any provision or section of these Codified Ordinances 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 these Codified Ordinances shall stand, notwithstanding the invalidity of any provision or section thereof.

The provisions of this section shall apply to the amendment of any section of these Codified Ordinances, whether or not the wording of this section is set forth in the amendatory ordinance.

202.05 SECTIONS AND ORDINANCES REPEALED.

All ordinances, resolutions, rules and regulations of the Municipality, and parts of the same, in conflict with any of the provisions of these Codified Ordinances, are hereby repealed.

202.06 EXEMPTIONS FROM REPEAL.

The repeal provided for in Section 202.05 shall not affect:

(a) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the adoption of these Codified Ordinances;

(b) Any ordinance or resolution promising or guaranteeing the payment of money by or to the Municipality, or authorizing the issuance of any bonds of the Municipality, or any evidence of the Municipality's indebtedness, or any contract or obligation assumed by the Municipality;

(c) The administrative ordinances and resolutions of Council not in conflict or inconsistent with any provision of these Codified Ordinances;

(d) Any right, license or franchise conferred by any ordinance or resolution of Council on any person;

(e) Any ordinance or resolution establishing, naming, relocating or vacating any street or other public way;

(f) Any ordinance or resolution or part thereof providing for the establishment of positions, for salaries or compensation;

(g) Any prosecution, suit or other proceeding pending, or any judgment rendered, on or prior to the adoption of these Codified Ordinances;

(h) Any ordinance or resolution levying or imposing taxes or assessments;

(i) Any ordinance or resolution establishing or changing the boundaries of the Municipality; or

(j) Any ordinance or resolution adopted by Council after the adoption of these Codified Ordinances.

202.99 GENERAL CODE PENALTY; COMPLICITY; MUNICIPAL CIVIL INFRACTIONS.

(b) General Penalty. Whenever, in these Codified Ordinances, or in any technical or other code adopted by reference in these Codified Ordinances, or in any rule, regulation or order promulgated or made under authority of any provision of these Codified Ordinances, or under authority of any technical or other code adopted by reference in these Codified Ordinances, or under authority of State law, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates or fails to comply with any such provision shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than ninety days, or both, plus court costs, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues, unless otherwise provided.

(c) Surcharges; Equitable Remedies. The imposition of any penalty provided for in this section shall be in addition to any surcharge levied for a violation of or noncompliance with a provision of these Codified Ordinances, or a provision of a technical or other code adopted by reference in these Codified Ordinances, or a rule, regulation or order promulgated or made under authority of either, or of State law, and shall be in addition to any equitable remedy provided by a provision of these Codified Ordinances, or a provision of a technical or other code adopted by reference in these Codified Ordinances, or a rule, regulation or order promulgated or made under authority of either, or of State law, including the enforced removal of prohibited conditions.

(d) Complicity. Every person concerned in the commission of an offense under these Codified Ordinances, whether he or she directly commits the act constituting the offense or procures, counsels, aids or abets in its commission, may be prosecuted, indicted, tried and on conviction shall be punished as if he or she had directly committed such offense.

CHAPTER 204
Official Standards

EDITOR'S NOTE: There are no sections in Chapter 204. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

- Fiscal year - see CHTR. Ch. IX, §7a; S.U. & P.S. 1044.09
- Village not to own stock - see CHTR. Ch. XIV, §2
- Changing boundaries - see CHTR. Ch. XIV, §6
- Reincorporation of villages - see CHTR. Ch. XIV, §§7 et seq.
- Disincorporation of villages - see CHTR. Ch. XIV, §18a

CHAPTER 206
Boundaries

EDITOR'S NOTE: There are no sections in Chapter 206. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Boundaries of Village - see CHTR. Ch. XIV, §6

Placing property outside corporate limits - see CHTR.
Ch. XIV, §22

Boundaries of zoning districts - see P. & Z. 1266.03

CHAPTER 208
Franchises

EDITOR'S NOTE: This chapter has been established to provide a synopsis of legislation relating to the granting of franchises by the Village.

CROSS REFERENCES

Contracts for water supply - see CHTR. Ch. XI, §11
Contracts for lighting - see CHTR. Ch. XII, §8
Cable television - see B.R. & T. Ch. 810

<u>Ord. No.</u>	<u>Passage Date</u>	<u>Description</u>
65	2-28-27	To the Michigan United Light and Power Co., to supply electricity to the Village.
116	4-10-61	To the Michigan Consolidated Gas Co., to supply gas to the Village.
145	7-14-75	To Cable Vision, Inc., to operate a cable television system in the Village.
147	9-13-76	Amends Ord. 145.
171	1-10-94	To the Michigan Consolidated Gas Co., to supply gas to the Village for 30 yrs.
175	11-23-98	To Cable Vision Inc., to operate a cable television system in the Village for 3 yrs.
2009-15	8-24-09	To the Consumers Energy Company, to supply electricity to the Village for 30 yrs.

TITLE FOUR - Legislation
Chap. 220. Council.
Chap. 222. Ordinances and Resolutions.

CHAPTER 220
Council

220.01 Meetings; compensation for attendance.

CROSS REFERENCES

- Council generally - see CHTR. Ch. II, §1; Ch. V
Powers generally - see CHTR. Ch. VII
Trustees are Councilpersons - see CHTR. Ch. XIV, §5
Council is Board of Zoning Appeals - see P. & Z. 1264.01
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220.01 MEETINGS; COMPENSATION FOR ATTENDANCE.

(a) The President of the Village of Shelby shall receive a sum established from time to time by Council for each posted meeting actually attended by such President.

(b) Each member of the Village Council shall receive a sum established from time to time by Council for each posted meeting actually attended by such member.

(c) In no case shall such President or a member of the Village Council receive compensation for any meeting not actually attended.

(d) The provisions of this section shall become effective as to the office of President and of each member of the Village Council at the first regular meeting thereof following the passage of this section.

(Ord. 165. Passed 3-26-90; Res. 2006-01. Passed 2-27-06.)

CHAPTER 222
Ordinances and Resolutions

EDITOR'S NOTE: There are no sections in Chapter 222. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Appropriation of money - see CHTR. Ch. V, §5

Assignment of responsibilities to Manager - see CHTR. Ch. V, §8

Ordinances generally - see CHTR. Ch. VI

For Fire protection - see CHTR. Ch. X, §1

TITLE SIX - Administration

- Chap. 230. President.
- Chap. 234. Manager.
- Chap. 238. Attorney.
- Chap. 240. Village Administrator.
- Chap. 242. Clerk.
- Chap. 246. Treasurer.
- Chap. 250. Engineer.
- Chap. 254. Street Administrator.
- Chap. 258. Zoning Administrator.
- Chap. 262. Department of Public Works.
- Chap. 266. Police Department.
- Chap. 270. Fire Department.
- Chap. 278. Employees Generally.

CHAPTER 230

President

EDITOR'S NOTE: There are no sections in Chapter 230. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

- President generally - see CHTR. Ch. IV, §§1 et seq.
- President of Council is President - see CHTR. Ch. V, §2
- President Pro Tempore - see CHTR. Ch. V, §3

CHAPTER 234
Manager

EDITOR'S NOTE: There are no sections in Chapter 234. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES
Manager generally - see CHTR. Ch. V, §8

CHAPTER 238
Attorney

EDITOR'S NOTE: The Village contracts periodically for the services of an attorney or firm of attorneys, designated the Village Attorney. Copies of the latest relevant legislation may be obtained, at cost, from the Village Clerk.

There are no sections in Chapter 238. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Prosecution of ordinance violations - see CHTR. Ch. VI, §6

Appropriation of private property - see CHTR. Ch. XIII

Duties re animals running at large - see M.C.L.A. §§433.53, 433.62

CHAPTER 240
Village Administrator

240.01	Establishment.	240.06	Purchasing responsibilities.
240.02	Appointment.	240.07	Dealing with employees.
240.03	Acting Village Administrator.	240.08	Severability.
240.04	Compensation.	240.09	Effective date.
240.05	Duties.		

240.01 ESTABLISHMENT.

In accordance with the authority for the appointment of a Village Administrator granted to the Village in section 2 of Chapter II and section 8 of Chapter V of 1895 PA 3, as amended, the office of Village Administrator is established.
(Ord. 2013-002. Passed 4-22-13.)

240.02 APPOINTMENT.

The President shall, with the concurrence of a majority of the Council, appoint a Village Administrator. The Council may enter into an employment contract with a Village Administrator for a period extending beyond the terms of the members of Council but not exceeding six years. An employment contract with an Administrator shall be in writing and shall specify the compensation to be paid to the Administrator, any procedure for changing compensation, any fringe benefits and any other conditions of employment. The contract shall state that the Administrator serves at the pleasure of the Council. The contract may provide for severance pay or other benefits in the event the employment of the Administrator is terminated by the Council. The Administrator shall serve at the pleasure of the Council and may be removed by a majority of the Council. The Administrator shall be selected solely on the basis of administrative and executive abilities, with special reference to training and experience.
(Ord. 2013-002. Passed 4-22-13.)

240.03 ACTING VILLAGE ADMINISTRATOR.

The President, with the concurrence of a majority of the Trustees, shall appoint or designate an Acting Administrator during a vacancy in the office of Village Administrator and shall fill the position within 180 days from the effective date of the vacancy.
(Ord. 2013-002. Passed 4-22-13.)

240.04 COMPENSATION.

The Village Administrator shall receive such compensation as the Council shall determine by resolution or ordinance.

(Ord. 2013-002. Passed 4-22-13.)

240.05 DUTIES.

(a) The Village Administrator shall be chief administrative officer of the Village and shall be responsible to the Village Council for the efficient administration of all affairs of the Village and shall exercise management supervision over all departments and over all public property belonging to the Village.

(b) The Administrator shall have the following functions and duties:

- (1) Attend and participate in all meetings of the Village Council and committees but shall not have a vote on such Council or committees;
- (2) Be responsible for personnel management and shall issue, subject to Council approval, personnel rules applicable to all Village employees. The Administrator shall have the following responsibilities:
 - A. To appoint, suspend or remove all employees subject to Council approval. The Administrator shall recommend to the Council the salary or wage for each such employee.
 - B. The Administrator shall conduct discipline up to termination within the guidelines of the Employee Handbook. Terminations will be handled with Council approval.
- (3) Exercise supervisory control over all departments, including the Police Department and the Department of Public Works;
- (4) Exercise supervisory responsibility over the accounting, budgeting, personnel, purchasing and related management functions of the Village Clerk and Village Treasurer;
- (5) Shall be authorized to attend all meetings of Village boards and commissions including the Village Planning Commission with the right to take part but shall not have a vote;
- (6) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, and any Village ordinance that may be adopted;
- (7) Be the purchasing agent of the Village. The purchasing agent will be responsible to approve all purchases within the guidelines of the Village Purchasing Policy;
- (8) Prepare and maintain written policies and procedures defining the duties and functions of the several officers and departments of the Village, subject to the approval by the Council;

- (9) Investigate all complaints concerning the administration of the Village, and shall have authority at all times to inspect the books, records and papers of any agent, employee or officer of the Village;
- (10) Make recommendations to the Council for the adoption of such measures as may be deemed necessary or expedient for the improvement or betterment of the Village; and
- (11) Perform other duties required from time to time by the Village Council.
(Ord. 2013-002. Passed 4-22-13.)

240.06 PURCHASING RESPONSIBILITIES.

(a) The Village Administrator shall act as purchasing agent for all Village offices and departments. The Administrator may delegate some or all of the duties as purchasing agent to another officer or employee provided that such delegation shall not relieve the Administrator of the responsibility for the proper conduct of those duties.

(b) The Village Administrator shall have the authority to purchase any product or service, the cost of which does not exceed two thousand dollars (\$2,000.00) of any approved budget amount, provided that all Council approved purchasing policies and procedures are followed. The cost of the product or service shall not exceed the unencumbered balance of the appropriation for that account. Any product or service the cost of which exceeds the above dollar amount shall be purchased only if prior approval of the Village Council has been obtained. The Village Administrator shall have the authority to purchase any product or service regardless of its cost when such purchase is necessitated by an emergency condition. "Emergency condition" is defined to mean any event which presents an imminent threat to the public health or safety or any event which would result in the disruption of a Village service which is essential to the public health or safety.
(Ord. 2013-002. Passed 4-22-13.)

240.07 DEALING WITH EMPLOYEES.

Neither the Council nor the Village President shall attempt to influence the employment of any person by the Village Administrator or in any way interfere in the management of departments under the jurisdiction of the Administrator. Except for the purpose of inquiry, the President and Council and its members shall deal with departments under the jurisdiction of the Village Administrator through the Administrator.
(Ord. 2013-002. Passed 4-22-13.)

240.08 SEVERABILITY.

If any portion or section of this chapter or its application to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect the validity of the remaining portions or applications.

(Ord. 2013-002. Passed 4-22-13.)

240.09 EFFECTIVE DATE.

This ordinance shall take effect 45 days after the date of its adoption, unless a petition signed by not less than 10% of the registered electors of the Village is filed with the Acting Village Clerk or Village office within such 45 days. If a petition is filed within such period of time, this ordinance shall then take effect only upon its approval at the next general or special Village election held on the question of whether the ordinance shall be approved. Notice of the delayed effect of this ordinance and the right of petition under this section shall be published separately at the same time and in the same manner as the ordinance or a notice of the ordinance is published in a local newspaper of general circulation.

(Ord. 2013-002. Passed 4-22-13.)

CHAPTER 242
Clerk

242.01	Establishment.	242.04	Compensation.
242.02	Term of office.	242.05	Acting Clerk.
242.03	Removal from office.	242.06	Duties of the Clerk.

CROSS REFERENCES

Election - see CHTR. Ch. II, §1
 Oath of office - see CHTR. Ch. II, §7
 Bond - see CHTR. Ch. II, §8
 Vacancies in office - see CHTR. Ch. II, §13
 Clerk generally - see CHTR. Ch. IV, §§5 et seq.

242.01 ESTABLISHMENT OF OFFICE.

As authorized by the General Law Village Act of 1895 PA 3, as amended and as provided in the Village Charter, Chapter II, Section 1, paragraph (3), the Village Council hereby establishes by appointment the office of the Village Clerk.
 (Ord. 8. Passed 10-9-07.)

242.02 TERM OF OFFICE.

The Village Clerk appointed by the Village Council shall serve at the pleasure of the Council.
 (Ord. 8. Passed 10-9-07.)

242.03 REMOVAL FROM OFFICE.

The Clerk shall be removed only by an affirmative vote of a majority of the members of Village Council. The action of the Village Council in removing the Clerk shall be final.
 (Ord. 8. Passed 10-9-07.)

242.04 COMPENSATION.

The Clerk shall receive such compensation as recommended by the Village Manager or President and approved by the Village Council, which shall be determined annually by resolution or contract.
 (Ord. 8. Passed 10-9-07.)

242.05 ACTING CLERK.

The Council shall by a majority vote appoint an acting Clerk during a vacancy in the office and shall make a permanent appointment within a reasonable amount of time after the effective date of the vacancy.
 (Ord. 8. Passed 10-9-07.)

242.06 DUTIES OF THE CLERK.

The Clerk shall prepare the journal or records of Council proceedings, which shall be signed by him or her, and shall sign and attest all documents as required by the Council. The Clerk shall be the keeper of all records of the Village such as but not limited to, Village owned properties, deeds, contracts, ordinances, resolutions, personnel records, all policies, payroll records and budget records. The Clerk shall supervise all staff within the Village offices and report directly to the Village Manager or the President.
(Ord. 8. Passed 10-9-07.)

CHAPTER 246
Treasurer

246.01	Establishment.	246.04	Compensation.
246.02	Term of office.	246.05	Acting Treasurer.
246.03	Removal from office.	246.06	Duties of the Treasurer.

CROSS REFERENCES

Treasurer generally - see CHTR. Ch. IV, §§9 et seq.

Audit of accounts - see CHTR. Ch. IX, §7

Delivery of certified assessment roll to - see CHTR. Ch. IX, §15

Collection of taxes - see CHTR. Ch. IX, §§16 et seq.

246.01 ESTABLISHMENT OF OFFICE.

As authorized by the General Law Village Act of 1895 PA 3, as amended and as provided in the Village Charter, Chapter II, Section 1, paragraph (3), the Village Council hereby establishes by appointment the office of the Village Treasurer.
(Ord. 2007-03. Passed 7-23-07.)

246.02 TERM OF OFFICE.

The Village Treasurer appointed by the Village Council shall serve at the pleasure of the Council.
(Ord. 2007-03. Passed 7-23-07.)

246.03 REMOVAL FROM OFFICE.

The Treasurer shall be removed only by an affirmative vote of a majority of the members of Village Council. The action of the Village Council in removing the Treasurer shall be final.
(Ord. 2007-03. Passed 7-23-07.)

246.04 COMPENSATION.

The Treasurer shall receive such compensation as recommended by the Village Manager or President and shall be determined by resolution or contract annually.
(Ord. 2007-03. Passed 7-23-07.)

246.05 ACTING TREASURER.

The Council shall by a majority vote appoint an acting Treasurer during a vacancy in the office and shall make a permanent appointment within a reasonable amount of time after the effective date of the vacancy.
(Ord. 2007-03. Passed 7-23-07.)

246.06 DUTIES OF THE TREASURER.

(a) The Treasurer shall prepare reports and have the custody of all money, bonds, other than official bonds filed with the Clerk under Chapter II of the Village Charter, mortgages, notes, leases, and evidences of value belonging to the Village.

- (1) Receive all money belonging to, and receivable by the corporation.
- (2) Keep an account of all receipts and expenditures.
- (3) Collect and keep an account of all taxes and money appropriated, raised, or received for each fund of the Village, and keep a separate account of each fund.
- (4) Pay check disbursement authorizations out of the particular fund raised for the purpose for which the disbursement was authorized.
- (5) Perform duties prescribed by this act relating to assessing property and levying taxes.

(b) The Treasurer shall report to the Clerk, the amounts received and credited to each fund, and the amount of money remaining in each fund on the day of the report. The Treasurer shall also exhibit to the Council as often and for such period as the Council shall require, a full and detailed account of the receipts and disbursements, classifying them by the funds, and the balance remaining in each fund.

(c) The Treasurer shall take vouchers for all money paid from the treasury, showing the amount and fund from which payment was made. The Treasurer shall file the vouchers with the Clerk.

(d) The Treasurer shall keep all Village money in depository accounts authorized by law. The Treasurer shall not use, either directly or indirectly, the Village money, warrants, or evidences of debt for his or her own use or benefit, or that of any other person. On proof of the violation, the Village Council shall declare the office vacant and appoint a successor for the remainder of the term.

(e) The Treasurer shall report directly to the Village Manager or the President.
(Ord. 2007-03. Passed 7-23-07.)

CHAPTER 250
Engineer

EDITOR'S NOTE: The Village contracts for the services of an engineer, or firm of engineers, designated the Village Engineer, or just the Engineer, on a job-by-job basis. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk.

There are no sections in Chapter 250. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Powers of Council re public improvements; expenses;
assessment - see CHTR. Ch. VII, §12
Public improvements generally - see CHTR. Ch. VIII
Water - see S.U. & P.S. Chs. 1040, 1042, 1044
Sewers - see S.U. & P.S. Ch. 1046

CHAPTER 254
Street Administrator

EDITOR'S NOTE: There are no sections in Chapter 254. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

- Defects; damage - see CHTR. Ch. VII, §7
- Streets and alleys generally - see CHTR. Ch. VII, §§12 et seq.
- Taxation - see CHTR. Ch. IX, §2
- Duty to keep streets and alleys free of obstructions - see TRAF.
420.01

CHAPTER 258
Zoning Administrator

EDITOR'S NOTE: There are no sections in Chapter 258. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Authority re Zoning Code - see P. & Z. 1262.01
Appointment - see P. & Z. 1264.02

CHAPTER 262
Department of Public Works

EDITOR'S NOTE: There are no sections in Chapter 262. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Public improvements - see CHTR. Ch. VII, §12; Ch. VIII
Department of Public Works - see CHTR. Ch. XI, §14
Engineer - see ADM. Ch. 250

CHAPTER 266
Police Department

EDITOR'S NOTE: There are no sections in Chapter 266. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Police Department - see CHTR. Ch. X, §§13 et seq.

Removal of abandoned vehicles - see TRAF. 410.05 (UTC §2.5d)

CHAPTER 270
Fire Department

EDITOR'S NOTE: The Village does not maintain a Fire Department. Fire protection is provided to the Village and its inhabitants by the Shelby-Benona Fire District. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk.

- 270.01 Recovery of expenses related to certain Fire Department responses.

CROSS REFERENCES

Power of Council re fire prevention and extinguishment - see CHTR. Ch. VII, § 1(m)
Fire Department - see CHTR. Ch. X, §§ 1 et seq.

270.01 RECOVERY OF EXPENSES RELATED TO CERTAIN FIRE DEPARTMENT RESPONSES.

(a) **Name.** This section shall be known and cited as Village of Shelby Ordinance for Recovery of Expenses Related to Certain Fire Department Responses.

(b) **Purpose.** This section is adopted to provide authority and a mechanism for the reimbursement of costs for certain fire and emergency services rendered by the Shelby-Benona Fire Department.

(c) **Utility Companies.** In any case where an emergency response results from an actual or possible hazard created by the construction, operation, maintenance, and/or an Act of God involving any public or private utility company (power, telephone, and/or cable) operating within the Village of Shelby, the utility company shall reimburse the Shelby-Benona Fire Department the costs and expenses incurred by the Shelby-Benona Fire Department, its agents, officers and employees.

(d) **Payment for Services.** The Fire Chief or his or her designee shall determine the total assessable costs and submit the Shelby-Benona Fire Department's bill to the responsible utility. Bills shall be sent by first class mail. All bills rendered for charges shall be payable within 30 days of the mailing of the billing.
(Ord. 2009-20. Passed 10-12-09.)

CHAPTER 278
Employees Generally

EDITOR'S NOTE: The Village enters into Agreements with representatives of various categories of Village employees, which Agreements provide for compensation, benefits and other incidents of employment. Copies of the latest relevant legislation and Agreements may be obtained, at cost, from the Clerk.

There are no sections in Chapter 278. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

- Officers generally - see CHTR. Ch. II
- Appointments - see CHTR. Ch. II, §§2, 3
- Removal from office - see CHTR. Ch. II, §9
- Vacancies in office - see CHTR. Ch. II, §§10 et seq.
- Duties of officers - see CHTR. Ch. IV

TITLE EIGHT - Boards and Commissions

Chap. 280. Development and Planning Commission.

Chap. 282. Board of Zoning Appeals.

CHAPTER 280

Development and Planning Commission

- 280.01 Establishment.
- 280.02 Membership; appointments; vacancies.
- 280.03 Chairperson; Executive Director.
- 280.04 Powers and duties.
- 280.05 Annual reports to Council.

CROSS REFERENCES

Municipal planning commissions - see M.C. L.A.

§§125.31 et seq.

Subdivision Regulations - see P. & Z. Ch. 1240

280.01 ESTABLISHMENT.

There is hereby established in and for the Village the Shelby Development and Planning Commission. (Ord. 130. Passed 3-22-71.)

280.02 MEMBERSHIP; APPOINTMENTS; VACANCIES.

(a) The Development and Planning Commission shall consist of eleven members. The Village President of the Village of Shelby and the President of the Shelby Area Chamber of Commerce shall be members of the Commission and their terms shall be fixed by their official terms of office. There shall be nine additional members to be appointed by the Village President, after consulting with the President of the Shelby Area Chamber of Commerce, with the approval of the Village Council.

(b) Each member so appointed shall serve for a term of three years, except that the terms of the initial appointees hereunder shall be staggered so that three members' terms shall expire on the second Monday of April, 1972, three members' terms shall expire on the second Monday of April, 1973, and three members' terms shall expire on the second Monday of April, 1974.

(c) All members of the Commission shall continue in such capacity until their successor has been appointed and qualified. Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall serve for the remainder of such term.
(Ord. 130. Passed 3-22-71.)

280.03 CHAIRPERSON; EXECUTIVE DIRECTOR.

(a) The Development and Planning Commission shall elect its own Chairperson annually at its first meeting in May of each year. The Commission may appoint an Executive Director whose appointment shall be confirmed by the Village Council.

(b) The Executive Director shall serve an indefinite term of office which may be terminated at any time by the Village Council after recommendation by the Commission. The Executive Director may, with the approval of the Commission and the Village Council, receive compensation for expenses, salary or consulting fees. The Executive Director may be a member of the Commission, but in that event shall receive no compensation for salary or consulting fees.
(Ord. 130. Passed 3-22-71.)

280.04 POWERS AND DUTIES.

The Development and Planning Commission shall have the following powers and duties:

(a) To make a thorough and continuing study and investigation of the economic and industrial potential of the Village of Shelby and to engage in the encouragement and promotion of industry and commerce within the Village.

(b) To seek out and interview the management of such businesses and industries as may be interested in locating their facilities within the Village, and to promote the Village of Shelby for such purposes, in the event that, in the opinion of the Commission, such businesses and industries are of such kind and nature that they would enhance the Village of Shelby economically and culturally and would contribute to its natural expansion, growth and community development.

(c) To advise the Village Council and other interested civic organizations of its activities pertaining to the promotion and encouragement of industry within the Village, to make specific recommendations as to how the Village can participate in the encouragement and promotion of particular businesses and industries which may wish to locate in the Village, and to promote the sale of parcels of land within the Village Industrial Park to businesses and industries which ought to locate therein.

(d) To adopt rules not inconsistent with the law for its internal control and management and to hold meetings at such times and places as may be prescribed by its rules, not less frequently than monthly.

(e) To appoint a Secretary, and other officers, as may be necessary. The Secretary shall keep minutes of each meeting of the Commission, both regular and special, and shall transmit a copy of such minutes promptly thereafter to the Clerk of the Village of Shelby.

(f) To adopt a budget and to solicit funds from sources other than the Village of Shelby and to take in and disburse such funds in accordance with its rules, provided, however, that the Village may contribute to such funds if so authorized by resolution of the Village Council.

(g) To make recommendations to the Village Council in the areas of Village planning, building, housing and zoning, to conduct studies, surveys and assemble data in support of such recommendations, and to propose specific ordinances or other action as a result thereof.

(Ord. 130. Passed 3-22-71.)

280.05 ANNUAL REPORTS TO COUNCIL.

The Development and Planning Commission shall, at the first regular meeting of the Village Council held in the month of April each year, make an annual report to Council respecting its activities and an annual report of its income and disbursements for the preceding calendar year.

(Ord. 130. Passed 3-22-71.)

CHAPTER 282
Board of Zoning Appeals

EDITOR'S NOTE: Provisions relating to the Board of Zoning Appeals are codified in Chapter 1264 of the Planning and Zoning Code.

TITLE TEN - Judiciary
Chap. 290. Oceana County District Court.

CHAPTER 290
Oceana County District Court

EDITOR'S NOTE: Violations of Municipal law are prosecuted in the Oceana County District Court. Equitable remedies are pursued in courts of competent jurisdiction.

There are no sections in Chapter 290. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Courts generally - see Mich. Const. Art. 6, §§1
et seq.; M.C.L.A. §§600.101 et seq.

Powers of Court re ordinance violations - see
CHTR. Ch. VI, §6

Appeals to Circuit Court - see CHTR. Ch. VI, §10

District Courts generally - see M.C.L.A.
§§600.8101 et seq.

General Code penalty - see ADM. 202.99

Jurisdiction re abandoned vehicles - see TRAF. 410.04
(UTC §2.5e)

Duties re abandoned vehicles - see TRAF. 410.04
(UTC §2.5f)

CODIFIED ORDINANCES OF SHELBY

PART FOUR - TRAFFIC CODE

Chap. 410. Uniform Traffic Code.

Chap. 420. Street Obstructions and Special Uses.

Chap. 430. Vehicle Equipment.

Chap. 440. Bicycles, Skateboards and Rollerblades.

Chap. 450. Parking.

CODIFIED ORDINANCES OF SHELBY

PART FOUR - TRAFFIC CODE

CHAPTER 410
Uniform Traffic Code

- 410.01 Adoption by reference.
- 410.02 Governmental unit defined.
- 410.03 Publication of chapter and notice; file and distribution copies.

410.04 Amendments.

CROSS REFERENCES

Traffic rules and regulations generally - see M.C.L.A.

 §§257.601 et seq., 257.634 et seq.

Uniform Traffic Code - see M.C.L.A. §§257.951 et seq.

Vehicle equipment - see TRAF. Ch. 430

Parking - see TRAF. Ch. 450

Inoperable motor vehicles - see GEN. OFF. Ch. 640

410.01 ADOPTION BY REFERENCE.

The Uniform Traffic Code for Cities, Townships and Villages, hereinafter referred to as the Uniform Traffic Code, promulgated by the Director of State Police and published in the 1979 edition of the Michigan Administrative Code, and amendments as published in Quarterly Supplement No. 5 to the 1979 edition of the Michigan Administrative Code, in accordance with Act 62 of the Public Acts of 1956, as amended (Sections 257.951 to 257.954 of the Compiled Laws of 1970, as amended, and as amended by Act 121 of the Public Acts of 1988, as amended), are hereby adopted by reference, save and except such portions as may be hereinafter amended or deleted. Said Uniform Traffic Code is reprinted in full following the text of this Chapter 410.

410.02 GOVERNMENTAL UNIT DEFINED.

References in the Uniform Traffic Code, as adopted in Section 410.01, to "governmental unit" shall mean the Village of Shelby.

410.03 PUBLICATION OF CHAPTER AND NOTICE; FILE AND DISTRIBUTION COPIES.

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

410.04 AMENDMENTS.

The Uniform Traffic Code, as adopted in Section 410.01, is hereby amended as follows:

Sec. 2.5. Reports of stolen and recovered vehicles. (Amended)

A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement information network.

Sec. 2.5a. Abandoned vehicle procedures. (Amended)

(1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Affix a written notice to the vehicle. The written notice shall contain the following information:

(i) The date and time the notice was affixed.

(ii) The name and address of the police agency taking the action.

(iii) The name and badge number of the police officer affixing the notice.

(iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(v) The year, make, and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency which has a vehicle taken into custody shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen.

(b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.

(c) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who

requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 2.5g.

(9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5b. Abandoned scrap vehicle procedures. (Added)

(1) As used in this section:

(a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is 7 or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 5.71 would exceed the fair market value of that vehicle.

(iv) Is currently registered in the state or displays current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is 7 or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 5.71 would exceed the fair market value of that vehicle.

(iv) Is not currently registered in this state and does not display current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Take 2 photographs of the vehicle.

(c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make, and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).

(5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than 2 years. The 2 photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than 2 years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

(6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

- (a) Determine if the vehicle has been stolen.
- (b) Take 2 photographs of the vehicle.
- (c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make, and vehicle identification number if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
- (d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
- (e) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.

(7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(8) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(10) Not less than 20 days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

Sec. 2.5c. Vehicle removed from private property. (Added)

(1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) is not claimed by the owner within 7 days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5a(4)(c) to (9) shall apply.

Sec. 2.5d. Vehicle removed by police (Added).

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:

(a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.

(b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.

(c) If a vehicle is parked in a posted tow-away zone.

(d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.

(e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.

(f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.

(g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.

(h) If the vehicle is stopped, standing, or parked in a space designated for handicapper parking and is not permitted by law to be stopped, standing, or parked in a space designated for handicapper parking.

(2) A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:

(a) Check to determine if the vehicle has been reported stolen.

(b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subdivision does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.

(c) If the vehicle has not been redeemed within 10 days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first-class mail or personal service, a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle.
(ii) The location from which the vehicle was taken into custody.
(iii) The date on which the vehicle was taken into custody.
(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The location where the vehicle is being held.
(vi) The procedure to redeem the vehicle.
(vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.

(3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(4) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.

(6) Not less than 20 days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.5g.

(7) If the ownership of a vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5e. Abandoned vehicle; jurisdiction of court. (Added)

(1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 2.5a, 2.5b(6) to (10), 2.5c or 2.5d:

- (a) The district court.
- (b) A municipal court.

(2) The court specified in the notice prescribed in section 2.5a(4)(c), 2.5b(6), 2.5c(4) or 2.5d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of Act 236 of the Public Acts of 1961, as amended, being M.C.L.A. 600.8312.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 2.5a, 2.5b, 2.5c or 2.5d shall be used to pay the towing and storage fees.

Sec. 2.5f. Abandoned vehicle; duties of court. (Added)

(1) Upon receipt of a petition prescribed in section 2.5a, 2.5b, 2.5c or 2.5d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

- (a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.
- (b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1), the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 2.5d.

(3) After the hearing the court shall make a decision which shall include 1 or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 2.5d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 2.5b or 2.5g.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.5d. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.

(c) A finding that the towing and daily storage fees were reasonable.

(d) A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

Sec. 2.5g. Abandoned vehicle; public sale. (Added)

(1) A public sale for a vehicle which has been deemed abandoned under section 2.5a or 2.5c or removed under section 2.5d shall be conducted in the following manner:

(a) It shall be under the control of the police agency or agent of the police agency.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.

(c) Except as provided by sections 2.5a(9) and 2.5d(7), it shall be held not less than 5 days after public notice of the sale has been published.

(d) The public notice shall be published at least once in a newspaper having a general circulation within the County in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Towing and storage charges.

(b) Expenses incurred by the police agency.

(c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.

(d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the municipality.

(3) If there are no bidders on the vehicle, the police agency may do 1 of the following:

(a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.

(b) Obtain title to the vehicle for the police agency or the municipality, by doing the following:

(i) Paying the towing and storage

(ii) Applying for title to the vehicle.

(c) Hold another public sale pursuant to subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

Sec. 5.15. Driving under the influence of intoxicating liquor and/or controlled substance. (Amended)

(1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the municipality, if either of the following applies:

(a) The person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance;

(b) The person has a blood alcohol content of 0.10% or more by weight of alcohol.

(2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the municipality, by a person who is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or who has a blood alcohol content of 0.10% or more by weight of alcohol.

(3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within the municipality when, due to the consumption of an intoxicating liquor, a controlled substance, or a combination of an intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

- (4) If a person is convicted of violating subsection (1), the following shall apply:
- (a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor, and may be punished by 1 or more of the following:
 - (i) Service to the community for a period of not more than 45 days;
 - (ii) Imprisonment for not more than 90 days;
 - (iii) A fine of not less than \$100.00 or more than \$500.00.
 - (b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:
 - (i) Performing service to the community for a period of not less than 10 days or more than 93 days, and may be imprisoned for not more than 1 year;
 - (ii) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to service to the community for a period of not more than 93 days.
 - (c) A term of imprisonment imposed under subdivision (b)(ii) shall not be suspended.
 - (d) A person sentenced to perform service to the community under this subsection shall not receive compensation, and shall reimburse the municipality for the cost of supervision incurred by the municipality as a result of the person's activities in that service.
 - (e) As used in this subsection, "prior conviction" means a conviction for a violation of section 5.15(1), or former section 5.15(1) or (2), or a conviction of section 625(1), (4) or (5), or former section 625(1) or (2), of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4) or (5), or former section 625(1) or (2), of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (4) or (5), or former M.C.L.A. 257.625(1) or (2).
 - (5) In addition to imposing the sanctions prescribed under subsection (4), the court may, pursuant to the code of criminal procedure, Act 175 of the Public Acts of 1927, being M.C.L.A. 760.1 to 776.21, order the person to pay the costs of the prosecution.
 - (6) The court shall impose license sanctions pursuant to section 5.15b.
 - (7) A person who is convicted of violating subsection (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$100.00 or more than \$500.00, or both.

- (8) If a person is convicted of violating subsection (3), the following shall apply:
- (a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:
 - (i) Service to the community for a period of not more than 45 days;
 - (ii) Imprisonment for not more than 93 days;
 - (iii) A fine of not more than \$300.00.
 - (b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:
 - (i) Performing service to the community for a period of not less than 10 days or more than 93 days, and may be sentenced to imprisonment for not more than 1 year;
 - (ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 93 days.
 - (c) If the violation occurs within 10 years of 2 or more prior convictions, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:
 - (i) Performing service to the community for a period of not less than 10 days or more than 93 days, and may be sentenced to imprisonment for not more than 1 year;
 - (ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 93 days.
 - (d) As used in subdivisions (b) and (c), "prior conviction" means a conviction for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b.
 - (e) In addition to imposing the sanctions prescribed in subdivision (a), (b) or (c), the court may, pursuant to the code of criminal procedure, Act 175 of the Public Acts of 1927, order the person to pay the costs of the prosecution.
 - (f) The court shall order the secretary of state to impose license sanctions pursuant to Section 5.15b.

(g) A person sentenced to perform service to the community under this subsection shall not receive compensation, and shall reimburse the municipality for the cost of supervision incurred by the municipality as a result of the person's activities in that service.

(9) If the prosecuting attorney intends to seek an enhanced sentence under subsection (4)(b) or (8)(b) or (c) based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information filed in district court, circuit court, recorder's court, municipal court, or probate court a statement listing the defendant's prior convictions.

(10) A prior conviction shall be established at sentencing by 1 or more of the following:

- (a) An abstract of the conviction;
- (b) A copy of the defendant's driving records;
- (c) An admission by the defendant.

(11) A person who is convicted of an attempted violation of subsection (1) or (3) shall be punished as if the offense had been completed.

(12) When taking licensing action under this section, the court shall treat a conviction of an attempted violation of subsection (1) or (3) the same as if the offense had been completed.

Sec. 5.15a. Arrest; chemical tests and analyses; presumptions. (Amended)

(1) A peace officer, without a warrant, may arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vehicle involved in the accident in the municipality while in violation of section 5.15(1) or (3).

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in the municipality, and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis:

(a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15(1) or (3) in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(c) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of sections 5.15c, 5.15d and 5.15e for the purposes of chemical tests described in these sections.

(d) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine or breath, other than preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance or both in a driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 5.15(1) or (3) shall be advised of all of the following:

(i) That if he or she takes a chemical test of his or her blood, urine or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer 1 of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under Act 300 of the Public Acts of 1949, as amended, and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that he or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request;

(ii) That if he or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order;

(iii) That his or her refusal of the request of a peace officer to take a test described in subparagraph (i) shall result in the suspension of his or her operator's or chauffeur's license or operating privilege, and in the addition of 6 points to his or her driver record.

(c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures shall not attach to a qualified person who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with Act 300 of the Public Acts of 1949, as amended, unless the withdrawal or analysis is performed in a negligent manner.

(d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 5.15(1) or (3). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample.

(e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample shall be admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police.

(4) The provisions of subsection (3) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had a blood alcohol content of 0.10% or more by weight of alcohol.

(5) If a chemical test described in subsection (3) is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(6) Except in a prosecution relating solely to a violation of section 5.15(1)(b), the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine or breath shall give rise to the following presumptions:

(a) If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor, and that the defendant was not under the influence of intoxicating liquor.

(b) If there was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) due to the consumption of intoxicating liquor.

(c) If there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(7) A person's refusal to submit to a chemical test as provided in subsection (3) shall be admissible in a criminal prosecution for a crime described in section 5.15(1) or (3) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining the innocence or guilt of the defendant. The jury shall be instructed accordingly.

Sec. 5.15b. Arraignment; pre-trial conference; advise of rights; screening, assessment and rehabilitative services; licensing sanctions. (Amended)

(1) A person arrested for a misdemeanor violation of section 5.15(1) or (3) shall be arraigned on the citation, complaint or warrant not more than 14 days after the date of arrest or, if an arrest warrant is reissued, not more than 14 days after the reissued arrest warrant is served.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant and the defendant's attorney, in each case in which the defendant is charged with a misdemeanor violation of section 5.15(1) or (3). The pretrial conference shall be held not more than 35 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 35 days after the date the reissued arrest warrant is served, unless the court has only 1 judge who sits in more than 1 location in that district, in which case the pretrial conference shall be held not more than 42 days after the date of the person's arrest for the violation or, if

an arrest warrant is reissued, not more than 42 days after the date the reissued arrest warrant is served. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. The court shall, except for delay attributable to the unavailability of the defendant, a witness or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, finally adjudicate, by a plea of guilty or nolo contendere, or the entry of a verdict, or by other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 5.15(1) or (3) within 77 days after the person is arrested for the violation or, if an arrest warrant is reissued, not more than 77 days after the date the reissued arrest warrant is served.

(3) Before accepting a plea of guilty or nolo contendere under section 5.15, the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to section 204a of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.204a.

(4) Before imposing sentence, other than court-ordered license sanctions, for a violation of section 5.15(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment and rehabilitative services.

(5) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the Michigan driving record of the person, except those convictions which, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following licensing sanctions:

(a) For a conviction under Section 5.15(1):

(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or

(2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first 30 days of the period of suspension.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 5.15(3), or former section 5.15b, or a conviction of section 625(3) or former section 625b of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(3), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(3), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(3), or former M.C.L.A. 257.625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 5.15(1), or former section 5.15(1) or (2), or a conviction of section 625(1), (4) or (5), or former section 625(1) or (2), of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or a law of another state substantially corresponding to section 625(1), (4) or (5), or former section 625(1) or (2), of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A.

257.625(1) or (2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(b) For a conviction under Section 5.15(3):

(i) If the court finds that the person has no prior conviction within 7 years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section

625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than 1 year. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension.

(ii) If the court finds that a person has 1 prior conviction within 7 years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 6 months or more than 2 years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension period, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that a person has 2 or more prior convictions within 10 years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2), or former section 5.15b, or a conviction of section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, or a law of another state substantially corresponding to section 625(1), (3), (4) or (5), or former section 625(1) or (2), or former section 625b, of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625(1), (3), (4) or (5), or former M.C.L.A. 257.625(1) or (2), or former M.C.L.A. 257.625b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(6) A restricted license issued pursuant to an order under subsection (5) shall permit the person to whom it is issued to do one or more of the following:

- (a) Drive to and from the person's residence and work location;
- (b) Drive in the course of the person's employment or occupation;
- (c) Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court;
- (d) Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both;
- (e) Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

(7) The court may order that the restricted license issued pursuant to subsection (5) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects a blood alcohol content of 0.02% or more by weight of alcohol in the person who offers a breath sample. The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the cost of which shall be borne by the person whose license is restricted.

(8) The court shall not order the secretary of state under subsection (5) to issue a restricted license that would permit a person to operate a truck or truck tractor, including a trailer, that hauls hazardous materials.

(9) The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education treatment, court-ordered community service program, or educational institution, and does not have any family members or other individuals able to provide transportation.

(10) The court order issued under subsection (5) and the restricted license shall indicate the permitted destination of the person, the approved route or routes if specified by the court, and permitted times of travel.

(11) As used in this section, "work location" means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

(12) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1) or (3), the person shall surrender to the court his or her operator's or chauffeur's license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court-ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the secretary of state shall suspend or revoke the person's license and, if ordered by the court and the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence are appealed to the circuit court, the court may, ex parte, order the secretary of state to stay the suspension, revocation or restricted license issued pursuant to this section pending the outcome of the appeal.

Sec. 5.15c. Implied consent. (Amended)

(1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the municipality, is considered to have given consent to chemical tests of his or her blood, breath or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood pursuant to section 625c of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625c.

(2) A person who is afflicted with hemophilia, diabetes or a condition requiring the use of an anticoagulant under the direction of a physician, shall not be considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 5.15a(3).

Sec. 5.15d. Refusal to take chemical test. (Amended)

(1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 5.15a(3), a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in Section 5.15(1) or (3), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

Sec. 5.15e. Hearing; suspension of license. (Amended)

(1) If a person refuses to submit to a chemical test pursuant to section 5.15d, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 625f of Act 300 of the Public Acts of 1949, as amended, being M.C.L.A. 257.625f. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

Sec. 5.15f. Confiscation of license or permit; temporary license or permit. (Amended)

(1) If a person refuses a chemical test offered pursuant to Section 5.15a(3), or submits to the chemical test and the test reveals a blood alcohol content of 0.10% or more by weight of alcohol, the peace officer who requested the person to submit to the test shall do all of the following:

(a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle, and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person that is valid until the criminal charges against the person are dismissed, or until the person pleads guilty or nolo contendere to, or is found guilty of, those charges. The temporary license or permit shall be on a form provided by the secretary of state.

(b) Except as provided in subsection (2), immediately do all of the following:

(i) Forward a copy of the written report of the person's refusal to submit to a chemical test to the secretary of state.

(ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.

(iii) Except as provided in subsection (2), destroy the person's driver's license or permit.

(2) If a person submits to a chemical test offered pursuant to section 5.15a(3) that requires the withdrawal of blood and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If, upon receipt, the report reveals a blood alcohol content of 0.10% or more by weight of alcohol, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If, upon receipt, the report reveals a blood alcohol content of less than 0.10% by weight of alcohol, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results, and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.

Sec. 5.82. Mandatory child restraints. (Added)

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to administrative procedures Act of 1969, Act 306 of the Public Acts, as amended, being M.C.L.A. 24.201 to 24.315, or Federal regulations, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

(a) Any child less than 1 year of age, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, except as provided in subsection (6).

(b) Any child 1 year of age or more but less than 4 years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, except as provided in subsection (6).

(c) Any child 1 year of age or more but less than 4 years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection (6).

(2) This section does not apply to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle or other motor vehicle not required to be equipped with safety belts under Federal law or regulations.

- (4) A person who violates this section is responsible for a civil infraction.
- (5) Points shall not be assessed for a violation of this section.
- (6) The secretary of state may exempt by rules promulgated pursuant to Act 306 of the Public Acts of 1969, as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

Sec. 5.83. Safety belt required; enforcement. (Added)

- (1) This section shall not apply to a driver or passenger of:
 - (a) A motor vehicle manufactured before January 1, 1965.
 - (b) A bus.
 - (c) A motorcycle.
 - (d) A moped.
 - (e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.
 - (f) A motor vehicle which is not required to be equipped with safety belts under Federal law.
 - (g) A commercial or United States postal service vehicle which makes frequent stops for the purpose of pick-up or delivery of goods or services.
 - (h) A motor vehicle operated by a rural carrier of the United States postal service while serving his or her rural postal route.
- (2) This section shall not apply to a passenger of a school bus.
- (3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than 4 years of age shall be protected as required in section 5.82.
- (4) Each driver of a motor vehicle transporting a child 4 years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all front seat passengers comply with subsection (3), then the driver of a motor vehicle transporting a child 4 years of age or more but less than 16 years of age for which there is not an available safety belt is in compliance with this subsection, if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pick-up truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.

(5) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.

(6) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than 5%.

(7) A person who violates this section is responsible for a civil infraction.

(8) Points shall not be assessed for a violation of this section.

Sec. 5.97. School buses; overtaking, meeting, or passing. (Amended)

(1) The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying 2 alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal, a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than 10 miles per hour and with due caution for the safety of passengers being received or discharged from the school bus. The driver of a vehicle who fails to stop for a school bus as required by this subsection, who passes a school bus in violation of this subsection, or who fails to stop for a school bus in violation of an ordinance that complies with this subsection, is responsible for a civil infraction.

(2) The driver of a vehicle upon a highway which has been divided into 2 roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.

(3) In a proceeding for a violation of subsection (1), proof that the particular vehicle described in the citation was in violation of subsection (1), together with proof that the defendant named in the citation was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

(4) In addition to a civil fine and costs, the judge, district court referee, or district court magistrate may order a person who violates this section to perform not to exceed 100 hours of community service at a school.

CHAPTER 420
Street Obstructions and Special Uses

- 420.01 Duty of Street Administrator to keep streets and alleys free and clear of obstructions; expenses; collection.
- 420.02 Obstruction and encroachment of public ways; excavations.

420.03 Deposit of ashes, rubbish, debris or snow in streets and alleys.
420.04 Through traffic stop streets.
420.99 Penalty.

CROSS REFERENCES

- Streets and alleys generally - see CHTR. Ch. VII, §§12 et seq.
- Council powers re street obstructions - see CHTR. Ch. VII, §20
- Street Administrator - see ADM. Ch. 254
- Sidewalk obstructions - see S.U. & P.S. 1020.03

420.01 DUTY OF STREET ADMINISTRATOR TO KEEP STREETS AND ALLEYS FREE AND CLEAR OF OBSTRUCTIONS; EXPENSES; COLLECTION.

(a) It shall be the duty of the Street Administrator to keep the streets and alleys of the Village free and clear of all obstructions, rubbish, ashes and any other matter or thing.

(b) Should any expense be incurred by said Street Administrator in removing any of such obstructions, rubbish, ashes or other matter or thing from any of the streets and alleys of said Village, it shall be his or her duty to keep an account thereof, and report the same to the Council. The same shall become a charge against the person placing or causing such obstructions, rubbish, ashes or other matter or thing to be placed in the streets or alleys in said Village, and may be collected by said Village in an action of debt, or assumpsit, against such person. If such person is the owner of the premises or the street or alley in which such obstruction, rubbish, ashes or other matter or thing is placed, then the expense of the removal thereof may be levied and collected as a special assessment on said premises. (Ord. 17. Passed 7-11-1892.)

420.02 OBSTRUCTION AND ENCROACHMENT OF PUBLIC WAYS;
EXCAVATIONS.

No person shall erect or place or cause to be erected or placed any incumbrances, encroachments or obstructions upon any street, sidewalk, lane, alley, park or public grounds. No person shall dig upon, or in any manner excavate, any portion of any street, alley, lane or public grounds within said Village, except by permission of the Council and under the direction of the Street Administrator. (Ord. 10. Passed 7-11-1892.)

420.03 DEPOSIT OF ASHES, RUBBISH, DEBRIS OR SNOW IN STREETS
AND ALLEYS.

(a) No person shall deposit in any of the streets and alleys of the Village any ashes, rubbish, debris or any other objectionable material, or any snow.

(b) No person shall permit any ashes, rubbish, debris or any other objectionable material, or any snow, to be or to remain in any of the streets and alleys of said Village, adjacent to the premises occupied by him or her.

(c) This section shall not apply to leaves left for pick-up and disposal by the Department of Public Works.

420.04 THROUGH TRAFFIC STOP STREETS.

(a) Michigan Avenue, from First Street North to Fifth Street.

(1) Michigan Avenue from and including its intersection with First Street north to and including its intersection with Sixth Street, in the Village, is hereby designated as a through traffic stop street.

(2) The driver or operator of a vehicle being driven or operated upon the public streets, alleys and ways of the Village shall bring his or her vehicle to a complete stop before entering upon said Michigan Avenue either from the east or west, at First Street, Second Street, Third Street, Fourth Street and Fifth Street. (Ord. 90. Passed 10-12-42.)

(b) Sixth Street from Pine Street East to Elm Street.

(1) Sixth Street from and including its intersection with Pine Street and extending east to and including its intersection with Elm Street, is hereby designated as a through traffic stop street.

(2) The driver or operator of any vehicle being driven or operated in a northerly direction, upon either Pine Street, Dewey Street, Michigan Avenue, Maple Street or Elm Street, or upon the alley between Michigan Avenue and Maple Street, or upon the alley between Maple Street and Elm Street, shall, before entering upon said Sixth Street, bring his or her vehicle to a complete stop.

(Ord. 89. Passed 9-28-42.)

(c) First Street, Second Street, Third Street, Fifth Street and Pine Street.

(1) No driver of any vehicle, nor any person owning or having control of such vehicle, shall drive or cause or permit such vehicle to enter into or upon the following streets in the Village, without first bringing such vehicle to a complete stop:

First Street, Second Street, Third Street, Fifth Street and Pine Street, except at the intersections of First Street, Second Street, Third Street and Fifth Street with Pine Street, Michigan Avenue and State Street, and except for the intersections of Pine Street with First Street and Sixth Street.

(2) First Street, Second Street, Third Street, Fifth Street and Pine Street, with the exceptions noted in paragraph (c)(1) hereof, are hereby declared to be through streets, and subject to the restrictions upon the use of the same as provided in paragraph (c)(1) hereof. (Ord. 101. Passed 5-2-52.)

(d) Signs. The Department of Public Works shall obtain appropriate through street stop signs and place the same in appropriate places at all streets provided for in this section.

420.99 PENALTY.

Whoever violates any of the provisions of this chapter is responsible for a civil infraction.

CHAPTER 430
Vehicle Equipment

430.01 Lugs or other rough material on wheels.

430.99 Penalty.

CROSS REFERENCES

Regulation of use of streets and motor vehicles - see CHTR.

Ch. VII, §23

Fire-fighting equipment - see CHTR. Ch. X, §§2, 3

Inoperable vehicles - see GEN. OFF. Ch. 640

430.01 LUGS OR OTHER ROUGH MATERIAL ON WHEELS.

No vehicle shall be driven or operated upon any portion of the streets, alleys or ways of the Village, which have been covered with blacktop material, if such vehicle's wheels or any wheel thereof is equipped with lugs or other rough material which if so driven or operated upon such blacktop would tend to break up the same. (Ord. 88. Passed 9-14-42.)

430.99 PENALTY.

Whoever violates any of the provisions of this chapter is responsible for a civil infraction.

CHAPTER 440
Bicycles, Skateboards and Rollerblades

440.01 Operation on sidewalks.

440.99 Penalty.

CROSS REFERENCES

Skateboards - see U.T.C. §3.4

Operation of bicycles, motorcycles, mopeds and toy vehicles - see U.T.C. Ch. 6

440.01 OPERATION ON SIDEWALKS.

(a) Definitions. As used in this section:

(1) "Bicycle" means a device having one, two or three wheels and which is propelled by human power.

(2) "Operate" means using, putting into motion and causing the movement of a bicycle, skateboard, or rollerblades, when mounted thereon.

(3) "Pedestrian" means any person afoot.

(4) "Rollerblades" means a device, also known as in-line skates, which is propelled by human power, and any similar devices.

(5) "Skateboard" means a device having four or more wheels and which is propelled by human power.

The definitions contained in paragraphs (a)(1), (4) and (5) hereof shall apply to any device similar to those defined in such paragraphs.

(b) Operation on Certain Sidewalks; Duty to Yield to Pedestrians.

(1) No person shall operate a bicycle, skateboard or rollerblades, or similar devices, on the public sidewalks adjacent to North Michigan Avenue between Second Street and Fourth Street.

(2) All persons operating a bicycle, a skateboard or rollerblades on the public sidewalks within the Village shall at all times yield the right of way to pedestrians. (Ord. 166. Passed 8-27-90; Ord. 176. Passed 5-24-99.)

(c) Responsibility of Parents and Guardians. No person shall permit his or her child or ward less than sixteen years old to violate any of the provisions of this section.

440.99 PENALTY.

Whoever, being an adult, violates any of the provisions of Section 440.01 is responsible for a civil infraction. Any minor who violates any of the provisions of this chapter shall be dealt with in accordance with Juvenile Court law and procedure.

CHAPTER 450
Parking

- 450.01 Parking on streets for more than forty-eight hours.
- 450.02 Overnight parking on streets.
- 450.03 Parking on sidewalks, footpaths, etc.
- 450.04 Parking near fire hydrants or ambulance garage.
- 450.05 Parking on First Street.
- 450.06 Parking on Michigan Avenue between Second and Fourth Streets.

450.07 Parking on Michigan Avenue near Fourth Street.
450.08 Parking on Michigan Avenue between Second and Fifth Streets.
450.09 Parking of commercial and oversized vehicles.
450.99 Penalty.

CROSS REFERENCES

Regulation of streets and motor vehicles - see CHTR. Ch. VII, §23

Parking generally - see M.C.L.A. §§257.672 et seq. (U.T.C. §§1.019 et seq., 8.1 et seq.)

Inoperable motor vehicles - see GEN. OFF. Ch. 640

Mobile home parks - see P. & Z. Ch. 1280

Mobile homes - see B. & H. Ch. 1440

450.01 PARKING ON STREETS FOR MORE THAN FORTY-EIGHT HOURS.

No person shall park any motor vehicle or other vehicle on any of the streets or alleys of the Village for a longer time than forty-eight consecutive hours. (Ord. 73. Passed 5-25-31.)

450.02 OVERNIGHT PARKING ON STREETS.

(a) No owner or operator of any motor vehicle shall park such motor vehicle upon any of the streets or alleys of the Village between the hours of 2:00 a.m. and 6:00 a.m., between November 15 and April 1.

2002 Replacement

(b) The operator of the snow-removal equipment of the Village shall notify the Police Department of the Village to remove any motor vehicle parked in violation of subsection (a) hereof at the expense of the owner or operator of such motor vehicle, and such expense shall constitute a lien upon such motor vehicle, which the Village may foreclose in the same manner as is provided by Act 290 of the Public Acts of 1939, as amended.

(c) The purpose of this section is hereby declared to be the removal of snow from the Village streets and avenues. (Ord. 87. Passed 11-24-41.)

450.03 PARKING ON SIDEWALKS, FOOTPATHS, ETC.

No driver of a vehicle, nor any person owning such vehicle, shall permit such vehicle to be parked or placed upon any sidewalk, footpath or other place where pedestrians usually travel, outside of the portion of the streets, alleys and ways of the Village where vehicles usually travel.

(Ord. 93. Passed 7-22-46.)

450.04 PARKING NEAR FIRE HYDRANTS OR AMBULANCE GARAGE.

No vehicle or other obstruction shall be allowed to stand on any street in the Village closer than ten feet from any fire hydrant, or in front of the ambulance garage on Third Street.

450.05 PARKING ON FIRST STREET.

No driver of any vehicle, nor any person owning or having control of such vehicle, shall park, or cause or permit such vehicle to be parked, upon First Street.

450.06 PARKING ON MICHIGAN AVENUE BETWEEN SECOND AND FOURTH STREETS.

No owner, driver or operator of any motor vehicle shall park his or her motor vehicle upon either the east side or the west side of Michigan Avenue, in the Village, between Second Street and Fourth Street, on any day of the week, except Sunday, between the hours of 8:30 a.m. and 5:30 p.m., for a period of time longer than two hours.

450.07 PARKING ON MICHIGAN AVENUE NEAR FOURTH STREET.

All vehicles parking upon Michigan Avenue between the extended lines of the south side of Lot 11, Block 19, Barnett Plat of the Village and the north line of Fourth Street in the Village shall be placed with the right side thereof toward the curb and in the center, as near as possible, of the spaces between the painted strips adjacent to the curb and parallel with said painted strips. (Ord. 58. Passed 8-11-24.)

450.08 PARKING ON MICHIGAN AVENUE BETWEEN SECOND AND FIFTH STREETS.

(a) No driver of any motor vehicle or other vehicle, either with or without a trailer attached, shall park the same on Michigan Avenue between the north line of Second Street and the south line of Fifth Street in the Village in any place or position other than between the confining lines as marked on the east and west sides of Michigan Avenue.

(b) No such driver shall permit any part of his or her motor vehicle, trailer or other vehicle, or any projection therefrom, to extend over or outside of the confining lines as marked on the east and west sides of Michigan Avenue. In case any such motor vehicle, trailer or other vehicle is too large to be so parked within such confining lines, so that its outside dimensions, including any platform, box or other extension, and including any projection therefrom, is too large to be so parked within such confining lines, it shall be the duty of the driver thereof to refrain from parking the same on Michigan Avenue, between the north line of Second Street and the south line of Fifth Street, in the Village.

(Ord. 78. Passed 5-13-35; Ord. 92. Passed 7-22-46.)

450.09 PARKING OF COMMERCIAL AND OVERSIZED VEHICLES.

(a) Definitions.

(1) "Commercial vehicles". A commercial vehicle shall be defined as any vehicle, bus designed to carry more than fifteen people, (excluding school buses), machinery, trailer, or any other type of equipment used to generate income or which has the appearance as used in the course of conducting a trade or business, due to size, type, signage, or accessories. A pickup truck, cargo style van, sport utility vehicle or passenger car with signage or accessories shall not be considered as a commercial vehicle, even though it may be used for business purposes.

(2) "Oversized vehicle".

A. Any vehicle twenty-three feet or greater in length, or eight feet or greater in height, or seven feet or greater in width.

B. Any vehicle with more than two axles.

(b) No owner or operator of a commercial vehicle or an oversized vehicle shall park such vehicle on any Village public street, zoned residential at any time unless a permit is obtained, except for purposes of deliveries and services.

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(c) A commercial vehicle or an oversized vehicle may be temporarily parked on any Village public street, zoned residential for no more than forty-eight consecutive hours with a special permit issued by the Village Police Department and displayed in the front window of said vehicle. Permits may be obtained during business hours, only at the Village Police Department.

(d) A commercial vehicle or oversized vehicle, may be temporarily parked on any Village public street not zoned residential and not marked no parking to load and unload materials, goods, merchandise, for a maximum period of no more than 24 consecutive hours.

(e) The owner or operator of any vehicle shall not be allowed to park such vehicle on any Village public street zoned residential, so as to interfere with the delivery of curbside mail or newspaper without the expressed consent of the occupant of that residence.

(f) The owner or operator of any vehicle shall not be allowed to park such vehicle on any Village street zoned residential, so as to interfere with the pickup of curbside trash and or recycling materials by any waste hauler authorized to operate within the Village between the hours of 12:00 a.m. and 5:00 p.m. on the designated date of pick up for that residence.
(Ord. 011112. Passed 11-12-01.)

450.99 PENALTY.

Whoever violates any of the provisions of this chapter is responsible for a civil infraction.

CODIFIED ORDINANCES OF SHELBY
PART SIX - GENERAL OFFENSES CODE

Chap. 610. Animals.

Chap. 620. Snowmobiles.

Chap. 636. Hazardous Materials Incidents.

Chap. 640. Inoperable Motor Vehicles.

Chap. 660. Peace Disturbances.

Chap. 670. Safety, Sanitation and Health.

Chap. 690. Weapons and Explosives.

CODIFIED ORDINANCES OF SHELBY
PART SIX - GENERAL OFFENSES CODE

CHAPTER 610
Animals

610.01	Running at large.	610.04	Dangerous and exotic animals.
610.02	Barking or howling dogs.	610.99	Penalty.
610.03	General animal regulations.		

CROSS REFERENCES

Animal pounds - see CHTR. Ch. VII, §3; M.C.L.A. §§123.301
et seq., 750.70

Animal diseases generally - see M.C.L.A. §§287.2 et seq.

Animals generally - see M.C.L.A. §§287.2 et seq., 750.49 et seq.,
752.21 et seq.

610.01 RUNNING AT LARGE.

(a) Dogs.

- (1) No person who owns or who has any interest in the possession or control of a dog within the corporate limits of the Village shall allow or permit such dog to run at large or to leave the premises owned or leased by such person, whether such dog is licensed or unlicensed, provided, however, that it shall be lawful for any person to allow such dog to leave such premises when the dog is on a leash and is under the control of any person at all times while off such premises.

- (2) The Village Council shall contract with the County for the services of an Animal Control Officer to provide the confinement of animals found unlawfully going at large in said Village.
- (3) Any dog found running at large, whether licensed or unlicensed, in violation of this section, shall immediately be taken by the Animal Control Officer or by any duly appointed police officer of the Village, to the dog pound. The owner of such dog, or any other person having lawful right to do so, shall have the privilege within seven days after said dog has been placed in said dog pound, to take said dog from said dog pound by paying the Oceana County Animal Control Officer his or her fees established for each day or part of a day that said dog has been confined in said dog pound, and furnishing proof of said payment to said Animal Control Officer.
- (4) In the event that such dog so placed in said dog pound is uncalled for by the owner thereof or any person claiming an interest therein, within the period of seven days after the placement of such dog in said dog pound, then and in that event said Animal Control Officer is hereby empowered to forthwith kill or otherwise dispose of said dog, and said Animal Control Officer shall properly dispose of the carcass.
- (5) The Animal Control Officer shall keep a proper record of all dogs impounded under the provisions of this section, including, but not limited to, the description of such dogs, the place where such dogs were taken into possession, the date of the impounding thereof, the name of the owner thereof, if the same can be readily ascertained from the license on said dog or other identification found thereon and the number of days said dog was impounded. Such record shall be filed quarterly with the Village Treasurer. In the event that the name of the owner of said dog shall be ascertained from the license or other identification found on said animal, said owner shall be notified by depositing notice thereof in the U.S. mail, addressed to said owner.
- (6) Nothing in this section contained shall be construed as limiting the common law liability of the owner of a dog, or by any person having lawful possession thereof, for damages incurred by any person, firm or corporation occasioned by such dog.
(Adopting Ordinance)

(b) Other Animals and Fowl. Except as otherwise provided in subsection (a) hereof, no person shall permit any animal or fowl to run at large in the Village or stray off such person's premises.

(Ord. 4. Passed 6-27-1892; Ord. 2008-001. Passed 8-11-08.)

610.02 BARKING OR HOWLING DOGS.

No person having a right of property in a dog or other animal, no person who keeps or harbors a dog or other animal or has it in his or her care and no person who permits a dog or other animal to remain on or about any premises occupied by him or her shall suffer or permit such dog or other animal to disturb the peace and quiet of the neighborhood by barking or by making other loud or unusual noises.

(Ord. 154. Passed 10-24-77.)

610.03 GENERAL ANIMAL REGULATIONS.

(a) The keeping of domestic or farm animals shall be considered customary to, and commonly associated with, the operation of permitted uses or special land uses, subject to the requirements of this section.

(b) The provisions of this section shall not be construed to supersede or be in conflict with the provisions of the Village of Shelby Zoning Code. The Village Zoning Code shall take precedence over the provisions of this section should there be a conflict between this section and the Village Zoning Code.

(c) No person who owns, or who may have any interest in the possession or control of animals within the corporate limits of the Village, shall allow or permit the keeping of more than two dogs and/or more than two cats, if such animals are of the age of six months or older within their premises.

(d) Raising and keeping of fowl or rabbits or other small animals for pets shall not exceed a total of three on any lot of less than one acre.

(e) One cow, one pig, or any other hoofed livestock may be allowed on lots exceeding one acre, for each acre comprising the lot, however, such animals, regardless of the size of the lot in excess of one acre, shall not exceed a total of five animals.

(f) Lots of two acres may have one horse. A lot in excess of two acres but less than five acres may have one additional horse, not to exceed two horses total.

(g) There shall be no limitation on the number of animals allowed for lots greater than five acres.

- (h) A horse riding stable shall not be operated on a lot of less than five acres.
- (I) Animal clinics and veterinary hospitals shall not be restricted as to size provided that the operation of such business is not in conflict with the Village Zoning Code.
- (j) Owners of animals other than house pets maintained outside of the premises shall provide a fence of such construction as to safely maintain the animals within the closure.
- (k) A building, pen or other structure housing animals under this section, shall be a minimum of thirty feet from an adjoining neighbor's residence, and shall be six feet from the nearest property line.
- (l) All animals kept in the Village shall be subject to the following:
- (1) Proper housing;
 - (2) Appropriate food;
 - (3) Necessary veterinarian care including immunizations;
 - (4) Proper restraints, including, but not limited to fencing, chains, or cable to prevent the animal from leaving the premises.
- (m) All animal owners or persons in possession of animals, or in control of animals, shall be responsible for the clean-up of animal feces on the premises as well as off the premises. Clean-up shall be undertaken promptly.
(Ord. – . Passed 4-23-01.)

610.04 DANGEROUS AND EXOTIC ANIMALS.

Any animal, mammal, amphibian, reptile or fowl which, due to size, innate vicious nature or similar characteristics which would constitute a danger to human lives, physical well-being or damage to property shall not be maintained on any lot in the Village. Such animals include, but are not limited to the following:

- (a) Lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species where average adult weight exceeds twenty pounds, foxes, elephants, alligators, crocodiles, snakes:
- (1) Poisonous snakes;
 - (2) Snakes defined as constrictors.
- (b) Any animal having a disposition or propensity to attack, bite, or in any other manner cause harm to persons or other animals without provocation.
(Ord. – . Passed 4-23-01.)

610.99 PENALTY.

Any person, whether as a principal, agent, employee, independent contractor, corporation, firm, or other entity, or otherwise violating or causing or permitting a violation of any of the provisions of this chapter may be found guilty of a misdemeanor by a court of competent jurisdiction and upon conviction thereof, shall be liable for punishment by:

- (a) A fine of not more than five hundred dollars (\$500.00);
- (b) By imprisonment for not more than ninety days; or
- (c) By both such fine and imprisonment; or
- (d) Found responsible by their own admission (at the Village Violation Bureau, or in a court of competent jurisdiction), or by the finding of a court of competent jurisdiction of a municipal infraction. Municipal civil infractions shall be subject to a fine up to five hundred dollars (\$500.00).
(Ord. – . Passed 4-23-01.)

CHAPTER 620
Snowmobiles

620.01 Operation of snowmobiles regulated.	620.99 Penalty.
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CROSS REFERENCES

- Skateboards - see U.T.C. §3.4
- Operation of bicycles, motorcycles, mopeds and toy vehicles - see U.T.C. Ch. 6
- Streets and alleys generally - see CHTR. Ch. VII, §§ 12 et seq.
- Regulation of use of streets and motor vehicles - see CHTR. Ch. VII, § 23
- Sidewalk obstructions - see S.U. & P.S. 1020.03

620.01 OPERATION OF SNOWMOBILES REGULATED.

No person shall operate a snowmobile in the Village of Shelby under the following conditions:

- (a) At a rate of speed greater than posted speed limit and proper having due regard for conditions then existing, unless otherwise posted for snowmobiles.
- (b) While under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol.
- (c) In or on any property, park or playground in the Village nor in any nursery, planting area or natural area of forest owned by the Village, except by permit and permission granted by the Village Council first obtained. Parking of snowmobiles is permitted in Village owned parking lots.
- (d) On Michigan Avenue between 2nd and 4th Streets and any duly closed roads within the Village limits other than crossing at intersections at right angles.
- (e) Between the hours of 3:00 a.m. to 7:00 a.m. Village-wide. The only exception is on the William Field Memorial Hart-Montague Trail State Park where the State regulates usage of snowmobiles.
- (f) During permissive hours without displaying a lighted headlight and lighted tail light between sunset and sunrise.
- (g) On any other property within the Village limits, without the prior consent or permission of the owner or occupant of said property.
- (h) On any Village sidewalks.
- (i) Between April 1 and November 30.
(Ord. 01-2015. Passed 10-12-15.)

620.99 PENALTY.

Any person, whether as a principal, agent, employee, independent contractor, corporation, firm, or other entity, or otherwise violating or causing or permitting a violation of any of the provisions of this chapter may be found guilty of a misdemeanor by a court of competent jurisdiction and upon conviction thereof, shall be liable for punishment by:

- (a) A fine of not more than five hundred dollars (\$500.00);
- (b) By imprisonment for not more than 90 days; or
- (c) By both such fine and imprisonment; or
- (d) Found responsible by their own admission (at the Village Violation Bureau, or in a court of competent jurisdiction), or by the finding of a court of competent jurisdiction of a municipal infraction. Municipal civil infractions shall be subject to a fine up to five hundred dollars (\$500.00).
(Ord. 01-2015. Passed 10-12-15.)

CHAPTER 636
Hazardous Materials Incidents

636.01	Purpose, intent and scope.	636.05	Voluntary collection of costs.
636.02	Definitions.	636.06	Civil actions and other remedies.
636.03	Responsibility for removal and remedial action.	636.07	Special assessment.
636.04	Reimbursement of costs.		

CROSS REFERENCES

Health and sanitation generally - see Mich. Const., Art. 4, § 51;
M.C.L.A. §§ 750.466 et seq.
Storage and handling of hazardous materials - see CHTR.
Ch. X, § 6
Nuisances generally - see M.C.L.A. §§ 600.3801 et seq.
Public safety generally - see M.C.L.A. §§ 750.493 et seq.

636.01 PURPOSE, INTENT AND SCOPE.

It is the purpose of this chapter to provide for the reimbursement of extraordinary expenses incurred by the Village in order to clean up or abate the effects of any hazardous material deposited or discharged upon or into property or facilities within the Village to preserve the public health. The authority to recover the extraordinary expenses shall not include services which are normally or usually provided by the various departments of the Village. The remedy provided for herein shall be in addition to any other remedies provided for by law.

(Ord. 167. Passed 8-13-90.)

636.02 DEFINITIONS.

For the purposes of this chapter, the terms used herein are defined as follows:

(a) **ENVIRONMENT:** Any surface water, groundwater, drinking water supply, land surface or subsurface strata or ambient air within the Village, whether public or private.

(b) **EXTRAORDINARY EXPENSE:** Expenses and those related costs and fees that are incurred by the Village for any extraordinary service, including, but not limited to, the Village's actual cost of labor and materials associated with the use of any specialized extinguishing or abatement agent, chemical, neutralizer or similar equipment (equipment damage) or materials that are employed to extinguish, confine, neutralize, contain or clean any hazardous material that is or may be involved in a fire, accidental spill or the threat of any fire or accidental spill. Extraordinary expenses include, but are not limited to, actual costs of personnel, such as salary, worker's compensation benefits, fringe benefits, administrative overhead and medical monitoring, equipment operation, maintenance and replacement, rental or leasing of equipment used for a specific response, special technical services, laboratory costs, services and supplies contracted or purchased for a specific response and any other costs authorized by State or Federal law.

(c) **EXTRAORDINARY SERVICE:** One performed by the Fire Department, Police Department, Public Works Department or any other Village department (or any person contracted or hired by the Village for the purpose of responding to the release or threatened release of a hazardous material) that, in the judgment of the Village, is additional to or above the normal services provided by such departments or division. Extraordinary services may include, but are not limited to, crowd safety, security and traffic control; evacuation and emergency housing, the abatement and disposition of hazardous and harmful materials, spills or the threat of spills of toxic or hazardous gases, utility line breaks or leakages; other imminent or perceived or possible threats to the health, safety or welfare of the Village residents that may be detailed or contemplated as an extraordinary expense as defined above; and those instances where a property owner has been previously warned about violations of these Codified Ordinances that, in the judgment of the Village, are a particular threat to the health, safety or welfare of the Village residents and for which the owner (or owner's agent or person in charge of the property) has neglected to comply or has refused compliance therewith.

(d) **HAZARDOUS MATERIAL:** Any material defined, listed, characterized or classified as a hazardous material, hazardous substance, hazardous waste or toxic substance according to any of the following State or Federal codes or regulations:

(1) A “regulated substance” as defined by MSA §13.29(71) (k), MCL §299.701(k) (Registration of Underground Storage Tanks).

(2) Title 40, Code of Federal Regulations, Part 261 (Identification and Listing of Hazardous Wastes).

(3) Title 40, Code of Federal Regulations, Part 302.4 (Designation of Hazardous Substances).

(4) Title 40, Code of Federal Regulations, Part 355, Appendices A and B (List of Extremely Hazardous Substances).

(5) Title 49, Code of Federal Regulations, Parts 172.101 and 172.102 (Hazardous Materials Tables).

Hazardous material includes any solution, mixture or formulation containing such material and any material which, due to its chemical or physical characteristics, is determined by the Village to pose a substantial threat to the life, health or safety of persons or property or to the environment. The term includes, but is not limited to, explosives, radioactive materials, petroleum products, gases, poisons, etiologic (biologic) agents, flammables and corrosives.

(e) **PERSON:** An individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, governmental entity or any other legal entity.

(f) **RELEASE:** Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of hazardous materials into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles containing hazardous material) in such a manner as to endanger the public health or welfare or the environment or in violation of any Federal, State or local law, rule, regulation or order. Such release may be accidental or willful, sudden or gradual.

(g) **REMEDY OR REMEDIAL ACTION:** Those actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of hazardous material into the environment to prevent or minimize the release of hazardous materials so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage; confinement; perimeter protection using dikes, trenches or ditches; clay cover; neutralization; cleanup of released hazardous materials or contaminated materials; recycling or reuse; diversion; destruction; segregation of reactive wastes; dredging or excavations; repair or replacement of leaking containers; collection of leachate and runoff; on-site treatment or incineration; provision of alternative water supplies and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

(h) REMOVE AND REMOVAL: The cleanup or removal of released hazardous materials from the environment, including such actions as may be necessary to take in the event of the threat of release of hazardous materials into the environment; such actions as may be necessary to monitor, assess and evaluate the release or threat of release of hazardous materials; the disposal of removed material or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare or to the environment which may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for and any emergency assistance which may be provided.

(I) RESPOND OR RESPONSE: Any activity taken to remove or remedy the effects of a release or threatened release of a hazardous material, including any enforcement activities related thereto.

(Ord. 167. Passed 8-13-90.)

636.03 RESPONSIBILITY FOR REMOVAL AND REMEDIAL ACTION.

Any person responsible for the release of hazardous material shall immediately institute and complete all action necessary to remove and remedy the effects of such release. The Village is authorized to respond to the release of a hazardous material in accordance with the applicable State and Federal law and in the following circumstances:

- (a) At the request of another governmental agency;
- (b) When the person responsible for a release does not take immediate action to remove and remedy the effects of such release;
- (c) When a release occurs on private property and the person responsible cannot be identified, located or notified;
- (d) When the Village President or his or her designee determines that such response is reasonably necessary under the circumstances to protect the public health, safety or welfare or the environment.

(Ord. 167. Passed 8-13-90.)

636.04 REIMBURSEMENT OF COSTS.

Except as otherwise provided by law, any person responsible for the release of a hazardous material shall reimburse the Village for all costs incurred by the Village or the Fire Department in response to such release.

(Ord. 167. Passed 8-13-90.)

636.05 VOLUNTARY COLLECTION OF COSTS.

The Village Treasurer shall collect all fees as follows:

(a) Within thirty days of the date of the extraordinary or dangerous occurrence giving rise to the extraordinary service, the affected department shall submit its extraordinary expenses to the Village Treasurer for review. At such time as all extraordinary expenses have been submitted to and reviewed by the Village Treasurer, but in any case no later than sixty days from the date of the rendering of the extraordinary services, the Village Treasurer shall send a bill of consolidated extraordinary expenses to the property owner, agent or manager with a demand that a full remittance be made within thirty days of receipt of the bill.

(b) It is contemplated that local, State or Federal agencies may bill, fine or penalize the Village for matters (including, but not limited to, cleanup cost, fee or expense) relating to an extraordinary or dangerous occurrence; and the Village Treasurer shall, when possible, include any and all such costs or fees in the consolidated bill sent to the property owner. The Village shall not, however, waive any right to collect such local, State or Federal costs if they are not included with the consolidated bill and are not charged to the property owner or his or her agent within the consolidated billing sixty-day period. In this regard, the Village Treasurer shall expect reimbursement of all local, State or Federal costs within thirty days of the owner's (or his or her agent's) receipt of the bill for these particular costs, fees, etc.

(c) In cases of hardship or where circumstances are such that a full remittance cannot be made to the Village within the thirty-day period, the office of the Village Treasurer is hereby authorized to enter into negotiations with the property owner or his or her agent for an extended payback period of time not to exceed six months and for which the Village may charge.

(d) All monies received under the provisions of this section shall be placed in an account established for the express purpose of reimbursing the various departments for those actual extraordinary expenses necessary to furnish fire, police and other emergency public safety or protection provided by the Village or the Fire Department as outlined herein. (Ord. 167. Passed 8-13-90.)

636.06 CIVIL ACTIONS AND OTHER REMEDIES.

The Village may enforce these provisions by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder plus attorneys' fees or for any other relief that may be appropriate.

This chapter shall not prohibit the village from pursuing any other remedy, whether civil or criminal, or from instituting any appropriate action or proceeding, including injunction, in a court of competent jurisdiction. Nor shall the recovery of extraordinary expenses under this chapter in any way release the various parties or limit them from legal liability incurred as a result of hazardous material cleanup or abatement as defined under any local, State or Federal rule or regulation. (Ord. 167. Passed 8-13-90.)

636.07 SPECIAL ASSESSMENT.

The Village Council may order that the cost described in Section 636.05 be assessed against the real property upon which the hazardous material was released as a special assessment. The report to the Village Council of expenses incurred by the Village or the Fire Department under this section shall include a description of the lot or premises on or in respect to which the expense was incurred, the name of the owner and the cost of services performed. The Village Council may order the Village Treasurer, in cooperation with the Township Assessor, to spread the cleanup costs against the real property chargeable on the next tax roll for the collection of Village taxes. (Ord. 167. Passed 8-13-90.)

CHAPTER 640
Inoperable Motor Vehicles

640.01	Short title.	640.07	Denial of revocation of permit; hearing; review.
640.02	Definitions.	640.08	Public nuisance per se.
640.03	Prohibition of outdoor storage.	640.09	Abrogation and purpose.
640.04	Notice of violation.	640.99	Penalty.
640.05	Exceptions.		
640.06	Permits.		

CROSS REFERENCES

Stolen and recovered motor vehicles - see TRAF.

410.04 (UTC §2.5)

Abandoned vehicle procedures - see TRAF. 410.04

(UTC §§2.5a et seq.)

Vehicle equipment - see TRAF. Ch. 430

Storage of junk - see GEN. OFF. 670.03

640.01 SHORT TITLE.

This chapter shall be known and may be cited as the “Inoperable Vehicle Chapter.”
(Ord. 173. Passed 7-25-94.)

640.02 DEFINITIONS.

In the interpretation of this chapter, the following definitions shall apply, except where the context clearly indicates that another meaning is intended:

- (a) The following words shall be defined as set forth in Chapter I of the Michigan Vehicle Code, Act 300 of the Public Acts of 1949, as amended:

Farm tractor	Highway	Registration
Motor vehicle	Owner	Special mobile equipment
Salvage vehicle	Street	
Vehicle	Implement of husbandry	

- (b) As used in this chapter:
- (1) “Dismantled equipment” shall mean inoperable special mobile equipment from which a part or parts have been removed; and the term shall include within its meaning all parts, including wheels and tracks, that have been removed from the special mobile equipment.
 - (2) “Dismantled vehicle” shall mean an inoperable vehicle from which a part or parts have been removed; and the term shall include within its meaning all parts, including tires, wheels and batteries, that have been removed from a vehicle of any type.
 - (3) “Inoperable special mobile equipment” shall mean special mobile equipment, implements of husbandry and/or machinery normally used for construction purposes, including bulldozers, backhoes and tractors (whether wheeled or tracked), farm field and orchard tools, paving equipment and construction equipment, which, by reason of accident, neglect, mechanical condition, disrepair or other cause, is apparently not in an operational or safe condition.
 - (4) “Inoperable vehicle” shall mean any salvage vehicle and any vehicle, which, by reason of accident, neglect, mechanical condition, disrepair or other cause, is apparently not in an operational or safe condition as required by Section 683 of the Michigan Vehicle Code, as amended. “Inoperable vehicle” shall also mean any motor vehicle required to be registered by the Michigan Vehicle Code if operated on the public streets, which does not have displayed on the vehicle currently valid registration; and any vehicle, other than a motor vehicle, which does not have displayed on the vehicle registration which has been valid within the prior six months.
 - (5) “Person” shall mean any private individual, firm, partnership, company, corporation, entity or private organization of any kind.
 - (6) “Private premises” shall mean any lot or parcel of land owned by a person, whether or not improved with a structure of any kind, and whether or not inhabited or occupied, and shall include any yard, grounds, walks, driveways, porches or steps belonging or appurtenant to any structure thereon.
 - (7) “Public place” shall mean any highway, street, sidewalk, alley, berm or terrace, or other public way; and any and all parks, squares, spaces, grounds and buildings owned by or the use of which is dedicated to any governmental entity.
- (Ord. 173. Passed 7-25-94.)

640.03 PROHIBITION OF OUTDOOR STORAGE.

(a) No person shall, anywhere within the Village of Shelby, for a period in excess of 72 hours, park, keep, maintain, accumulate or permit to remain on private premises or in a public place, an inoperable motor vehicle or inoperable special mobile equipment, unless such vehicle or equipment is housed entirely within an enclosed, roofed building.

(b) No person shall, within the Village of Shelby, park, keep, maintain, accumulate or permit to remain on private premises or in a public place a dismantled motor vehicle or dismantled special mobile equipment, or parts removed therefrom, unless such vehicle, equipment or parts are housed entirely within an enclosed, roofed building.

(c) Both the owner as well as the occupant or lessee of private premises, and the owner of the vehicle, equipment or parts shall be deemed to be persons responsible under the provisions of divisions (a) and (b) hereof.

(Ord. 173. Passed 7-25-94.)

640.04 NOTICE OF VIOLATION.

A notice of violation of this chapter shall be served by the Village of Shelby Police Department, upon such persons who have violated this chapter.

- (a) Whenever any inoperable vehicle or special mobile equipment is found, a written notice shall be delivered in person or by first class mail to the owner of the inoperable vehicle or special mobile equipment, if known, and the owner or occupant of the private property on which the vehicle or equipment is located. An additional notice shall be affixed to a conspicuous part of the vehicle or equipment. The notice shall describe the violation of this chapter and shall require the removal of the violation within seven days. If the violation is observed to exist after seven days, a civil infraction ticket for such violation may be issued. The Village may determine, with appropriate authority such as a court order or the property owner or occupant's permission or failure to respond to the notice, to peaceably enter the property to correct the violation, including removal or impounding of the vehicle or equipment at a disposal site.
- (b) If a vehicle is removed and impounded by the Village at a location where there will be impounding fees or charges, it shall give appropriate or required notice to the registered owner of the vehicle, if any, and to the State, provided that the notice shall not designate the vehicle as abandoned. The notice shall indicate that the vehicle will be disposed of by sale if the owner fails to redeem the vehicle by paying any charges or fees occasioned by the removal, impounding or storage of the vehicle.

- (c) The direct cost of any enforcement action, including a 15% surcharge for overhead and indirect costs, shall be charged to the owner or occupant of the property, as well as any owner of the vehicle or equipment, and in addition shall be levied against the property and collected in the manner of real property taxes, and shall constitute a valid tax lien against the premises if unpaid.
- (d) Any person who violates or fails to comply with the provisions of this chapter shall be responsible for a civil infraction. Each act in violation of any of the provisions thereof shall be deemed a separate civil infraction. In connection with and in addition to the civil infraction, the Village may request supplemental relief and/or other remedies as available. Civil infraction penalties shall be as set forth in the schedule of civil infraction fines in Section 640.99.
- (e) In addition to the imposition of fines, penalties and other legal remedies, the Village may remove from the premises all inoperable vehicles and special mobile equipment in violation hereof and impound, destroy or sell said vehicles and equipment, and the cost thereof shall be assessed against the owner of the vehicle/equipment or the premises on which the same is located. Any sums realized on the sale of the same may be retained by the Village to reimburse it for the cost incurred in such removal and sale. Any outstanding expenses incurred by the Village in removing the vehicles and/or equipment from the premises will be levied as special assessments and become enforceable in the same manner as any other real property tax or assessment.
(Ord. 173. Passed 7-25-94; Ord. 2012-001. Passed 8-13-12.)

640.05 EXCEPTIONS.

The provisions of Section 640.03 shall not apply to the following persons, but solely under the following conditions:

(a) Persons owning and/or operating a junk yard or a vehicle storage yard; provided the same is properly licensed under the applicable provisions of Village of Shelby ordinances and State of Michigan statutes; provided the same shall be located in an area or zone providing for such use under the provisions of the Village of Shelby Zoning Code and a certificate of occupancy for such purpose has been properly issued; and provided that only inoperable vehicles and inoperable special mobile equipment, but not dismantled motor vehicles or dismantled special mobile equipment, may be stored outside an enclosed structure or building.

(b) Persons holding a properly issued and currently valid permit as provided for in Section 640.06.

(c) Persons storing special mobile equipment, provided the same is in operable condition and provided, further, such storage is a use which is in conformity with the provisions of the Village of Shelby Zoning Code.

(d) Persons operating a vehicle repair facility registered under the provisions of Act 300 of the Public Acts of 1974, as amended, provided, however, that no vehicle awaiting repair shall be stored outside an enclosed, roofed building for a cumulative total of more than sixty days.

(Ord. 173. Passed 7-25-94.)

640.06 PERMITS.

Notwithstanding the provisions of Section 640.03, upon a showing of unusual hardship, payment of an application fee and the filing of an application as hereinafter provided, a person may secure from the Village of Shelby Police Department a permit for outdoor storage of an inoperable vehicle or inoperable special mobile equipment, as follows:

(a) Application for Permit. An application for a permit for outdoor storage of an inoperable vehicle or inoperable special mobile equipment shall be made to the Village of Shelby Police Department, at any time prior to the expiration of the grace period as provided for in Section 640.03(a), by paying an application fee and filing an application on a form provided by the Police Department and supplying the following information thereon:

(1) The address or legal description of the premises where the vehicle or equipment is stored or is to be stored;

(2) The name and address of the owner or occupant of said premises;

(3) The name and address of the owner of the vehicle or equipment, if different from the owner or occupant of the premises;

(4) A description of the vehicle or equipment for which a permit is sought, including make, model, year of manufacture, vehicle identification number or last issued registration (license) number, and condition of the vehicle or equipment;

(5) The period of time, not to exceed thirty days, for which the permit is being requested in order to restore the vehicle or equipment to operating condition;

(6) A statement of the hardship necessitating the application; and

(7) The signature of the applicant.

(b) Issuance and Posting of Permit. The Village of Shelby Police Department may issue a permit for outdoor storage of an inoperable vehicle or inoperable special mobile equipment upon the finding of unusual hardship. Such permit shall be valid for the requested period, but not to exceed thirty days from the date of the filing of the application. A copy of the permit shall be posted inside the vehicle or equipment for which it was issued by affixing it to the windshield or, if there is no area of the windshield on which it could be affixed, then to any other window of the inoperable vehicle or to the exterior of a special mobile equipment, so as to be readily visible during daylight hours. No permit shall be transferable to any other person or vehicle.

(c) Conditions of Permit. Every permit for outside storage of an inoperable motor vehicle or special mobile equipment on private premises shall be subject to the following conditions:

(1) No safety hazard shall be created or maintained thereby;

(2) All broken glass or partially detached parts shall be either removed and disposed of as rubbish or stored within a fully enclosed structure or otherwise secured to the vehicle in a manner to prevent hazard;

(3) Trunk or storage compartments shall be kept locked or otherwise secured to prevent possible entrapment of a child;

(4) Wheels or tires shall not be removed from the vehicle except for repair of the same;

(5) If required by the Michigan Vehicle Code to be registered, a license plate for the current year shall be kept on the vehicle;

(6) All parts or components removed from the vehicle shall be stored within a fully enclosed structure or building;

(7) No waste fluids such as oil, gas, anti-freeze, hydraulic fluid, or other fluids shall be allowed to flow upon the ground or pavement;

(8) All information furnished by the applicant on the application shall be true. Supplying false information on the application will be a violation of this chapter.

(9) No more than one permit for outdoor storage of an inoperable vehicle or inoperable special mobile equipment shall be issued for a given private premises at any given time.

- (10) Upon the expiration of the permit or extension thereof, there shall be no further three-day (Section 640.03(a)) or seven-day (Section 640.04(d)) grace periods, and in the event the permitted vehicle continues to be inoperable and remains stored outdoors anywhere within the Village of Shelby, it shall be deemed a violation of this chapter.
- (d) Extension of Permit. A permit may be extended one time by filing at the Village of Shelby Police Department, prior to the expiration date of the permit being extended, a written statement by the original applicant stating that the repair or restoration of the vehicle or equipment has been commenced, but has not been completed, stating the reason or reasons therefor, and further stating the expected completion date, which shall not exceed 30 days after the termination date of the permit being extended. Along with the statement the applicant for an extension shall pay an application fee for the requested extension period.
- (e) Revocation; Notice; Order to Cease Storing. Any permit issued under this chapter may be revoked by the Village of Shelby Police Department when any condition of the permit is violated.
- (1) Notice of such revocation, together with a notice to cease outdoor storing of the vehicle or equipment which is the subject of the permit, shall be delivered either in person or by certified mail, return receipt requested, to the permittee at the address stated on the application, and, if different from the permittee, a copy of the notice shall be similarly delivered to the owner of the premises.
 - (2) The permittee and/or the owner of the premises shall thereafter remove the vehicle or equipment within seven days after receiving said notice, or shall store the vehicle or equipment entirely within an enclosed, roofed building.
 - (3) Failure to so remove or store such vehicle or equipment within seven days shall constitute a violation of this chapter.
- (f) Fees. The fees for both an original permit and for an extension permit shall be as follows:
- (1) For a one to 30 day permit \$ 5.00
 - (2) For a one to 30 day extension 10.00
- (Ord. 173. Passed 7-25-94.)

640.07 DENIAL OF REVOCATION OF PERMIT; HEARING; REVIEW.

Any person whose permit is revoked, or any person whose application for a permit is denied, shall have the right to a hearing before the Village Council, provided a written request therefor is filed with the Shelby Village Clerk within ten days following the date of receipt of the notice of revocation or within ten days following the denial of the application for a permit.

- (a) The hearing shall take place within 30 days after the request shall have been filed with the Village Clerk, and may take place either at a regular meeting of

the Village Council or at a special meeting thereof called for that specific purpose.

- (b) A notice of the time and place of the hearing shall be mailed by first class mail to the person requesting the hearing as soon as practicable, but in no event less than ten days prior to the date of the hearing.
- (c) The person requesting the hearing may be represented by an attorney and shall be permitted to have witnesses appear on the applicant's behalf. A recording of the proceedings at the hearing shall be done under the direction of the Village Clerk.
- (d) The Village Council is authorized, by a majority vote of those present, to confirm the permit denial or revocation, or to reverse the same and order the Village of Shelby Police Department to issue the appropriate permit.
(Ord. 173. Passed 7-25-94.)

640.08 PUBLIC NUISANCE PER SE.

A violation of the provisions of this chapter is hereby declared to be a public nuisance per se, and the same may be abated by order of any court of competent jurisdiction.
(Ord. 173. Passed 7-25-94.)

640.09 ABROGATION AND PURPOSE.

Nothing in this chapter shall be construed to abrogate, effect or supersede any State law or County ordinance, including, but not limited to, Michigan's Right to Farm Act, M.C.L.A. §§ 286.471 et seq. It is the purpose of this chapter to supplement State and County regulations and to regulate the storage of inoperable vehicles and special mobile equipment in the absence of regulation by the State or County.
(Ord. 2012-001. Passed 8-13-12.)

640.99 PENALTY.

Whoever violates any of the provisions of this chapter is responsible for a civil infraction and, upon conviction, shall be fined not more than five hundred dollars (\$500.00).

- (a) Each day that a violation continues shall be considered, and may be charged as a separate offense.
- (b) If a civil fine is ordered to be paid under this section, the judge, district court referee or district court magistrate shall summarily tax and determine the costs of the action, which shall not be limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, which the Village of Shelby has incurred in connection with the civil infraction, including attorney fees.
(Ord. 173. Passed 7-25-94.)

(9) Prowl about any public place or on private premises of any person in the night time, without the authority or permission of the owner of such private premises.

(10) Throw or propel any snowball, missile, or object from any moving vehicle, or toward any moving vehicle, or toward any other person.

(11) Summon without good reason therefor, by telephone or otherwise, the Police Department or the Fire Department or a public ambulance or emergency vehicle, to go to an address where the service called for is not required.

(12) To come upon or remain at any school building or school ground unless such person has lawful business with said school.

(13) To remain at or on any school building or school ground after being lawfully ordered to vacate said building or ground by a person in authority or in charge.

(14) To wilfully break, damage or injure any part of a building, public or private, whether such building is occupied or not, by means of projectiles or paint, or in any other manner.

(15) To resist arrest or refuse to obey the lawful order of any police officer of the Village or to interfere or attempt to interfere with any police officer of the Village in the performance of his or her duty. (Ord. 151. Passed 4-25-77.)

660.02 MINORS CURFEW.

(a) Prohibitions. No person under the age of seventeen shall be abroad in the Village after 10:00 p.m. on Sunday through Thursday and after 12:00 midnight on Friday and Saturday.

(b) Exceptions. Exceptions to subsection (a) hereof are as follows:

(1) One-half hour after the termination of an activity organized by a school or a church or supervised by adults responsible for the conduct of young people covered by this section.

(2) When accompanied by parents or other adults responsible for the behavior of young people covered by this section.

(3) Evenings before national holidays, which shall be identical with Friday and Saturday night curfew treatment.

(4) Special exceptions by resolution of the Village Council if referred to the attention of the Village Council with the favorable endorsement of the Chief of Police. (Ord. 121. Passed 10-24-66.)

(c) Enforcement.

(1) The Chief of Police shall enforce this section.

(2) The Chief of Police is hereby authorized to request identification from those young persons whom he or she has probable cause to suspect are covered by this section.

(3) The Chief of Police may report to the Village Council the names of violators of this section, as well as the names and addresses of their parents.

660.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

Whoever violates Section 660.02 shall be dealt with in accordance with Juvenile Court law and procedure.

CHAPTER 670
Safety, Sanitation and Health

670.01	Purpose.	670.06	Septic tanks and liquid wastes.
670.02	Definitions.	670.07	Open burning.
670.03	Deposit or maintenance of yard waste, garbage, rubbish, or junk on premises.	670.08	Recycling.
670.04	Grass, weeds, and trees.	670.09	Violations.
670.05	Vacant land and buildings.	670.10	Outdoor solid fuel-burning furnaces.
		670.99	Penalty.

CROSS REFERENCES

Health and sanitation generally - see Mich. Const., Art. 4, §51;
M.C.L.A. §§750.466 et seq.

Nuisances generally - see M.C.L.A. §§600.3801 et seq.

Public safety generally - see M.C.L.A. §§750.493 et seq.

Inoperable motor vehicles - see GEN. OFF. Ch. 640

Duty to keep sidewalks clear of nuisance - see S.U. & P.S. 1020.03

670.01 PURPOSE.

The purpose of this chapter is to better serve the citizens of the Village of Shelby through the preservation of healthful, safe and attractive conditions, inasmuch as certain practices can destroy these conditions.

(Ord. 122. Passed 6-26-67; Ord. 2002-04. Passed 12-23-02.)

670.02 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply:

- (a) "Garbage." Animal and vegetable waste resulting from handling, preparation, cooking, and consumption of foods and all organic matters subject to rapid decomposition.
- (b) "Junk." Any worn out, cast off, or discarded article or material, which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any article or material which is unaltered or unchanged, and without further reconditioning or repair, can be used for its original purpose as readily as when it was new, shall not be considered "junk."
- (c) "Recyclable materials." Any material accepted in writing by the Village or its designated contractor as recyclable.

- (d) “Rubbish.” Organic and inorganic waste and litter, including wire, metal shavings, bottles, glass, crockery, tin, wood, and any other kind of material that would be detrimental to the public health and safety. Included in this definition are bulky items that are too large to be handled by the Village or its designated contractor, such as discarded furniture, bed springs, and large appliances.
- (e) “Yard waste.” Grass clippings, bush and tree branches of less than six inches in diameter and plant material not intended for human consumption.
(Ord. 2002-04. Passed 12-23-02.)

670.03 DEPOSIT OR MAINTENANCE OF YARD WASTE, GARBAGE, RUBBISH, OR JUNK ON PREMISES.

(a) No person shall deposit, store, maintain, collect, or permit the storage, deposit, maintenance or collection of any garbage, rubbish, or junk on their premises or any premises over which they have control or use unless intended for disposal within 14 days either by the Village or its designated contractor.

(b) Any garbage or rubbish accumulated or stored outside a dwelling or building on any premises for the purposes of disposal shall be placed in containers. All containers must have tight fitting covers. Containers for garbage or rubbish must be of an approved size provided by a licensed waste hauler or must not exceed 32 gallons in size if owned privately.

(c) Garbage or rubbish accumulation or storage outside a dwelling or building for any purpose other than disposal is prohibited.

(d) Garbage and rubbish containers and junk, intended for collection and disposal by the Village or its designated contractor, shall be placed by the owner or occupant of the dwelling or building at the curb not earlier than 3:00 p.m. on the day prior to the scheduled day of collection, and the empty containers must be removed from the curb no later than 12:00 noon the day following the scheduled day of collection.

(e) The owner or occupant of a residential unit shall remove any scattered or uncontained garbage, or rubbish within 24 hours after the same has been scattered or deposited, and dispose of the same in accordance with this chapter.

(f) Unacceptable items including, but not limited to, commercial, medical, contagious and hazardous industrial waste shall be removed from all premises and disposed of by the owner or occupant in accordance with this chapter or Federal or State law, rules, and regulations. It shall be unlawful to store any unacceptable items on any premises within the Village without proper permits and safeguards mandated by this chapter and/or Federal and State law, rules and regulations.

(g) Yard waste, as defined within this chapter, may be placed in separate containers clearly marked “yard waste” or in compostable bags. Yard waste *shall not* be placed in plastic bags. Yard waste shall be placed at the curb, edge of street or alley and must be located on the property from which the material has been removed. Loose grass clippings and leaves *only* may be placed at the curb, edge of street or alley, without being placed in a container or bag, for collection by a vacuum type of machine. These loose grass clippings and leaves shall be kept separate from *all* sticks, twigs, tree branches, vegetable garden plants, garbage, rubbish, junk or other material that may prevent the leaves and grass clippings from being collected by the vacuum. The Village or its designated contractor reserves the right to refuse to collect any yard waste that has been mixed with sticks, twigs, tree branches (except for those less than six inches in diameter and placed in a container or compostable bag) vegetable garden plants or other material such as garbage, rubbish, or junk. The Village or its designated contractor reserves the right to refuse to collect any yard waste that is not placed with unobstructed access at the curb, edge of street or alley. Yard waste shall not be placed around poles, signs or landscaping that create obstructions for collection equipment. Yard waste shall not be placed in the traveled portion of any street or alley.

(h) The Village reserves the right to discontinue yard waste collection if deemed fiscally responsible to do so. Should the Village provide yard waste collection, the Village will create a schedule of collection dates and times and the Village will make that schedule available to its citizens. Each property owner or tenant shall place their yard waste at the curb, edge of street or alley no sooner than 14 days prior to the collection schedule. Property owners that did not place their yard waste material at the curb, edge of street or alley prior to collection shall be responsible for the proper disposal of such material on their own. Property owners that place yard waste at the curb, edge of street or alley *sooner* than 14 and/or that *fail* to properly dispose of yard waste material *after* collection has been completed may be subject to enforcement actions as defined in Section 670.04(d).

(i) No person shall deposit any yard waste, garbage or rubbish upon any Village street, alley, or any other private or public property except as specifically permitted in this chapter. It shall be the duty of every occupant of property and of the owner of property, occupied or unoccupied, to maintain the premises occupied or owned by them or in their control, in a clean and orderly condition at all times. The owner and/or occupant shall not permit any deposition or collection of yard waste, garbage, rubbish, or junk upon said premises except as permitted under this chapter.

(Ord. 122. Passed 6-26-67; Ord. 2002-04. Passed 12-23-02; Ord. -. Passed 8-27-12.)

670.04 GRASS, WEEDS, AND TREES.

(a) Any occupant or owner of a dwelling or property, occupied or unoccupied, within the Village, shall not permit the growth of weeds, grass, or hazardous vegetation to a height greater than eight inches on the average, or any accumulation of dead weeds, grass, or brush on unoccupied premises. “Hazardous vegetation” is defined as plants detrimental

to the health of any person contacting or consuming that vegetation. Examples of hazardous vegetation are ragweed, poison ivy, or any other poisonous plants.

(b) Any occupant or owner of a dwelling or property, occupied or unoccupied within the Village, shall allow or maintain on any such premises any dead, dying, or diseased trees which endanger adjacent private property or project over or border any public place or property.

(c) It shall be the duty of the occupant of every premises, or the owner of every unoccupied premises within the Village, to cut and remove or destroy by lawful means, all such weeds, grass, hazardous vegetation, or dead, dying, or diseased trees as often as may be necessary to comply with this chapter.

(d) Noncompliance with the above subsections shall result in a notification of the occupant and/or owner of the premises in violation that the Village shall require compliance within seven days of the date of service or the mailing of the notice. In the event of continued noncompliance within the time limit, the Village shall cause such weeds, grass, and other hazardous vegetation, or dead, dying, or diseased trees to be removed or destroyed, and the actual cost of cutting, removal, or destruction, plus 15% surcharge for inspection and additional Village costs in connection therewith, shall be collected as a special assessment against said premises and added to the next Village tax bill.

(e) No person shall remove, weeds, grass, leaves, or vegetation, from a property and deposit such materials next to the curb or in the street that is not adjacent to the property from which the material has been removed.
(Ord. 167A. Passed 9-9-91; Ord. 2002-04. Passed 12-23-02.)

670.05 VACANT LAND AND BUILDINGS.

(a) No person shall maintain or allow to remain upon property owned, occupied, or under his/her control, any vacant or unused building, unless the building is securely locked with all windows glazed or neatly boarded up, and all entrances and openings of whatever kind, tightly closed.

(b) No person shall maintain or allow to remain upon property, owned, occupied, or under his/her control, buildings which are in ruinous condition or a state of disrepair that shall either present an unsightly appearance, which endanger a passerby, or which could present a nuisance to children.

(c) No person shall maintain any vacant property owned, occupied, or under his/her control, in a manner that presents a threat to the public health, welfare, and safety to the citizens of the Village.
(Ord. 122. Passed 6-26-67; Ord. 2002-04. Passed 12-23-02.)

670.06 SEPTIC TANKS AND LIQUID WASTES.

Except as provided in Section 1046.03 of the Streets, Utilities, and Public Services Code, no person shall maintain or allow to remain upon property owned, occupied, or under his/her control, any septic tank, privy, dry well, or other receptacle for human or obnoxious waste, which is exposed to air, which allows said wastes to escape in the atmosphere or ground water and endanger the public health, safety, and welfare of the citizens of the Village.

(Ord. 122. Passed 6-26-67; Ord. 2002-04. Passed 12-23-02.)

670.07 OPEN BURNING.

(a) No person shall dispose of any leaves, garbage, rubbish, junk, or any other combustible material whatsoever in any street, alley, private property, or public place by burning, except in an approved incinerator.

(b) No incinerator shall be operated or installed within or on any premises without a permit approved by the Village and the Chief of the Shelby-Benona Fire Department.

(c) Outside burning may be permitted after the issuance of a permit to burn from the Village and written permission from the Chief of the Shelby-Benona Fire Department. The permit shall not be issued for the burning of material that endangers surrounding property, creates a nuisance, or is a hazard to health as determined by the Chief of the Shelby-Benona Fire Department.

(d) This section is not intended to prohibit fires, defined as wood, charcoal, and/or kindling only, within equipment intended for the preparation of food, the use of indoor or outdoor fireplaces, outside campfires in designated areas in public parks, or private campfires in safe areas at least 25 feet from property lines and 25 feet from adjacent buildings.

(Ord. 143. Passed 5-12-75; Ord. 157. Passed 6-23-78; Ord. 2002-04. Passed 12-23-02.)

670.08 RECYCLING.

(a) Recyclable materials shall be placed in designated containers according to the written directions provided by the Village or its designated contractor.

(b) No person except those employed by the Village or its designated contractor shall remove or cause to be removed any recyclable material which has been placed for collection and disposal.

(c) Containers with recyclable materials intended for collection and disposal by the Village or its designated contractor, shall be placed by the owner or occupant of the

dwelling or building at the curb not earlier than 3:00 p.m. on the day prior to the scheduled day of collection, and the empty containers must be removed from the curb not later than 12:00 noon the day following the scheduled day of collection.
(Ord. 2002-04. Passed 12-23-02.)

670.09 VIOLATIONS.

- (a) The Village President, or his designee, shall by written demand, either:
- (1) Serve upon the occupant of the premises or upon the person to whom such premises are assessed for taxes on the current tax bill, or be posted in a conspicuous place on such premises an order to remove the illegal garbage, rubbish, or junk within 14 days. If the order is not complied with within the designated time period, the Village shall take such action to abate the situation plus a 15% surcharge for inspection and additional Village costs in connection therewith. Also, the failure to comply within the 14-day period shall constitute an additional violation of this chapter.
 - (2) Or, upon determination by the Village that the violation created by the garbage, rubbish, or junk constitutes a hazard to the public health, safety, or welfare of the citizens of the Village, the situation may be abated without the prior notice described above.

(b) The cost of abatement pursuant to this section shall be charged and billed against the premises and the owner thereof, as a special assessment and added to the next Village tax bill.

(Ord. 2002-04. Passed 12-23-02.)

670.10 OUTDOOR SOLID FUEL-BURNING FURNACES.

(a) Purpose and Scope. The Council of the Village of Shelby has determined that air pollution from outdoor solid fuel-burning furnaces may be detrimental to the health, comfort, living conditions, welfare and safety of the citizens of the Village, it is hereby declared to be the policy of the Village to safeguard its citizens from such air pollution.

(b) Applicability. This chapter applies to the installation and use of all outdoor solid fuel-burning furnaces within the Village.

- (1) This section does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- (2) This section does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building in which it is located.
- (3) This section does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(c) Definitions. The following words, terms, phrases, when used in this section, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

- (1) “Clean wood.” Natural wood that has not been painted, stained, varnished or coated with similar materials, and natural wood that has not been treated with, including but not limited to, resins or glues as in plywood or other composite wood products or copper chromium arsenate, creosote, or pentachlorophenol.
- (2) “Council.” Council of the Village of Shelby.
- (3) “Municipality.” A county, township, city or village.
- (4) “Outdoor solid fuel-burning furnace.” Also known as fuel-fired furnaces, outdoor fuel-burning appliances, or outdoor hydronic heaters, water stoves, etc. A fuel-burning device:
 - A. Designed to burn clean wood or other approved solid fuels (whether by direct burning or via a “gasification” process);
 - B. That the manufacturer specifies for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals, including structures such as garages and sheds; and
 - C. Which heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.
- (5) “Person.” Any individual, public or private corporation for profit or not-for-profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the State of Michigan or the Federal Government, political subdivision, municipality, district, authority or any other legal entity whatsoever recognized by law as the subject of rights and duties.
- (6) “Responsible official.” Person designated by the Village to be responsible for the administration and enforcement of this section.
- (7) “Stack.” Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a furnace, especially that part of a structure extending above a roof.

(d) Regulations. On or after the effective date of this section, an outdoor solid fuel-burning furnace may be installed, used or operated in the Village only in accordance with applicable Federal, State and County regulations and with the following provisions:

- (1) Setback Requirements for New Outdoor Solid Fuel-Burning Furnaces. No person shall install an outdoor solid fuel-burning furnace unless it is installed at least 150 feet from the nearest property line.
- (2) Stack Height Requirements for Outdoor Solid Fuel-Burning Furnaces. No person shall use or operate an existing outdoor solid fuel-burning furnace or install an outdoor solid fuel-burning furnace unless it has a permanent attached stack with a minimum stack height of ten feet above the ground

that also extends not less than two feet above the highest peak of any residence located less than 250 feet from the outdoor solid fuel-burning furnace.

- (3) Fuel Requirements for New and Existing Solid Fuel-Burning Furnaces. No person that operates a new or existing outdoor solid fuel-burning furnace shall use a fuel other than the following:
 - A. Clean wood.
 - B. Wood pellets made from clean wood.
 - C. Home heating oil, natural gas, propane or other fuel that complies with all applicable sulfur limits and is used only as a starter for dual-fired outdoor solid fuel-burning furnaces.
- (4) Prohibited Fuels for New and Existing Solid Fuel-Burning Furnaces. No person shall burn any of the following items in an outdoor solid fuel-burning furnace:
 - A. Any material not listed in division (d)(3).
 - B. Treated or painted wood.
 - C. Furniture.
 - D. Garbage.
 - E. Tires.
 - F. Lawn clippings or yard waste.
 - G. Material containing plastic.
 - H. Material containing rubber.
 - I. Waste petroleum products.
 - J. Paints and paint thinners.
 - K. Chemicals.
 - L. Any hazardous waste.
 - M. Coal.
 - N. Glossy colored paper.
 - O. Construction and demolition debris.
 - P. Plywood.
 - Q. Particleboard.
 - R. Manure.
 - S. Animal carcasses.
 - T. Asphalt products.
- (5) Storage Requirements for the Fuel for New and Existing Solid Fuel-Burning Furnaces. All fuel for solid fuel-burning furnaces, as allowed under division (d)(3) of this section, shall be stored in conformity with these Codified Ordinances.
- (6) Prohibition of Operation for New and Existing Outdoor Solid Fuel-Burning Furnaces. No person shall use or operate a new or existing outdoor solid fuel-burning furnace between the dates of May 1 and September 30 within any Residential or Planned Unit Development Districts.

- (7) Permit Allowable within Industrial Zone. A maximum of four permits shall be available for properties with frontage along Industrial Park Drive and Piper Street and which are zoned Industrial. As provided in the following paragraphs, an application may be submitted to the Village Council for a permit to operate an outdoor solid fuel-burning furnace for the purposes of research and development, by a person, business or manufacturer involved in the sale, assembly or manufacturing process of outdoor solid fuel-burning furnaces.
- A. Said application shall be made to the Village Clerk along with a fee in accordance with the official schedule of fees as amended by the Village Council and as recorded by the Village Clerk.
 - B. Each permit shall limit the number of units in operation at any one time to no more than three outdoor solid fuel-burning furnaces per parcel or parcels listed on said permit and at no time shall any one or a combination of three furnaces exceed the output of 1,000,000 British Thermal Units (BTUs).
 - C. Each permit is conditioned upon the unit's use for purposes of research and development. As such, the permit holder shall be required to produce documentation on said research/development purposes, including but not limited to monitoring and testing logs for each unit.
 - D. Permits shall renew every 12 months from the date of issue. The Village Clerk shall invoice each permit holder 30 days prior to the expiration date of said permit. If the permit holder fails to provide payment prior to the permit expiration date, the permit shall be deemed vacated and shall expire on its expiration date.
 - E. Said permits shall be reviewed for compliance with permit conditions by the Village Council or their designee 60 days prior to the expiration of said permit. Said review shall include, at a minimum, the following standards:
 - 1. Have there been any documented complaints directly related to the permitted operations?
 - 2. Have there been any documented violations of the issued permit?
 - 3. Has the site been kept organized, screened and in general good repair?
 - 4. Is the site creating an adverse impact on the immediate area as well as the community as a whole?
 - 5. Has the permit holder produced the monitoring/testing records required under division (d)(7)C. for review?
 - F. Upon completion of the aforementioned review, a report indicating the findings of said review shall be provided to the Village Clerk to be included with the permit renewal invoice. If said review identifies a noncompliance of said permit, notice of noncompliance shall be

included with the permit renewal invoice. The permit holder shall bring the permit into compliance before the expiration of said permit or the permit shall expire and be subject to divisions (f) and (g) hereof. A report of any recommended actions shall be provided to the Village Council for determination.

(e) Effect on Other Ordinances. This section shall not be construed as an exemption or exception to any other provision of these Codified Ordinances, including the Building Code, Property Maintenance Code, Fire Prevention Codes, Zoning Ordinance or any other code or ordinance. In the event of a conflict between the provisions of this action and any other ordinance or provision of law, the more restrictive provision shall apply.

(f) Unlawful Conduct. It shall be unlawful to fail to comply with or to cause or assist in the violation of any of the provisions of this section.

(g) Public Nuisance. A violation of this section or of any order issued by the Village under this section constitutes a public nuisance. The Village shall have the authority to order any person causing a public nuisance to abate said nuisance. In addition, when abating a public nuisance, the Village may recover the expenses of abatement following the process for assessment and collection of a civil penalty. Any person who causes the public nuisance shall be liable for the cost of abatement.

(Ord. 670.10. Passed 7-25-05; Ord. 2008-02. Passed 9-22-08; Ord. 2010-15. Passed 8-23-10.)

670.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be subject to a civil infraction, not to exceed two hundred fifty dollars (\$250.00) for each violation.

(Ord. 2002-04. Passed 12-23-02; Ord. 2010-20. Passed 8-23-10.)

CHAPTER 690
Weapons and Explosives

690.01	Firing spring or air guns.	690.99	Penalty.
690.02	Fireworks.		

CROSS REFERENCES

Weapons generally - see Mich. Const., Art. 1, § 6;
M.C.L.A. §§ 28.421 et seq., 750.222 et seq.
Storage and transportation of explosives - see M.C.L.A. § 29.3a
Arson - see M.C.L.A. §§ 750.71 et seq.
Explosives generally - see M.C.L.A. §§ 29.41 et seq., 750.200 et seq.,
750.327 et seq.
Construction or possession of explosive devices - see M.C.L.A.
§ 750.211a

690.01 FIRING SPRING OR AIR GUNS.

No person shall fire off any guns or shoot any spring guns or air guns in the Village.
(Ord. 12. Passed 7-11-1892.)

690.02 FIREWORKS.

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

- (1) “Act 256.” The Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011, being M.C.L.A. §§ 28.451 et seq., as it may be amended from time to time.
- (2) “Consumer fireworks.” That term as defined in Act 256 as fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. pt. 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. “Consumer fireworks” does not include low-impact fireworks.
- (3) “Firework” or “Fireworks.” That term as defined in Act 256 as any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. “Fireworks” consist of consumer fireworks, low-impact fireworks, article pyrotechnic, display fireworks, and special effects.

- (4) “Retailer.” That term as defined in Act 256 as a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.
- (5) “Wholesaler.” That term as defined in Act 256 as any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. “Wholesaler” does not include a person who sells only display fireworks or special effects.

(b) Compliance with Applicable Ordinances and Codes. Unless otherwise provided in this chapter, a retailer or wholesaler of fireworks located within the Village must comply with the requirements of the Village's Zoning Ordinance, as well as all building codes and regulations.

(c) Use of Consumer Fireworks Prohibited. No person shall ignite, discharge or use consumer fireworks that leave the ground or produce a report (bang) in the Village; except this prohibition shall not preclude any person from igniting, discharging or using any consumer fireworks within the Village on the day proceeding, the day of, or the day after a national holiday. A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises.

(d) Time restrictions. No person shall ignite, discharge, or use consumer fireworks that leave the ground or produce a report (bang) in the Village on the above approved days between the hours of 1:00 a.m. and 8:00 a.m.

(e) Safety. No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of consumer fireworks.

(f) Removal of Debris. Removal and/or disposal of any debris created from igniting, discharging or using consumer fireworks is the responsibility of the property owner where the fireworks were ignited, discharged or used.

(g) Violations. Fines and Penalties. Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine up to five hundred dollars (\$500.00).

(h) Effective Date. This ordinance shall be effective 20 days after publication. (Ord. 2012-002. Passed 8-13-12; Ord. - . Passed 7-28-14.)

690.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CODIFIED ORDINANCES OF SHELBY

PART EIGHT - BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

- Chap. 810. Cable Television.
- Chap. 812. Casual Sales.
- Chap. 850. Peddlers and Solicitors.
- Chap. 852. Public Shows, Theaters and Exhibitions.
- Chap. 860. Transient Traders and Dealers.
- Chap. 870. Telecommunications.

TITLE FOUR - Taxation

- Chap. 880. Special Assessment Procedure.
- Chap. 890. Low Income and Elderly Tax Exemption.

CODIFIED ORDINANCES OF SHELBY

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Chap. 870. Telecommunications.

CHAPTER 810

Cable Television

- 810.01 Purpose; interpretation.
- 810.02 Definitions.
- 810.03 Rate regulations promulgated by FCC.
- 810.04 Filing of rate schedule; additional information; burden of proof.
- 810.05 Proprietary information.
- 810.06 Public notice re initial review of rates.
- 810.07 Tolling order.
- 810.08 Public notice of hearing on rates following tolling of deadline.

- 810.09 Report and recommendation; written response.
- 810.10 Rate decisions and orders.
- 810.11 Refunds; notices.
- 810.12 Written decisions; public notice.
- 810.13 Rules and regulations.
- 810.14 Failure to give notice.
- 810.15 Additional hearings.
- 810.16 Additional powers.
- 810.17 Failure to comply; remedies.
- 810.18 Conflicting provisions.

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CROSS REFERENCES

Construction and maintenance of facilities - see
M.C.L.A. §§247.183 et seq.
Television and radio generally - see M.C.L.A.
§§484.301 et seq., 750.507 et seq.
Cables improperly located; insurance - see
M.C.L.A. §500.3123
Franchises - see ADM. Ch. 208

810.01 PURPOSE; INTERPRETATION.

The purpose of this chapter is to adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation, and to prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the Village. This chapter shall be implemented and interpreted consistent with the Act and FCC Rules.

(Ord. 169. Passed 10-6-93.)

810.02 DEFINITIONS.

For purposes of this chapter, "Act" shall mean the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, P.L. 103-385), and as may be amended from time to time; "FCC" shall mean the Federal Communications Commission; "FCC Rules" shall mean all rules of the FCC promulgated from time to time pursuant to the Act; "basic cable service" shall mean "basic service" as defined in the FCC Rules, and any other cable television service which is subject to rate regulation by the Village pursuant to the Act and the FCC Rules; "associated equipment" shall mean all equipment and services subject to regulation pursuant to 47 CFR §76.923; and an "increase" in rates shall mean an increase in rates or a decrease in programming or customer services as provided in the FCC Rules. All other words and phrases used in this chapter shall have the same meaning as defined in the Act and the FCC Rules.

(Ord. 169. Passed 10-6-93.)

810.03 RATE REGULATIONS PROMULGATED BY FCC.

In connection with the regulation of rates for basic cable service and associated equipment, the Village of Shelby shall follow all FCC Rules.

(Ord. 169. Passed 10-6-93.)

810.04 FILING OF RATE SCHEDULE; ADDITIONAL INFORMATION;
BURDEN OF PROOF.

(a) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC Rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC Rules. The cable operator shall file ten copies of the schedule or proposed increase with the Village Clerk. For purposes of this chapter, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the Village Clerk. The Village Council may, by resolution or otherwise, adopt rules and regulations as allowed by law prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

(b) In addition to information and data required by rules and regulations of the Village pursuant to subsection (a) hereof, a cable operator shall provide all information requested by the Village President that is related and helpful in connection with the Village's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The Village President may establish reasonable deadlines for submission of the requested information and the cable operator shall comply with such deadlines.

(c) A cable operator has the burden of proving that its schedule of rates for the basic tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC Rules, including, without limitation, 47 U.S.C. §543 and 47 CFR §§76.922 and 76.923.

(Ord. 169. Passed 10-6-93.)

810.05 PROPRIETARY INFORMATION.

(a) If this chapter, any rules or regulations adopted by the Village pursuant to Section 810.04(a), or any request for information pursuant to Section 810.04(b), requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the Village determines that the preponderance of the evidence shows that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. §522. The Village shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

(b) Any interested party may file a request to inspect material withheld as proprietary with the Village. The Village shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may

grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with the appropriate forum. Disclosure will be stayed pending resolution of any appeal.

(c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality, including, without limitation, 47 CFR §0.459.

(Ord. 169. Passed 10-6-93.)

810.06 PUBLIC NOTICE RE INITIAL REVIEW OF RATES.

Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to Section 810.04(a), the Village Clerk shall publish a public notice in a newspaper of general circulation in the Village which shall state that the filing has been received by the Village Clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying, and that interested parties are encouraged to submit written comments on the filing to the Village Clerk not later than seven days after the public notice is published. The Village Clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the Village Council, then the Village Clerk shall mail a copy of the report by first-class mail to the cable operator at least three days before the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase.

(Ord. 169. Passed 10-6-93.)

810.07 TOLLING ORDER.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after thirty days from the date of filing under Section 810.04(a), unless the Village Council (or other properly authorized body or official) tolls the thirty day deadline pursuant to 47 CFR §76.933 by issuing a brief written order, by resolution or otherwise), within thirty days of the date of filing. The Village Council may toll the thirty day deadline for an additional ninety days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showing.

(Ord. 169. Passed 10-6-93.)

810.08 PUBLIC NOTICE OF HEARING ON RATES FOLLOWING TOLLING OF DEADLINE.

If a written order has been issued pursuant to Section 810.07 and 47 CFR §76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the Village any additional information required or requested pursuant to Section 810.04. In addition, the Village Council shall hold a public hearing to consider the comments of interested parties within the additional ninety-day or 150-day period, as the case may be. The Village Clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the Village which shall state the date, time, and place at which the hearing shall be held; that interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates; and that copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the Village Clerk. The public notice shall be published not less than fifteen days before the hearing. In addition, the Village Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than fifteen days before the hearing. (Ord. 169. Passed 10-6-93.)

810.09 REPORT AND RECOMMENDATION; WRITTEN RESPONSE.

Following the public hearing, the Village President shall cause a report to be prepared for the Village Council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the Village Council pursuant to Section 810.10. The Village Clerk shall mail a copy of the report to the cable operator by first-class mail not less than twenty days before the Village Council acts under Section 810.10. The cable operator may file a written response to the report with the Village Clerk. If at least ten copies of the response are filed by the cable operator with the Village Clerk within ten days after the report is mailed to the cable operator, the Village Clerk shall forward it to the Village Council. (Ord. 169. Passed 10-6-93.)

810.10 RATE DECISIONS AND ORDERS.

The Village Council shall issue a written order, by resolution or otherwise, which, in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC Rules.

If the Village Council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this section shall be issued within ninety days of the tolling order under Section 810.07 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under Section 810.07 in all cases involving a cost-of-service showing. (Ord. 169. Passed 10-6-93.)

810.11 REFUNDS; NOTICES.

The Village Council may order a refund to subscribers as provided in 47 CFR §76.942. Before the Village Council orders any refund to subscribers, the Village Clerk shall give at least seven days written notice to the cable operator by first-class mail of the date, time, and place at which the Village Council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the Village Council. (Ord. 169. Passed 10-6-93.)

810.12 WRITTEN DECISIONS; PUBLIC NOTICE.

Any order of the Village Council pursuant to Section 810.10 or Section 810.11 shall be in writing, shall be effective upon adoption by the Village Council, and shall be deemed released to the public upon adoption. The Village Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the Village which shall summarize the written decision and state that copies of the text of the written decision are available for inspection or copying from the office of the Village Clerk. In addition, the Village Clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail. (Ord. 169. Passed 10-6-93.)

810.13 RULES AND REGULATIONS.

In addition to rules promulgated pursuant to Section 810.04, the Village Council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC Rules. (Ord. 169. Passed 10-6-93.)

810.14 FAILURE TO GIVE NOTICE.

The failure of the Village Clerk to give the notices or to mail copies of reports as required by this chapter, shall not invalidate the decisions or proceedings of the Village Council so long as there is substantial compliance with this chapter. (Ord. 169. Passed 10-6-93.)

810.15 ADDITIONAL HEARINGS.

In addition to the requirements of this chapter, the Village Council may, in its sole discretion, hold additional public hearings upon such reasonable notice as the Village Council shall prescribe.

(Ord. 169. Passed 10-6-93.)

810.16 ADDITIONAL POWERS.

The Village shall possess all powers conferred by the Act, the FCC Rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC Rules, and this chapter, shall be in addition to powers conferred by law or otherwise. The Village may take any action not prohibited by the Act and the FCC Rules to protect the public interest in connection with basic cable service rate regulation.

(Ord. 169. Passed 10-6-93.)

810.17 FAILURE TO COMPLY; REMEDIES.

The Village may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the Village) for failure to comply with the Act, the FCC Rules, any orders or determinations of the Village pursuant to this chapter, any requirements of this chapter, or any rules or regulations promulgated hereunder. Subject to applicable law, failure to comply with the Act, the FCC Rules, any orders or determinations of the Village pursuant to this chapter, any requirements of this chapter, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

(Ord. 169. Passed 10-6-93.)

810.18 CONFLICTING PROVISIONS.

In the event of any conflict between this chapter and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, the provisions of this chapter shall control.

(Ord. 169. Passed 10-6-93.)

CHAPTER 812
Casual Sales

- 812.01 Purpose; intent.
- 812.02 Casual sale defined.
- 812.03 Limits on number and time of sales.

812.04 Signs.
812.05 Exceptions.
812.99 Penalty.

CROSS REFERENCES

Hawkers, peddlers and transient merchants generally - see
M.C.L.A. §§445.371 et seq.
Secondhand dealers - see M.C.L.A. §§445.401 et seq.
Peddlers and solicitors - see B.R. & T. Ch. 850

812.01 PURPOSE; INTENT.

It is the intent of this chapter to regulate the term and frequency of personal property sales within residential areas so that the residential environment of such areas is not disturbed or disrupted, and to prohibit the infringement of any businesses into such established areas.

(Ord. 155. Passed 1-23-78.)

812.02 CASUAL SALE DEFINED.

For the purpose of this chapter, the terms "garage sale", "yard sale", "basement sale" and "rummage sale", including any similar terms, such as "attic sale", "lawn sale", "flea market sale", etc., shall mean any casual sale of tangible personal property, whether used, secondhand, damaged or discarded, not otherwise regulated in the ordinances of the Village of Shelby, advertised by any means whereby the public at large is or can be aware of such sale.

(Ord. 155. Passed 1-23-78.)

812.03 LIMITS ON NUMBER AND TIME OF SALES.

No person, organization, corporation, partnership or association of whatever description, shall conduct in excess of four casual sales, as defined in this chapter, within one calendar year. No sale as herein defined shall exceed three consecutive days.

(Ord. 155. Passed 1-23-78.)

812.04 SIGNS.

One sign may be erected advertising a sale on the premises of the sale and must be removed immediately at the end of the sale.

(a) Said sign shall not be in excess of six square feet and shall not be illuminated in any manner whatsoever except incidentally by street lights or house lights.

(b) Three signs may be erected upon a main thoroughfare of the Village and remain only during the duration of the sale, provided that the adjacent property owner consents to the placement of such sign.

(c) Under no circumstances shall any sign be attached to any tree within the Village easements or rights of way, or to any Village building or fixture.

(Ord. 155. Passed 1-23-78.)

812.05 EXCEPTIONS.

The provisions of this chapter shall not apply to or affect the following persons or sales:

(a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(b) Persons selling or advertising for sale an item or items of property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

(Ord. 155. Passed 1-23-78.)

812.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 850
Peddlers and Solicitors

- 850.01 Declaration of nuisance; abatement.
- 850.02 License required for sales from fixed locations.

850.99 Penalty.

CROSS REFERENCES

Authority of Council re licensing generally - see CHTR.

Ch. VII, §2

Hawkers, peddlers and transient merchants generally -

see M.C.L.A. §§445.371 et seq.

Secondhand dealers - see M.C.L.A. §§445.401 et seq.

Casual sales - see B.R. & T. Ch. 812

Transient traders and dealers - see B.R. & T. Ch. 860

850.01 DECLARATION OF NUISANCE; ABATEMENT.

(a) The practice of going in and upon private residences in the Village of Shelby, by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited to do so by the owner or owners, occupant or occupants, of such private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, and/or for the purpose of disposing of and/or peddling or hawking the same; the practice of ringing door bells, knocking at doors, and the use of other means for gaining entrance into such private residences by such persons for any of the purposes aforesaid; and the practice of soliciting clerks, employees and other persons in any of the stores, offices and other places of business in the Village of Shelby, for orders for merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, by any such solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, during business hours, without having been invited or requested to do so by the proprietors or those in charge of such places of business, are, and each of them is, hereby declared to be a nuisance and prohibited.

(b) The Chief of Police and all other police officers of the Village of Shelby are hereby required and directed to suppress and abate any nuisance described in this section by forthwith arresting any person creating such a nuisance and taking such person before a magistrate to be dealt with as required by law.
(Ord. 76. Passed 8-27-34.)

850.02 LICENSE REQUIRED FOR SALES FROM FIXED LOCATIONS.

(a) Selling From Stands, Counters, Tables. No hawker or peddler shall erect, or cause to be erected, any stand, counter, table or other structure, and sell goods therefrom, or sell goods from any wagon or other vehicle, without first obtaining a license therefor from the Village.

(b) Other Manner of Display. No hawker or peddler shall expose or offer for sale any goods, wares or merchandise in any other manner either for immediate delivery or for delivery in the future, without first obtaining a license therefor from the Village.
(Ord. 79. Passed 9-23-35.)

850.03 EXEMPTIONS.

Nothing in this chapter shall be construed as prohibiting any farmer from selling, in the usual manner, the products of his or her own farm or garden; nor as prohibiting any travelling salesperson or drummer from selling, in the usual manner, to the local merchants; nor as prohibiting honorably discharged soldiers, sailors and marines of the military or naval service of the United States, residents of this State, from hawking, vending and peddling their own goods as provided by Act 359 of the Public Acts of 1921, as amended.
(Ord. 79. Passed 9-23-35.)

850.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 852
Public Shows, Theaters and Exhibitions

- 852.01 Permanent public shows, theaters and exhibitions.
- 852.02 Transient public shows, circuses, menageries and other traveling exhibitions.

852.99 Penalty.

CROSS REFERENCES

Authority of Council re licensing generally - see CHTR. Ch. VII, §2
Carnival rides; inspection, licensing, regulation and safety devices - see
M.C.L.A. §§408.373, 408.374, 408.651 et seq.
Disorderly conduct - see GEN. OFF. 660.01

852.01 PERMANENT PUBLIC SHOWS, THEATERS AND EXHIBITIONS.

(a) No permanent public show, theater or exhibition shall be permitted to operate within the Village of Shelby unless the proprietor thereof shall first pay to the Village Clerk an annual license fee in an amount to be set by Council and shall receive from the Village Clerk a license which shall entitle such proprietor to operate such public show, theater or exhibition for a period of one year from its date, but only so long as he or she shall operate the same in conformity with the laws of the State and the ordinances of the Village.

(Adopting Ordinance)

(b) Such license shall be renewable annually thereafter, upon the same terms and conditions, by the payment in advance of the same license fee paid for the original license.

(c) Such license or any renewal thereof may be revoked by the Council whenever, in the opinion of said Council, the public interests of the Village will be best served by such revocation.

(d) No such proprietor shall advertise or cause to be advertised such show, theater or exhibition by the use of a megaphone, by shouting or in any other loud or boisterous manner.

(e) No such proprietor shall exhibit or permit to be exhibited any lewd, vile or indecent pictures, or any improper exposure of the person of any one in his or her employ, or permit any profane, indecent or other improper language or loud or boisterous conduct in or about his or her establishment, or permit a violation of any law of the State or any ordinance of the Village within his or her establishment.

(f) It shall be the duty of every such proprietor at all times when such show, theater or exhibition is open to the public to permit the presence therein of the Chief of Police or any police officer, without charge, for the purpose of seeing that the provisions of this section are complied with and to collect evidence of any violation thereof.
(Ord. 45. Passed 7-28-15.)

852.02 TRANSIENT PUBLIC SHOWS, CIRCUSES, MENAGERIES AND OTHER TRAVELING EXHIBITIONS.

No person shall conduct a public show, circus, menagerie or other traveling exhibition in the Village without first obtaining a license therefor from said Village.
(Ord. 79. Passed 9-23-35.)

852.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 860
Transient Traders and Dealers

- 860.01 License required.
- 860.02 Term of license.
- 860.03 License fee.
- 860.04 Contents of license.

860.05 Transient trader and dealer defined.
860.99 Penalty.

CROSS REFERENCES

Authority of Council re licensing generally - see CHTR.

Ch. VII, §2

Hawkers, peddlers and transient merchants generally -

see M.C.L.A. §§445.371 et seq.

Secondhand dealers - see M.C.L.A. §§445.401 et seq.

Casual sales - see B.R. & T. Ch. 812

Peddlers and solicitors - see B.R. & T. Ch. 850

860.01 LICENSE REQUIRED.

No person shall transact or conduct business in the Village of Shelby as a transient trader or dealer without first obtaining from the Village Clerk a license therefor, which shall be issued to any transient trader or dealer upon proper application directed to said Clerk and upon payment of the license fee as hereinafter provided for.

(Ord. 77. Passed 8-27-34.)

860.02 TERM OF LICENSE.

The license shall be issued by the Village Clerk for a period of three months from the date of issuance of the same, and such license may be renewed for additional terms of three months upon proper application and upon payment of a license fee in like amount as that paid for the original issuance thereof.

(Ord. 77. Passed 8-27-34.)

860.03 LICENSE FEE.

Before the issuance of a license to any transient trader or dealer, such person shall pay to the Village Clerk a license fee in an amount to be determined from time to time by Council for the original term of such license and a like sum for each renewal thereof. (Ord. 77. Passed 8-27-34.)

860.04 CONTENTS OF LICENSE.

The Village Clerk shall issue to each transient trader or dealer a form of license with his or her name subscribed thereto. Such license shall contain the following information: the name and address of the licensee; the date of issuance of the license; and the period of time for which such license has been issued. (Ord. 77. Passed 8-27-34.)

860.05 TRANSIENT TRADER AND DEALER DEFINED.

The term "transient trade and dealer" shall be construed, under the provisions of this chapter, to mean any person who shall, in the Village of Shelby, conduct any business for the sale of goods, wares or merchandise, either at wholesale or retail, temporarily in any building, stand or tent in said Village. The term shall also refer to any person who solicits orders for the said goods, wares or merchandise in said Village and delivers the same from any vehicle or stand temporarily situated in said Village at the time or immediately after the solicitation of such order or orders. (Ord. 77. Passed 8-27-34.)

860.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 870
Telecommunications

870.01	Purpose.	870.11	Savings clause.
870.02	Conflict.	870.12	Use of funds.
870.03	Terms defined.	870.13	Annual report.
870.04	Permit required.	870.14	Cable television operators.
870.05	Issuance of permit.	870.15	Existing rights.
870.06	Conduit or utility poles.	870.16	Compliance.
870.07	Route maps.	870.17	Reservation of police powers.
870.08	Repair of damage.	870.18	Severability.
870.09	Establishment and payment of maintenance fee.	870.19	Authorized village officials.
870.10	Modification of existing fees.	870.20	Violation.

870.01 PURPOSE.

The purposes of this chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act") and other applicable law, and to ensure that the Village qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.
(Ord. 2002-2. Passed 10-14-02.)

870.02 CONFLICT.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.
(Ord. 2002-2. Passed 10-14-02.)

870.03 TERMS DEFINED.

The terms used in this chapter shall have the following meanings:

- (a) "Act" means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.
- (b) "Permit" means a non-exclusive permit issued pursuant to the Act and this chapter to a telecommunications provider to use the public rights-of-way in the Village for its telecommunications facilities.

- (c) All other terms used in this chapter shall have the same meaning as defined or as provided in the Act, including without limitation the following:
- (1) “Authority” means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.
 - (2) “MPSC” means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term “Commission” in the Act.
 - (3) “Person” means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
 - (4) “Public right-of-way” means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.
 - (5) “Telecommunication facilities” or “facilities” means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. “Telecommunication facilities” or “facilities” do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.
 - (6) “Telecommunications provider”, “provider” and “telecommunications services” mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, M.C.L.A. § 484.2102. “Telecommunication provider” does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a provider also includes all of the following:
 - A. A cable television operator that provides a telecommunications service.
 - B. Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
 - C. A person providing broadband internet transport access service.
 - (7) “Village” means the Village of Shelby.
 - (8) “Village Council” means the Village Council of the Village of Shelby or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the Village Council.
 - (9) “Village President” means the President of the Village of Shelby or his or her designee.
(Ord. 2002-2. Passed 10-14-02.)

870.04 PERMIT REQUIRED.

(a) Permit Required. Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the Village for its telecommunications facilities shall apply for and obtain a permit pursuant to this chapter. Construction or engineering permits may need to be obtained from the County Road Commission.

(b) Application. Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the Village Clerk, one copy with the Village President. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(c) Confidential Information. If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, M.C.L.A. §§ 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(d) Application Fee. Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of five hundred dollars (\$500.00).

(e) Additional Information. The Village President may request an applicant to submit such additional information which the Village President deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Village President. If the Village and the applicant cannot agree on the requirement of additional information requested by the Village, the Village, or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(f) Previously Issued Permits. Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the Village under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, M.C.L.A. § 484.2251 and authorizations or permits issued by the Village to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.

(g) Existing Providers. Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the Village as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, M.C.L.A. § 484.2251, shall submit to the Village an application for a permit in accordance with the requirements of this chapter. Pursuant to Section 5(3) of the Act, a telecommunications provider

submitting an application under this subsection is not required to pay the five hundred dollar (\$500.00) application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act.
(Ord. 2002-2. Passed 10-14-02.)

870.05 ISSUANCE OF PERMIT.

(a) Approval or Denial. The authority to approve or deny an application for a permit is hereby delegated to the Village President. Pursuant to Section 15(3) of the Act, the Village President shall approve or deny an application for a permit within forty-five days from the date a telecommunications provider files an application for a permit under Section 870.04(b) hereof for access to a public right-of-way within the Village. Pursuant to Section 6(6) of the Act, the Village President shall notify the MPSC when the Village President has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Village President shall not unreasonably deny an application for a permit.

(b) Form of Permit. If an application for permit is approved, the Village President shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(c) Conditions. Pursuant to Section 15(4) of the Act, the Village President may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) Bond Requirement. Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the Village President may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.
(Ord. 2002-2. Passed 10-14-02.)

870.06 CONDUIT OR UTILITY POLES.

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.
(Ord. 2002-2. Passed 10-14-02.)

870.07 ROUTE MAPS.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within ninety days after the substantial completion of construction of new telecommunications facilities in the Village, submit route maps showing the location of the telecommunications facilities to both the MPSC and

to the Village. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.
(Ord. 2002-2. Passed 10-14-02.)

870.08 REPAIR OF DAMAGE.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the Village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.
(Ord. 2002-2. Passed 10-14-02.)

870.09 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the Village set forth in Section 870.04(d) above, a telecommunications provider with telecommunications facilities in the Village's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.
(Ord. 2002-2. Passed 10-14-02.)

870.10 MODIFICATION OF EXISTING FEES.

In compliance with the requirements of Section 13(1) of the Act, the Village hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the Village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the Village's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The Village shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the Village's policy and intent, and upon application by a provider or discovery by the Village, shall be promptly refunded as having been charged in error.
(Ord. 2002-2. Passed 10-14-02.)

870.11 SAVINGS CLAUSE.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 870.10 above shall be void from the date the modification was made.
(Ord. 2002-2. Passed 10-14-02.)

870.12 USE OF FUNDS.

Pursuant to Section 10(4) of the Act, all amounts received by the Village from the Authority shall be used by the Village solely for rights-of-way related purposes.
(Ord. 2002-2. Passed 10-14-02.)

870.13 ANNUAL REPORT.

The Village President shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority, as required under Section 10(5) of the Act.
(Ord. 2002-2. Passed 10-14-02.)

870.14 CABLE TELEVISION OPERATORS.

Pursuant to Section 13(6) of the Act, the Village shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.
(Ord. 2002-2. Passed 10-14-02.)

870.15 EXISTING RIGHTS.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the Village may have under a permit issued by the Village or under a contract between the Village and a telecommunications provider related to the use of the public rights-of-way.
(Ord. 2002-2. Passed 10-14-02.)

870.16 COMPLIANCE.

The Village hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The Village shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, M.C.L.A. §§ 15.231 to 15.246, as provided in Section 870.04(c) hereof;
- (b) Allowing certain previously issued permits to satisfy the permit requirements of this chapter, in accordance with Section 870.04(f) hereof;
- (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the five hundred dollar (\$500.00) application fee, in accordance with Section 870.04(g) hereof;
- (d) Approving or denying an application for a permit within forty-five days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the Village, in accordance with Section 870.05(a) hereof;

- (e) Notifying the MPSC when the Village has granted or denied a permit, in accordance with Section 870.05(a) hereof;
- (f) Not unreasonably denying an application for a permit, in accordance with Section 870.05(a) hereof;
- (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 870.05(b) hereof;
- (h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with Section 870.05(c) hereof;
- (i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 870.05(d) hereof;
- (j) Not charging any telecommunications providers any additional fees for construction or engineering permits.
- (k) Providing each telecommunications provider affected by the Village's right-of-way fees with a copy of this chapter, in accordance with Section 870.10 hereof;
- (l) Submitting an annual report to the Authority, in accordance with Section 870.13 hereof; and
- (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 870.14 hereof.
(Ord. 2002-2. Passed 10-14-02.)

870.17 RESERVATION OF POLICE POWERS.

Pursuant to Section 15(2) of the Act, this chapter shall not limit the Village's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the Village's authority to ensure and protect the health, safety, and welfare of the public.
(Ord. 2002-2. Passed 10-14-02.)

870.18 SEVERABILITY.

The various parts, sentences, paragraphs, sections, and clauses of this chapter are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this chapter is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this chapter.
(Ord. 2002-2. Passed 10-14-02.)

870.19 AUTHORIZED VILLAGE OFFICIALS.

The Village President or his or her designee is hereby designated as the authorized Village official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau).
(Ord. 2002-2. Passed 10-14-02.)

870.20 VIOLATION.

A violation of this chapter shall be a misdemeanor. Any person, firm or corporation who violates any of the provisions of this chapter shall, upon conviction, be fined not more than five hundred dollars (\$500.00) for each offense, together with the costs of prosecution or civil suit as set by a court of competent jurisdiction and in default of payment of such fine and costs of prosecution, shall be imprisoned until said fine and forfeiture are paid, but not to exceed thirty days. Each day that a violation continues to exist shall constitute a separate offense. Nothing in this section shall be construed to limit the remedies available to the Village in the event of a violation by a person of this chapter or a permit. (Ord. 2002-2. Passed 10-14-02.)

TITLE FOUR - Taxation
 Chap. 880. Special Assessment Procedure.
 Chap. 890. Low Income and Elderly Tax Exemption.

CHAPTER 880
 Special Assessment Procedure

880.01	Short title.	880.14	Limitations of actions.
880.02	Public improvements; special assessments.	880.15	Special assessment; when due.
880.03	Definitions.	880.16	Partial payments; when due.
880.04	To initiate special assessment projects.	880.17	Delinquent special assessments.
880.05	Initiation by petition.	880.18	Creation of lien.
880.06	Form of petitions.	880.19	Additional assessments; refunds.
880.07	Investigation by Clerk.	880.20	Additional procedures.
880.08	Survey and report.	880.21	Collection of special assessments.
880.09	Determination of the project; notice.	880.22	Special assessment accounts.
880.10	Hearing.	880.23	Reassessment for benefits.
880.11	Special assessment roll.	880.24	Assessing single lots.
880.12	Meeting to review special assessment role; objections.	880.25	Special assessments; notice of hearing; service; local tax assessment records.
880.13	Changes and corrections in assessment roll.	880.26	Anticipatory borrowing and bond issues; general obligation bonds.

CROSS REFERENCES

Special assessments for public improvements - see CHTR. Ch. VIII, § 31
 Finance and taxation generally - see CHTR. Ch. IX
 Tax limit - see CHTR. Ch. IX, §§ 4, 22

880.01 SHORT TITLE.

This chapter shall be known and may be cited as the Special Assessments Ordinance of the Village.

(Ord. 2003-01. Passed 7-14-03.)

880.02 PUBLIC IMPROVEMENTS; SPECIAL ASSESSMENTS.

The Council of the Village, by adopting a resolution, may determine that the whole or a part of the expense of a local public improvement or repair shall be defrayed by special assessments on the property specially benefitted.

(Ord. 2003-01. Passed 7-14-03.)

880.03 DEFINITIONS.

The terms used in this chapter shall have the following meanings:

- (a) "Cost," when referring to the cost of any local public improvement, shall mean the same as "expense" and shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction and legal fees and all other public costs incidental to the making of such improvements, the special assessments therefor and the financing thereof.
- (b) "Council" means the same as "Village Council" and shall mean the Village Council of the Village of Shelby, Michigan.
- (c) "Last general tax assessment of the Village" means the last assessment roll for the ad valorem tax purposes which has been reviewed by the local board of review as supplemented by any subsequent changes in the names or the addresses of the owners or parties listed thereon.
- (d) "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. It shall include, but not be limited to the following improvements, including the land therefor: public buildings and offices; garbage collection; firehouses; destroying weeds; tree trimming; erosion control mechanisms; street lighting; streets; alleys; lanes; bridges; sewers; drains; water courses; water systems; utilities; or any other local public improvement or repair.
- (e) "Special assessment district" means the same as "assessment district" and "district" and shall mean the particular properties identified as especially benefitting from the local public improvement or repair.

(Ord. 2003-01. Passed 7-14-03.)

880.04 TO INITIATE SPECIAL ASSESSMENT PROJECTS.

Proceedings for the making of local public improvements within the Village, and the determination that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefitted, provided that all special assessments levied shall be in proportion to the benefits derived from the local public improvements, may be commenced by resolution of the Council, with or without a petition. (Ord. 2003-01. Passed 7-14-03.)

880.05 INITIATION BY PETITION.

Local public improvements may be initiated by petition signed by property owners owning sixty-six percent or more of the total property in the proposed special assessment district. Such petition shall contain a brief description of the property owned by the respective signers thereof and if it shall appear that the petition is signed by at least sixty-six percent of the owners, the Clerk shall certify the same to the Council. The petition shall be addressed to the Council but the Council shall not be obligated to make the improvement.

(Ord. 2003-01. Passed 7-14-03.)

880.06 FORM OF PETITIONS.

All petitions for local public improvements shall be on a form supplied by the Village Clerk and shall include an affidavit by one or more of the signors that the signatures appearing thereon are genuine and that each signor declares himself or herself to be the owner of the interest in the lands indicated. All such petitions shall be filed with the Village Clerk and referred to the Village Administrator for investigation and report, and the Village Clerk shall report the receipt of all such petitions to Council at the next regular meeting following a receipt of any such petition.

(Ord. 2003-01. Passed 7-14-03.)

880.07 INVESTIGATION BY CLERK.

All petitions for local public improvements shall be investigated by the Village Clerk to determine whether a sufficient number of valid signatures has been obtained and, if such investigation discloses a deficiency, the said petition shall be returned to the circulator with notice of the fact. Where any lot or parcel of land is owned by more than one person, each person having an interest must join the petition.

(Ord. 2003-01. Passed 7-14-03.)

880.08 SURVEY AND REPORT.

Before the Council shall consider the making of any local public improvement, the same shall be referred by resolution to the Village Administrator directing him or her to cause to be prepared a report which shall include necessary plans, profiles, specifications, and detailed estimates of costs, estimate of the life of the improvement, a description of the special assessment district or districts, and other pertinent information as will permit the Council to decide the cost, extent and desirability of the proposed improvement and what part or proportion thereof shall be paid by special assessments upon the property especially benefitted, and what part, if any, should be paid by the Village at large. The Council shall not finally determine to proceed with the making of any local public improvement until such report of the Village Administrator has been filed, nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of the improvement.

(Ord. 2003-01. Passed 7-14-03.)

880.09 DETERMINATION OF THE PROJECT; NOTICE.

After the Village Administrator has presented the report required in Section 880.08 for making any local public improvement as requested in the resolution of the Council, and the Council has reviewed the report, a resolution may be passed approving the local public improvement, setting forth the nature thereof, prescribing what part or proportion of the cost shall be paid by special assessment upon the properties in the proposed special assessment district, determination of benefits received by affected properties, and what part, if any, shall be paid by the Village at large; designating the limits of the special assessment district to be affected, designating whether to be assessed according to frontage or other benefits, placing the complete information on file in the office of the Village Clerk, where the same may be found for examination, and directing the Village Clerk to give notice of public hearing on the proposed improvement, at which time and place

opportunity will be given interested persons to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the Village and first-class mail addressed to each owner or person in interest in property to be assessed as shown by the last general tax assessment roll of the Village. The publication and mailing is to be made at least ten full days prior to the date of the scheduled hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council.
(Ord. 2003-01. Passed 7-14-03.)

880.10 HEARING.

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the local public improvement in such a manner as they deem to be in the best interest of the Village as a whole; provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in Section 880.09. If the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, special assessment district, and detailed estimates of cost, and directing the Assessor to prepare a special assessment roll in accordance with the Council's determination and report the same to the Council for confirmation. Notwithstanding any provision of this section, the Council may, at its discretion, delay the preparation of the special assessment roll until after the completion of the improvement, in which case the actual cost thereof shall be reported to the Council, and the special assessment roll shall then be made for such actual cost rather than for the estimated cost as in other cases.
(Ord. 2003-01. Passed 7-14-03.)

880.11 SPECIAL ASSESSMENT ROLL.

(a) The Assessor shall thereupon prepare a special assessment roll including all lots and parcels of land within the special assessment district designated by the Council, and shall assess to each such lot or parcel of land the relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lots or parcel of land bears to the total benefits to all lands in the special assessment district. There shall also be entered upon such roll the amount which has been assessed to the Village at large.

(b) When the Assessor shall have completed the assessment roll, he or she shall attach thereto, or endorse thereon his or her certificate to the effect that said roll has been made by him or her pursuant to a resolution of the Council, giving the date of adoption of the same, and that in making the assessments therein he or she has, according to his or her best judgment, conformed in all respects to the directions contained in such resolutions and to this chapter, and to State law and to the provisions of this section. At which time, he or she shall file the special assessment roll with the Village Clerk who shall present the same to the Council.
(Ord. 2003-01. Passed 7-14-03.)

**880.12 MEETING TO REVIEW SPECIAL ASSESSMENT ROLE;
OBJECTIONS.**

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

(Ord. 2003-01. Passed 7-14-03.)

880.13 CHANGES AND CORRECTIONS IN ASSESSMENT ROLL.

The Council shall meet at the time and place designated for the review of such special assessment roll, and at such meeting, or at a proper adjournment thereof, shall consider all objections orally and/or 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 may, by resolution, annul the assessment roll and direct the new proceedings be instituted. The same procedures shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Council deems justified, the Council determines that it is satisfied with said special assessment role and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, conforming such roll, placing it on file in the office of the Village Clerk and directing the Village Clerk to attach his or her warrant to a certified copy thereof within ten days therein commanding the Assessor to spread and the Treasurer to collect the various sums and amounts appearing thereon as directed by the Council. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purposes of the improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement, as provided by Section 880.19.

(Ord. 2003-01. Passed 7-14-03.)

880.14 LIMITATIONS OF ACTIONS.

(a) An action may not be instituted for the purpose of contesting on joining the collection of a special assessment unless:

- (1) Within forty-five 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 grounds which it is claimed the assessment is illegal;
- (2) The action is commenced within ninety days after the confirmation of the roll.

(b) Illegal assessment; revocation, correction, reconfirmation; assessment of property not involved. If a portion of an assessment roll is determined to be illegal in whole or in part, the Council may revoke its confirmation, correct the illegality, if possible or reconfirm it. Property which is not involved in this illegality may not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon. (Ord. 2003-01. Passed 7-14-03.)

880.15 SPECIAL ASSESSMENT; WHEN 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. 2003-01. Passed 7-14-03.)

880.16 PARTIAL PAYMENTS; WHEN DUE.

The Council may provide the payment of special assessments in annual installments. Such annual installments shall not exceed thirty in number, the first installment being due upon confirmation of the roll or on such date as the Council may determine and deferred installments being due annually thereafter, or in the discretion of the Council, maybe 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 at a rate of seven percent, unless this rate exceeds the highest amount permitted by State law for such assessments, in which case the rate shall be the highest amount permitted by State law, commencing on a due date of the first installment and payable on the due date of such subsequent installment; the full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be made 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 sixty days from the date of confirmation to pay the full amount of said assessment, or the full amount of any installments thereof, without interest or penalty. Following the sixty days, 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 the first installments thereof as provided in this chapter and State law to be collected on delinquent general Village taxes. Deferred installments shall be collected without penalty until sixty days after the due date thereof, after which time such installments shall be considered as delinquent and such penalties on said installments shall be collected as are provided in the Village ordinance to be collected on delinquent general Village taxes. After the Council has confirmed the roll, the Village Treasurer shall notify by mail each property owner on the roll that the roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the Village Treasurer to give the notice or of such owner to receive the notice shall not invalidate any special assessment roll of the Village or any assessment thereon, nor excuse the payment of interest or penalties. At the option of the Village, the notice or bill for the amount owing may be sent out after the project has been completed. In such event no interest shall be owing nor shall a sixty day period begin to run until after the notice has been mailed by the Village Treasurer. (Ord. 2003-01. Passed 7-14-03.)

880.17 DELINQUENT SPECIAL ASSESSMENTS.

Any assessment, or part thereof, remaining unpaid on the first Monday of March 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 shall be transferred and reassessed on the next annual Village tax roll in a column headed "Special Assessments" with a penalty of four percent upon such total added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of Village taxes.

(Ord. 2003-01. Passed 7-14-03.)

880.18 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 the general laws for State, County, and Village taxes, in the lands upon which the same are a lien shall be subject to sale therefore the same as our lands upon which delinquent taxes constitute a lien.

(Ord. 2003-01. Passed 7-14-03.)

880.19 ADDITIONAL ASSESSMENTS; REFUNDS.

The Village Clerk shall, within sixty days after the completion of local or special public improvement, compile the actual costs 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 five percent or less, the same shall be reported to the Council which may place the excess in the Village Treasury or make a refund thereof pro rata according to the assessment. If the assessment exceeds the amount necessary by more than five percent, 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; provided, however, that no refunds of special assessments may be made which impair or contravene the provision of any outstanding allegation or bond secured in whole or part by special assessments. When any special assessment roll shall prove insufficient to 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 the lot or parcel of land.

(Ord. 2003-01. Passed 7-14-03.)

880.20 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. 2003-01. Passed 7-14-03.)

880.21 COLLECTION OF SPECIAL ASSESSMENTS.

In the event bonds are issued in anticipation of the collection of special assessments as provided herein, all collections on each special assessment roll or combination of rolls

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in a separate fund for the payment of the principle 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. 2003-01. Passed 7-14-03.)

880.22 SPECIAL ASSESSMENT ACCOUNTS.

Monies raised by special assessment to pay the costs 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 must be used only for the improvement project for which the assessment was levied, expenses incidently thereto, including the repayment of principle and interest on money borrowed therefor, and to refund excessive assessments, if refunds should be authorized.

(Ord. 2003-01. Passed 7-14-03.)

880.23 REASSESSMENT FOR BENEFITS.

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

(Ord. 2003-01. Passed 7-14-03.)

880.24 ASSESSING SINGLE LOTS.

When any expense shall have been incurred by the Village upon or in respect to any single premises, which expense is chargeable against such premises and the owner thereof under the provisions of this chapter, or any ordinance of the Village, or the law of the State of Michigan, and is not of that class required to be prorated among several lots and parcels of land in a special assessment district on account of the labor, material or service for which such expense was incurred, with the description of the premises upon or in respect to which the expense was incurred, in the name of the owner if known shall be reported to the Village Clerk who shall immediately charge and bill the owner, if known. The Village Administrator shall annually on or before January 15th, or at such other times as he or she may deem advisable, direct the Assessor to prepare a special assessment roll covering all such charges which shall not have been paid. This roll shall be filed with the Village Clerk who shall present the same to the Council. However, Council may follow the entire procedure used for other special assessments. Upon information of any information of any special assessment roll authorized by this section, the Council shall determine the number of installments in which assessments may be paid, not to exceed thirty in the rate of interest consistent with Section 880.16.

(Ord. 2003-01. Passed 7-14-03.)

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**880.25 SPECIAL ASSESSMENTS; NOTICE OF HEARING; SERVICE;
LOCAL TAX ASSESSMENT RECORDS.**

In all cases where special assessment are made against property, notice of all hearings in a special assessment proceeding shall be given as provided in this chapter, in addition to any notice of such hearings to be given by publication or posting as required by statute, charter, or ordinance.

(Ord. 2003-01. Passed 7-14-03.)

**880.26 ANTICIPATORY BORROWING AND BOND ISSUES; GENERAL
OBLIGATION BONDS.**

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

(Ord. 2003-01. Passed 7-14-03.)

CHAPTER 890
Low Income and Elderly Tax Exemption

890.01	Short title.	890.11	Property or unit becoming ineligible.
890.02	General.	890.12	Term of exemption.
890.03	General denial of exemption.	890.13	Service charge constitutes a lien on the property.
890.04	Limited exemption stated.	890.14	Collection of service charge.
890.05	Definitions.	890.15	Requirement to file information; default in payment; violations; loss of exemption.
890.06	Ownership entities recognized.	890.16	Service fees and special assessments.
890.07	Housing projects eligible.	890.17	Contract requirement.
890.08	Payment in lieu of taxes; amount; standards for determination.	890.18	Denial of application.
890.09	Amount.	890.19	Effect on existing projects.
890.10	Standards for determining the amount of the payment in lieu of taxes.		

890.01 SHORT TITLE.

This chapter shall be known and may be cited as the Low Income and Elderly Tax Exemption Ordinance of the Village.
(Ord. 2007-09. Passed 12-10-07.)

890.02 GENERAL.

State tax exemption for certain residential projects not applicable within the Village, except as provided; amount of payment in lieu of taxes for exempted projects; standards; provision for contract; lien on property; collections.
(Ord. 2007-09. Passed 12-10-07.)

890.03 GENERAL DENIAL OF EXEMPTION.

The exemption from ad valorem property taxes provided by Sec. 15a of Act 346 of the Public Acts of 1966, as amended, (MCL 125.1415a, MSA 16.114(15a)) shall not apply to all or any class of housing projects within the Village boundaries except as provided in this chapter. This denial of exemption is made pursuant to subsection 5 of the Act.
(Ord. 2007-09. Passed 12-10-07.)

890.04 LIMITED EXEMPTION STATED.

A limited exemption, only if authorized by the Act, is hereby granted, limited however to the projects described and authorized by this chapter and further having a signed

contract with the Village pursuant to this chapter. No other residential project, even if authorized by the Act, shall be entitled to an exemption.
(Ord. 2007-09. Passed 12-10-07.)

890.05 DEFINITIONS.

The terms used in this chapter shall have the following meanings:

- (a) "Act" means the State Housing Development Authority Act of 1966, as amended, being Act 346 of the Public Acts of 1966, as amended.
- (b) "Annual shelter rent" means the total collections during an agreed annual period from all the occupants of a housing project representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished by the occupants. "Annual shelter rent" includes the rental amounts to be currently charged for units in the housing project, whether a unit is vacant or not, and whether or not the rent is actually paid. "Annual shelter rent" also includes the rentals to be paid for additional facilities by tenants, such as carports or garages, and further includes miscellaneous income, such as income from vending machines or laundry equipment.
- (c) "Authority" means the Michigan State Housing Development Authority.
- (d) "Elderly persons" means persons aged fifty-five or older who are of low or moderate income and who would qualify by the rules, standards or practices of the authority for residency in projects aided by the authority. This definition does not expand the projects which are eligible under this chapter.
- (e) "Housing project" means a residential facility consisting of rental units offered to the following persons. It does not mean the portion of any facility which is not so occupied:
 - (1) Elderly persons as herein defined.
 - (2) Low income persons and families as defined by the authority.
- (f) "HUD" means the United States Department of Housing and Urban Development.
- (g) "Low income persons and families" is defined to include all low income persons and families included in the definitions found at section 15a(7) of the Act.
- (h) "Mortgage loan" means, for purposes of this chapter, a loan made by the authority or HUD to the sponsor for the construction and permanent financing of a housing project as defined by this chapter.
- (i) "Service charge." The terms "service charge" and "payment in lieu of taxes" mean the same thing.
- (j) "Sponsor" is a developer of a housing project. The term "sponsor" includes an applicant for exemption under this chapter.
- (k) "Utilities" means public water, public sanitary sewer, gas or electric service. Utilities do not include cable or other television services, telephone or communication utilities, or solid waste services.

(Ord. 2007-09. Passed 12-10-07.)

890.06 OWNERSHIP ENTITIES RECOGNIZED.

No housing project shall be eligible for an exemption under this chapter unless it is owned by a non-profit housing corporation, consumer housing cooperative, limited dividend housing corporation, or limited dividend housing association, as described in section 15a of the Act.

(Ord. 2007-09. Passed 12-10-07.)

890.07 HOUSING PROJECTS ELIGIBLE.

Housing projects financed with a Federally-aided or authority-aided mortgage or advance or grant from the authority.

(Ord. 2007-09. Passed 12-10-07.)

890.08 PAYMENT IN LIEU OF TAXES; AMOUNT; STANDARDS FOR DETERMINATION.

The payments in lieu of taxes, to be made by housing projects exempt from ad valorem taxes under this chapter, are hereby established by the Village pursuant to section 15a of the Act, without regard to the amounts otherwise set forth in the said section of the Act. The service charge to be paid in lieu of taxes by any housing project exempt under this chapter shall be determined as follows.

(Ord. 2007-09. Passed 12-10-07.)

890.09 AMOUNT.

The service charge shall be in an amount no less than four percent nor more than twenty percent of the annual shelter rent charged for the total of all units in the (exempt) housing project, whether the units are occupied or not and whether or not the rents are paid. The Village may establish the amount of the service charge to be paid in lieu of taxes by all or any class of housing projects exempt from taxation under this chapter. However, in no event shall the service charge exceed the ad valorem real property taxes that would be paid for the housing project if it were not exempt.

(Ord. 2007-09. Passed 12-10-07.)

890.10 STANDARDS FOR DETERMINING THE AMOUNT OF THE PAYMENT IN LIEU OF TAXES.

In determining the amount of service charge (not less than the minimum) which will be paid to the Village for a housing project exempt under this chapter the following standards shall guide the Village. All criteria which apply shall be considered to arrive at the service charge:

- (a) In the event the housing project or a substantial part thereof is located in a rehabilitated structure, for that portion of the project found in the rehabilitated structure the Village shall establish a lower service charge.
- (b) In the event the housing project is located in an area of the Village which is part of a tax increment finance district, and removes taxable property from the tax roll, the Village shall establish a higher service charge.

- (c) The Village shall consider the number of exempt units as compared to non-exempt units which are attached or contiguous to the housing project, but which are developed simultaneously with it by the same developer. To the extent that non-exempt units, including units calling for market rents, are included in the development, the Village shall consider lowering the rate of the service charge on the exempt units.
- (d) In the event the housing project is proximate to non-subsidized and non-exempt housing which is not part of any project for which the developer of the exempt housing project is responsible, the Village shall establish a higher service charge.
- (e) In the event the housing project is eligible for other property tax abatements or reductions of any kind, or Municipal benefits not generally available to residential properties, the Village shall establish a higher service charge.
- (f) In the event the housing project results in an increase in the need for public services such as water or sewer extensions, public transportation services, additional snow plowing, police and fire services, or increased school populations, the Village shall establish a higher service charge.
- (g) In the event the Village determines that the housing project will result in significantly increased traffic generation or street or highway safety problems, the Village shall establish a higher service charge.
(Ord. 2007-09. Passed 12-10-07.)

890.11 PROPERTY OR UNIT BECOMING INELIGIBLE.

In the event any residential unit is found to be occupied by persons who are not eligible to occupy exempt units under this chapter, the service charge for that unit, prorated, shall equal the general property taxes which would be payable (pro rata) for that unit. In the event the Village determines that more than fifty percent of the units in the housing project are occupied by such ineligible persons, then the entire housing project shall be immediately liable for a service charge in an amount equal to the ad valorem property taxes which would otherwise be charged by tax bills normally issuing in the year of the Village's determination.

(Ord. 2007-09. Passed 12-10-07.)

890.12 TERM OF EXEMPTION.

The exemption term shall begin on the tax day of the year in which a final certificate of compliance or occupancy is issued by the Village, therefore affecting the taxes due in the following year, and shall terminate on the happening of any of the following:

- (a) At such time as the facility is no longer being used for elderly and/or low income housing to the extent as when established.
- (b) Any violation or default under this chapter if not cured within ninety days after notice.
- (c) The day falling thirty-five years after the effective date of the contract for the exemption required by this chapter, or the period determined by the contract, whichever is shorter.

(Ord. 2007-09. Passed 12-10-07.)

890.13 SERVICE CHARGE CONSTITUTES A LIEN ON THE PROPERTY.

The service charge shall constitute a lien on the housing project property and improvements, effective at the same times and enforceable in the same manner as general property taxes.

(Ord. 2007-09. Passed 12-10-07.)

890.14 COLLECTION OF SERVICE CHARGE.

The service charge as determined by this section shall be payable in the same manner as general property taxes, except that the annual payment shall be paid on or before December 31 of each year during which the exemption is in effect. The entire tax collection procedure provided by the General Property Tax Act shall be effective and utilized with respect to such payment, including, but not limited to, the provisions providing for interest and penalties on late payments, return of delinquent taxes, tax liens, and the sale of lands for delinquent taxes. In the event of a delinquency in the payment in lieu of taxes, the Village shall issue a tax bill for the premises and include the required payment as a delinquent tax.

(Ord. 2007-09. Passed 12-10-07.)

890.15 REQUIREMENT TO FILE INFORMATION; DEFAULT IN PAYMENT; VIOLATIONS; LOSS OF EXEMPTION.

The sponsor or owner shall file annually with the Village Treasurer a copy of the audit provided to the authority within 180 days after December 31 of each year. Failure to timely file said statement, the filing of an inaccurate statement, any misrepresentation in the amount of rents as defined herein, or the failure to timely pay any service charge, shall be considered violations of this section and the commission of any one violation shall result in the permanent, immediate loss of the exemption for the current year and thereafter.

(Ord. 2007-09. Passed 12-10-07.)

890.16 SERVICE FEES AND SPECIAL ASSESSMENTS.

Except as otherwise provided by law, a housing project otherwise exempt under this section shall not be exempt from special assessments or service fees or charges levied or charged by the Village.

(Ord. 2007-09. Passed 12-10-07.)

890.17 CONTRACT REQUIREMENT.

Except for housing projects previously determined to be exempt prior to the enactment of this section, each housing project which is exempt hereunder must sign an agreement with the Village by which the exemption set forth herein is granted, and further providing for the payment in lieu of taxes, consenting to the provisions of this chapter and recognizing the conditions whereby exemption may be lost. The Village may require any reasonable conditions in such contract, including, but not limited to, such matters as limitations on the years for which the exemption may be continued, requirements for completing the project within a time certain, requirements for completing

non-exempt units or facilities and time limits for completion, as well as the number of such units. Each contract shall have a complete and final floor plan attached (subject only to insubstantial amendment by as-built drawings), which shall govern the determination of the payment in lieu of taxes as appropriate under this chapter. No exemption may be granted unless and until the contract is completed, approved by the Village Council and signed.

(Ord. 2007-09. Passed 12-10-07.)

890.18 DENIAL OF APPLICATION.

The Village is not required by this chapter to grant an application which may qualify under this chapter. The Village may deny an application in its sole discretion. In determining whether to deny a project, the Village may use, but is not limited to, the following standards. The Village would deny a project for exemption if the project applied for:

- (a) Constitutes a development which diverts, subverts, alters or is contrary to the master plan of the Village;
- (b) Fails to contribute to the improvement of neighborhoods in the Village;
- (c) Concentrates exempt housing in one or more areas of the Village;
- (d) Adversely affects the property tax base of the Village;
- (e) Creates significant public burdens, such as traffic, public works or infrastructure, health, safety, school population or service capabilities;
- (f) Results in the concentration of low income or elderly housing in a neighborhood or is contrary to the encouragement of economically diverse housing development;
- (g) Is sponsored by a developer who fails to demonstrate acceptable financial, managerial or construction capabilities; or
- (h) Results in a project or development which is harmful to the health, safety and welfare of the Village.

(Ord. 2007-09. Passed 12-10-07.)

890.19 EFFECT ON EXISTING PROJECTS.

Housing projects which have been previously determined and treated as exempt pursuant to the Act under previous ordinances of the Village shall continue their exempt status, and further shall continue the present payments to the Village as presently determined. To the extent their present contracts do not conflict with this amended chapter, this chapter shall control their exemptions.

(Ord. 2007-09. Passed 12-10-07.)

CODIFIED ORDINANCES OF SHELBY

PART TEN - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE TWO - Street and Sidewalk Areas.

Chap. 1020. Sidewalks and Curbs.

Chap. 1022. Trees and Shrubs.

TITLE FOUR - Utilities

Chap. 1040. Water Generally.

Chap. 1041. Groundwater.

Chap. 1042. Water Supply Cross-Connections.

Chap. 1044. Water Supply and Sewage Disposal System.

Chap. 1046. Sewers Generally.

Chap. 1048. Gas.

Chap. 1050. Electricity.

TITLE SIX - Other Public Services

Chap. 1060. Garbage and Rubbish Collection and Disposal.

CODIFIED ORDINANCES OF SHELBY

PART TEN - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE TWO - Street and Sidewalk Areas.

Chap. 1020. Sidewalks and Curbs.

Chap. 1022. Trees and Shrubs.

CHAPTER 1020
Sidewalks and Curbs

- | | | | |
|---------|---|---------|--|
| 1020.01 | Reserved. | 1020.03 | Duty to keep sidewalks clear of obstructions, snow, ice and nuisances. |
| 1020.02 | Notice to build or rebuild; condemnation. | 1020.04 | Injuring sidewalks. |
| | | 1020.99 | Penalty. |

CROSS REFERENCES

Sidewalks generally - see CHTR. Ch. VII, §§7 et seq.

Bicycles, skateboards and rollerblades on sidewalks - see TRAF. 440.01

Parking on sidewalks - see TRAF. 450.03

Spitting on sidewalks - see GEN. OFF. 670.09

1020.01 RESERVED.

(EDITOR'S NOTE: This section was repealed by Ord. passed September 28, 2014.)

1020.02 NOTICE TO BUILD OR REBUILD; CONDEMNATION.

(a) Whenever Council shall, by resolution, determine upon the building or rebuilding of any sidewalk or curb in the Village, it shall be the duty of the Street Administrator to notify the owner or person in charge of the premises, if known, in front of which the sidewalk or curb is to be built or rebuilt, within one week after said resolution shall be passed, by delivering to such owner or person in charge of the premises a written notice, if he or she can be found. If such person cannot be found, the Street Administrator shall post such notice in three public places in the Village. One of such notices shall be posted upon the premises in front of which the sidewalk or curb is to be built or rebuilt. Such notice shall contain the time when such sidewalk shall be built or rebuilt, the material to be used and the thickness thereof.

(b) Council may condemn any sidewalk or curb if the expense of rebuilding the same to restore it to an acceptable condition, in the judgment of Council, would be equal to the expense of building a new sidewalk or curb. In such a case, Council may require that a new sidewalk or curb be built according to the provisions of this chapter.

1020.03 DUTY TO KEEP SIDEWALKS CLEAR OF OBSTRUCTIONS, SNOW, ICE AND NUISANCES.

The owner of any lot adjacent to and abutting on any sidewalk in the Village shall keep the same free from any obstruction, snow, ice or nuisance. In case of refusal to clean the sidewalk as herein required after one day's notice has been given by the Street Administrator, in writing, the Street Administrator shall proceed to clear the same, and any expense incurred thereby shall be levied and collected as a special assessment upon the lot or premises adjacent to and abutting upon said sidewalk.

(Ord. 16. Passed 7-11-1892.)

1020.04 INJURING SIDEWALKS.

No person shall maliciously break down, injure or tear up any sidewalk or crosswalk in the Village. (Ord. 16. Passed 7-11-1892.)

1020.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 1022
Trees and Shrubs

- 1022.01 Planting of trees.
- 1022.02 Injuring trees and shrubs.

1022.99 Penalty.

CROSS REFERENCES

Trees in highways - see CHTR. Ch. VII, §21

Box elder trees, female, as nuisance - see M.C.L.A. §124.151

Cutting or destroying trees - see M.C.L.A. §§247.235, 247.241,
752.701 et seq.

Malicious destruction of trees - see M.C.L.A. §§750.382 et seq.

Grass, weeds and trees - see GEN. OFF. 670.05

1022.01 PLANTING OF TREES.

Any person owning or occupying lots adjoining any highway in the Village may set out shade or ornamental trees on the side of the highway, contiguous to his or her land, which trees shall be set in regular rows and shall be seven feet from the margin of the highway.

(Ord. 11. Passed 7-11-1892.)

1022.02 INJURING TREES AND SHRUBS.

No person shall willfully injure, deface, tear or destroy any tree or shrub planted or set along the margin of any highway in the Village, or purposely left there for shade or ornament, or destroy any tree or shrub not his or her own, standing for use or ornament in any highway, public park, lane or alley, in the Village, so long as said trees or shrubs are alive. No person shall cut down, mutilate or destroy the protection placed around any such tree or shrub.

(Ord. 11. Passed 7-11-1892.)

1022.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

TITLE FOUR - Utilities

- Chap. 1040. Water Generally.
 Chap. 1041. Groundwater.
 Chap. 1042. Water Supply Cross-Connections.
 Chap. 1044. Water Supply and Sewage Disposal System.
 Chap. 1046. Sewers Generally.
 Chap. 1048. Gas.
 Chap. 1050. Electricity.

CHAPTER 1040
 Water Generally

- | | |
|---|--|
| <p>1040.01 Water roll; collection of charges; penalty and shut-off for delinquent payments.</p> <p>1040.02 Water meters required.</p> <p>1040.03 Contamination or pollution of Village water supply system.</p> | <p>1040.04 Fluoridation of water supply.</p> <p>1040.05 Private water wells within the Village prohibited.</p> <p>1040.99 Penalty.</p> |
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CROSS REFERENCES

- Water supply generally - see Mich. Const., Art. 7, § 24; M.C.L.A. §§ 46.171 et seq., 123.111 et seq., 486.51 et seq., 486.101 et seq.
- Preservation of water purity; use of navigable waters - see CHTR. Ch. VII, § 38
- Water works - see CHTR. Ch. XI
- Groundwater - see S.U. & P.S. Ch. 1041
- Protection of potable water - see S.U. & P.S. 1042.05
- Connection of trailer coaches to water supply - see B. & H. 1440.07

1040.01 WATER ROLL; COLLECTION OF CHARGES; PENALTY AND SHUT-OFF FOR DELINQUENT PAYMENTS.

(a) The Department of Public Works shall have its written report of all water used for the preceding quarter according to meter readings, and of all water to be used during the ensuing quarter on flat rates, together with the names of the respective owners of the premises supplied and a description of the premises, in the hands of the Village Clerk not later than the twenty-fifth day of the month preceding the quarters beginning April 1, July 1, October 1 and January 1, in each year. The Village Clerk shall have the water roll showing the charges against the property owners, with descriptions of the respective properties, for water furnished and to be furnished, during such quarters respectively, in the hands of the Village Treasurer, promptly at the beginning of each of said quarters.

(b) The Village Treasurer shall, during the first month of each of said quarters, collect from the property owners for water used and to be used by them or their tenants, during said quarters respectively, the amounts charged according to said water roll, without extra charge.

(c) The Village Treasurer shall, during the second month of each of said quarters, collect from the property owners for water used and to be used by them or their tenants, during said quarters, the amounts charged according to said water roll, together with the penalty of ten percent in addition thereto, which additional percent shall belong to the Village of Shelby, and shall be accounted for by the Village Treasurer, the same as any other Village funds. The Village Treasurer shall, at the end of the first month in each quarter, return to the Village Clerk the portions of such water roll upon which the property owners have not paid, for the addition of the charge of said penalty of ten percent. The Village Clerk shall, within twenty-four hours thereafter, place against the respective delinquent property owners and property, the additional charge of ten percent, and return the same to the Village Treasurer for collection during the second month of each quarter.

(d) The Village Treasurer shall, at the beginning of the third month of each quarter, turn over to the Department of Public Works a full and complete list of each property owner, with a description of the property, who is on that date delinquent in the payment of said water charges, with instructions to turn off the water at the tap supplying said property.

(Ord. 48. Passed 7-1-18.)

(e) The Department of Public Works shall, on receipt of said list of delinquents, at once turn off the water of said tap, and the water must not thereafter be turned on at such tap until the Department is furnished with a certificate, signed by the Village Treasurer and endorsed by the Village Clerk, showing payment to the Village Treasurer of all amounts for which such property owner has become in arrears, together with said penalty of ten percent, and together with a fee of thirty dollars (\$30.00) for turning on the water at such tap, which amount shall also be the property of the Village.
(Adopting Ordinance)

(f) If the Village Treasurer shall fail to perform any of the duties enjoined upon him or her by the terms of this section at the times and in the manner herein provided for, he or she shall be deemed to be incompetent to properly execute the duties of his or her office and to be guilty of willful neglect of duty, and shall be subject to removal from office in accordance with State law. Further, the Village Treasurer shall be chargeable on his or her bond for all delinquent water charges, including said penalty which he or she has failed to turn over to the Department of Public Works for shutting off as hereinbefore provided, and the Village must set off the amounts thereof against any sum or sums which would otherwise be due to such Treasurer on final settlement or at any other time.

(g) The Village Treasurer may recover the amounts so due from delinquent property owners, together with such penalty, in an action of assumpsit to be brought in the name of the Village of Shelby, in any court of competent jurisdiction, if the Village Attorney advises such action, and the production of the water roll, showing the charges against the delinquent property owner, shall be conclusive evidence of the right of the Village to recover, in the absence of fraud or mistake.

(h) This section shall take effect August 1, 1918.

(i) The provisions of this section shall be deemed to be cumulative, and shall not impair the full force and effect of any ordinance whereby other remedies are provided for the collection of water charges. (Ord. 48. Passed 7-1-18.)

1040.02 WATER METERS REQUIRED.

(a) It shall be the duty of every user of Shelby Village water who is now, or before October 1, 1928, may be, charged a flat rate, to purchase a water meter of suitable size and capacity, to meet the approval of the Council, and to install the same as an integral part of the water system on his or her premises, so that such water meter will correctly record the amount of water used by him or her, such purchase and installation to be completed before October 1, 1928.

(b) No user of Village water shall at any time hereafter use the Village water for sprinkling, without first having purchased and installed such an approved water meter.

(c) No user of Shelby Village water, from and after October 1, 1928, shall have upon his or her premises, or under his or her control, any hydrant, faucet, sill-cock or other opening in his or her water system, through which water may be drawn without being metered as provided in subsection (a) hereof.

(d) The Department of Public Works shall discontinue the water service to any and all users of Village water who have not purchased and installed approved water meters before October 1, 1928, and also to any and all users thereof for sprinkling purposes at any time, who have not purchased and installed approved water meters, and shall refuse such service until such purchase and installation have been completed and the fee paid for turning the water on.

(Ord. 66. Passed 11-14-27.)

1040.03 CONTAMINATION OR POLLUTION OF VILLAGE WATER SUPPLY SYSTEM.

(a) No person shall construct or maintain, cause to be construed or maintained, or permit to be construed or maintained, within a radius of 200 feet from any Municipal water wells within the Village of Shelby, from which said Village draws its water supplies, any source of possible contamination or pollution to any of said wells, unless allowed or approved by the Department of Health of the State of Michigan.

(b) No person shall do any act, cause to be done any act, or permit to be done any act, that contaminates or pollutes, or may contaminate or pollute, or contribute to the contamination or pollution of, the water supply wells or water system of the Village of Shelby.

(Ord. 98. Passed 6-11-51.)

1040.04 FLUORIDATION OF WATER SUPPLY.

The Village of Shelby hereby elects, under the provisions of Act 346 of the Public Acts of 1968, as amended, not to add fluoride to the public water supply of the Village of Shelby, and said Village hereby rejects the provisions of said Act.

(Ord. 137. Passed 3-26-73.)

1040.05 PRIVATE WATER WELLS WITHIN THE VILLAGE PROHIBITED.

(a) To protect the Village's potable water supply from contamination or pollution through either cross connections with a private water system or through penetration and/or contamination of the aquifers that supply water to the Village Water System, it shall be unlawful for anyone to drill a water well, whether for irrigation or potable water, within the boundaries of the Village when a village water line is located within 1,000 feet of the property line of the property to be served by said well unless approved by the Village Council.

(b) If a private water well exists on a property within the Village prior to the enactment of this section and its amendments thereof, said private well shall be registered with the Village Clerk and the property owner shall provide documentation to the Village Clerk as to the wells location, depth, capacity, or any other information deemed necessary by the Water Utility Superintendent.

(c) Repair of pump motor and/or well point and screen of said private well shall be allowed. Modifications, other than the aforementioned work to any existing well is prohibited and said private well shall be properly abandoned, at the owners expense, by a licensed well driller. Prior to or upon completion of the aforementioned abandonment of said private well, an approved connection to the Village Water Distribution System shall be completed at the owners expense.

(d) In any particular case where the property owner can show by reason of exceptional topography or other physical conditions that the literal compliance with the aforementioned requirements would cause practical difficulty or undue hardship, the Village Council may modify such requirements to the extent deemed just and proper so as to relieve such difficulty or hardship, provided that said relief may be granted without detriment to the public interest and without impairing the intent and purpose of this section. Any such relief thus granted shall be spread upon the minutes of the Village setting fourth the reasons that, in the opinion of the Council, said relief was just and proper.

(Res. 6. Passed 4-24-06.)

1040.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 1041
Groundwater

1041.01 Purpose.	1041.06 Determination of applicability.
1041.02 Definitions.	1041.07 Conditions for approval or denial.
1041.03 Scope.	1041.08 Exemptions and waivers.
1041.04 General provisions.	1041.09 Appeals.
1041.05 Review requirements.	1041.99 Penalty.

CROSS REFERENCES

Water supply generally - see Mich. Const., Art. 7, § 24; M.C.L.A. §§ 46.171 et seq., 123.111 et seq., 486.51 et seq., 486.101 et seq.
 Preservation of water purity; use of navigable waters - see CHTR. Ch. VII, § 38
 Water works - see CHTR. Ch. XI
 Water generally - see S.U. & P.S. Ch. 1040
 Protection of potable water - see S.U. & P.S. 1042.05
 Connection of trailer coaches to water supply - see B. & H. 1440.07

1041.01 PURPOSE.

- (a) The Village of Shelby has determined that:
- (1) The groundwater underlying the Village is sole source of the Village's drinking water.
 - (2) Groundwater aquifers are integrally connected with, and flow into, the surface water, lakes, and streams which constitute significant public health, recreational and economic resources of the Village.
 - (3) Spills and discharge of petroleum products, sewage and other hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.
- (b) Therefore, the Village of Shelby has enacted this chapter to:
- (1) Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the Village, and protect them from adverse development or land use practices.
 - (2) Preserve and protect present and potential sources of the drinking water supply for public health and safety.

- (3) Conserve the natural resources of the Village.
- (4) Protect the financial investment of the Village in its drinking water supply and to meet State requirements for wellhead protection.
- (5) Assure that State regulations which help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.
(Ord. 02-2015. Passed 10-12-15.)

1041.02 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply:

- (a) “Aquifer.” A geologic formation, group of formations or part of a formation capable of storing and yielding a significant amount of groundwater to wells or springs.
- (b) “Best management practices.” Measures, either managerial or structural to prevent or reduce pollution inputs to soil, surface water or groundwater.
- (c) “Development.” The carrying out of any construction, reconstruction, alteration of surface of structure or change of land use or intensity of use.
- (d) “Environmental contamination.” The release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity, which is or may become injurious to the environment, or the public health, safety, or welfare.
- (e) “Facility.” Any building, structure, or installation from which there may be a discharge of pollutants.
- (f) “Hazardous substance.” A chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment. The term “hazardous substance” includes, but is not limited to, hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767; “hazardous waste” as defined in the Hazardous Waste Management Act, Act No. 64 of the Public Acts of 1979, being §§ 299.501 to 199.551 of the Michigan Compiled Laws; “petroleum” as defined in the Leaking Underground Storage Tank Act, Act No. 478 of Public Acts of 1988, being §§ 299.831 to 299.850 of the Michigan Compiled Laws.
- (g) “Primary containment facility.” A tank, pit, container, pipe, or vessel of first containment of hazardous substance.
- (h) “Secondary containment facility.” A second tank, catchment pit, pipe or vessel that contains liquid or chemical leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent the discharge to land, ground waters, or surface waters, of any pollutant which may emanate from said storage container or containers.
- (i) “Underground storage tank system.” A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in

Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

- (j) “Used oil.” Any oil which had been:
 - (1) Refined from crude oil,
 - (2) Used, and
 - (3) As a result of such used contaminated by physical or chemical impurities.
- (k) “Well.” A permanent or temporary opening in the surface of the earth for the purpose of removing fresh water, testing water quality, measuring water characteristics, liquid recharge, waste disposal, or dewatering purposes during construction, as defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the Public Acts of 1978, as amended, and rules.
- (l) “Wellhead protection area (WHPA).” The area around and up gradient from the public water supply wells delineated by the ten-year travel time contour capture boundary.
(Ord. 02-2015. Passed 10-12-15.)

1041.03 SCOPE.

These provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds), and which require site plan review under the provisions of this chapter.

(Ord. 02-2015. Passed 10-12-15.)

1041.04 GENERAL PROVISIONS.

- (a) Groundwater Protection Standards.
 - (1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.
 - (2) Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding, or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by an third party.
 - (3) Industrial facilities with a point source discharge of storm water shall maintain a Storm Water Pollution Prevention Plan in accordance with applicable State and Federal regulations.
 - (4) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit. If connected to the public sewer system then the volumes and concentrations of waste discharged to the floor drain may require compliance with the Village’s Industrial Pretreatment Ordinance.

- (5) Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
- (6) State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.
- (7) In determining conformance with the standards of this ordinance, the Village shall take into consideration all publications of the River Raisin Watershed Council, and other applicable references.
- (8) Bulk storage of pesticides shall be in accordance with Regulation No. 640, Commercial Pesticide Bulk Storage, of Act 171 of the Public Acts of 1976, as amended, being M.C.L.A. § 286.569.

(b) Aboveground Storage and Use Areas for Hazardous Substances and Polluting Material.

- (1) Primary containment of hazardous substances shall be product tight.
- (2) Secondary containment shall be sufficient to store the substance for maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of ten gallons or less packaged for retail use shall be exempt from this item.
- (3) Outdoor storage of hazardous substances shall be prohibited except in product tight containers which are protected from weather, leakage, accidental damage and vandalism, including an allowance of the expected accumulation of precipitation.
- (4) Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable requirements of Act 245.
- (5) Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetland, groundwater or soils.
- (6) The location of the aboveground storage of hazardous substances and methods of primary and secondary containment shall be clearly illustrated on the site plan.

(c) Underground Storage Tanks.

- (1) Existing or new underground storage tanks shall be registered with the authorized State agency in accordance with applicable requirements of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality.

- (2) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the Michigan Department of Environmental Quality. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by Village Officials for five years.
- (3) All underground storage tanks which have been out of service for 12 months shall be removed from this site.

(d) Well Abandonment. Out of service wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Environmental Quality, Water Bureau, Drinking Water and Environmental Health, Well Construction Unit.

(e) Sites with Contaminated Soils and/or Groundwater.

- (1) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.
- (2) Development shall not be allowed on contaminated areas of a site unless information from the Michigan Department of Environmental Quality is available indicating that cleanup will proceed in a timely fashion.
- (3) Information must be provided regarding the type, concentration and extent of identified contamination, land use deed restrictions and any remedial action plans.
- (4) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(f) Construction Standards.

- (1) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetlands may be improper.
- (2) Hazardous substances stored on the construction sited during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. Any storage container of over 25 gallons or 220 pounds containing hazardous substances shall have secondary containment.

- (3) If the contractor will be storing or handling hazardous substances that require a manufacturer's material safety data sheet, the contractor shall familiarize himself or herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.
- (4) Upon completion of construction, all hazardous substances and containment systems no longer used, or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled, or reused in a proper manner as prescribed by applicable State and Federal regulations.
- (5) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(g) Maintenance. In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and ground water. Cracks and holes in floors, foundations and walls must be repaired in areas where chemicals are handled or stored.
(Ord. 02-2015. Passed 10-12-15.)

1041.05 REVIEW REQUIREMENTS.

(a) Specify location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, use, load/unloading, recycling, or disposal of hazardous materials.

(b) Specify location of all underground and aboveground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous materials storage, collection of contaminated storm water or wash water, and all similar uses.

(c) Specify location of existing and proposed wells.

(d) Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

(e) Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.

(f) Submit "Hazardous Materials Report in Form for Site Plan Review."

(g) Submit "Village of Shelby Environmental Permits Checklist."
(Ord. 02-2015. Passed 10-12-15.)

1041.06 DETERMINATION OF APPLICABILITY.

It shall be the responsibility of any person owning real property and/or owning and operating a business within the Village corporate limits to make a determination of the applicability of this chapter as it pertains to the property and/or business under his or her ownership or operation and his or her failure to do so shall not excuse any violations of this chapter.

(Ord. 02-2015. Passed 10-12-15.)

1041.07 CONDITIONS FOR APPROVAL OR DENIAL.

The Planning Commission, upon reviewing a site plan, shall take one of the following actions:

- (a) Approval. If the site plan meets all the Zoning Ordinance and related development requirements and standards, the Planning Commission shall record such approval and Chairman shall sign three copies of the site plan filing one in the official site plan, forwarding one to the Building Inspector, and returning one to the applicant.
- (b) Disapproval. If the site plan does not meet Zoning Ordinance and related development requirements and standards, the Planning Commission shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.
- (c) Conditional Approval. Conditions on approval of the site plan may be imposed meeting the requirements specified in the Village Zoning Enabling Act. Conditions must be:
 - (1) Designed to protect natural resources, and the health, safety and welfare and the social and economic well-being of residents, neighbors, and the community as a whole;
 - (2) Related to the valid exercise of the police power;
 - (3) Necessary to meet the purposes of the Zoning Ordinance and related to the standards established in the Zoning Ordinance and related to the standards established in the Zoning Ordinance for the land use or activity under consideration.
- (d) Table. If the site plan is found to be in violation of requirements, incomplete with respect to necessary information or presenting a unique situation, the Planning Commission may table the site plan until a public hearing can be scheduled to determine specific improvement requirements the Planning Commission feels are necessary but the applicant is not in agreement with.

(Ord. 02-2015. Passed 10-12-15.)

1041.07 EXEMPTIONS AND WAIVERS.

The transportation of any hazardous substances shall be exempt from the provisions of this chapter provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a State licensed hazardous waste treatment, storage, or disposal facility.

(Ord. 02-2015. Passed 10-12-15.)

1041.08 APPEALS.

The Village Council may grant a special permit if it finds by written decision that the proposed use:

- (a) Meets the intent of this section as well as its specific criteria;
- (b) Will not, during construction or thereafter, have an adverse impact on any aquifer or recharge area in the district;
- (c) Will not adversely affect an existing or potential domestic or municipal water supply; and is consistent with existing and probably future development of surrounding areas.

(Ord. 02-2015. Passed 10-12-15.)

1041.99 PENALTY.

(a) Falsifying Information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any method required under this chapter, shall be fined upon conviction not more than five hundred (\$500.00) dollars.

(b) Violations.

- (1) Any person or persons who is found to have violated an order of the Village or who willfully or negligently fails to comply with any provisions of this chapter and the orders, rules and regulations and permits issued thereunder, shall be fined upon conviction not more than five hundred (\$500.00) dollars.
- (2) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provide herein, the Village may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigations by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations and permits issued thereunder.
- (3) Any person or persons violating any of the provisions of this chapter shall be liable to the Village for any expense, loss, or damage caused by such violation. The Village shall bill the person or persons for the costs incurred by the Village (caused by the violation).

(Ord. 02-2015. Passed 10-12-15.)

CHAPTER 1042
Water Supply Cross-Connections

1042.01 Adoption of State rules by reference.	1042.04 Discontinuance of service for violation of chapter.
1042.02 Inspections.	1042.05 Protection of potable water.
1042.03 Right of entry.	1042.99 Penalty.

CROSS REFERENCES

Water supply generally - see Mich. Const., Art. 7, § 24; M.C.L.A. §§ 46.171 et seq., 123.111 et seq., 486.51 et seq., 486.101 et seq.
 Preservation of water purity; use of navigable waters - see CHTR. Ch. VII, § 38
 Water works - see CHTR. Ch. XI
 Groundwater - see S.U. & P.S. Ch. 1041
 Connection of trailer coaches to water supply - see B. & H. 1440.07

1042.01 ADOPTION OF STATE RULES BY REFERENCE.

The Village of Shelby hereby adopts by reference the water supply cross-connection rules of the Michigan Department of Public Health, being Rules 325.431 to 325.440 of the Michigan Administrative Code.

(Ord. 138. Passed 5-29-73.)

1042.02 INSPECTIONS.

It shall be the duty of the Department of Public Works to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Village Council and as approved by the Michigan Department of Public Health.

(Ord. 138. Passed 5-29-73.)

1042.03 RIGHT OF ENTRY.

Department of Public Works personnel shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the Village for the purpose of inspecting the piping system or systems thereof for cross-connections. On request, the owner, lessee or occupant of any property so served shall furnish to the Department of Public Works any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

(Ord. 138. Passed 5-29-73.)

1042.04 DISCONTINUANCE OF SERVICE FOR VIOLATION OF CHAPTER.

The Department of Public Works is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this chapter exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross-connection or connections have been eliminated in compliance with the provisions of this chapter.

(Ord. 138. Passed 5-29-73.)

1042.05 PROTECTION OF POTABLE WATER.

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

WATER UNSAFE
FOR DRINKING

(Ord. 138. Passed 5-29-73.)

1042.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 1044
Water Supply and Sewage Disposal System

1044.01	Combined system.	1044.10	Accounts.
1044.02	Declaration of necessity.	1044.11	Transfer of funds.
1044.03	Cost; useful life; financing.	1044.12	Investments.
1044.04	Definitions.	1044.13	Applicable law.
1044.05	Management of system.	1044.14	Bond proceeds.
1044.06	Rates; billing; enforcement.	1044.15	Covenants.
1044.07	No free service.	1044.16	Additional bonds.
1044.08	Sufficiency of rates; revision; covenant to maintain.	1044.17	Bond form.
1044.09	Fiscal year.	1044.18	Municipal Finance Commission approval.

CROSS REFERENCES

Water supply generally - see Mich. Const., Art. 7, § 24; M.C.L.A.
 §§ 46.171 et seq., 123.111 et seq., 486.51 et seq., 486.101 et seq.
 Sewers generally - see CHTR. Ch. VII, §§ 7 et seq.; Ch. 1046
 Preservation of water purity; use of navigable waters - see CHTR.
 Ch. VII, § 38
 Water works - see CHTR. Ch. XI
 Septic tanks and liquid wastes - see GEN. OFF. 670.04, 1046.03,
 1440.06
 Groundwater - see S.U. & P.S. Ch. 1041
 Protection of potable water - see S.U. & P.S. 1042.05
 Connection of trailer coaches to water supply - see B. & H. 1440.07

1044.01 COMBINED SYSTEM.

The existing water supply system of the Village and the sanitary sewage collection and disposal facilities authorized for the Village hereunder shall be consolidated and shall be operated as a single combined Water Supply and Sewage Disposal System under the provisions of Act 94 of the Public Acts of 1933, as amended.
 (Ord. 125. Passed 11-11-68.)

1044.02 DECLARATION OF NECESSITY.

It is hereby determined to be necessary, for the public health, safety and welfare of the Village of Shelby, to acquire and construct, in accordance with detailed maps, plans and specifications therefor prepared by George E. Snyder Associates, Inc., Consulting Engineers, of Jackson, Michigan, sanitary sewage collection and disposal facilities for the Village, consisting of a sewage treatment facility, sewer interceptors and laterals, and such pumping stations, rights in land and other appurtenances and attachments as might be necessary in connection therewith. (Ord. 125. Passed 11-11-68.)

1044.03 COST; USEFUL LIFE; FINANCING.

The cost of the improvement provided for in Section 1044.02 has been estimated by the engineers to be one million, three hundred ten thousand dollars (\$1,310,000), including the payment of incidental expenses, which estimate of cost is hereby approved and confirmed, and the period of usefulness of said public improvement is estimated to be not less than forty years. The said public improvement will be financed in part by the revenue bonds issued pursuant to this chapter, and the balance of the cost will be provided from the proceeds of a grant from the Economic Development Administration of the Federal Government.

(Ord. 125. Passed 11-11-68.)

1044.04 DEFINITIONS.

(a) Whenever the words “the System” are used in this chapter, they shall be understood to mean the complete Water Supply and Sewage Disposal System of the Village of Shelby, including all wells, pumps, pump houses, water mains, storage facilities, treatment facilities, water intakes, sewers, lift stations and all other facilities used or useful for the supply and distribution of water for domestic, commercial, industrial, institutional or fire protection purposes and for the collection, treatment and disposal of domestic, commercial or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be acquired.

(b) Whenever the words “public improvement” are used in this chapter, they shall be understood to mean the improvement authorized to be acquired and constructed under the provisions of this chapter.

(c) Whenever the words “revenues” and “net revenues” are used in this chapter, they shall be understood to have the meanings as defined in Section 3 of Act 94 of the Public Acts of 1933, as amended. (Ord. 125. Passed 11-11-68.)

1044.05 MANAGEMENT OF SYSTEM.

The construction, alteration, repair and management of the System shall be under the supervision and control of the Village Council, which may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System and make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. (Ord. 125. Passed 11-11-68.)

1044.06 RATES; BILLING; ENFORCEMENT.

(a) Metered Rates. The System shall be fully metered, and there shall be no more than one user served through each meter. The rates to be charged for service furnished by the System shall be as provided from time to time by Council.

(b) Environmental Compliance Cost Index. In addition to the rates provided for in this section, each user unit (as defined herein) will pay an environmental compliance cost index (ECCI). The ECCI will be billed with each bill and it will be computed as determined herein.

For each fiscal year of the Village, the Village will compute the expenses paid by the utilities which are related to complying with the requirements of the National Drinking Water Act, the National Primary and Secondary Drinking Water Regulations, the National Clean Water Act, the Water Pollution Prevention and Control Act, and any related laws and/or regulations designed to keep the groundwater and the public drinking water and the environment safe. Examples of these expenses are sample procurement, sample transportation, laboratory testing fees, laboratory analysis reports, operating, maintenance, labor, training, and certification expenses required to comply with the Acts and regulations described above, technical and professional services, financial services, legal services, and related capital costs, including expenses for monitoring, refinement of existing treatment, purchase of additional equipment, construction of additional treatment facilities, and debt service. This list is intended to be exemplary and not exhaustive.

Having determined the expenses for a given fiscal year, these expenses will be paid pro rata by each user unit spread over the bills paid to each user unit for the next fiscal year.

For example, if the total cost of compliance in fiscal year one were six thousand, five hundred dollars (\$6,500) with 400 user units being billed in quarterly billing, the quarterly ECCI billed would be six thousand, five hundred dollars (\$6,500) divided by 400 divided by four equals four dollars and six cents (\$4.06) per quarter billed to each user unit in fiscal year two. If part of the items going into the ECCI are paid for by issuing bonds, the ECCI will reflect only the difference between sums expended on the project less revenues raised from bonding for that fiscal year. The payments made on the bond will be reflected in the ECCI for the life of the bond.

(c) Monthly Sewerage Service Rate for Residential and Commercial Users. The monthly sewerage service rate for residential and commercial users shall be fifty percent of the water bill.

(d) Connection Fees After Service Has Become Available. All applications for sewer or water service after such service is available shall be accompanied by a connection fee of one hundred dollars (\$100.00) for each service. Applications for either or both services made prior to the availability of such service shall be accompanied by an agreement to take such service applied for when available and a connection fee of fifty dollars (\$50.00) for water service and twenty-five dollars (\$25.00) for sewer service.

(e) Water Service Charge. A charge of ten dollars (\$10.00) shall be made for reestablishing a discontinued service.

(f) Billing. Water and sewerage service shall be billed quarterly. All accounts shall be paid in full within twenty days after the mailing date of the bills. If the account is not paid in full within the prescribed time, water service shall be discontinued immediately and shall not be restored until said account is paid in full, plus a ten dollar (\$10.00) service charge for restoring service.

(g) Special Rates. For miscellaneous services for which a special rate shall be established, such rates shall be fixed by the Village Council.

(h) Enforcement. The charges for water and sewer services which are, under the provisions of Section 21 of Act 94 of the Public Acts of 1993, as amended, made a lien on all premises served thereby, unless notice is given that a tenant is responsible, are hereby recognized to constitute such lien. Whenever any charge against any piece of property shall be delinquent for six months, the Village official or officials in charge of the collection thereof shall certify annually, on March 1 of each year, to the tax-assessing officer of the Village, the fact of such delinquency. Thereupon, such charge shall be entered by such officer upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general Village taxes against such premises are collected and the lien thereof enforced. However, where notice is given that a tenant is responsible for such charges and service, no further service shall be rendered to such premises until a cash deposit equal to not less than six months of charges shall have been made as security for payment of such charges and service.

(Ord. 125. Passed 11-11-68; Ord. 125A. Passed 8-14-72; Ord. 168. Passed 9-24-90.)

1044.07 NO FREE SERVICE.

No free service shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality.
(Ord. 125. Passed 11-11-68.)

1044.08 SUFFICIENCY OF RATES; REVISION; COVENANT TO MAINTAIN.

The rates fixed and to be fixed as provided in this chapter shall be estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the said System as are necessary to preserve the same in good repair and working order, to provide for the payment of the interest upon and the principal of all the bonds as and when the same become due and payable, and the creation of the reserve therefor required by this chapter, and to provide for such other expenditures and funds for said System as this chapter may require. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed at all times to fix and maintain such rates for services furnished by the System as shall be sufficient to provide for the foregoing. (Ord. 125. Passed 11-11-68.)

1044.09 FISCAL YEAR.

The System shall be operated on the basis of an operating year commencing on March 1 and ending on the last day of February next following.
(Ord. 125. Passed 11-11-68.)

1044.10 ACCOUNTS.

From and after August 1, 1969, all revenues of the System and all cash then on hand and not otherwise earmarked for specific use shall be set aside, as collected, and deposited in a separate depository account in the Shelby State Bank, a bank located in Shelby, Michigan, and duly qualified to do business in Michigan and insured with the Federal Deposit Insurance Corporation, in an account to be designated Water Supply and Sewage Disposal System Receiving Fund (hereinafter, for brevity, referred to as the "Receiving Fund"), and said revenues so deposited are pledged for the purpose of the following funds and shall be transferred from the Receiving Fund periodically in the manner and at the times hereinafter specified.

(a) Operation and Maintenance Fund. Out of the revenues in the Receiving Fund there shall be first set aside into a separate depository account, designated Operation and Maintenance Fund, a sum sufficient to provide for the payment of the next quarter's expenses of administration and operation of the System and such expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order, as well as any sums necessary to pay current bills.

The Village Council, prior to the commencement of each operating year, shall adopt a budget covering the foregoing expenses for each year, and such total expenses shall not exceed the total amount specified in said budget, except by a vote of two-thirds of the members of the Village Council.

(b) Bond and Interest Redemption Fund. There shall next be established and maintained a separate depository account, designated as the Bond and Interest Redemption Fund, the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of and interest upon the bonds hereby authorized. The moneys in the Bond and Interest Redemption Fund (including the Bond Reserve Account hereinafter established) shall be kept on deposit with the bank or trust company where the principal and interest on the bonds herein authorized are currently payable.

Out of the revenues remaining in the Receiving Fund, after provision has been made for expenses of operation and maintenance of the System, there shall next be set aside monthly in the Bond and Interest Redemption Fund an amount equal to not less than one-sixth of the total amount of interest which is not capitalized maturing on the next succeeding interest payment date and not less than one-twelfth of the amount of principal maturing on the next succeeding February 1. If there shall be any deficiency in the amount previously required to be set aside, then the amount of such deficiency shall be added to the current requirements.

There is hereby established in the Bond and Interest Redemption Fund a separate account to be known as the Bond Reserve Account, into which account there shall be set aside quarterly, after provision has been made for the Operation and Maintenance Fund and current requirements of the Bond and Interest Redemption Fund, three-quarters of all sums remaining in the Receiving Fund, until said Bond Reserve Account shall total eighty-two thousand dollars (\$82,000). The moneys in said Bond Reserve Account shall be used solely for the payment of the principal and interest on said bonds as to which there would otherwise be default. If at any time it shall be necessary to use moneys in the Bond Reserve Account for such payment, then the moneys so used shall be replaced from the net revenues first received thereafter which are not required by this chapter to be used for operation and maintenance or for current principal and interest requirements, provided, however, that such Bond Reserve Account shall not be regarded as moneys otherwise appropriated or pledged for the purpose of determining the sufficiency of funds available for redemption of callable bonds.

No further payments need be made into the Bond and Interest Redemption Fund after enough of the bonds have been retired so that the amount then held in said Fund (including the Bond Reserve Account) is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the bonds then remaining outstanding.

(c) Replacement Fund. There shall next be established and maintained a separate depository account, designated the Replacement Fund, which shall be used solely for the purpose of making major repairs and replacements to the System if needed or for the purpose of making improvements, extensions and enlargements to the System. There shall be set aside into said Fund quarterly, after provision has been made for the Operation and Maintenance Fund and the Bond and Interest Redemption Fund (including the Bond Reserve Account), all sums remaining in the Receiving Fund until said Replacement Fund shall total sixty-five thousand five hundred dollars (\$65,500). If at any time it shall be necessary to use moneys in said Fund for such purpose, the moneys so used shall be replaced from the net revenues in the Receiving Fund which are not required by this chapter to be used for the Operation and Maintenance Fund or the Bond and Interest Redemption Fund (including the Bond Reserve Account).

(d) Surplus Moneys. Moneys remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing funds, shall be transferred to the Bond and Interest Redemption Fund and used for the purpose of calling bonds for redemption, in the manner herein specified, or transferred to the Replacement Fund at the option of the Village Council, provided, however, that if there should be any deficit in the Operation and Maintenance Fund, the Bond and Interest Redemption Fund (including the Bond Reserve Account), or the Replacement Fund, on account of default in setting aside therein the amounts hereinbefore required, then transfers shall be made from the moneys remaining in the Receiving Fund at the end of any operating year to such funds in the priority and order named, to the extent of such deficits.

(Ord. 125. Passed 11-11-68.)

1044.11 TRANSFER OF FUNDS.

In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund or the Bond and Interest Redemption Fund, any moneys and/or securities in other funds of the System shall be transferred, first to the Operation and Maintenance Fund, and second to the Bond and Interest Redemption Fund, to the extent of any deficit therein.

(Ord. 125. Passed 11-11-68.)

1044.12 INVESTMENTS.

Moneys in any fund or account established by this chapter, including moneys derived from the proceeds of sale of the bonds, may be invested in obligations of the United States of America in the manner and subject to the provisions of any agreement between the Village and the original purchaser of the bonds and to the limitations provided in Act 94 of the Public Acts of 1933, as amended. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

(Ord. 125. Passed 11-11-68.)

1044.13 APPLICABLE LAW.

Said bonds shall be sold and the proceeds applied in accordance with Act 94 of the Public Acts of 1933, as amended.

(Ord. 125. Passed 11-11-68.)

1044.14 BOND PROCEEDS.

The proceeds of the sale of the bonds herein authorized to be issued shall be deposited in the Shelby State Bank, a bank located in Shelby, Michigan, and insured by the Federal Deposit Insurance Corporation. From the proceeds of sale of the bonds there shall be immediately transferred to the Bond and Interest Redemption Fund the accrued interest and premium, if any, received on sale and delivery of the bonds, as well as twenty-one thousand, seven hundred dollars (\$21,700) representing capitalized interest. The balance of such proceeds, together with the grant funds from the Economic Development Administration, shall be deposited into a separate account with the said Bank, to be designated "Construction Account," and applied solely in payment of the construction costs of the public improvement, as hereinbefore described, and any engineering, legal and other expenses incident thereto and to the financing thereof, and in accordance with any agreement with the original purchaser of the bonds. Payments for construction, either on account or otherwise, shall not be made unless the registered engineer in charge of such work shall file with the Village Council a signed statement to the effect that the work has been completed in accordance with the plans and specifications therefor, that it was done pursuant to and in accordance with the contract therefor, and that such work is entirely satisfactory.

Any unexpended balance of the proceeds of sale remaining after completion of the public improvement herein authorized shall be paid into the Bond and Interest Redemption Fund and shall be used for the redemption of callable bonds, or, prior to the first call date only, purchasing bonds on the open market at not more than the fair market value thereof and at a price in any event not exceeding the first call price.

(Ord. 125. Passed 11-11-68.)

1044.15 COVENANTS.

The Village of Shelby covenants and agrees with the successive holders of the bonds and coupons that so long as any of the bonds remain outstanding and unpaid as to either principal or

interest, the following shall apply:

(a) The Village of Shelby will maintain the System in good repair and working order, will operate the same efficiently and will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Michigan, including the making and collecting of sufficient rates for services rendered by the System and the segregation and application of the revenues of the System, in the manner provided in this chapter.

(b) The Village Council will cause to be maintained and kept proper books of record and account separate from all other records and accounts of the Village, in which shall be made full and correct entries of all transactions relating to the System. Not later than sixty days after the close of each operating year the Village Council will cause to be prepared, on forms furnished by the Municipal Finance Commission, if such forms are available, a statement, in reasonable detail, sworn to by its Chief Accounting Officer, showing the cash income and disbursements of the System during each operating year, the assets and liabilities of the System at the beginning and close of the fiscal year, and such other information as is necessary to enable any taxpayer of the Village, any user of the service furnished, or any holder or owner of the bonds or anyone acting in his or her interest, to be fully informed as to all matters pertaining to the financial operation of the System during each year. A certified copy of such statement shall be filed within seventy-five days after the close of each operating year with the Municipal Finance Commission and a copy shall be sent to the manager of the account purchasing the bonds, and to the Economic Development Administration if any of the bonds are purchased by the United States of America. Such statement and books of record and account shall at all reasonable times be open to inspection by any taxpayer of the Village, user of the service, or holder of any bonds or anyone acting in his or her behalf. The Village Council will also cause an annual audit of such books of record and account for the preceding operating year to be made each year by a recognized independent certified public accountant, and will mail a copy of such audit to the manager of the syndicate or account purchasing the bonds and to any bondholder who shall request the same in writing. Such audit shall be completed and made available not later than three months after the close of each operating year, and said audit may, at the option of the Village Council, be used in lieu of the statement on forms prepared by the Municipal Finance Commission for all purposes for which said forms are required to be used by this chapter.

(c) The Village will maintain and carry insurance as follows:

(1) Fire and extended coverage. Upon acceptance of the public improvement from the contractor, the Village shall, if such insurance is not already in force, procure fire and extended coverage insurance on the insurable portions of the System. The foregoing fire and extended coverage insurance shall be maintained so long as any of the bonds are outstanding and shall be in amounts sufficient to provide for not less than full recovery whenever a loss from perils insured against does not exceed eighty percent of the full insurable value of the damaged facility.

In the event of any damage to or destruction of any of said facility or facilities, the Village shall promptly arrange for the application of the insurance proceeds for the repair or reconstruction of the damaged or destroyed portion thereof.

(2) Liability insurance on facilities. Upon receipt of any funds acquired pursuant to the loan agreement entered into between the Village and the Economic Development Administration, the Village shall, if such insurance is not already in force, procure and maintain, so long as any of the bonds are outstanding, public liability insurance relating to the operation of the System, with limits of not less than one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,00) for more than one person involved in one accident, to protect the Village from claims for bodily injury and/or death, and not less than ten thousand dollars (\$10,000) for claims of damage to property of others, which may arise from the Village's operation of the System.

(3) Vehicle liability insurance. If the Village owns or operates a vehicle in the operation of the System, including any non-owned vehicles operated for the benefit of the Village, upon receipt of any funds acquired pursuant to the aforesaid loan agreement, the Village shall, if such insurance is not already in force, procure and maintain, so long as any of the bonds are outstanding, vehicular public liability insurance, with limits of not less than one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,000) for more than one person involved in one accident, to protect the Village from claims for bodily injury and/or death, and not less than ten thousand dollars (\$10,000) for claims of damage to property of others, which may arise from the Village's operation of vehicles.

(d) The Village will not sell, lease or dispose of the System, or any substantial part thereof, until all of the bonds have been paid in full, both as to principal and interest. The Village will cause the operation of the System to be carried on as economically as possible, will cause to be made to the System all repairs and replacements necessary to keep the same in good repair and working order, and will not do or suffer to be done any act which would affect the System in such a way as to impair or affect unfavorably the security on the bonds. The Village will not grant any franchise that will result in the operation of a competing system.

(e) The Village shall require that all of its officers or employees handling any revenues of the System shall, before receiving any revenues of the System, furnish a surety bond with a surety company authorized to do business in the State of Michigan, as surety on said bonds, and payable to the Village; such bond to be in the principal amount of all of the funds of the Village possible to be in the custody of such an officer or employee at any one time, but not to exceed fifty thousand dollars (\$50,000) or such greater amount as may be required by law. Such bond shall be conditioned upon the further discharge of such officer's or employee's duties, shall be acceptable to and approved by the Village Council, and shall be filed in the office of the Village Clerk. (Ord. 125. Passed 11-11-68.)

1044.16 ADDITIONAL BONDS.

The right is hereby reserved, in accordance with the provisions of Act 94 of the Public Acts of 1933, as amended, to issue additional bonds payable from the revenues of the System, which shall be of equal standing with the bonds herein authorized, but only for the following purposes:

(a) To complete the public improvement in accordance with the plans and specifications therefor. Such bonds shall not be authorized unless the consulting engineers, or the successor engineers in charge of construction, shall execute a certificate evidencing the fact that additional funds are needed to complete the public improvements in accordance with the plans and specifications therefor, and unless further, the United States of America, Economic Development Administration, if it then be the holder of any of the bonds herein authorized, shall give its consent to the issuance of additional bonds for said purpose. If such certificate shall be so executed and filed with the Village Clerk, and such consent, if applicable, shall have been obtained, it shall be the duty of the Village Council to provide for and issue additional revenue bonds in the amount stated in said certificate to be necessary to complete the public improvements in accordance with the plans and specifications.

(b) For subsequent extensions and improvements to the System, provided that no such additional bonds shall be issued unless the average annual net revenues for the last two preceding completed operating years of the System, or the net revenues for the last completed operating year, whichever is lower, when supplemented by the net revenues estimated to accrue from an increase in rates imposed at or prior to the time of authorization of the additional bonds and/or when supplemented by the net revenues estimated to accrue from the said extensions and improvements to be paid for in whole or in part from the proceeds of sale of said additional bonds, shall be equal to at least one and one-half times the largest annual principal and interest requirements thereafter maturing on the bonds herein authorized, on any then previously issued bonds of equal standing with the bonds herein authorized, and on such additional bonds then being issued. For the purpose of determining net revenues under the above requirements, if the Village shall raise the rates at or prior to the time of authorizing such additional bonds, then the net revenues of the System for each of the last two preceding operating years, or the net revenues of the last preceding operating year, as the case may be, shall be augmented to an amount reflecting the effect of such increase had the Village's water and sewer billings during such years been at the increased rates. In addition, the said net revenues for each of the last two preceding operating years shall be increased by an amount to reflect the increase in net revenues estimated to accrue from the said extensions and improvements. Prior to the issuance of any additional bonds pursuant to this paragraph, there shall be filed with the Village Clerk a statement showing the net revenues for each of the two preceding completed operating years, the net additional or augmented revenues reflecting the application of the increased rates and from the additions and extensions to be acquired and constructed, if any, and the annual principal and interest requirements on all outstanding bonds payable from revenues of the System and the bonds proposed to be issued. Said statement shall be executed by a registered engineer appointed by the Village. Permission of the Municipal Finance Commission (or such other State body having jurisdiction over the issuance of municipal bonds) to issue such additional bonds shall constitute a conclusive presumption of the existence of conditions permitting the issuance thereof.

Except as herein authorized, no additional bonds having equal standing with the bonds of this issue shall be authorized or issued.

(Ord. 125. Passed 11-11-68.)

1044.17 BOND FORM.

Said bonds and coupons shall be in substantially the following form:

UNITED STATES OF AMERICA

STATE OF MICHIGAN

COUNTY OF OCEANA

VILLAGE OF SHELBY

WATER AND SEWER SYSTEM IMPROVEMENT REVENUE BOND
SERIES OF 1969

No. _____ \$1,000.00

KNOW ALL MEN BY THESE PRESENTS that the VILLAGE OF SHELBY, County of Oceana, State of Michigan, for value received, hereby promises to pay to the bearer or, if registered, to the registered holder hereof, but only out of the net revenues of the Water Supply and Sewage Disposal System of the Village of Shelby, including all appurtenances, extensions and improvements thereto, the sum of

ONE THOUSAND DOLLARS

on the first day of February, A.D., 19____, with interest thereon from the date hereof until paid at the rate of _____ per cent (%) per annum, payable on August 1, 1969, and semi-annually thereafter on the first day of February and August of each year, upon presentation and surrender of the proper interest coupons hereto attached as they severally become due. Both principal of and interest on this bond are payable in lawful money of the United States of America at THE SHELBY STATE BANK, Shelby, Michigan, or, at the option of the holder, at BANKERS TRUST COMPANY, New York, New York, and for the prompt payment thereof the gross revenues of the Water Supply and Sewage Disposal System of the Village of Shelby, including all appurtenances, extensions and improvements thereto, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance, are hereby irrevocably pledged and a statutory first lien thereon is hereby created.

This bond is one of a series of two hundred sixty-two (262) bonds of even date and like tenor, except as to rate of interest and date of maturity, aggregating the principal sum of \$262,000.00, numbered consecutively in direct order of maturity from 1 to 262, inclusive, issued pursuant to Ordinance No. _____ adopted by the Village Council on _____, 1968, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of defraying part of the cost of acquiring and constructing sanitary sewage collection and disposal facilities for the Village.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of equal standing may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described ordinance.

Bonds maturing in the years 1981 to 1999, both inclusive, will be subject to redemption prior to maturity, at the option of the Village, in inverse numerical order, on any interest payment date after February 1, 1980. Bonds called for redemption shall be redeemed at par and accrued interest to the date fixed for redemption, plus a premium for each bond so redeemed as follows:

- 3% of par value if redeemed prior to sixteen (16) years after the date thereof;
- 2-1/2% of par if redeemed during or after the sixteenth (16th) year after the date thereof, but prior to twenty-one (21) years after the date thereof;
- 2% par value if redeemed during or after the twenty-first (21st) year after the date thereof, but prior to twenty-six (26) years after the date thereof;
- Without premium if redeemed during or after the twenty-sixth (26th) year from the date thereof.

Thirty (30) days notice of the call of any bonds for redemption shall be given by publication in a paper circulated in the State of Michigan which carries, as part of its regular service, notices of sale of municipal bonds, and in case of registered bonds, thirty (30) days notice shall be given by mail to the registered address. Bonds so called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the paying agent to redeem said bonds.

This bond is a self-liquidating bond and is not a general obligation of the Village of Shelby, and does not constitute an indebtedness of the Village of Shelby within any constitutional or statutory limitation, and is payable, both as to principal and interest, solely from the net revenues of said Water Supply and Sewage Disposal System of the Village. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned.

The Village of Shelby hereby covenants and agrees to fix and maintain at all times while any of such bonds shall be outstanding such rates for service furnished by the Water Supply and Sewage Disposal System as shall be sufficient to provide for payment of the interest upon and the principal of all such bonds as and when the same become due and payable, and to create a bond and interest redemption fund (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of said System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for said System as are required by said ordinance.

This bond and the interest thereon are exempt from any and all taxation whatsoever by the State of Michigan or by any taxing authority within said State.

This bond may be registered as to principal only on the books of the Village kept by the paying agent in the name of the holder, and such registration noted on the back hereof by the paying agent, after which no transfer shall be valid unless made on the books and noted on the back hereof in like manner, but transferability by delivery may be restored by registration to bearer. Such registration shall not affect the negotiability of the interest coupons.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of this bond, and the series of which this is one, have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the Village of Shelby, County of Oceana, State of Michigan, by its Village Council, has caused this bond to be signed in the name of said Village by its President and to be countersigned by its Village Clerk, and the corporate seal of the Village to be hereunto affixed, and the coupons hereto attached to be signed by the facsimile signatures of its President and Village Clerk, all as of the first day of February, A.D., 1969.

VILLAGE OF SHELBY

President

(SEAL)

Countersigned:

Village Clerk

(Form of Coupon)

No. _____ \$ _____

On the first day of _____, A.D., 19____, the VILLAGE OF SHELBY, County of Oceana, State of Michigan, will pay to the bearer hereof the sum shown hereon, in the manner and out of the revenues described in said bond, at THE SHELBY STATE BANK, Shelby, Michigan, or, at the option of the holder, at BANKERS TRUST COMPANY, New York, New York, being the interest due that date on its Water and Sewer System Improvement Revenue Bond, Series of 1969, dated February 1, 1969, No. _____.

This coupon is not a general obligation of the Village of Shelby, but is payable from certain revenues as set forth in the bond to which it pertains.

President

Village Clerk

REGISTRATION
NOTHING TO BE WRITTEN HEREON EXCEPT BY
PAYING AGENT

Date of Registration	:	Name of Registered Owner	:	Registrar
:	:	:	:	
:	:	:	:	
:	:	:	:	
:	:	:	:	

(Ord. 125. Passed 11-11-68.)

1044.18 MUNICIPAL FINANCE COMMISSION APPROVAL.

The Village Clerk is hereby authorized and directed to make application to the Municipal Finance Commission for authority to issue and sell said bonds and for approval of the form of notice of said bonds in accordance with the provisions of Act 94 of the Public Acts of 1933, as amended. (Ord. 125. Passed 11-11-68.)

CHAPTER 1046
Sewers Generally

1046.01 Definitions.

1046.02 Unlawful deposits, discharges and facilities; connection to public sewers; Superintendent.

1046.03 Private sewage disposal.

1046.04 Building sewers and connections.

- 1046.05 Use of public sewers.
- 1046.06 Damaging and tampering with facilities.
- 1046.07 Powers and authority of inspectors.
- 1046.99 Penalty.

CROSS REFERENCES

- Sewers and sewer systems generally - see Mich. Const., Art. 7, §24; M.C.L.A. §§46.171 et seq., 67.34, 123.241 et seq., 323.151 et seq., 325.201 et seq.
- Sewers generally - see CHTR. Ch. VII, §§24 et seq.
- Septic tanks - see GEN. OFF. 670.04, 1440.06
- Sewage disposal system - see S.U. & P.S. Ch. 1044

1046.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

- (1) "BOD" (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Centigrade, expressed in milligrams per liter.
- (2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.
- (3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(5) "Garbage" shall mean solid wastes resulting from the domestic and commercial preparation, cooking, and dispensing of food, and from handling, storage and sale of produce.

(6) "Industrial wastes" shall mean the liquid wastes resulting from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(7) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

(8) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

(9) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(10) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

(11) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

(12) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm and surface waters and groundwaters are not intentionally admitted.

(13) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground and surface waters and stormwaters as may be present.

(14) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(15) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(16) "Sewer" shall mean a pipe or conduit for carrying sewage.

(17) "Shall" is mandatory; "may" is permissive.

(18) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen minutes more than five times the average twenty-four hour concentration or flows during normal operation.

(19) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(20) "Superintendent" shall mean the Superintendent of Sewage Works and/or of Water Pollution Control of the Village of Shelby, or his or her authorized deputy, agent or representative.

(21) "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by laboratory filtering.

(22) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. 127. Passed 10-27-69.)

1046.02 UNLAWFUL DEPOSITS, DISCHARGES AND FACILITIES; CONNECTION TO PUBLIC SEWERS; SUPERINTENDENT.

(a) No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Village of Shelby, or in any area under the jurisdiction of said Village, any human or animal excrement, garbage, or other objectionable waste.

(b) No person shall discharge to any natural outlet within the Village of Shelby, or in any area under the jurisdiction of said Village, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the Village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Village, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter. Said connections shall be contracted for within ninety days after completion of the original construction of the sewerage system, and shall be operative within 180 days after such completion of construction of the original system, provided that said public sewer is within 100 feet of the property line.

(e) Connection shall be a pipe at least four inches in diameter for residential services, and shall be of adequate size at least of six inches in diameter to service any anticipated needs of commercial and industrial users. Commercial and industrial users shall consult the Superintendent and obtain his or her approval of their connections in advance of construction thereof.

(f) Materials used in pipe for connections shall be of approved grade of clay, cast iron or asbestos-cement. All joints of pipe so used shall be premium joints with flexible seals, and said flexible seals shall be integral to the pipe so used. All joints and fittings shall be watertight.

(g) All connections shall be made so that the installation so laid follows a straight line to the main or point of connection, with a one percent grade to the main. Any discrepancy in depth occasioned by this practice shall be cured by a fall of forty-five degrees made in the connection immediately adjacent to the main or point of connection thereto. Where possible, no connection shall be less than four feet in depth. No sand or foreign material shall be allowed to enter the system during connection construction.

(h) Any contractor installing connections for others shall obtain a permit from the Village Clerk and shall deposit with the Clerk a cash performance bond in the amount of one thousand dollars (\$1,000). Said bond shall be forfeited if it appears within six months of the contractor's installation of the connection that, due to faulty workmanship or materials, the connection is not properly sealed or does not properly drain or does not otherwise conform to the requirements herein. Said bond shall be refunded if said defects if any are not apparent within six months or after their cure and approval by the Superintendent. Any forfeiture shall be only to the extent necessary to repair said defects.

(i) The Village Council shall designate a Superintendent who shall examine each connection installation so made before it is covered, and shall indicate his or her approval upon the owner's permit and shall also indicate his or her approval in the records of the Village Clerk. If the Superintendent rejects an installation, he or she shall state his or her reasons for so doing to the contractor or to the owner as appropriate.

(j) The Village shall not be responsible for the construction or maintenance of hook-ups, connections or leads, and any defect or blockage therein shall be the responsibility of the owner. (Ord. 127. Passed 10-27-69.)

1046.03 PRIVATE SEWAGE DISPOSAL.

(a) Where a public sanitary or combined sewer is not available under the provisions of Section 1046.02(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the Village, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight hours of the receipt of notice by the Superintendent.

(d) The type, capacities, location, and layout of a private sewage disposal system shall comply with all State regulations and the provisions of the Sanitary Code of District Health Department No. 10, as amended. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 12,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

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

(f) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

(g) After the original construction of the public sewerage system, when a public sewer becomes available, the building sewer shall be connected to said sewer within ninety days.

(Ord. 127. Passed 10-27-69.)

1046.04 BUILDING SEWERS AND CONNECTIONS.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb, any public sewer or appurtenance thereof without first obtaining a written permit from the Clerk.

(b) There shall be two classes of building sewer permits: for residential and commercial service and for service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a special form furnished by the Village. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

(c) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

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

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

(f) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the Village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(h) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the Village, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(j) The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his or her representative.

(k) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village. (Ord. 127. Passed 10-27-69.)

1046.05 USE OF PUBLIC SEWERS.

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

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

(c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including, but not limited to, cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

(d) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb or public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, construction materials of the sewers, the nature of the sewage treatment process, the capacity of the sewage treatment plant, the degree of tractability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (sixty-five degrees Centigrade).

(2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two and 150 degrees Fahrenheit (zero and sixty-five degrees Centigrade).

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

(8) Any waters or wastes having a pH in excess of 9.5.

(9) Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

C. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(e) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (d) hereof, and which, in the judgment of the Superintendent, 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 Superintendent may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (j) hereof.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances, and laws.

(f) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(g) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(h) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(i) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the

public sewer to the point at which the building sewer is connected. 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 twenty-four hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four hour composites of all outfalls, whereas pH's are determined from periodic grab samples.

(j) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Village for treatment, subject to payment therefor, by the industrial concern.
(Ord. 127. Passed 10-27-69.)

1046.06 DAMAGING AND TAMPERING WITH FACILITIES.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under a charge of disorderly conduct.
(Ord. 127. Passed 10-27-69.)

1046.07 POWERS AND AUTHORITY OF INSPECTORS.

(a) The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The Superintendent or his or her representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties referred to in subsection (a) hereof, the Superintendent or duly authorized employees of the Village shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to the Village employees, and the Village shall indemnify the company against loss or damage to company property by Village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 1046.05(h).

(c) The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(Ord. 127. Passed 10-27-69.)

1046.99 PENALTY.

(a) Any person found to be violating any provision of this chapter, except Section 1046.06, shall be served by the Village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) hereof shall be subject to the penalty provided in Section 202.99 of the Administration Code.

(c) Any person violating any of the provisions of this chapter shall become liable to the Village for any expense, loss, or damage occasioned the Village by reason of such violation.

(d) Should conditions which constitute a continuing violation of this chapter be continued on any private property within the Village of Shelby, the Superintendent may go on that property to correct said violation. The Village may add to the taxes upon that property the cost of such correction, and the same shall be a tax lien of equal validity with other real estate taxes upon that property. However, the Superintendent shall not go on private property for any other purpose under this section except for the correction of such condition, and his or her entry shall be strictly limited to actions necessary for the correction of said condition.

(e) Any person found to be violating any provision of this chapter in such a manner as to create or tolerate the continuance of a condition which threatens damage to the System may be denied the use of the System or the use of portions of the System, such as water supply or liquid waste disposal, until the correction of the condition has been made to the satisfaction of the Superintendent.

CHAPTER 1048

Gas

EDITOR'S NOTE: The Village contracts for natural gas service. Copies of the latest relevant legislation and contract may be obtained, at cost, from the Village Clerk

There are no sections in Chapter 1048. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Oil and gas generally - see M.C.L.A. §§319.1 et seq.,
486.251 et seq.

CHAPTER 1050
Electricity

EDITOR'S NOTE: The Village contracts for electrical service. Copies of the latest relevant legislation and contract may be obtained, at cost, from the Village Clerk.

There are no sections in Chapter 1050. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Electricity generally - see Mich. Const. Art. 7, §§24, 25

Connection of trailer coaches to electric service - see B. & H.
1440.08

TITLE SIX - Other Public Services
Chap. 1060. Garbage and Rubbish Collection and Disposal.

CHAPTER 1060
Garbage and Rubbish Collection and Disposal

EDITOR'S NOTE: The Village contracts for garbage and rubbish collection and disposal. The individual users pay for the services of the contractor. Copies of the latest relevant legislation and contract may be obtained, at cost, from the Village Clerk.

There are no sections in Chapter 1060. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Garbage and refuse generally - see M.C.L.A. §§46.171 et seq.,
123.241 et seq., 123.361 et seq.

Municipal authority - see M.C.L.A. §§123.301 et seq.

Deposit of rubbish, etc., in streets and alleys - see TRAF. 420.03

Deposit of garbage and refuse generally - see GEN. OFF. 670.02

Storage of junk and metallic waste - see GEN. OFF. 670.03

CODIFIED ORDINANCES OF SHELBY
PART TWELVE - PLANNING AND ZONING CODE

TITLE TWO - Planning

Chap. 1220. Development and Planning Commission.

TITLE FOUR - Land Development

Chap. 1240. Subdivision Regulations.

TITLE SIX - Zoning

Chap. 1260. Zoning Ordinance.

CODIFIED ORDINANCES OF SHELBY

PART TWELVE - PLANNING AND ZONING CODE

TITLE TWO - Planning
Chap. 1220. Development and Planning Commission.

CHAPTER 1220
Development and Planning Commission

EDITOR'S NOTE: Provisions relating to the Development and Planning Commission are codified in Chapter 280 of the Administration Code.

TITLE FOUR - Land Development
Chap. 1240. Subdivision Regulations.

CHAPTER 1240
Subdivision Regulations

- 1240.01 General provisions.
- 1240.02 Definitions.
- 1240.03 Platting procedure and data required.
- 1240.04 Requirements for lots.
- 1240.05 Lot division.
- 1240.06 Separability.
- 1240.99 Penalty.

CROSS REFERENCES

- Approval of plats; street system - see M.C.L.A. §125.43
- Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L.A. §125.44
- Approval or disapproval of plats; procedure; effect - see M.C.L.A. §125.45
- Development and Planning Commission - see ADM. Ch. 280

1240.01 GENERAL PROVISIONS.

(a) Short Title. This chapter shall be known and may be cited as the "Shelby Subdivision Ordinance."

(b) Purpose. The purpose of this chapter is to regulate and control the subdivision of land within the Village of Shelby, in order to promote the safety and good government of the Village and the general welfare of its inhabitants. These regulations are specifically designed to provide for orderly growth and harmonious development of the community, consistent with orderly growth policies; achieve individual property lots of maximum utility and livability; and insure adequate provisions for water, drainage, sanitary facilities and other health requirements.

(c) Legal Basis. This chapter is enacted pursuant to the statutory authority granted by the Subdivision Control Act of 1967, Act 288, P.A. 1967, as amended, and the general Village law, Act 3, P.A. 1895, as amended, authorizing the Village Council to adopt such other ordinances and make such other regulations for the safety and good government of the Village and the general welfare of its inhabitants as are not inconsistent with the general laws of the State of Michigan.

(d) Scope. This chapter shall not apply to any lot or lots forming a part of a subdivision created or recorded prior to the effective date of this chapter, except for the further dividing of such lots; nor is it intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except as the same may be specifically repealed, or with private restrictions placed upon property by deed, covenant, or other private agreements, or with restrictive covenants or other private agreements, or with restrictive covenants running with the land to which the Village is a party. Where this chapter imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance of this Village, the provisions of this chapter shall control.

(e) Administration. The approval provisions of this chapter shall be administered by the Village Council.

(f) Schedule of Fees. The schedule of fees under this chapter shall be as follows:

For preliminary and final review of plat	\$25.00
For receiving application of lot division	10.00

(Ord. 136. Passed 1-29-73.)

1240.02 DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter, unless otherwise specifically stated. The word "shall" is always mandatory and not merely directory.

(a) ALLEY: A public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.

(b) DEDICATION: The intentional appropriation of land by the owner to public use.

(c) IMPROVEMENTS: Any structure incident to servicing or furnishing facilities for a subdivision.

(d) LOT: A measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

(e) LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

(f) LOT WIDTH: The horizontal distance between the side lot lines measured at the setback line and at right angles to the lot depth.

(g) OUTLOT: When included within the boundary of a recorded plat, a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

(h) PARCEL OR TRACT: A continuous area or acreage of land.
(Ord. 136. Passed 1-29-73.)

1240.03 PLATTING PROCEDURE AND DATA REQUIRED.

(a) Preliminary Plats. The proprietor shall submit four copies of the preliminary plat to the Clerk of the Village. The fee provided for in this chapter for review of plats shall be deposited with the Village Clerk at the time of filing.

(b) Actions. Promptly upon filing, the Clerk shall forward one copy of the preliminary plat to the Shelby Development and Planning Commission for its review and recommendation. The Shelby Development and Planning Commission shall review the preliminary plat and make its recommendation within thirty days. Failure to do so within thirty days shall be deemed to be an approval of the tentative plat. The Village Council shall consider the preliminary plat at its next meeting following receipt of the recommendation from the Shelby Development and Planning Commission or following the expiration of the thirty-day period, whichever shall occur first, and the Village Council shall, within sixty days from the date of filing, tentatively approve and note its approval on a copy of the preliminary plat to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval.

(c) Conditions and Duration of Approval. Approval of a preliminary plat shall not constitute approval of the final plat, but rather that final plat approval shall be conditioned upon all requirements being met. Tentative approval shall confer upon the proprietor, for a period of one year from date of approval, approval of lot sizes, lot orientation and street layout. Such tentative approval may be extended if applied for by the proprietor and granted by a resolution of the Village Council.

(d) Additional Data. At the time of the submission of the preliminary plat, the proprietor shall submit in writing the following additional information and data:

(1) A statement of intended use of the proposed plat, such as single family residential, two family or multiple family residential, commercial, industrial, mobile home, or agricultural.

(2) If all or any part of the platted area is not to be served by public sewer and public water systems, a site report as described in the rules of the State Department of Public Health.

(3) If the area is to be served by public water and sewer systems, an accurate drawing showing existing storm and sanitary sewers and water mains and proposed storm and sanitary sewers and water mains, together with a statement showing the proposed specifications for the construction of the same and the method for financing the construction of same.

(4) If the area is to be served by public streets or highways, an accurate drawing of existing streets and highways and proposed streets and highways, together with a statement showing the proposed specifications for the construction of the same and the method for financing the construction of same.

(5) Two copies of the proposed protective covenants and deed restrictions or a statement in writing that none is proposed.

(e) Final Plats. The proprietor shall submit all copies of the final plat to the Clerk of the Village, together with the filing fee as required by the Subdivision Control Act. At its next regular meeting, or a meeting called within twenty days of the date of submission, the Village Council shall:

(1) Approve the plat if it conforms to all of the provisions of this chapter and said Act and instruct the Clerk to certify on the plat as to the approval of the Village Council, showing the date of the approval and, when required, the date of the approval of the Health Department as shown on the approved preliminary plat;

(2) Reject the plat, instruct the Clerk to give the reasons in writing as set forth in the minutes of the meeting of the Village Council, and return the plat to the proprietor; or

(3) Instruct the Village Clerk to record all proceedings in the minutes of the meeting which shall be open for inspection.

(Ord. 136. Passed 1-29-73.)

1240.04 REQUIREMENTS FOR LOTS.

(a) Lot Size. The lot width, depth and area shall not be less than the particular district requirements of the Village Zoning Code.

If such ordinance shall not provide for lot width, depth and/or area, then no lot shall be less than sixty-six feet wide, less than 100 feet deep or less than 12,000 square feet in area.

(b) Lot Lines. Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.

(c) Width Related to Length. Narrow deep lots shall be avoided. The depth of a lot generally should not exceed two and one-half times the width as measured at the building line.

(d) Corner Lots. Corner lots shall have extra width to permit appropriate building setback from both streets or orientation to both streets.

(e) Uninhabitable Areas. Lands subject to flooding or otherwise deemed by the Village Council to be uninhabitable shall not be platted for residential purposes, or for uses that may in the judgment of the Village Council increase the danger to health, life or property or increase the flood hazard. Such land within a subdivision may be set aside for other uses, such as parks or other open space.

(Ord. 136. Passed 1-29-73.)

1240.05 LOT DIVISION.

The division of a lot in a recorded plat is hereby prohibited unless first approved by a resolution passed by a majority of the members of the Village Council meeting in any regular or special session thereof.

(a) The application for approval of a division of a lot within a recorded plat shall be in writing, shall set forth the reasons for the proposed division, shall accurately describe the proposed division, shall be signed by the owner or owners of the lot or lots involved and shall be filed with the Village Clerk along with the required filing fee.

(b) No lot in a recorded plat of the Village shall be divided into more than four parcels and the resulting divisions of said lots shall not be less in width or area than permitted by the provisions of this chapter or the Village Zoning Ordinance.

(c) In the event a lot shall be divided for the purpose of attachment to and use with an adjacent lot or parcel of land, the application for said division and the approval of such division shall so state and thereafter said part or portion of lot shall only be used with and deemed to be a part of the adjacent lot or parcel. The minimum width, depth and area requirements of this chapter and the Village Zoning Ordinance shall not in such case apply, provided that the resultant parcels are equal to or are larger than prior to the proposed lot division or meet the minimum width, depth and area requirements of this chapter and the Village Zoning Code.

(Ord. 136. Passed 1-29-73.)

1240.06 SEPARABILITY.

Should any section, clause or provisions of this chapter be declared by the courts to be invalid, the same shall not affect the validity of this chapter as a whole or any part hereof, other than the part so declared to be invalid.

(Ord. 136. Passed 1-29-73.)

1240.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor and shall be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty days, or both, for each offense. Each day such violation shall continue shall be considered a separate offense. Nothing herein contained shall prevent the Village Council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent a violation of this chapter.

(Ord. 136. Passed 1-29-73.)

TITLE SIX - Zoning
Chap. 1260. Zoning Ordinance.

CHAPTER 1260
Zoning Ordinance

1260.01 Adoption by reference.

1260.01 ADOPTION BY REFERENCE.

The Zoning Ordinance, adopted March of 2006, is enacted pursuant to the Township Zoning Act 184 of 1943 and the City and Village Zoning Act 201 of 1921, as amended. The Zoning Ordinance is hereby adopted and incorporated herein by reference as the Village zoning regulations.

CODIFIED ORDINANCES OF SHELBY

PART FOURTEEN - BUILDING AND HOUSING CODE

TITLE TWO - Building

Chap. 1420. State Construction Code.

Chap. 1422. Numbering of Buildings.

TITLE FOUR - Housing

Chap. 1442. Trailer Coaches.

CODIFIED ORDINANCES OF SHELBY

PART FOURTEEN - BUILDING AND HOUSING CODE

TITLE TWO - Building

Chap. 1420. State Construction Code.

Chap. 1422. Numbering of Buildings.

CHAPTER 1420

State Construction Code

- 1420.01 Adoption by reference.
- 1420.02 Purpose.
- 1420.03 File and distribution copies.

1420.04 Conflicts of laws.
1420.05 Enforcing agency.
1420.99 Penalty.

CROSS REFERENCES

Adoption of building code by reference - see CHTR. Ch. VI, §4

Demolition of buildings - see CHTR. Ch. X, §11

State Construction Code - see M.C.L.A. §§125.1501 et seq.

Dangerous buildings - see GEN. OFF. 670.07

Height of buildings - see P. & Z. 1286.04

Numbering of buildings - see B. & H. Ch. 1422

1420.01 ADOPTION BY REFERENCE.

Pursuant to Chapter VI, Section 4, of the Village Charter and Section 9 of the State Construction Code Act (Act 230 of the Public Acts of 1972, as amended) there is hereby adopted by and for the Village the State Construction Code, and each and all of the regulations, provisions, penalties, conditions and terms of the said State Construction Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, including any amendments made by the State Legislature to Act 230 of the Public Acts of 1972, as of the effective date of this section or any time thereafter.

1420.02 PURPOSE.

The purpose of the State Construction Code, as adopted in Section 1420.01, is to establish rules and regulations for the control of buildings and structures as therein provided.

1420.03 FILE AND DISTRIBUTION COPIES.

At least one copy of the State Construction Code, as adopted in Section 1420.01, is on file with the Village Clerk for inspection by the public. At least one copy of such Code is also on file in the County Law Library. In addition, the Village Clerk shall keep copies of such Code available for distribution to the public, at cost.

1420.04 CONFLICTS OF LAWS.

(a) In the event of a conflict between any of the provisions of the State Construction Code, as adopted in Section 1420.01, and a provision of any other State law, the stricter standard shall control.

(b) In the event of a conflict between any of the provisions of the State Construction Code, as adopted in Section 1420.01, and a provision of a local ordinance, resolution, rule or regulation, the State Construction Code shall control.

(c) In the event of a conflict between any of the provisions of the State Construction Code, as adopted in Section 1420.01, and a provision of any other technical code adopted by the Village by reference, the stricter standard shall control.

1420.05 ENFORCING AGENCY.

The County Building Department is hereby authorized and directed to administer and enforce the State Construction Code within the corporate limits of the Village, and the County Building Official is hereby designated as the enforcing agency to discharge the responsibilities of the Village under Act 230 of the Public Acts of 1972, as amended.

1420.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

The application of the penalty provided in Section 202.99 shall not be deemed to prevent the enforced removal of prohibited conditions or the application of any other applicable remedy.

CHAPTER 1422

Numbering of Buildings

- 1422.01 Purpose and intent.
- 1422.02 Definitions.
- 1442.03 Administration of chapter by House-Numbering Director; zoning permits.
- 1420.04 Duty to obtain and display numbers.

1422.05 Master Address Map.
1422.06 Violations; notice; failure to comply; remedy of Village; costs.
1422.99 Penalty.

CROSS REFERENCES

Subdivision Control Law - see M.C.L.A. §§560.101 et seq.

Unsafe or vacant buildings - see GEN. OFF. 670.07

Compliance of buildings with zoning district standards - see P. & Z.
1262.03

1422.01 PURPOSE AND INTENT.

The Village Council of the Village of Shelby, Michigan, finds that the health, safety and welfare of Village residents, property owners and taxpayers would be enhanced by the establishment of this chapter, which will enable law enforcement, fire, medical and other emergency response agencies and services, utility companies, postal and delivery services, governmental agencies and others to more rapidly identify and locate properties within the Village of Shelby.

(Ord. 170. Passed 11-22-93.)

1422.02 DEFINITIONS.

For the purposes of this chapter, words shall be accorded their common meanings and usages, except for certain words and terms which are defined as follows:

(a) Agent. A property owner's authorized agent is an attorney, trustee, realtor, broker, purchaser, tenant or receiver.

(b) Diagonal Road. A road whose course does not run in either an approximate north-south or east-west direction.

(c) Display. The manner in which the house number is affixed to the primary structure so that it is readily identifiable pursuant to this chapter.

(d) House Number. The number assigned to primary structures at consecutive intervals along a street, road or thoroughfare pursuant to the House-Number Assignment Formula contained herein.

(e) House-Number Assignment Formula. Beginning from the point of origin, two house numbers (one even and one odd) shall be assigned for each interval. The house numbers assigned shall increase consecutively by equal distance from the point of origin.

(f) Interval (or Frontage Unit). A distance along a roadway of 6.6 feet, except as may be determined by the House-Numbering Director along diagonal roads, curvilinear streets, circle streets, loop streets or horseshoe-shaped streets or for buildings in group housing projects, Business and Industrial Districts and pre-numbered subdivision plats of record. Intervals of greater or lesser length than 6.6 feet may be determined by dividing the actual length of the road within the section by 800.

(g) Point of Origin. The intersection of an east-west base line and a north-south base line from where all intervals begin. The north-south base line is the center line of Michigan Avenue extended northerly and southerly to the respective limits of the Village of Shelby, and the east-west base line is the east-west quarter line of Section 17, Town 14 North, Range 18 West (the center line of First Street, extended easterly to the east limits to the Village of Shelby).

(h) Primary Structure or Structures. Includes, but is not limited to, residential buildings, mobile home parks, commercial buildings, industrial buildings, office buildings, public buildings, garages, wells (other than agricultural), sub stations, transformers, utility facilities, lighted billboards and lighted outdoor displays/storage facilities affixed firmly to a lot or parcel.

(i) Private Access or Easement. Any road, street or thoroughfare located on private property with no public right-of-way with more than one primary structure.

(j) Village Grid System or Grid System. A general east and west and north and south division of the Village of Shelby into four parts to facilitate an assignment of identifying house numbers, with the provision of allowing 800 house numbers per mile for each mile of distance from the base lines. (Ord. 170. Passed 11-22-93.)

1422.03 ADMINISTRATION OF CHAPTER BY HOUSE-NUMBERING DIRECTOR; ZONING PERMITS.

(a) The Village Manager of the Village of Shelby shall be the House-Numbering Director and shall administer the rules and guidelines for the operation of this chapter and the assignment and placing of house numbers for all intervals along roadways emanating from the point of origin, including diagonal roads, pursuant to this chapter.

(b) Zoning permits will not be issued until the primary structure or the prospective primary structure has been issued a house number in accordance with this chapter.

(c) The House-Numbering Director shall, upon application by the property owner or his or her authorized agent, assign a house number and approve the display, provided that said display is consistent with the provisions for display as contained herein.

(Ord. 170. Passed 11-22-73.)

1422.04 DUTY TO OBTAIN AND DISPLAY NUMBERS.

(a) The owners of all property in the Village of Shelby shall obtain and display a house number in accordance with this chapter

(b) The Village Manager is hereby empowered to promulgate rules for house-number display. Said rules shall be effective upon the approval of the Village Council.

(Ord. 170. Passed 11-22-73.)

1422.05 MASTER ADDRESS MAP.

The House-Numbering Director shall cause to be created and maintained an accurate Master Address Map of all streets and roads within the Village of Shelby and shall make house- numbers available for each interval along the roadway. Said Map shall be the official repository of said house-number assignments.

(Ord. 170. Passed 11-22-73.)

1422.06 VIOLATIONS; NOTICE; FAILURE TO COMPLY; REMEDY OF VILLAGE; COSTS.

When the House-Numbering Director learns of a violation of this chapter, he or she shall personally serve, or send by certified mail, a notice, in writing, to the owner of the property which is the site of the alleged violation, requesting compliance with the provisions of this chapter. If the owner does not comply within fifteen days from the date the notice is mailed, the House-Numbering Director may direct that appropriate actions be taken by a law enforcement

officer or other public safety official to remedy the violation by posting the house number in accordance with this chapter or seek the institution of legal proceedings to enforce this chapter. The cost of any remedial action shall become joint and severable obligations of the property owners and occupants and may be placed as a lien upon the primary structure, collectible in the same manner as ad valorem property taxes. (Ord. 170. Passed 11-22-93.)

1422.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

TITLE FOUR - Housing
Chap. 1440. Trailer Coaches.

CHAPTER 1440
Trailer Coaches

- 1440.01 Definitions.
- 1440.02 Permit for use as residences.
- 1440.03 Permit applications.
- 1440.04 Permitted locations.
- 1440.05 Registration fee; effective period of permit.

- 1440.06 Connection to septic tank disposal system.
- 1440.07 Connection to public water supply.
- 1440.08 Connection to electric service.
- 1440.99 Penalty.

CROSS REFERENCES

Location outside licensed parks - see M.C.L.A. §§125.741 et seq.

Uniform Mobile Homes Warranty Act - see M.C.L.A. §§125.991
et seq.

Mobile Home Park Act - see M.C.L.A. §§125.1001 et seq.

Mobile Home Commission Act - see M.C.L.A. §§125.1101 et seq.

T-1 Mobile Home District - see P. & Z. Ch. 1280

1440.01 DEFINITIONS.

As used in this chapter:

(a) "Self-contained trailer coach" means a trailer coach equipped with a toilet and lavatory within the trailer coach or within a permanent structure attached to the trailer coach which is accessible from the trailer coach without the need of outside exposure.

(b) "Septic tank" means a watertight enclosure used for storage and decomposition of human excrement and domestic wastes.

(c) "Trailer coach" or "trailer" means any vehicle, with or without motor power, designed for carrying property or persons and so constructed as to permit occupancy as a dwelling or sleeping place by one or more persons.

(Ord. 119. Passed 5-28-62.)

1440.02 PERMIT FOR USE AS RESIDENCE.

No person shall use or permit the use of any trailer coach as a residence on any site, lot, field or tract of land not specifically licensed as a trailer coach park for more than three days, except by written permit as provided for in this chapter and except under such regulations as are herein set forth. (Ord. 119. Passed 5-28-62.)

1440.03 PERMIT APPLICATIONS.

All applications for a permit shall be made to the Village Clerk and shall contain:

(a) The name of the owner of the trailer coach and the names of all occupants, including the ages of all children.

(b) The location of the proposed parking site as to street or road and house number, or by legal property description where no house number is available.

(c) The make and length of the trailer coach and its vehicle license number, if any.

(d) The date of application.

(e) The signature of the property owner, accepting his or her responsibilities under the permit.

(f) The signature of the health officer that waste disposal facilities and sanitation of the premises are in compliance with all applicable statutes and local regulations.

(g) The signature of the applicant.

(Ord. 119. Passed 5-28-62.)

1440.04 PERMITTED LOCATIONS.

No trailer coach shall be placed in the Village of Shelby except upon the following described land therein:

(a) Blocks 110, 111, 115, 116, 117 and 118 of the Standard Map or Plat of the Village of Shelby; and

(b) That part of the Northeast Quarter of the Northwest Quarter, Section 20, Township 14 North, Range 18 West, Village of Shelby, Oceana County, Michigan, located west of the U.S. 31 Highway right of way.

(Ord. 123. Passed 11-27-67.)

1440.05 REGISTRATION FEE; EFFECTIVE PERIOD OF PERMIT.

(a) A registration fee of five dollars (\$5.00) shall accompany the application to the Village Clerk. Upon approval of the application and receipt of the registration fee, the Clerk shall issue a permit for occupancy of the trailer coach. The permit shall expire and be subject to renewal twelve months from the date issued. (Ord. 119. Passed 5-28-62.)

(b) Upon the first and each subsequent renewal of the permit for occupancy, the registration fee shall not be required if the trailer coach shall be assessed as part of the real property upon which it is located on the tax day next preceding the date of renewal.

(c) The permit for occupancy of a trailer coach shall immediately expire upon the removal of the trailer coach from the location of the proposed parking site as stated in the application for a permit. (Ord. 120. Passed 8-13-62.)

1440.06 CONNECTION TO SEPTIC TANK DISPOSAL SYSTEM.

Each occupied trailer shall be a self-contained trailer coach and shall be connected through a water-tight connection from the trailer water drainage outlet or outlets to a septic tank disposal system of such size and design as to properly care for all wastes produced. Septic tanks shall have adequate capacity to receive the normal twenty-four hour flow of sewage, but in no case shall be less than 500 gallons. No wastewater from trailer coaches shall be deposited on the surface of the ground. All septic tanks and disposal fields shall be located at least seventy-five feet from the casing or any part of a section pipe of a groundwater supply. Disposal field tile or a seepage pit or pits must have capacity sufficient to receive the normal flow of septic tank tank effluent. (Ord. 119. Passed 5-28-62.)

1440.07 CONNECTION TO PUBLIC WATER SUPPLY.

Every occupied trailer coach shall be connected to a Municipal water supply if it is available and accessible, and the same shall be metered through an individual meter for each occupied trailer coach. If a connection to the Municipal supply is not available and accessible, a water supply shall be obtained from a properly constructed drilled or driven well. Water under pressure shall at all times be connected to every occupied trailer coach. The use of hand pumps is hereby prohibited. (Ord. 119. Passed 5-28-62.)

1440.08 CONNECTION TO ELECTRIC SERVICE.

Every occupied trailer coach requiring electrical energy shall be connected to a separate electrical service entrance, properly grounded, at the trailer site. No occupied trailer coach shall be connected to electrical service through extension cords connected to electrical service at another building or trailer. (Ord. 115. Passed 5-28-62.)

1440.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CODIFIED ORDINANCES OF SHELBY, MICHIGAN

PART SIXTEEN - FIRE PREVENTION CODE

EDITOR'S NOTE: At the time of the preparation of these Codified Ordinances, the Village did not have a Fire Prevention Code. If and when the same is enacted, it will be codified herein under appropriate title and/or section headings.