

Chapter 1 - GENERAL PROVISIONS

ARTICLE I. - IN GENERAL

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

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

State Law reference— Authority to codify ordinances, MCL 66.3a, MSA 5.1273(1).

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

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

Chief of police. The "chief of police" shall be the village marshal and shall be appointed and have the duties and responsibilities of a village marshal in accordance with Public Act No. 3 of 1895 (MCL 61.1 et seq., MSA 5.1201 et seq.).

Code. The term "this Code" or "Code" means the Code of Ordinances, Village of Mayville, Michigan, as designated in section 1-1.

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

Council. The term "council" means the president and councilmembers of the village.

County. The term "the county" or "this county" means the County of Tuscola, State of Michigan.

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

MCL, MSA. The abbreviation "MCL" means the Michigan Compiled Laws, as amended. The abbreviation "MSA" means the Michigan Statutes Annotated, as amended.

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

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

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

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

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

Public place. The term "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.

Shall, may. The term "shall" is to be considered mandatory and not discretionary, except as otherwise provided. The term "may" is permissive.

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

State. The term "the state" or "this state" means the State of Michigan.

Street, highway, alley. The terms "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, or every way or place, of whatever nature, whenever any part thereof is open to the use of the traveling public. The term "alley" means any such way or place providing a secondary means of ingress and egress to and from a property.

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

Village. The term "village" means the Village of Mayville, Michigan.

Village council. The term "village council" or "council" means the village council of the Village of Mayville.

(b)

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

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

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

Sec. 1-4. - References and editor's notes.

Cross references, state law references and editor's notes in this Code are explanatory only and should not be deemed a part of the text of any section.

Sec. 1-5. - History notes.

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

Sec. 1-6. - Prior offenses, rights and penalties not affected by adoption of Code.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the village in effect on the date of adoption of this Code.

Sec. 1-7. - Amendments to Code.

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

The new section shall then be set out in full as desired.

- (c) If a section is to be repealed, the following language shall be used: "That the Code of Ordinances, Village of Mayville, Michigan (or Mayville Village Code), is hereby amended by deleting a section, numbered _____."

Sec. 1-8. - Supplementation of Code.

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

Sec. 1-9. - Severability.

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

Sec. 1-10. - Service of notices.

Unless otherwise provided in this Code, notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which is performed by the village and may be assessed against the premises under this Code, shall be served by:

- (1) Delivering the notice to the owner personally or leaving the notice at his residence, his office or place of business with some person of suitable age and discretion;
- (2) Mailing the notice by certified or registered mail to the owner at his last known address; or
- (3) If the owner is unknown, posting the notice in some conspicuous place on the premises at least five days before the act or action for which the notice is given. No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any village officer, unless permission is given by the officer to remove the notice.

Sec. 1-11. - General penalty for violation of Code; continuing violations; other remedies.

- (a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code or any rule or regulation adopted or issued in pursuance of this Code shall be punished by a fine of not more than \$500.00 and costs of prosecution. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this Code, whether or not such penalty is reenacted in the amendatory ordinance.
- (b) In addition to the penalty prescribed in subsection (a) of this section, the village may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(Motion of 2-18-2014)

State Law reference— Limitation on penalties, MCL 66.2.

Sec. 1-12. - Aiding or abetting violation.

Whenever any act or omission to act is made a violation of this Code, or of any rule or regulation adopted under this Code, any person who causes, secures, aids or abets such violation may be prosecuted, and any conviction thereof shall be punished as if he had directly committed such violation.

Sec. 1-13. - Provisions saved from repeal.

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

- (1) Affecting the boundaries of the village;
- (2) Vacating, abandoning or accepting any street, alley or easement;
- (3) Relating to any specific local improvement;
- (4) Authorizing, directing or ratifying any purchase or sale;
- (5) Approving or accepting any subdivision or plat, or subdivision ordinance;
- (6) Authorizing or directing the issuance of any bonds or other evidence of indebtedness, excepting those portions of any bond ordinance included in this Code;
- (7) Authorizing or directing the making of any investment;
- (8) Making or otherwise affecting any appropriations;
- (9) Levying or otherwise affecting any taxes, not inconsistent with this Code;
- (10) Relating to franchises;
- (11) Pertaining to zoning or rezoning; or
- (12) Regulating or restricting traffic to parking on particular streets or in particular locations in the village.

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

Sec. 1-14. - Altering Code.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the village to be misrepresented thereby.

ARTICLE II. - MUNICIPAL CIVIL INFRACTIONS

Sec. 1-15. - Definitions.

For the purpose of this ordinance, the following words, terms and phrases, shall have the meanings ascribed to them in this section:

Act. Public Act 236 of 1961, as amended.

Authorized Official. Any public officer, agent or personnel authorized by ordinance to issue municipal civil infractions and any police officer having jurisdiction within the Village.

Bureau. The Village of Mayville Municipal Ordinance Violations Bureau as established by this Ordinance.

Municipal civil infraction. An act or omission that is prohibited by any ordinance, but which is not a crime, and for which civil sanctions, including without limitations, fines, damages, expenses, and costs, may be ordered, as authorized by Chapter 87 of Public Act 236 of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of this ordinance that is a criminal offense.

Municipal civil infraction action. A civil infraction in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation. A written complaint or notice prepared by an authorized official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice. A written notice prepared by an authorized official, directing a person to appear at the Village of Mayville Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the Village, as authorized under Sections 8396 and 8707(6) of the Act.

Sec. 1-16. - General penalties and sanctions for violations of ordinances; continuing violations; injunctive relief.

- (a) Unless a violation of an ordinance is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.
- (b) The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by the Code or any ordinance.
- (c) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the Code or any ordinance, plus any cost, damages, expenses, and other sanctions, as authorized under Chapter 87 of Public Act 236 of 1961, as amended, and other applicable laws.

(1)

Unless otherwise specifically provide for, the civil fine for a particular municipal civil infraction violation shall be not less than one hundred (\$100.00) dollars, plus costs and other sanctions, for each infraction. Costs shall include all expenses, direct and indirect, to which the Village has been put in connection with the municipal civil infraction.

- (2) Increased civil fines may be imposed for repeated violations by a person of any ordinance provision. As used in this Section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation (based on the date of the commission of the offense) of the same requirement or provision (i) committed by a person within any 3-year period (unless some other period is specifically provided by ordinance) and (ii) for which the person admits responsibility or is provided by ordinance for a particular municipal civil infraction violation, the increased fines for a repeat offense shall be as follows:
 - (A) The fine for any offense which is a first repeat offense shall be no less than two hundred fifty (\$250.00) dollars, plus costs.
 - (B) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than five hundred (\$500.00) dollars, plus costs.
 - (C) A "violation" includes any act which is prohibited by any ordinance or any omission or failure to act where the act is required by any ordinance.
 - (D) Each act of violation and each day on which any violation of any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
 - (E) In addition to any remedies available at law, the Village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.
 - (F) The penalties and sanctions provided by this section, unless another penalty or sanction as expressly provided, shall apply to the amendment of any section of this Code whether or not such penalty or sanction is enacted in the amendatory ordinance.

Sec. 1-17. - Action; commencement.

A municipal civil infraction action may be commenced upon the issuance by an authorized official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the village municipal ordinance violations bureau to pay fines and costs.

Sec. 1-18. - Citations; issuance and service.

Municipal civil infraction citations shall be issued and served by authorized officials as follows:

- (a) The time for appearance specified in the citation shall be within a reasonable time after the citation is issued.
- (b) The place for appearance specified in a citation shall be the 71-B District Court.
- (c) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the 71-B District Court. Copies of the citation shall be retained by the authorized official and issued to the alleged violator as provided by Section 8705 of the Act.
- (d) A citation for a municipal civil infraction signed by an authorized official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief".
- (e) An authorized official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (f) An authorized official may issue a citation to a person if:
 - (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - (2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or village attorney approves in writing the issuance of the citation.
- (g) Citations shall be served by an authorized official as follows:
 - (1) Except as provided by Section 1-18 (g) (2), an authorized official shall personally serve a copy of the citation upon the alleged violator.
 - (2) If the municipal civil infraction involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building, or structure by posting the copy of the citation or attaching a copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.

Sec. 1-19. - Contents.

- (a) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (b) Further, the citation shall inform the alleged violator that he or she may do one of the following:
 - (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - (2) Admit responsibility for the municipal civil infraction "with explanation" or by mail by the time specified for appearance or, in person, or by representation.
 - (3) Deny responsibility for the municipal civil infraction by doing either of the following:
 - (A) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the village.
 - (B) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) The citation shall also inform the alleged violator of all of the following:
 - (1) That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 - (2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 - (3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the authorized official.
 - (4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 - (5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- (d) The citation shall contain a notice in boldface type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing of appearance is a misdemeanor and will result in entry of a Default Judgment against the alleged violator on the municipal civil infraction.

Sec. 1-20. - Municipal Ordinance Violations Bureau; creation; scope; municipal civil infraction violation notices; procedures; accounting.

- (a) The Village hereby establishes a municipal ordinance violations bureau ("bureau") as authorized under section 8396 of the Act to accept admissions of responsibility for municipal civil infraction in response to municipal civil infraction violation notices issued and served by authorized officials, and to collect and retain civil fines and costs as prescribed by this ordinance. The bureau shall be located at the village clerk's office and shall be under the supervision and control of the village clerk.
- (b) The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- (c) Municipal civil infraction violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as provided for citations in sections 1-18(f) and (g) of this Ordinance. In addition to any other information required by this ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
- (d) An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.
- (e) If an authorized official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fines and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.
- (f)

The Chief of Police shall retain all municipal ordinance violation notices and shall account to the Village Council as directed concerning the number of admissions and denials of responsibility for municipal civil infractions and the amount of fines collected. The amounts collected in civil fines shall be placed in the general fund of the Village.

- (g) Nothing in this ordinance shall prevent or restrict the Village from issuing a municipal civil infraction citation for any violation, from prosecuting any violation in a court of competent jurisdiction or from taking other enforcement action as authorized by law.

Sec. 1-21. - Severability.

The various parts, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

(Ord. No. 132, 6-21-2005)

Chapter 2 - ADMINISTRATION

ARTICLE I. - IN GENERAL

Secs. 2-1—2-30. - Reserved.

ARTICLE II. - VILLAGE COUNCIL

DIVISION 1. - GENERALLY

Sec. 2-31. - Trustees.

- (a) *Number of trustees on council.* As authorized by Section (2), Chapter II of 1895 PA 3, as amended, the number of trustees on the village council shall be reduced from six trustees to four trustees who, with the president, shall constitute the council.
- (b) *Term of office.* After the effective date of adoption of the ordinance [from which this section is derived], four village trustees shall be elected each succeeding biennial village election. This section shall not shorten the term of any incumbent trustee. Nor shall this section 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 [from which this section is derived].

(Ord. No. 173, §§ 1, 2, 1-17-2017)

Secs. 2-32—2-50. - Reserved.

DIVISION 2. - COMPENSATION

Sec. 2-51. - Amount.

The president and each trustee of the village shall be paid an annual salary in the sum as shall be established from time to time by ordinance, for each meeting, general or special, of the village council actually attended by him during his term of office.

(Comp. Ords. 1987, § 12.051)

State Law reference— Village officers, compensation, MCL 64.21, MSA 5.1263.

Sec. 2-52. - Payment.

The salary due the president and each trustee for the preceding year shall be payable on November 1 in each year from the general fund of the village.

(Ord. No. 145, 11-21-2006; Ord. No. 145(2), 12-15-2015)

Secs. 2-53—2-80. - Reserved.

ARTICLE III. - BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. - GENERALLY

Secs. 2-81—2-100. - Reserved.

DIVISION 2. - PLANNING COMMISSION

Sec. 2-101. - Definitions.

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

Streets includes streets, avenues, boulevards, roads, lanes, alleys, viaducts and other ways.

(Comp. Ords. 1987, § 12.001)

Cross reference— Definitions generally, § 1-2.

Sec. 2-102. - Commission established; membership; compensation of members.

There is hereby created a village planning commission which shall consist of five members. The members shall represent, as far as is possible, different professions or occupations, and shall be appointed by the president subject to approval by a majority vote of the members-elect of the council. All members of the commission shall be compensated in an amount that shall be established by resolution of the village council. Members of the commission shall hold no other municipal office, except that one of the members may be a member of the zoning board of appeals. The term of each member shall be three years. All members shall hold office until their successors are appointed, and terms shall expire on March 31. Members may, after a public hearing, be removed by the council for inefficiency, neglect of duty or malfeasance in office. A member of the council, to be selected by the council, shall serve as an ex officio member of the commission. Vacancies occurring otherwise than through expiration of term shall be filled for the unexpired term by the council.

(Ord. No. 142, 6-20-2006; Ord. No. 142(2), 2-21-2017)

State Law reference— Municipal planning commission, MCL 125.32 et seq., MSA 5.2992 et seq.

Sec. 2-103. - Chair; meetings and rules of procedure; records.

The planning commission shall elect its chair from amongst the appointed members and create and fill such other of its offices as it may determine. The term of chair shall be one year, with eligibility for reelection. The commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(Comp. Ords. 1987, § 12.003)

State Law reference— Similar provisions, MCL 125.34, MSA 5.2994.

Sec. 2-104. - Employees; contracts for special services; expenditures.

The planning commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the village. The commission may also contract with city planners, engineers, architects and other consultants for such services as it may require. The expenditures of the

commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the village council, which shall provide the funds, equipment and accommodations necessary for the commission's work.

(Comp. Ords. 1987, § 12.004)

State Law reference— Similar provisions, MCL 125.35, MSA 5.2995.

Sec. 2-105. - Preparation and contents of master plan.

It shall be the function and duty of the planning commission to make and adopt a master plan for the physical development of the village, including any areas outside its boundaries which, in the commission's judgment, bear relation to the planning of the village. Such plan, with the accompanying maps, plats, charts and descriptive matter, shall show the commission's recommendations for the development of such territory, including, among other things, the general location, character and extent of streets, viaducts, subways, bridges, waterways, floodplains, waterfronts, boulevards, parkways, playgrounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of such ways, grounds, open spaces, buildings, property, utilities or terminals; the general location, character, layout and extent of community centers and neighborhood units; and the general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas; as well as a zoning plan for the control of the height, area, bulk, location and use of buildings and premises. As the work of making the whole master plan progresses, the commission may from time to time adopt and publish parts thereof, any such part to cover one or more major sections or divisions of the village or one or more of the matters mentioned in this section or other functional matters to be included in the plan. The commission may from time to time amend, extend or add to the plan.

(Comp. Ords. 1987, § 12.005)

State Law reference— Similar provisions, MCL 125.36, MSA 5.2996.

Sec. 2-106. - Surveys and studies.

In the preparation of the master plan, the planning commission shall make careful and comprehensive surveys and studies of the present conditions and future growth of the village, with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the village and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; including,

among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provisions for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

(Comp. Ords. 1987, § 12.006)

State Law reference— Similar provisions, MCL 125.37, MSA 5.2997.

Sec. 2-107. - Adoption of master plan.

The planning commission may adopt the master plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, such parts corresponding with major geographical sections or divisions of the village or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension or addition, the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given not less than 15 days prior to such hearing by one publication in a newspaper of general circulation in the village, and by registered United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the geographical sections or divisions of the village affected. The adoption of the plan or any part or amendment or extension or addition shall be by resolution of the commission carried by the affirmative votes of not less than six members of the commission. The resolution shall refer expressly to the maps and descriptive matter by the identifying signature of the chair and/or secretary of the commission. An attested copy of the plan or part thereof shall be certified to the council and to the county register of deeds.

(Comp. Ords. 1987, § 12.007)

State Law reference— Similar provisions, MCL 125.38, MSA 5.2998.

Sec. 2-108. - Approval of public works; public improvement programs.

- (a) Whenever the planning commission shall have adopted the master plan of the village or of one or more major functions or districts thereof, no street, square, park or other public way, ground or open space, or public building or structure shall be constructed or authorized in the village or in such planned section and district until the location, character and extent thereof shall have been submitted to and approved by the commission. In case of disapproval, the commission shall communicate its reasons to the council, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership. If the public way, ground, space, building, structure or utility is one the authorization or financing of which does not, under the law governing such public way, ground, space, building, structure or utility, fall within the province of the village council, then the submission to the planning commission shall be by the

board, commission or body having such jurisdiction, and the planning commission's disapproval may be overruled by such board, commission or body by a vote of not less than two-thirds of its membership. The failure of the commission to act within 60 days from and after the date of official submission to the commission shall be deemed approval.

- (b) For the purpose of furthering the desirable future development of the village under the master plan, the planning commission, after the commission shall have adopted a master plan, shall prepare coordinated and comprehensive programs of public structures and improvements. The commission shall annually prepare such a program for the ensuing six years, which programs shall show those public structures and improvements, in the general order of their priority, which in the commission's judgment will be needed or desirable and can be undertaken within the six-year period. The comprehensive coordinated programs shall be based upon the requirements of the community for all types of public improvements and, to that end, each agency or department of the village concerned with such improvements shall, upon request, furnish the commission with lists, plans and estimates of time and cost of public structures and improvements within the purview of such department.

(Comp. Ords. 1987, § 12.008)

State Law reference— Similar provisions, MCL 125.39, MSA 5.2999.

Sec. 2-109. - Referral to commission and hearing required prior to rescission of action by council.

Whenever the council shall have ordered the opening, widening or extension of any street, avenue or boulevard, or whenever the council shall have ordered that proceedings be instituted for the acquisition or enlargement of any park, playground, playfield or other public open space, such resolution shall not be rescinded until after the matter has been referred back to the planning commission for a report and until after a public hearing shall have been held. The council shall have power to overrule the recommendation of the village planning commission by a vote of not less than two-thirds of its entire membership.

(Comp. Ords. 1987, § 12.009)

State Law reference— Similar provisions, MCL 125.40, MSA 5.3000.

Sec. 2-110. - Additional powers and duties; cooperation by public officials.

The planning commission shall have the power to promote public interest in and understanding of the master plan, and to that end may publish and distribute copies of the plan or any report and may employ such other means of publicity and education as it may determine. Members of the commission, when duly authorized by the commission, may attend city planning conferences or meetings of the city planning institutes, or hearings upon pending city planning legislation, and the commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The commission shall,

from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens with relation to the protecting or carrying out the plan. The commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall, upon request, furnish to the commission, within a reasonable length of time, such available information as it may require for its work. The commission and its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and markers thereon. In general, the commission shall have such power as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this division.

(Comp. Ords. 1987, § 12.010)

State Law reference— Similar provisions, MCL 125.41, MSA 5.3001.

Sec. 2-111. - Plat approval required.

Whenever the planning commission shall have adopted that sort of master plan relating to the major street system of the territory within its subdivision jurisdiction or part thereof, and shall have filed a certified copy of such plan in the office of the county register of deeds, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by the planning commission and such approval entered in writing on the plat by the chair or secretary of the commission.

(Comp. Ords. 1987, § 12.011)

State Law reference— Similar provisions, MCL 125.43, MSA 5.3003.

Sec. 2-112. - Adoption of subdivision regulations.

- (a) Before exercising the powers referred to in section 2-111, the planning commission shall adopt regulations governing the subdivision of land within its jurisdiction. Such regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots.
- (b) Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utilities facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the commission may provide for a tentative approval of the plat previous to such installation, but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of such improvements and utilities prior to final approval of the plat, the commission

may accept a bond with surety to secure to the village the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission. The village is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies.

- (c) All such regulations shall be published as provided by law for the publication of ordinances, and, before adoption, a public hearing shall be held thereon. A copy thereof shall be certified by the commission to the register of deeds of the county.

(Comp. Ords. 1987, § 12.012)

State Law reference— Similar provisions, MCL 125.44.

Sec. 2-113. - Plat approval procedure; effect of plat approval.

The planning commission shall approve, modify or disapprove a plat within 60 days after the submission thereof to it; otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand; provided, however, that the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent, and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to such address by registered mail of the time and place of such hearing not less than five days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names appear upon the plats in the county treasurer's office and their addresses appear in the directory of the village or on the tax records of the village or county. Every plat approved by the commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat. The planning commission may, from time to time, recommend to the council amendments of the zoning ordinance or map or additions thereto to conform to the commission's recommendations for the zoning regulation of the territory comprised within approved subdivisions. The commission shall have the power to agree with the applicant upon use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the then-effective zoning ordinance of the village. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable by the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance or map of the village.

(Comp. Ords. 1987, § 12.013)

State Law reference— Similar provisions, MCL 125.45.

Secs. 2-114—2-120. - Reserved.

DIVISION 3. - MAYVILLE AREA PLANNING COMMISSION

Sec. 2-121. - Purpose.

The VILLAGE and TOWNSHIP find it in their long-term interest to cooperate on planning and zoning issues, and a means of achieving this goal is to jointly plan for land use and to jointly exercise certain zoning powers. As a result, both entities desire to enter into an agreement to establish a joint planning commission pursuant to Public Act 226 of 2003, which shall be referred to as the "Mayville Area Planning Commission". The jurisdictional area of the Mayville Area Planning Commission shall be corporate limits of the Village of Mayville, Tuscola County, Michigan, and the corporate limits of Fremont Township, Tuscola County, Michigan.

Sec. 2-122. - Formation of Mayville Area Planning Commission.

The Village of Mayville approves the establishment of a joint planning commission pursuant to Public Act 226 of 2003, as amended, and shall enter into and adhere to the Agreement Establishing the Mayville Area Planning Commission between the Village of Mayville and Fremont Township regarding the formation, composition, and operation of the Mayville Area Planning Commission.

Sec. 2-123. - Severability.

If any clause, sentence, paragraph, or part of this ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

Sec. 2-124. - Repeal.

All ordinances or parts of ordinances of the Village of Mayville inconsistent herewith are hereby repealed so far as they may be inconsistent with the provisions of this Ordinance.

Secs. 2-125—2-140. - Reserved.

ARTICLE IV. - VILLAGE MANAGER

Sec. 2-141. - Establishment of office.

In accordance with the authority for the appointment of such village officers as the council shall deem necessary for the execution of the powers granted to the village contained in section 2 of chapter II and section 8 of chapter V of 1895 PA 3, as amended, which is the charter of the Village, there is hereby established the office of the Village Manager.

Sec. 2-142. - Appointment of village manager.

The president shall, with the concurrence of four or more trustees, appoint a village manager for an indefinite term and the council may, by contract, enter into such other terms and conditions as the manager and council deem appropriate. The manager shall serve at the pleasure of the council and may be removed by the affirmative vote of four or more trustees, but only after a hearing before the council. The president may, for cause, suspend the manager with full pay, until the hearing. The action of the council in removing the manager shall be final.

The manager shall be selected solely on the basis of administrative and executive abilities, with special reference to training and experience.

The manager need not be a resident of the village at the time of appointment, but shall become a resident within 180 days from the date of the appointment with extensions permitted upon the approval of the council. The manager shall reside in the village thereafter during the term of office.

Sec. 2-143. - Acting village manager.

- (a) During a vacancy in the office of village manager, or in the event of termination of the term of an interim village manager under subsection (b) of this section, the president of the village shall exercise supervision over the affairs of the village and over the public property belonging to the village.
- (b) If the village determines that an interim manager should be appointed, the president, with the concurrence of four or more trustees, may appoint or designate an acting manager during a vacancy in the office of village manager and shall make a permanent appointment within 180 days from the effective date of the vacancy. A village manager, appointment in accordance with section 2-142 of this article shall be deemed to be the acting manager from the date of the appointment until the appointee becomes a resident, if residency is deemed to be a qualification for the appointment.

(Ord. No. 169, § 1, 12-17-2013)

Sec. 2-144. - Compensation.

The village manager shall receive such compensation as the council shall determine annually by resolution or contract.

Sec. 2-145. - Duties.

The village manager shall be chief administrative officer of 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.

The manager shall have the following functions and duties:

- (1) Attend all meetings of the village council and committees thereof and take part therein but without a vote;
- (2) Be responsible for personnel management and shall issue, subject to council approval, personnel rules applicable to all village employees. The manager shall have all the following responsibilities:
 - (A) To appoint, suspend or remove all appointed administrative officers and department heads, subject to council approval. The manager shall recommend to the council the salary or wages to be paid each such official.
 - (B) To appoint, suspend or remove all other employees of the village. All such actions shall be based on merit and taken pursuant to personnel rules approved by the council. The manager shall fix the salaries or wages of all such employees.
- (3) Exercise supervisory control over all departments including the police department, the department of public works and the fire department; and the chief of police, street commissioner and chief of the fire department shall be subject to the direction of the manager.
- (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 therein but without a vote.
- (6) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended.
- (7) Be the purchasing agent of the village.
- (8) Prepare and maintain an administrative code 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.

Sec. 2-146. - Purchasing responsibilities.

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

The village manager shall have the authority to purchase any product or service the cost of which does not exceed \$300.00 provided that funds have been appropriated. The cost of the product or service shall not exceed the unencumbered balance of the appropriation for that account. Except as hereinafter provided, the village manager shall not purchase any product or service the cost of which exceeds the above dollar amount without prior approval of the village council. The village manager may promulgate rules governing the purchase of products or services.

The village manager 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. No. 163, 3-16-2010)

Sec. 2-147. - Dealing with employees.

Neither the council nor the village president shall attempt to influence the employment of any person by the village manager or in any way interfere in the management of departments under the jurisdiction of the manager. Except for the purpose of inquiry, the president and council and its members shall deal with departments under the jurisdiction of the village manager through the manager.

Sec. 2-148. - Severability.

If any portion of this article or the application thereof to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or application, provided that such remaining portions or applications are not determined by said court to be inoperable, and to this end, this

article is declared to be severable.

Sec. 2-149. - Effective date.

This ordinance shall become effective 45 days after the date of adoption. If a petition, signed by not less than 10 percent of the registered electors of the village, is filed with the village clerk within the 45 day period, this ordinance shall not become effective until after the ordinance is approved at an election held on the question as approved by law.

Secs. 2-150—2-160. - Reserved.

ARTICLE V. - SALE OF VILLAGE REAL PROPERTY

Sec. 2-161. - Purpose.

The purpose of this article is to establish the procedure for the public sale of surplus real property by the Village of Mayville. The General Law Village Act of the State of Michigan, Public Act No. 3 of 1895, as amended (MCL Section 67.4) provides for the public sale of real property by a general law village.

(Ord. No. 151, § 1, 12-16-2008)

Sec. 2-162. - Sale of surplus real estate property.

Whenever the village council decides any village property is no longer needed for public purposes, the same may be offered for sale. All sales shall be in accordance with applicable state law and the provisions of this article.

(Ord. No. 151, § 2, 12-16-2008)

Sec. 2-163. - Real estate appraisal.

The village shall not sell any real property, or any interest therein, unless the village council first receives an appraisal report concerning the fair market value of the real estate interest which is proposed to be transferred. The appraisal report shall be prepared by a qualified, independent real estate appraiser in accordance with instructions provided by the village.

(Ord. No. 151, § 3, 12-16-2008)

Sec. 2-164. - Procedure for sale of surplus real estate.

The surplus real property shall be sold to the highest bidder after providing notice inviting competitive sealed bids. Sealed bids shall be requested by the village manager or, in the absence of the village manager, by the village clerk, under the following procedure:

- (1) An invitation to submit a bid, describing the requirements of the village, shall first be prepared by the village manager or, in the absence of the manager, by the village clerk, and submitted for approval to the village council.
- (2) The invitation for bids shall be publicized by advertising at least twice, in two newspapers of general circulation in the village, not less than two weeks prior to the last day set for the receipt of competitive sealed bids. In addition, the manager or clerk, as the case may be, may place the invitation for bids in any appropriate trade journals, professional publications or other appropriate publication, in order to encourage as much bidding competition as possible.
- (3) The newspaper notice required herein shall include a general description of the real property which is to be sold, together with a statement of the procedures for submitting a sealed bid.
- (4) Bids which are submitted in response to the invitation for bids shall be submitted in a sealed envelope. The envelope shall be identified as a bid on the outside of the envelope and shall be accompanied by the good faith deposit, if one is required, by the invitation to bid.
- (5) Bids shall be opened publicly at the time, place and date designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and the tabulation of all bids received shall be available for inspection at the village office.
- (6) An invitation for bids may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as specified in the invitation for bids, when such rejection or cancellation is determined by the village to be in the best interests of the village.
- (7) The village shall not knowingly accept the bid of a person or legal entity which is in default in the payment of any taxes, licenses, fees, permits or any other monies due to the village, or who is in any other respect disqualified according to any federal or state law or any municipal ordinance provision. A contract with a person who is discovered to have been in default or disqualified at the time of awarding of a bid shall be voidable at the option of the village.

(Ord. No. 151, § 4, 12-16-2008)

Secs. 2-165—2-170. - Reserved.

ARTICLE VI. - VILLAGE CLERK

Sec. 2-171. - Establishment of office.

As authorized by section 1(3) chapter II of the 1895 PA 3, as amended, the village clerk shall be chosen by nomination by the village president and appointment by a majority vote of the village council.

(Ord. No. 165, § 1, 12-30-2010)

Sec. 2-172. - Term of office.

The term of office of the village clerk shall be two years beginning the second Monday of March of each even-numbered year and until a successor is appointed. The person first appointed as village clerk under this article shall have an initial term of office commencing as of October 1, 2011, and upon such person taking and subscribing to the oath of office and filing the same with the village clerk, together with the filing of any bond required by law.

(Ord. No. 165, § 2, 12-30-2010)

Secs. 2-173—2-180. - Reserved.

ARTICLE VII. - VILLAGE TREASURER

Sec. 2-181. - Establishment of office.

As authorized by section 1(3) chapter II of the 1895 PA 3, as amended, the village treasurer shall be chosen by nomination by the village president and appointment by a majority vote of the village council.

(Ord. No. 166, § 1, 12-30-2010)

Sec. 2-182. - Term of office.

The term of office of the village treasurer shall be two years beginning the second Monday of March of each even-numbered year and until a successor is appointed. The person first appointed as village treasurer under this article shall have an initial term of office commencing as of October 1, 2011, and upon such person taking and subscribing to the oath of office and filing the same with the village clerk, together with the filing of any bond required by law.

(Ord. No. 166, § 2, 12-30-2010)

Chapter 6 - ALCOHOLIC LIQUORS

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

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

Alcoholic liquor includes any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether or not medicated, proprietary or patented, and by whatever name called, containing one-half of one percent or more of alcohol by volume, which are fit for use for beverage purposes.

(Comp. Ords. 1987, §§ 20.001, 20.041)

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar definition, MCL 436.1105, MSA 18.1175(105).

Secs. 6-2—6-30. - Reserved.

ARTICLE II. - UNDERAGE PERSONS

DIVISION 1. - GENERALLY

Sec. 6-31. - Definitions.

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

Diligent inquiry means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification which establishes the identity and age of the person.

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar definition, MCL 436.1701, MSA 18.1175(701).

Sec. 6-32. - Penalty.

A violation of any provision of this division shall be punished in accordance with section 1-11.

(Comp. Ords. 1987, § 20.006)

Sec. 6-33. - Selling or furnishing to underage person.

No alcoholic liquor shall be sold or furnished in the village to any person unless that person shall have attained the age of 21 years. A person shall not be charged with violation of this section unless the person or person's agent or employee knew or should have reasonably known with the exercise of due diligence that the person furnished alcoholic liquor to a person less than 21 years of age.

(Comp. Ords. 1987, § 20.002)

Cross reference— Offenses involving underage persons, § 42-201 et seq.

State Law reference— Selling or furnishing alcoholic liquor to person less than 21 years of age, MCL 436.1701, MSA 18.1175.

Sec. 6-34. - Transport or possession in motor vehicle.

A person less than 21 years of age shall not knowingly transport or possess in a motor vehicle, in the village, alcoholic liquor unless the person is employed by a licensee under the Michigan liquor control code, Public Act No. 58 of 1998 (MCL 436.1101 et seq., MSA 18.1175(101) et seq.), or an agent of the state liquor control commission, and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment.

(Comp. Ords. 1987, § 20.003)

Cross reference— Traffic and vehicles, ch. 66.

State Law reference— Transport or possession of alcoholic liquor by person less than 21 years of age, MCL 257.6246, MSA 9.2324(2).

Sec. 6-35. - Using fraudulent identification.

No person less than 21 years of age shall use fraudulent identification to purchase alcoholic liquor.

(Comp. Ords. 1987, § 20.004)

Sec. 6-36. - Furnishing fraudulent identification.

No person shall furnish fraudulent identification to a person less than 21 years of age to be used to purchase alcoholic liquor.

(Comp. Ords. 1987, § 20.005)

State Law reference— Similar provisions, MCL 436.1703, MSA 18.1175(703).

Secs. 6-37—6-50. - Reserved.

DIVISION 2. - CONSUMPTION AND POSSESSION

Sec. 6-51. - Persons under 21; basis for arrest; participation in undercover programs.

- (a) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section. A person less than 21 years of age who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions:
- (1) For the first violation a fine of not more than \$100.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, Public Act No. 368 of 1978 (MCL 333.6107, MSA 14.15(6107)), and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (c) of this section.
 - (2) For a violation of this subsection following a prior violation of this subsection (a), section 703 of Public Act No. 58 of 1998 (MCL 436.1703, MSA 18.1175(703)) or section 33b(1) of former Public Act No. 8 of 1933 (MCL 436.33b, MSA 18.1004(2)), a fine of not more than \$200.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, Public Act No. 368 of 1978 (MCL 333.6107, MSA 14.15(6107)), and designated by the administrator of substance abuse services, to perform community service, and undergo substance abuse screening and assessment at his or her own expense as described in subsection (c) of this section.
 - (3) For a violation of this subsection (a) following two or more prior violations of this subsection, section 703 of Public Act No. 58 of 1998 (MCL 436.1703, MSA 18.1175(703)) or section 33b(1) of former Public Act No. 8 of 1933 (MCL 436.33b, MSA 18.1004(2)), a fine of not more than \$500.00 and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, Public Act No. 368 of 1978 (MCL 333.6107, MSA 14.15(6107)), and designated by the administrator of substance abuse services, to perform community service, and undergo substance abuse screening and assessment at his or her own expense as described in subsection (c) of this section.
- (b) A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (a) of this section, a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than

\$100.00, or both.

- (c) The court may order the person convicted of violating subsection (a) of this section to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the public health code, Public Act No. 368 of 1978 (MCL 333.6103, MSA 14.15(6103)), in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.
- (d) The secretary of state shall suspend the operator's or chauffer's license of an individual convicted of violating subsection (a) or (b) of this section as provided in section 319 of the state vehicle code, Public Act No. 300 of 1949 (MCL 257.319, MSA 9.2019).
- (e) A peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the person less than 21 years of age has consumed or possessed alcoholic liquor. A person less than 21 years of age who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.
- (f) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated pursuant to Public Act No. 293 of 1968 (MCL 722.1 et seq., MSA 25.244(1) et seq.) allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (a) of this section shall notify the parent or parents, custodian, or guardian, of the person as to the nature of the violation if the name of a parent, guardian or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (a) of this section is less than 18 years of age and not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq., MSA 25.244(1) et seq.). The notice may be made by any means reasonably calculated to give prompt actual notice including, but limited to, notice in person, by telephone, or by first class mail. If an individual less than 17 years of age is incarcerated for violating subsection (a) of this section, his or her parents or legal guardian shall be notified immediately as provided in this subsection.
- (g) This section does not prohibit a person less than 21 years of age from possessing alcoholic liquor during regular working hours and in course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

- (h) This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent or employee for a violation of this chapter.
- (i) The consumption of alcoholic liquor by a person less than 21 years of age who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.
- (j) The consumption by a person less than 21 years of age of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this chapter.
- (k) Subsection (a) of this section does not apply to a person less than 21 years of age who participates in either or both of the following:
 - (1) An undercover operation in which the person less than 21 years of age purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.
 - (2) An undercover operation in which the person less than 21 years of age purchases or receives alcoholic liquor under the direction of the state police, the state liquor control commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the person less than 21 years of age was not under the direction of the state police, the state liquor control commission, or the local police agency and was not part of the undercover operation.
- (l) The state police, the state liquor control commission, or a local police agency shall not recruit or attempt to recruit a person less than 21 years of age for participation in an undercover operation at the scene of a violation of subsection (a) of this section.
- (m) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Probate court disposition means an order of disposition of the probate court or the family division of the circuit court for a child found to be within the provisions of chapter XIIA of Public Act No. 288 of 1939 (MCL 712A.1 et seq., MSA 27.3178(598.1)).

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.

State Law reference— Similar provisions, MCL 436.1703, MSA 18.1175(703).

Sec. 6-52. - Authority of police officers; issuance of appearance ticket.

The chief of police or a member of the village police department who witnesses a person violating this division may stop and detain the person for purposes of obtaining satisfactory identification, seizing illegally possessed alcoholic beverages and issuing an appearance ticket.

(Comp. Ords. 1987, § 20.047)

State Law reference— Authority of law enforcement officer witnessing violation to stop and detain person and issue an appearance ticket, MCL 436.1705, MSA 18.1175(705).

Sec. 6-53. - Form of appearance ticket.

As used in this division, the term "appearance ticket" means a complaint or written notice, issued and subscribed by a law enforcement officer, directing a designated person to appear in a designated district court at a designated time in connection with the alleged violation. The appearance ticket shall consist of the following parts:

- (1) The original, which shall be a complaint or notice to appear by the officer and filed with the court.
- (2) The first copy, which shall be the abstract of the court record.
- (3) The second copy, which shall be delivered to the alleged violator.
- (4) The third copy, which shall be retained by the law enforcement agency.

(Comp. Ords. 1987, § 20.048)

State Law reference— Similar provisions, MCL 764.9f, MSA 28.868(6).

Sec. 6-54. - Response to appearance ticket.

A judge may accept an admission of the allegations of an appearance ticket by the defendant, and the judge shall direct the sanction imposed by this division. If the defendant denies the allegations of the appearance ticket, the judge shall set a date for trial. If a person fails to appear on the date specified on the appearance ticket, the judge shall then issue a bench warrant.

(Comp. Ords. 1987, § 20.049)

Sec. 6-55. - Division not applicable to possession in motor vehicle.

This division shall not apply to situations involving a person less than 21 years of age knowingly transporting or possessing alcoholic liquor in a motor vehicle.

(Comp. Ords. 1987, § 20.043)

Chapter 10 - AMUSEMENTS AND ENTERTAINMENTS

ARTICLE I. - IN GENERAL

Secs. 10-1—10-30. - Reserved.

ARTICLE II. - CARNIVALS, CIRCUSES AND PUBLIC EXHIBITIONS

DIVISION 1. - GENERALLY

Sec. 10-31. - Penalty.

Anyone found guilty of violating any of the provisions of this article shall, upon conviction thereof, be punished as provided in section 1-11.

(Comp. Ords. 1987, § 20.226)

Sec. 10-32. - Exceptions.

- (a) This article shall not extend to or govern any show, theater or exhibition of a permanent nature, or any temporary show or exhibition of a local origin. This article shall not extend to any exhibitions by the pupils of any private or public school or to any concert or musical entertainment or to athletic games.
- (b) In cases where carnivals, shows or kindred exhibitions are sponsored by any soldiers' or veterans' organization, the usual license fee may be waived by a majority vote of the village council; provided, however, that any such sponsor shall be required to save the village from harm or expense of cleaning up the grounds or incidental work related thereto and the village council shall require the sponsor to post a performance bond in the amount of not less than \$10,000.00.

(Comp. Ords. 1987, § 20.224)

Secs. 10-33—10-50. - Reserved.

DIVISION 2. - LICENSE

Sec. 10-51. - Required.

No person shall conduct, exhibit or maintain any carnival, circus, show, exhibition, amusement, game or contest of a public nature to or for which admission is charged or received without having first obtained a license from the village to do so.

(Comp. Ords. 1987, § 20.221)

Sec. 10-52. - Investigation.

No license shall be issued under this division until after due investigation has been made of the applicant and such investigation has determined the applicant to be a fit person for such license. All investigations shall be made by the chief of police and a report made by him to the village council.

(Comp. Ords. 1987, § 20.222)

Sec. 10-53. - Insurance.

The applicant for a license under this division shall file with the village a public liability and property damage insurance policy naming the applicant and the village as the assured and providing for the payment of any liability imposed by law upon the applicant or the village to the extent of not less than \$3,000,000.00 for death of one or more persons and for damage to property in the amount of not less than \$1,000,000.00.

Sec. 10-54. - Duties of licensee; bond; issuance.

- (a) It shall be the duty of the applicant receiving a license under this division to maintain order in and about the grounds occupied by the licensee. It shall be the duty of the licensee to meet requirements of the village regarding sanitation and health. It shall be the duty and obligation of the licensee, after the final performance, to clean the grounds and premises of any kind of and all debris which has accumulated during the life of the license granted, and he shall take such means of obliteration of any latrines as may have been used as may be required by the village.
- (b) The licensee shall post with the village a cash bond in the amount of \$10,000.00 to ensure that all conditions of this section are met and to save the village from any expense in cleaning up the grounds. All licenses shall be issued by the village.

(Comp. Ords. 1987, § 20.225)

Sec. 10-55. - Fee.

The fee as established from time to time shall be paid before the license is delivered to the applicant under this division, except as otherwise set forth in section 10-32.

(Comp. Ords. 1987, § 20.223)

Chapter 14 - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 14-1. - Purpose.

It is hereby found and declared by the Village of Mayville that owning and/or keeping an animal or fowl is a privilege which carries with it responsibilities to the Village and its residents with regard to the care and custody of said animal.

Sec. 14-2. - Applicability of State Law.

It is not intended that this article shall supersede the provisions of Public Act No. 339 of 1919 (MCL 287.261 et seq., MSA 12.511 et seq.), but this article shall be construed to be supplementary thereto.

Sec. 14-3. - Definitions.

For the purpose of this ordinance, the following words, terms and phrases, shall have the meanings ascribed to them in this section:

Animal Any dog, cat, bird, fowl, reptile, mammal, fish or any other animal, domestic or domesticated.

Animal Control Officer Any Village of Mayville Police Officer or other law enforcement officers designated by the Village Manager or Chief of Police.

At Large An animal off the premises of the owner and not under reasonable control.

Impounded Any animal, pursuant to this chapter or any state statute, that has been received into the custody of any animal shelter.

Owner Every person having a right of property in an animal, and every person who keeps or harbors an animal or has it in his/her care, and every person who permits an animal to remain on or about any premises occupied by him/her.

Person Any natural person, firm, association, partnership, limited liability corporation or corporation.

Sec. 14-4. - Penalty.

Every person who shall violate any of the provisions of this chapter shall be responsible for a municipal civil infraction, which shall be processed in accordance with sections 1-15 through 1-21 of this Code and the penalties for which are prescribed therein. Each day this ordinance is violated shall be considered as a separate violation.

In addition to the foregoing fines, the Court may assess as costs, the damages and expenses incurred by the Village in enforcement of this ordinance against the violator, including the costs of prosecution. The assessment and collection of these fines and costs shall be in accordance with MCLA 600.8701 et seq.

In addition to any remedies available at law, the Village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.

Sec. 14-5. - Severability.

The various parts, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Sec. 14-6. - Conflict.

Any ordinances in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Secs. 14-7—14-30. - Reserved.

ARTICLE II. - ANIMALS

DIVISION 1. - GENERALLY

Sec. 14-31. - Keeping domestic animals or fowl; keeping rabbits.

- (a) No person shall keep or house any horse, cow, calf, mule, duck, goose, turkey, guinea hen, chicken, ostrich, emu, goat, llama, alpaca, sheep, pig or other livestock within the village limits.
- (b) Rabbits may be kept or housed within the village limits; provided, however, such animals shall not be kept within 50 feet of any residence other than that of the owner, and shall be kept and housed in accordance with section 14-32.
- (c) Animals or fowl brought into the village for slaughter may be housed or kept in any district where it is permissible for a period of not more than 24 hours.

Sec. 14-32. Sanitation and conditions governing animals or fowl and their care.

All animals or fowl kept or housed within the village limits shall be kept and housed in compliance with each of the following conditions:

- (a) Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals. All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition, free from all rodents, vermin and flies. All manure, refuse or other litter resulting from their keeping or housing shall be disposed of daily in such a manner as to prevent any nuisance or any unsanitary, odorous or offensive condition.
- (b) Every building or enclosure wherein animals are maintained shall provide proper shelter and protection from the weather at all times, and shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided as required, according to the physical need of the animals or fowl, with sufficient light to allow observation of animals and sanitation. All animal rooms, cages, kennels and runs shall be of sufficient size to provide adequate and proper accommodations and exercise for the animals kept therein.
- (c) All animals shall be supplied with sufficient good wholesome food and water as often as the feeding habits of the respective animals require.
- (d) Every reasonable precaution shall be used to insure that animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any person or means.
- (e) No condition shall be maintained or permitted that is or could be injurious to animals.
- (f) All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.
- (g) Any animal control officer or other duly designated representatives of the village may enter any premises where animals or fowl are maintained for investigation or inspection as to whether or not any portion of such premises, building, structure, enclosure, pen or cage is being used, kept or maintained in violation of this ordinance or any other county ordinance or state law. No person shall deny, prevent, obstruct, or attempt to deny, prevent or obstruct such access. This section does not permit any person to enter a private dwelling except where necessary to rescue an animal under exigent circumstances.

Sec. 14-33. Right of inspection or investigation.

No person shall refuse to show or exhibit for a health inspection or other police investigation any domestic or domesticated animal in his/her possession or custody to any licensed inspector, police officer or animal control officer.

Sec. 14-34. Carcass removal and burial.

When any animal or fowl dies within the village, the owner or person in possession of it shall, within twelve (12) hours thereafter, cause the carcass to be removed beyond the village limits or bury the same so that the entire carcass shall be covered with earth not less than three (3) feet in depth above such carcass.

Any authorized Village official or employee may at any time take up and cause to be buried or otherwise suitably disposed of the carcass of any fowl or animal found dead upon any street or alley or in any other public place in the Village.

Secs. 14-35—14-60. - Reserved.

DIVISION 2. - NUISANCES

Sec. 14-61. Running at large.

It shall not be lawful for any person owning, keeping, walking, possessing or having charge of any fowl or animal within the corporate limits of the village to:

- (a) Permit or allow said animal to run at large in any street, alley or public place within the village, or upon the premises of another, unless by permission of the owner or occupant of such premises.
- (b) Fail to maintain reasonable controls or physical barriers such that said animal strays beyond the premises upon which it is legally kept, unless such animal is under reasonable control by a person of such age, means and discretion as necessary to physically control said animal. In addition, all dogs shall also be restrained by a fixed chain or leash not exceeding six feet (6') in length.

Sec. 14-62. Sanitary disposal of animal or fowl feces.

- (a) It shall not be lawful for any person owning, keeping, walking, possessing or having charge of any fowl or animal within the corporate limits of the village to:
 - (1) Permit such animal to defecate and to allow the feces to remain upon any public street, sidewalk, pathway, park, pedestrian way, or any public facility, on any school ground, or on any private property not owned or possessed by said person unless the person shall immediately and securely enclose all feces deposited by the animal in a bag, wrapper, or other container and dispose of it in a sanitary manner.
 - (2) Permit, either willfully or through failure to exercise due care or control, such animal to commit any nuisance by defecating or urinating upon the sidewalk of any public highway or upon any building, fence or wall immediately abutting on a public sidewalk, or without the consent of the owner or person in lawful occupation thereof, any lawn, yard, or any other private property whatever.
- (b) Any person owning, keeping, walking, possessing or having charge of any fowl or animal on any public street, sidewalk, pathway, park, pedestrian way, or any public facility, on any school ground, or on any private property not owned or possessed by said person shall at all times

maintain in his/her possession sufficient suitable wrappers, bags, or containers for the purpose of complying with the requirements of this Section. The failure of such person to carry such wrappers, bags, or containers shall constitute a violation of this Section.

Sec. 14-63. Noisy and other nuisance animals.

It shall not be lawful for any person to own, harbor, keep or have charge of any fowl or animal which causes serious annoyance amounting to a nuisance or menace to the health, peace or safety of the community for any of the following reasons:

- (a) Frequent or habitual loud barking, yelping, howling, meowing, shrieking, squawking, squealing, whining, or making other sounds in an excessive, continuous, or untimely fashion, which causes distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity.
- (b) Destroying property of another person or by trespassing on the property of another person.
- (c) Otherwise cause serious annoyance to the people of the neighborhood in which such animal is kept, or to people utilizing the public walks or streets in such neighborhood.

Secs. 14-64—14-80. - Reserved.

DIVISION 3. - VICIOUS OR RABID ANIMALS

Sec. 14-81. Vicious or destructive animals.

- (a) Any person who owns, harbors, keeps or has charge of any fowl or animal which attacks, bites, scratches, or otherwise physically injures human beings or other animals without adequate provocation, or which, because of temperament or training, has a known propensity to attack, bite, scratch, or otherwise physically injure human beings or other animals:
 - (1) Shall confine such animal to a building or secure enclosure; and
 - (2) Shall, whenever such animal is off the premises on which it is kept, keep such animal securely muzzled and restrained with a chain having a minimum tensile strength of twice the animal's body weight and not more than three (3) feet in length, or otherwise securely caged.
- (b) No person shall permit or allow, by failure to exercise due control, any animal to bite or attack, or threaten to bite or attack, a person or domestic animal except in the defense of itself or in defense of a person during the commission of a crime by another.

Sec. 14-82. Confinement of animals suspected of having rabies.

Any person who shall have in his/her possession an animal which has contracted rabies or which has been subjected to rabies, or which is suspected of having rabies, or which has bitten any person, shall, upon demand of any animal control officer, produce and surrender up such animal to such officer, to be held for observation as provided in this section, or confine the animal to the owner's premises, at the discretion of the officer. It shall be the duty of any person owning or harboring an animal which has been attacked or bitten by another animal showing the symptoms of rabies to immediately notify the police department that such person has such an animal in his/her possession. Whenever an animal has been reported as being rabid, the animal shall be confined for a period of not more than ten days.

Secs. 14-83—14-100. - Reserved.

DIVISION 4. - IMPOUNDMENT

Sec. 14-101. Disposition of impounded animals.

The Village Manager or other designated village official is hereby authorized to enter into contracts with licensed veterinary hospitals, boarding kennels or animal shelters to carry out the impoundment provisions of this section. The Village may also establish criteria for the release of animals impounded to owners and others claiming such animal, including fees for the first and/or subsequent impoundments of the same animal, and where applicable may require immunization certificates, neuterization or proof of licensing. All animals placed under the custody of an animal shelter shall be kept, released or disposed of according to established procedures or any applicable contract.

Sec. 14-102. Authority to seize animals; delivery to animal shelter.

- (a) Any animal found to be kept or housed, or permitted to run at large, in violation of this ordinance shall be deemed a public nuisance, and may be seized by an animal control officer or employee of the village, and animals so caught shall be delivered to an animal shelter to be impounded or disposed of in accordance with applicable law.
- (b) Any person, acting in the interest of public safety, may, at his/her own risk, place under reasonable restraint any animal running at large which shall attack, bite or cause injury to any person in his/her presence; provided that any person exercising the authority hereby conferred, shall forthwith notify a member of the Police Department, animal control officer or other authorized Village employees that he/she has so placed an animal under restraint, to the end that animal may be promptly picked up and impounded in accordance with the provisions of this Section.
- (c)

Whenever any animal running at large shall be found upon the premises of any owner or occupant of residential or business property within the Village, destroying property or committing a nuisance upon such premises, such owner or occupant, or a member of his/her family, or any duly authorized employee, may at his/her own risk, while such animal remains on the premises of such owner or occupant, place it under reasonable restraint for the purpose of having it impounded; provided that any person exercising the authority hereby conferred, shall forthwith notify a member of the Police Department, animal control officer or other authorized Village employees that he/she has so placed an animal under restraint, to the end that animal may be promptly picked up and impounded in accordance with the provisions of this Section.

Sec. 14-103. Authority to kill certain animals.

Any animal control officer is authorized to kill any animal in accordance with the following subsections:

- (a) Such officer may kill any animal which he/she sees in the act of pursuing, worrying or wounding any livestock or poultry, or attacking persons or domestic animals, and there shall be no liability, in damages or otherwise, for such killing.
- (b) Such officer may kill any animal determined to be molesting wildlife and not lawfully hunting.
- (c) Such officer may kill any animal when permitted by state law or any other applicable law.

Secs. 14-104—14-120. - Reserved.

ARTICLE III. - DOGS

DIVISION 1. - GENERALLY

Sec. 14-121. Proclamation of danger of rabies.

Whenever the president of the village may apprehend that there is a danger of spread of rabies within or near the village, he/she shall issue a proclamation ordering and requiring that those who own or keep a dog within the village confine or muzzle the dog for a period of not less than 30 days and not more than 90 days after the date of such proclamation. Upon issuance of such proclamation, the president shall cause the proclamation to be published in at least two successive issues of a newspaper circulated in the village. During the time mentioned in such proclamation, any dog which may run at large or upon the streets not attached to a chain or leash and in the immediate control of some person without being muzzled in such manner as to prevent his/her biting persons or other dogs is hereby declared a nuisance.

Secs. 14-122—14-140. - Reserved.

DIVISION 2. - LICENSE

Sec. 14-141. License and tag required; exceptions.

It shall be unlawful for any person to own, possess, harbor or have the care or charge of any dog, male, female or unsexed, of the age of three months or over, within the village unless such dog shall wear a collar or harness to which is attached a current year license tag issued pursuant to Act 339 of the Public Acts of Michigan for 1919, as amended. However, this division shall not apply to any person transporting a dog through the village, if such dog shall be licensed under a then valid license issued at the place of residence of the owner or keeper of such dog. Every person in possession of any dog, or who shall permit any dog to remain on or about his/her premises for a period of five days or more, shall, for the purposes of this division, be deemed the owner of the dog.

Sec. 14-142. Attachment of tag to collar.

The license tag required by this division shall be permanently attached to a collar, harness or other device, which shall be worn by the dog at all times in order to enable an animal control officer to establish positive proof of ownership of the animal if the animal is found running at large.

Sec. 14-143. Removing license tag or immunization tag.

It shall be unlawful for any person to remove any license tag or immunization tag or collar bearing a license tag or immunization tag from any dog without the consent of the owner thereof, who shall be deemed responsible for any violation of this division.

Secs. 14-144—14-160. - Reserved.

Chapter 18 - BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. - IN GENERAL

Secs. 18-1—18-30. - Reserved.

ARTICLE II. - STATE CONSTRUCTION CODE

Sec. 18-31. - Assumption of responsibility for administration and enforcement; enforcing agency designated.

Pursuant to the provisions of Public Act No. 230 of 1972, § 9 (MCL 125.1509, MSA 5.2949(9)), the building official of the county is hereby designated as the enforcing agency to discharge the responsibilities of the village under Public Act No. 230 of 1972 (MCL 125.1501 et seq., MSA 5.2949(1)). The village hereby assumes responsibility for the administration and enforcement of such act throughout its corporate limits.

(Comp. Ords. 1987, § 12.101)

Cross reference— Administration, ch. 2.

Sec. 18-32. - Construction board of appeals.

- (a) *Membership; duties.* The construction board of appeals shall consist of seven members, as determined by the council. The members of the board of appeals shall be appointed for two-year terms by the president and the chair of the county board of commissioners. A member of the board of appeals shall be qualified by experience or training to perform the duties of members of the board of appeals. A person may serve on the board of appeals of more than one governmental subdivision. If the enforcing agency refuses to grant an application for a building permit, or if the enforcing agency makes any other decision pursuant or related to the state construction code, Public Act No. 230 of 1970 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.), an interested person, or the person's authorized agent, may appeal in writing to the board of appeals. The board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than 30 days after submission of the appeal. Failure by the board of appeals to hear an appeal and file a decision within the time limit is a denial of the appeal for purposes of authorizing the institution of an appeal to the state construction commission. A copy of the decision and statement of the reasons for the decision shall be delivered or mailed, before filing, to the party taking the appeal.
- (b) *Meetings to be public; notice of meetings.* The business which the board of appeals may perform shall be conducted at a public meeting of the board of appeals held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq., MSA 4.1800 et seq.). Public notice of the time, date and place of the meeting shall be given in the manner required by Public Act No. 267 of 1976 (MCL 15.261 et seq., MSA 4.1800 et seq.).
- (c) *Public availability of records.* A record of decisions made by the board of appeals, properly indexed, and any other writing prepared, owned, used, in the possession of or retained by the board of appeals in the performance of an official function shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq., MSA 4.1801(1) et seq.).

Cross reference— Boards, commissions and committees, § 2-81 et seq.

State Law reference— Similar provisions, MCL 125.514, MSA 5.2949(14).

Secs. 18-33—18-40. - Reserved.

ARTICLE III. - PROPERTY MAINTENANCE

Sec. 18-41. - Adoption of the International Property Maintenance Code.

A certain document, three copies of which are on file in the office of the Village Manager of the Village of Mayville, being marked and designated as the International Property Maintenance Code, current edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Village of Mayville, in the State of Michigan for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Village of Mayville are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, prescribed in Section 18-42 of this ordinance.

(Ord. No. 172(1), § 1, 11-10-2015)

Sec. 18-42. - Code revisions.

The following sections are hereby revised:

Section 101.1. Insert: Village of Mayville

Section 101.2. Delete Section and insert the following:

The provisions of this code shall apply to all existing non-owner occupied residential and nonresidential structures, or non-owner occupied parts thereof, and all existing non-owner occupied premises or parts thereof. This Code shall constitute minimum requirements and standards for said premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of owners, an owner's authorized agent, operators and occupants; the occupancy of said existing structures and premises, and for administration, enforcement and penalties.

Section 103.5. Delete section and insert: The fees for activities and services performed by the department in carrying out its responsibilities under this code shall, from time to time, be set down in a schedule which shall be adopted by the Mayville Village Council by resolution and incorporated into this Code by reference.

Section 201.3. Terms Defined in Other Codes. Replace section with: Where terms are not defined in this Code and are defined in the Michigan Residential Code, International Fire Code, Village of Mayville Zoning Ordinance, Michigan Plumbing Code, Michigan Mechanical Code, Michigan Building Code, Michigan Rehabilitation Code for Existing Buildings and the Michigan Electrical Code, such terms shall have the meanings ascribed to them as in those codes.

Section 202. Insert the following definitions:

CERTIFICATE OF COMPLIANCE. A certificate issued by the Village of Mayville or its designee(s) which certifies compliance with the provisions of this Code.

RENTAL DWELLING. Any structure, building or other facility designed, used and/or intended to be used as a home, residence or sleeping unit, except owner-occupied single-family residential structures. This definition includes, but is not limited to, one and two-family dwellings, apartment units, boarding houses, rooming houses, hotels, motels and flats (except owner-occupied single-family residences).

RENTAL UNIT. Any one area, room, group of rooms, structure, flat apartment or facility of a rental dwelling that is designed and/or intended to be used as a single housekeeping unit.

Section 304.14. Insert: April 1 to October 31

Section 404, entitled OCCUPANCY LIMITATIONS, insert the following additional subsections:

404.8 Water closet, lavatory, and bath. Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a Flush water closet, a lavatory basin, and a bathtub or shower in good working condition and properly connected to a water and sewage system. The room shall be located as to afford privacy to access and shall not require passage through a bedroom or other room.

404.9 Smoke and carbon monoxide detectors. Smoke detectors required per code and one located in each bedroom. One (1) carbon monoxide detector is required per unit.

404.10 Water connections. Individual water meter hook up for each unit is left to the landlord's discretion. Every kitchen sink, bathtub, and shower shall be connected with both hot and cold water.

- 404.11 Rubbish and garbage storage facilities. Every dwelling unit shall have adequate rubbish storage facilities whose type and location are approved by the code official.
- 404.12 Means of Egress. Every building containing dwelling units shall have two (2) remote means of egress.
- 404.13 Heating facilities. Every dwelling shall have heating facilities which are properly installed and contain an individual control for each unit. Heating shall be maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit.
- 404.14 Electrical outlets. Each unit shall have its own meter. All wiring, outlets, lighting fixtures, etc. shall comply with current state codes. Cords to appliances and devices shall not be run through doorways, under rugs, or stapled to wood baseboards, door casings, or through holes in partitions or floors.
- 404.15 Natural gas or propane. Any unit equipped with natural gas or propane for the use of heating, cooking, etc. shall be individually metered and installed to meet all current state codes.
- 404.16 Public hall and stairways. Every public hall and stairway in every dwelling containing two or more dwelling units shall be adequately lighted per building codes. Each shall also contain a smoke detector and carbon monoxide detector.

Section 602.3. Insert: October 1 to April 31

Section 602.4. Insert: October 1 to April 31

Chapter 8 Referenced Standards

This Chapter lists the standards that are referenced in various sections of the International Code. References to the following codes in the International Code are replaced as noted below:

International Code	Replacement
International Building Code	Michigan Building Code
International Plumbing Code	Michigan Plumbing Code

International Electrical Code	Michigan Electrical Code
International Existing Buildings Code	Michigan Rehabilitation Code

(Ord. No. 159, 10-20-2009; Ord. No. 172(1), § 2, 11-10-2015; Ord. No. 172(3), § 1, 6-21-2016)

Sec. 18-43. - Registration and inspection of rental dwellings and units.

The owner of any rental dwelling or rental unit shall register each rental dwelling and all rental units contained within the rental dwelling with the Village of Mayville before September 1 of each year at no cost to the owner. Failure to do so will result in a \$100.00 fine per unit, per infraction. The owner shall have ten working days to remedy the infraction. Once the rental unit is registered, the owner has 30 days to pay for and schedule a general inspection. The owner shall provide access to such premises for making the inspections necessary to insure compliance with the terms of this ordinance and Code. All rental units must be inspected annually and when there is a change of ownership. A certificate of compliance shall not be issued if the registration provisions of this ordinance are not complied with. Inspection fee is \$55.00 per rental unit. Return inspection to check remedy of noncompliant inspection fee is \$25.00 per unit, which will be returned if non complaint matters are corrected. If failure to comply, the fee will not be returned. In addition to rental inspection, an annual building fire safety inspection fee will be \$50.00 per building not unit. This fee will not be refunded. All fees can be changed by resolution of the Mayville Village Council at any time. Street level apartments are allowed by land use permit in the Central Business District or Local Commercial District as their districts are described under the Mayville Zoning Map, Zoning and Planning Regulations (Previously zoned Business A, Business B, and Neighborhood Commercial) under the following regulations: 1) Street level apartments may not be located or occupy space within 30 feet of any exterior wall facing Main Street or Fulton Street, 2) The 30 feet minimum facing Main Street or Fulton Street shall only be used as permitted under the Mayville Zoning Ordinance, 3) Street level apartments must adhere to off-street parking requirements as outlined in the Mayville Zoning Ordinance and Chapter 66 Traffic and Vehicles of the Mayville Municipal Code as amended, and 4) Street level apartments shall adhere to all federal, state, county, and local laws and ordinances.

(Ord. No. 159, 10-20-2009; Ord. No. 160, 11-17-2009; Ord. No. 172(1), § 3, 11-15-2017)

Sec. 18-44. - Registration term; transfers; renewals.

Registration shall be made prior to the use or occupancy of any rental dwelling or rental unit. In the case of rental dwellings and rental units which exist on the effective date of this ordinance and Code, registration shall be made within ninety days of such effective date. Any new owner shall immediately register in accordance with this chapter and shall apply to have the certificate of compliance for each rental unit. A renewal fee shall be established by resolution of the Village Council, which shall be paid at the time of registering the transfer of ownership and each year thereafter, which the fee shall also include the transfer of the certificate of compliance, if any. A late fee shall also be established by resolution of the Village Council, which late fee shall be imposed for the late registrations on a per rental unit basis. The late fee shall be in addition to the applicable transfer registration fees for each rental unit or upon transfer of ownership. Registrations shall be filed on or before September 1 of every odd-numbered year.

(Ord. No. 172(1), § 3, 11-15-2017)

Sec. 18-45. - Transfer of ownership.

No owner of any rental dwelling or rental unit who has received a notice of violation of any code or ordinance of the Village of Mayville (including notice that the number of rental units exceeds that permitted by the Zoning Ordinance) shall transfer, convey, lease or sell (including by land contract) his or her ownership and/or interest in any way to another, unless such owner shall have first furnished to the grantee, lessee, vendee or transferee a true copy of any notice of violation and shall have furnished to the Village a signed and notarized statement from the grantee, vendee, lessee or transferee acknowledging the receipt of such notice of violation. In addition, upon selling, leasing, changing ownership of said dwelling, the owner shall obtain a "mold inspection report" which is prepared by a certified mold inspector and the results given to the new owner and a copy dated and given to the Village of Mayville Clerk

(Ord. No. 172(1), § 4, 11-15-2017)

Sec. 18-46. - Certificate of compliance required.

The inspection process will be then continued for all such units, with each unit being inspected every year. Once issued a certificate of compliance will be valid for a one-year period (provided that the rental dwelling and rental units remain in compliance with all applicable codes and ordinance), but will terminate on the date of the next subsequent inspection.

(Ord. No. 172(1), § 6, 11-15-2015; Ord. No. 172(2), § 6, 1-19-2016)

Sec. 18-47. - Remodeling, renovation and conversion of rental dwellings and units.

Whenever an occupied rental dwelling or rental unit is remodeled, renovated or otherwise converted in any way that could affect its compliance with this ordinance and Code. The property owner must acquire a permit from the zoning administrator and provide a site plan for said proposed renovations. The property owner is subject to an at will inspection from local zoning administrator until project is completed. In the case of an unoccupied rental dwelling or rental unit that is remodeled, renovated or otherwise converted in any way that could affect its compliance with this ordinance and Code, any and all prior certificates of compliance will be revoked immediately upon the commencement of said work. A new certificate of compliance must then be issued after an inspection by the Village or its designee(s) to determine that each rental dwelling and rental unit complies with the provisions of this ordinance. At completion of project the unit is subject to all fees and costs dictated in section 18-43.

(Ord. No. 172(1), § 7, 11-15-2015)

Sec. 18-48. - Application to existing, new and converted rental dwellings and units.

This ordinance and Code applies to all rental dwellings and rental units within the Village of Mayville existing on the effective date of this ordinance and to those subsequently constructed or converted. All Landlords must obtain a Certificate of compliance prior to the rental of any unit.

(Ord. No. 172(1), § 8, 11-15-2015)

Sec. 18-49. - Penalties.

Any owner of a rental dwelling or rental unit who shall fail to register his or her rental dwelling and rental units, or who shall fail to obtain a certificate of compliance for each of his or her rental dwellings or rental units, shall be guilty of a Municipal Civil Infraction. A separate offense shall be deemed committed for each violation of this ordinance for each rental dwelling and rental unit, and for each separate day of offense. There will be three (3) types of Municipal Civil Infractions: 1) Failure to Comply with Registration 2) Failure to Schedule Inspection 3) Noncompliance with Rental Ordinance Requirements.

Each Municipal Civil Infraction will have a separate "Schedule of Municipal Civil Infraction Fines.

Schedule of Municipal Civil Infraction Fines

Municipal Civil Infraction

	First Offense	Second Offense	Third Offense
Failure to Comply	\$100.00	\$150.00	\$200.00

Failure to Schedule	\$150.00	\$200.00	\$250.00
Non-Compliance	\$200.00	\$250.00	\$300.00

(Ord. No. 172(1), § 9, 11-15-2015)

Editor's note— Ord. No. 172(1), § 9, adopted Jan. 10, 2017, changed the title of § 18-49 from "Violations" to read as herein set out.

Sec. 18-50. - Cost recovery, in addition to any fines.

Any property owner who fails to abate any violation of this ordinance and Code or bring a property into compliance, thereby requiring the Village of Mayville, or its designee(s), to abate the violation or bring the property into compliance, shall be obligated to reimburse the Village its cost plus ten percent (10%). If the property owner fails to reimburse the Village within thirty (30) days after receiving a bill for said costs, then in that event, the Village may impose a levy on the property and add the amount to the ad valorem tax rolls.

(Ord. No. 172(1), § 9, 11-15-2015)

Editor's note— Ord. No. 172(1), § 9, adopted Jan. 10, 2017, changed the title of § 18-50 from "Cost recovery" to read as herein set out.

Sec. 18-51. - Conflict.

All other ordinances of the Village of Mayville or parts of ordinances in conflict herewith are hereby repealed.

(Ord. No. 172(1), § 9, 11-15-2015)

Sec. 18-52. - Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mayville Village Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

(Ord. No. 172(1), § 9, 11-15-2015)

Sec. 18-53. - Affect.

Nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

(Ord. No. 172(1), § 9, 11-15-2017)

Secs. 18-54—18-60. - Reserved.

ARTICLE IV. - MOVING BUILDINGS OR OTHER STRUCTURES

DIVISION 1. - GENERALLY

Sec. 18-61. - Definitions.

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

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Cross reference— Definitions generally, § 1-2.

Sec. 18-62. - Penalty.

Any person violating any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished in accordance with section 1-11.

Sec. 18-63. - Designation of route and time limit; leaving structure on street at night.

The department of public works superintendent shall supply the route over which a structure is to be moved and the time allowed for such moving. All reasonable effort must be made in the moving so as to least obstruct any street, alley or other public place, and if it becomes necessary to leave the structure thereon after sundown, there shall be erected around the structure a suitable warning barrier and the structure shall be properly illuminated to prevent injuries or damages.

(Comp. Ords. 1987, § 18.009)

Secs. 18-64—18-80. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-81. - Required.

No person shall engage in the business of moving structures into, upon or across any street, alley or other public place without first obtaining a license as provided in this division.

(Comp. Ords. 1987, § 18.001)

Sec. 18-82. - Application; investigation; issuance.

Application for a license to engage in the business of moving structures shall be made to the village clerk on a form furnished for such purposes. The village clerk shall make an investigation of the training, experience, qualifications and character of the applicant to determine his fitness to engage in the operating of the business, and shall issue or refuse to issue the license within ten days.

(Comp. Ords. 1987, § 18.002)

Sec. 18-83. - Fee; term.

The fee for a license issued under this division shall be as established by resolution. All such licenses shall expire 30 days from issuance.

(Comp. Ords. 1987, § 18.003)

Sec. 18-84. - Bond.

Before a license shall be issued under this division, the applicant shall file with the village clerk a surety bond in the penal sum of not less than \$1,000,000.00 waiving and protecting the village harmless from all damages to property, both public and private, that may arise from the use of any of the streets, alleys or other public places in the moving of such structures.

(Comp. Ords. 1987, § 18.004)

Sec. 18-85. - Insurance.

The applicant for a license under this division shall also file with the village clerk a public liability and property damage insurance policy naming the applicant and the village as the assured and providing for the payment of any liability imposed by law upon the applicant or the village to the extent of not less than

\$3,000,000.00 for injury to or death of one or more persons, and for damage to property in the amount of not less than \$1,000,000.00.

(Comp. Ords. 1987, § 18.005)

Secs. 18-86—18-100. - Reserved.

DIVISION 3. - PERMIT

Sec. 18-101. - Required.

No structure of other obstruction to traffic shall be moved upon or across any street, alley or other public place without first obtaining a permit as required by this division.

(Comp. Ords. 1987, § 18.006)

Sec. 18-102. - Application; eligibility; issuance.

Applications for a permit to move a structure shall be made by a mover licensed as required by any applicable law, to the village clerk, approved as complying with all the provisions of this article or any other village ordinance applicable thereto. If the village clerk finds that under the facts the applicant has sufficient knowledge, experience, equipment and facilities to properly conduct such moving, the permit shall be issued forthwith upon payment of the prescribed permit fee.

(Comp. Ords. 1987, § 18.007)

Sec. 18-103. - Notification of utility companies; protection of utilities.

Before a permit for the moving of a structure shall be issued, the applicant shall notify all utilities having service connections within the building, such as water, electric, gas, sewer and other connections. The applicant shall not be entitled to a permit unless a release is obtained from the utilities stating that their respective service connections and appurtenant equipment such as meters have been removed or sealed and plugged in a safe manner; nor shall a permit be issued until the village clerk shall be satisfied, after receiving a written agreement from the public utility companies concerned and signed by the applicant, that the moving may be accomplished in such a manner as not to create a hazardous condition as a result of the proximity of such public utility installations at the site from which the building is to be moved, the site where it is to be moved or the route to be followed in making the movement, including an agreement for necessary moving or raising of overhead wires which might impede the progress of the movement of such structure.

(Comp. Ords. 1987, § 18.008)

Chapter 22 - CIVIL EMERGENCIES

ARTICLE I. - IN GENERAL

Secs. 22-1—22-30. - Reserved.

ARTICLE II. - EMERGENCY PREPAREDNESS

Sec. 22-31. - Definitions.

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

Coordinator means the responsible head of the county office of emergency services, as appointed by the chair of the county board of commissioners.

Deputy coordinator means the person appointed to provide liaison services between the village and the county office of emergency services.

Disaster means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or manmade cause, including fire, flood, snow, ice, windstorm, wave action, oil spill, water contamination requiring emergency action to avert danger or damage, utility failure, hazardous peacetime radiological incident, major transportation accident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military or paramilitary action. Riots and other civil disorders are not within the meaning of this term unless they directly result from and are an aggravating element of the disaster.

Disaster relief forces means all agencies of state, county and municipal government, private and volunteer personnel, public officers and employees, and all other persons or groups of persons having duties or responsibilities under this article or pursuant to a lawful order or directive authorized by this article.

Emergency services shall have a broad meaning to include preparations for, and relief from, the effects of natural and manmade disaster.

President means the chief elected official of the village.

State of disaster means an executive order or proclamation that activates the disaster response and recovery aspects of the state, local and interjurisdictional emergency operations plans applicable to the counties or municipalities affected.

(Comp. Ords. 1987, § 12.140)

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar definitions, MCL 30.402, MSA 4.824(12).

Sec. 22-32. - Interpretation of article.

This article will not relieve any elected official or municipal department of the normal responsibilities or authority given by general law or ordinance, nor will it affect the work of the American Red Cross or other volunteer agencies organized for relief in natural disaster.

(Comp. Ords. 1987, § 12.133)

Sec. 22-33. - Powers and duties of president.

The president, with the approval of the council, is hereby authorized and directed to prepare for community disasters, utilizing to the fullest extent existing agencies within the village. The president, as executive head of the village government, shall be responsible for the organization, administration and operation of the village's disaster relief forces, if any, working through the county emergency services coordinator and the village deputy coordinator.

(Comp. Ords. 1987, § 12.151)

Sec. 22-34. - Emergency services coordinator.

To ensure compliance with Public Act No. 390 of 1976 (MCL 30.401 et seq., MSA 4.824(11) et seq.), the village hereby appoints the county emergency services coordinator as the coordinator of emergency services activities within the village.

(Comp. Ords. 1987, § 12.131)

Sec. 22-35. - Deputy emergency services coordinator.

- (a) The president, with the approval of the council, shall appoint a deputy emergency services coordinator, who shall be a person with the personal attributes and experience to provide liaison services to county officials and to coordinate the activities of certain designated municipal departments, boards, agencies and commissioners to protect the public health, safety and welfare during emergency situations or disasters.
- (b) The deputy emergency services coordinator shall provide liaison between the village and the county office of emergency services to ensure complete and efficient utilization of all resources during periods of emergency.

(Comp. Ords. 1987, §§ 12.132, 12.160)

Sec. 22-36. - Disaster relief forces.

The employees, equipment and facilities of all municipal departments, boards, agencies and commissions suitable for or adaptable to emergency service activities may be designated as part of the total disaster relief forces of the county. Such designations shall be made by the chair of the county board of commissioners with the approval of the village council.

(Comp. Ords. 1987, § 12.152)

Chapter 26 - COMMUNITY DEVELOPMENT

ARTICLE I. - IN GENERAL

Secs. 26-1—26-30. - Reserved.

ARTICLE II. - DOWNTOWN DEVELOPMENT AUTHORITY

Sec. 26-31. - Definitions.

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

Act 197 means the downtown development authority act, Public Act No. 197 of 1975 (MCL 125.1651a et seq., MSA 5.3010(1a) et seq.).

Captured assessed value means the amount in any one year by which the current assessed value, as finally equalized, of all taxable property in the development area exceeds the initial assessed value, as more fully described in the downtown development authority development and tax increment financing plan.

Development area means the area within the boundaries of the village downtown development authority district, as illustrated in appendix C and described in appendix E of the downtown development authority development and tax increment financing plan.

Development plan means the development plan for the downtown development authority district, illustrated in the downtown development authority development and tax increment financing plan.

Downtown development authority means the village development authority as established by this article.

Initial assessed value means the most recently assessed value, as finally equalized by the state board of equalization, of all taxable property within the boundaries of the downtown development authority district on May 20, 1997, as more fully described in the downtown development authority development and tax increment financing plan.

Tax increment means that portion of the tax levy of all taxing jurisdictions paid each year on real and personal property in the downtown development authority district on the captured assessed value, as more fully described in the downtown development authority development plan and tax increment financing plan.

Tax increment financing plan means the "Tax Increment Financing Plan for the Village of Mayville Downtown Development Authority District," including the development plan, as transmitted to the village council by the downtown development authority for public hearing, and as confirmed by this article, copies of which are on file in the office of the village clerk.

Taxing jurisdiction means each unit of government levying an ad valorem property tax on property in the downtown development authority district.

(Ord. No. 118, § 1, 5-20-1997)

Cross reference— Definitions generally, § 1-2.

Sec. 26-32. - Findings; development plan and tax increment financing plan approved.

- (a) Pursuant to section 19(1) of Act 197, the village council hereby finds and determines in accordance with section 19(1) of Act 197 as follows:
 - (1) The development plan and tax increment financing plan constitute and embody a public purpose of the village;
 - (2) The development plan and tax increment financing plan meet the requirements set forth in sections 14(2) and 17(2) of Act 197;
 - (3) The proposed method of financing the development activities described in the development plan and tax increment financing plan is feasible, and the downtown development authority has the ability to arrange the financing;
 - (4) The development activities described in the development plan and tax increment financing plan are reasonable and necessary to carry out the purpose of Act 197;
 - (5) The land to be acquired within the downtown development authority district is reasonably necessary to carry out the purposes of the development plan and tax increment financing plan and the purposes of Act 197;
 - (6) The development plan and tax increment financing plan are in reasonable accord with the approved master plan of the village;
 - (7)

Public services such as fire and police protection and utilities are or will be adequate to service the downtown development authority district; and

(8) Such changes in zoning, streets, street levels, intersections and utilities as are contemplated by the development plan and tax increment financing plan are reasonably necessary for the project and for the village.

(b) In accordance with the considerations listed in subsection (a) of this section, the downtown development authority development plan and tax increment financing plan are hereby approved.

(c) A copy of the development plan and tax increment financing plan, and all respective amendments thereto, shall be maintained on file in the village clerk's office and cross indexed to this article.

(Ord. No. 118, § 2, 5-20-1997)

Sec. 26-33. - Boundaries of development area.

The boundaries of the development area are hereby adopted and confirmed.

(Ord. No. 118, § 3, 5-20-1997)

Sec. 26-34. - Base year assessment roll.

(a) Within 90 days of May 20, 1997, the village treasurer shall prepare the initial base year assessment roll. The base year assessment roll shall list each taxing jurisdiction in which the downtown development authority district is located, the initial assessed value of the development district on May 20, 1997, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes on the property in the development district.

(b) The village treasurer shall transmit copies of the base year assessment roll to the county treasurer, the downtown development authority and each taxing jurisdiction, together with a notice that the assessment roll has been prepared in accordance with this article and the development plan and tax increment financing plan approved by this article.

(Ord. No. 118, § 4, 5-20-1997)

Sec. 26-35. - Annual assessment roll.

Each year, within 15 days following the final equalization of property in the development district, the village treasurer shall prepare an updated annual assessment roll. The annual assessment roll shall show the information required in the base year assessment roll and, in addition, the captured assessed value for that year. Copies of the annual assessment roll shall be transmitted by the treasurer to the same persons as the base year assessment roll, together with a notice that it has been prepared in accordance with this article and the development plan and tax increment financing plan.

(Ord. No. 118, § 5, 5-20-1997)

Sec. 26-36. - Annual report on status of tax increment financing account.

Annually, the downtown development authority shall submit to the village council and the state tax commission a report on the status of the tax increment financing account. The report shall include the amount and source of revenue in the account, the amount and purpose of expenditures from the account, the amount of principal and interest on any outstanding bonded indebtedness, the initial assessed value of the project area, the captured assessed value retained by the authority, the tax increments received, and any additional information the village council or the state tax commission considers necessary. The report shall be published in a newspaper of general circulation in the village.

(Ord. No. 118, § 6, 5-20-1997)

Sec. 26-37. - Disposition of tax increments.

All tax increments shall be transmitted by the village treasurer into an account of the downtown development authority at the earliest practicable date. All tax increments so received by the downtown development authority shall be disbursed in accordance with the provisions of the development plan and tax increment financing plan and the requisitions of the downtown development authority. Surplus funds shall revert proportionately to the respective taxing bodies. For the purpose of segregation and transfer of such funds, the village treasurer shall maintain a separate fund, which shall be kept in a depository bank account in a bank approved by the village council, to be designated the downtown development authority project fund. All amounts payable to the downtown development authority shall, subject to the provisions of this section, be deposited directly in the downtown development authority project fund.

(Ord. No. 118, § 7, 5-20-1997)

Sec. 26-38. - Duration of tax increment financing plan.

The tax increment financing plan shall continue in effect until all purposes of the development plan and tax increment financing plan have been fulfilled.

(Ord. No. 118, § 8, 5-20-1997)

Chapter 30 - ENVIRONMENT

ARTICLE I. - IN GENERAL

Secs. 30-1—30-30. - Reserved.

ARTICLE II. - NUISANCES

Sec. 30-31. - Definition.

Public nuisances are hereby declared to be those things, acts or uses of property which:

- (1) Annoy, injure or endanger the safety, health, comfort or repose of the public.
- (2) In any way render the public insecure in life or in the use of their property.
- (3) Affect, to any extent, the public peace and safety.

(Comp. Ords. 1987, § 20.101)

Sec. 30-32. - Nuisances prohibited.

It shall be unlawful for any person to create or maintain a public nuisance as defined in section 30-31.

ARTICLE III. - BLIGHT PREVENTION

Sec. 30-33. - Purpose.

It is hereby found and declared areas of the Village of Mayville ("Village") are or may become blighted with detrimental or inimical results to the health, safety, morals, and general welfare of the citizens and to the economic welfare of the municipality; that in order to improve and maintain the general character of the municipality it is necessary to rehabilitate such blighted areas; that the conditions found in blighted areas cannot be remedied by the ordinary operations of private enterprise with due regard to the general welfare of the public, without public participation; that the purposes of this ordinance are to rehabilitate such areas by eliminating blight and blight factors within all areas of the village for the protection of the health, safety, morals, and general welfare of the municipality, and to preserve existing values of other properties within or adjacent to such areas and all other areas of the village; and the necessity and the public interest for provisions herein set forth are hereby declared as a matter of legislative determination to be a public purpose, and for the protection of the health, safety and welfare of the residents of the Village of Mayville.

Sec. 30-34. - Definitions.

For the purpose of this article, the following words, terms and phrases, shall have the meanings ascribed to them in this section:

Blighted structure. Any fence, dwelling, garage, accessory or outbuilding, or swimming pool, or any commercial building, factory, shop, store, office building, warehouse, or any other structure or part of a structure which:

1. Because of any cause, natural or otherwise, including, but not limited to, fire, wind, natural disaster, physical deterioration or failure to maintain is no longer habitable as a dwelling or useful for the purpose for which it was originally intended; or
2. Is partially completed and which is not presently being constructed under an existing, valid building permit; or
3. Is not structurally sound, weather-tight, waterproof or vermin-proof; or
4. Is not covered by a water resistant paint or other waterproof building material as to protect said structure from the adverse effects of the elements or from physical deterioration; or
5. Is in deteriorating condition which causes blighting influences on adjoining properties.
Deteriorating condition(s) includes, but is not limited to, having broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, unstable porches or stairs, cracked boards or blocks, or other conditions reflective of deterioration or inadequate maintenance or repair.

Building material. Any lumber, bricks, concrete, cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, cement, nails, screws, or other materials commonly used in the construction or repair of any buildings or structures.

Commercial Building. Any building or structure used for business purposes including, but not limited to, office, retail, service and/or industrial buildings or structures.

Enforcement Officer. The Village of Mayville Zoning Administrator, Village Manager or his/her designee, or any Village of Mayville Police Officer.

Junk. Any abandoned, discarded, unusable objects or equipment, any object or equipment unused for its originally intended purpose, including, but not limited to, fences, furniture, stoves, refrigerators, freezers, cans, implements, parts of motor vehicles, machinery, cloth, rubber, bottles, any metals, boxes, cartons, crates, signs, perishable items, tires or other similar items. Junk shall also include the discarding or disposal of personal property on or adjacent to a sidewalk or road right-of-way during the course of serving or execution of a writ of restitution or other court order which requires the removal of personal property from a building. In this article, the terms "trash, refuse and rubbish" shall be deemed to be synonymous with, the term "junk".

Person. Any natural person, firm, association, partnership, limited liability corporation or corporation.

Unsecured vacant building. Any building which is unoccupied and which is not securely locked, the windows glazed or of which is not securely boarded up and/or protected against the elements, from vandals, and/or from rodents and/or other animals.

(Ord. No. 153, § 1, 1-20-2009)

Sec. 30-35. - Prohibited conduct

Except as may otherwise be permitted by the holding of a specific business license or by other ordinances of the Village of Mayville or state or federal law, no person shall:

- (a) Store, accumulate, or permit the storage or accumulation of junk on premises owned, leased, or occupied by him/her unless such junk is stored or accumulated for purposes of collection and disposal, in which case such junk shall be stored or accumulated in a closed container, if possible, or in a closed structure. If it is impossible to store or accumulate such junk in a closed container or closed structure, such junk shall be covered in a manner sufficient to prevent such materials from causing dust and debris to be blown about or spread to other areas. Junk may be stored or accumulated in such manner only for the minimum period necessary to provide for collection and disposal of same.
- (b) Store, accumulate, or permit the storage or accumulation of any building materials on property owned, leased, rented or occupied by him/her for any period longer than reasonably necessary for the immediate use of such materials, but in no event longer than sixty (60) days.
- (c) Keep or permit the existence of any unsecured vacant building on property owned, leased, rented or occupied by him/her.
- (d) Keep or permit the existence of any blighted structure on property owned, leased, rented or occupied by him/her.
- (e) Placing trash, refuse and/or rubbish at the location for refuse collection (at street side, curb side, etc.) more than 72 hours before the time and day scheduled for refuse collection and/or leaving refuse containers, trash containers, garbage cans or uncollected refuse at the location for refuse collection (at street side, curb side, etc.) more than 24 hours after trash and refuse has been collected.
- (f) Discarding or disposing of junk, trash, refuse or rubbish in any receptacle or container, public or private, which junk, trash, refuse or rubbish has been generated outside of the village and which has been brought into the village limits; except that this section shall not apply to said material which has been deposited into, a properly licensed waste transfer station.

(Ord. No. 153, § 2, 1-20-2009)

Sec. 30-36. - Enforcement.

Before commencing prosecution under this article, the enforcement officer shall give notice to the person charged with violating this article. Such notice shall be in writing, and shall be served upon said person or, at the option of the enforcement officer, by posting a copy of this notice on the land or attaching

a copy of the notice to the building or structure. In addition, a copy of the notice shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address. The notice shall specify that failure to remedy the violation within ten days of the date of personal service or 12 days from the date of mailing shall result in the issuance of a municipal civil infraction violation notice.

For purposes of this article, the person who is charged with violating in this article shall be deemed to have been served, with notice if the notice is mailed to the address as provided in the most recent tax roll of the Village of Mayville. If a person acquires an interest in premises pursuant to a mortgage foreclosure, deed in lieu of foreclosure, land contract foreclosure or forfeiture, said person shall be deemed to have authorized notice as provided above, unless and until said person notifies the village assessor, in writing, of a change in address for the ad valorem property tax roll.

(Ord. No. 153, § 3, 1-20-2009)

Sec. 30-37. - Penalty.

Failure to comply with the notice given by the enforcement officer within the time specified shall constitute a municipal civil infraction, which shall be processed in accordance with sections 1-15 through 1-21 of this Code and the penalties for which are prescribed therein. Each day this ordinance is violated shall be considered as a separate violation.

In addition to the foregoing fines, the Court may assess as costs, the damages and expenses incurred by the Village in enforcement of this ordinance against the violator, including the costs of prosecution. The assessment and collection of these fines and costs shall be in accordance with MCLA 600.8701 et seq.

In addition to any remedies available at law, the Village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the Ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.

Sec. 30-38. - Correction by village upon failure of owner to comply.

If the village manager, or his/her designee, determines that blight or blighting factors exist or the blight or blighting factors have not been removed after service of the removal notice as set forth in section 30-36, the cause of the blight or blighting factors may be removed by the Village upon the direction of the village manager, or his/her designee. The Superintendent of Public Works shall keep or cause to be kept an accurate account of all expense incurred with respect to each parcel of land entered upon in carrying out the provisions of this ordinance and shall make a sworn statement of the account and present it to the village manager.

Sec. 30-39. - Right of entry for removal; interference.

The Village Manager, Superintendent of Public Works or the Chief of Police, or their designated representatives, are hereby authorized to enter upon any premises in the Village for the purpose of removing blight or blighting factors in accordance with the provisions of section 30-38.

Sec. 30-40. - Collection of costs from owner.

A copy of the sworn statement provided for in section 30-38, including an account of the costs incurred on each of the several descriptions or parcels of property, shall be transmitted to the village treasurer. The village treasurer shall add to all such accounts so audited and allowed ten percent (10%) of the total of each account, and shall cause all such expenditures so audited and allowed, together with the additional ten percent (10%), to be severally levied on the lands on which such expenditures were made. The amount levied for each such case shall be no less than one hundred dollars (\$100.00). Such amounts shall be severally spread upon the tax roll in preparation and collection as other village taxes are made, and when collected shall be paid into the general fund of the village to reimburse the village for the costs of publication, overhead and other expense and outlay as authorized in this ordinance.

Sec. 30-41. - Severability.

The various parts, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Sec. 30-42. - Conflict.

Any ordinances in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Secs. 30-43—30-60. - Reserved.

ARTICLE IV. - DANGEROUS BUILDINGS

Sec. 30-61. - Definitions.

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

Dangerous building means a building or structure that has one or more of the following defects or is in one or more of the following conditions:

(1)

A door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the village.

- (2) A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of this article or a building code of the village for a new building or structure, purpose or location.
- (3) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (4) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by this article or a building code of the village.
- (5) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (6) The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used.
- (7) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
- (8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the village determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling.
- (9) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- (10) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease or rent with a real estate broker licensed under article 25 of the occupational code, Public Act No. 299 of 1980 (MCL 339.2501—339.2515, MSA 18.425(2501)—18.425(2515)). For purposes of this subsection, the term "building or structure" includes but is not limited to a commercial building or structure. This subsection does not apply to either of the following:

- a. A building or structure as to which the owner or agent does both of the following:
 - 1. Notifies the village that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the village by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
 - 2. Maintains the exterior of the building or structure and adjoining grounds in accordance with this article or a building code of the village.
- b. A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the village that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subsection shall notify the village not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subsection, the term "secondary dwelling" means a dwelling such as a vacation home, hunting cabin or summer home that is occupied by the owner or a member of the owner's family during part of a year.

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar definition, MCL 125.539, MSA 5.2891(19).

Sec. 30-62. - Dangerous buildings prohibited.

It is unlawful for any owner or agent thereof to keep or maintain any building or dwelling or part thereof which is a dangerous building as defined in section 30-61.

(Comp. Ords. 1987, §§ 20.102(c), 20.105)

State Law reference— Similar provisions, MCL 125.538, MSA 5.2891(18).

Sec. 30-63. - Notice of hearing; hearing officer.

- (a) *Notice required.* Notwithstanding any other provision of this article, if a building or structure is found to be a dangerous building, the village shall issue a notice that the building or structure is a dangerous building.
- (b) *Persons who may be served notice.* The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.
- (c) *Contents of notice; right to hearing.* The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should

not order the building or structure to be demolished, otherwise made safe, or properly maintained.

- (d) *Hearing officer.* The hearing officer shall be appointed by the village president, to serve at his pleasure. The hearing officer shall be a person who has expertise in housing matters, including but not limited to an engineer, architect, building contractor, building inspector or member of a community housing organization. An employee of the village shall not be appointed as hearing officer. The village shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.
- (e) *Form and service of notice.* The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten days before the date of the hearing included in the notice.

State Law reference— Similar provisions, MCL 125.540, MSA 5.2891(20).

Sec. 30-64. - Conduct of hearing; decision; enforcement of orders.

- (a) *Conduct of hearing.* At a hearing prescribed by section 30-63, the hearing officer shall take testimony of the village, the owner of the property, and any interested party. Not more than five days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.
- (b) *Issuance of order.* If the hearing officer determines that the building or structure should be demolished or otherwise made safe or properly maintained, the hearing officer shall so order, fixing a time in the order for the owner, agent or lessee to comply with the order. If the building is a dangerous building under subsection (10) of the definition of "dangerous building" in section 30-61, the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building, including but not limited to the maintenance of lawns, trees and shrubs.
- (c) *Procedure upon failure to comply with order.* If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under subsection (b) of this section, the hearing officer shall file a report of the findings and a copy of the order with the village council not more than five days after noncompliance by the owner and request that necessary action be taken to enforce the order. If the village council has established a board of appeals, the hearing officer shall file the report of the findings and copy of the order with the board of appeals and

request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the manner prescribed in section 30-63.

- (d) *Hearing on enforcement of order.* The village council or the board of appeals, as applicable, shall fix a date not less than 30 days after the hearing prescribed in section 30-63 for a hearing on the findings and order of the hearing officer and shall give notice to the owner, agent or lessee in the manner prescribed in section 30-63 of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The village council shall either approve, disapprove or modify the order. If the village council approves or modifies the order, the village council shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 days after the date of the hearing under this subsection. In the case of an order of demolition, if the village council or the board of appeals determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster, and the cost or repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection.
- (e) *Reimbursement of costs incurred by village.* The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure, or grounds adjoining the building or structure, incurred by the village to bring the property into conformance with this article shall be reimbursed to the village by the owner or party in interest in whose name the property appears.
- (f) *Failure to pay costs.* The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the treasurer of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the treasurer of the notice of the amount of the cost, the village shall have a lien for the cost incurred by the village to bring the property into conformance with this article. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, Public Act No. 206 of 1893 (MCL 211.1—211.157, MSA 7.1—7.214).
- (g) *Legal action for collection of costs.* In addition to other remedies under this article, the village may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The village shall have a lien on the property for the amount of

a judgment obtained pursuant to this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

State Law reference— Similar provisions, MCL 125.541, MSA 5.2891(21).

Sec. 30-65. - Enforcement of judgment against other assets of owner.

- (a) A judgment in an action brought pursuant to section 30-64(g) may be enforced against assets of the owner other than the building or structure.
- (b) The village shall have a lien for the amount of a judgment obtained pursuant to section 30-64(g) against the owner's interest in all real property located in the state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

State Law reference— Similar provisions, MCL 125.541a, MSA 5.2891(21a).

Sec. 30-66. - Penalty for failure to comply with order.

A person who fails or refuses to comply with an order approved or modified by the village council under section 30-64 within the time prescribed by this section is guilty of a misdemeanor, punishable, upon conviction, in accordance with section 1-11.

State Law reference— Similar provisions, MCL 125.541b, MSA 5.2891(21b).

Sec. 30-67. - Appeals.

An owner aggrieved by any final decision or order of the council under section 30-64 may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

State Law reference— Similar provisions, MCL 125.542, MSA 5.2891(22).

Secs. 30-68—30-90. - Reserved.

ARTICLE V. - NOISE

Sec. 30-91. - Definitions.

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

Public nuisance. Whatever annoys, injures or endangers the safety, health, comfort or repose of the public, or offends public decency, is hereby declared to be a public nuisance.

(Comp. Ords. 1987, § 20.691)

Cross reference— Definitions generally, § 1-2.

Sec. 30-92. - Penalty.

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished in accordance with section 1-11.

(Comp. Ords. 1987, § 20.695)

Sec. 30-93. - Prohibited noises.

It shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the village. The following acts, among others, are declared to be loud, disturbing, injurious, and unnecessary and unlawful noises in violation of the section, but this enumeration shall not be deemed to be exclusive:

- (1) *Horns and signal devices on vehicles.* The sounding of any horn or signal device of any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or, if in motion, only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun; the creation by means of such signal device of any unreasonably loud or harsh sounds; and the sounding of any signal device for any unreasonable or unnecessary period of time.
- (2) *Radios, phonographs and musical instruments.* The playing of any radio, phonograph, television set, amplified or unamplified musical instrument, loudspeaker, tape recorder or other electronic sound-producing device in such manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel, hospital or other type of residence, or of any persons in the vicinity. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible on a property or in a dwelling unit other than that in which it is located shall be prima facie evidence of a violation of this section.
- (3)

Shouting and whistling. Yelling, shouting, hooting, whistling, singing or the making of any other loud noises on the public streets between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel, hospital or other type of residence, or in any office, or of any persons in the vicinity.

- (4) *Hawking.* The hawking of goods, merchandise or newspapers in a loud or boisterous manner.
- (5) *Noisy animals and birds.* The keeping of any animal or bird which, by causing frequent or loud continued noise, shall disturb the comfort or repose of any person.
- (6) *Whistles or sirens.* The blowing of any whistles or sirens, except to give notice of the time to begin or stop work or as a warning of fire or danger.
- (7) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine or stationary internal combustion engine, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.
- (8) *Construction noise.* The erection (including excavation therefor), demolition, alteration or repair of any building, and the excavation of streets and highways, on Sundays and other days, except between the hours of 7:00 a.m. and 8:00 p.m., unless a permit therefor is first obtained from the village council.
- (9) *Handling merchandise.* The creation of loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (10) *Devices to attract attention.* The use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.

(Comp. Ords. 1987, § 20.692)

Sec. 30-94. - Exceptions.

None of the terms or prohibitions of section 30-93 shall apply to or be enforced against:

- (1) Any police or fire vehicle or any ambulance, while engaged upon necessary emergency business.
- (2) Necessary excavations in or repairs of bridges, streets or highways or any public utility installation by or on behalf of the village or any public utility or any agency of the state, during the night or on Sunday, when the public safety, welfare and convenience necessitates the performance of the work at such times.
- (3) The reasonable use of stationary amplifiers or loudspeakers for public addresses which are noncommercial in character.
- (4)

The use of sound amplifiers or other such devices by churches or other organizations approved by the council.

(5) Trains.

(Comp. Ords. 1987, § 20.693)

Sec. 30-95. - Retaliation against complainant or witness.

If there is any evidence of retaliation by any offender under this article against any complainant or witness, such evidence shall be communicated to the district court magistrate. In sentencing any violator, the district court magistrate shall first examine the evidence of retaliation, and, if such be shown, shall consider such acts and sentence the violator accordingly.

(Comp. Ords. 1987, § 20.694)

Secs. 30-96—30-120. - Reserved.

ARTICLE VI. - JUNK VEHICLES

Sec. 30-121. - Purpose.

It is hereby found and declared that the purpose of this ordinance is to prevent, reduce or eliminate blight or potential blight within the Village of Mayville by the prevention or elimination of certain environmental causes of blight factors which exist or which may in the future exist in the village, to-wit junk vehicles and equipment; and that the necessity and the public interest for provisions herein set forth are hereby declared as a matter of legislative determination to be a public purpose and for the protection of the health, safety, morals and general welfare of the citizens and to the economic welfare of the municipality.

Sec. 30-122. - Definitions.

For the purpose of this ordinance, the following words, terms and phrases, shall have the meanings ascribed to them in this section:

Enforcement officer. The chief of police or his/her designee.

Equipment. Any motorized machine designed for or adapted and used for agriculture, horticulture, forestry, grounds maintenance, lawn and garden, construction, materials handling and earth moving.

Illegal motor vehicle. Any vehicle that is not currently licensed or insured, to be legally driven on any street or highway.

Inoperable motor vehicle. Any motor vehicle or parts thereof which by reason of dismantling, disrepair, or other cause is incapable of being properly propelled under its own power.

Inoperable trailer. Any trailer or parts thereof which by reason of dismantling, disrepair, or other cause is incapable of being properly propelled in conjunction with a motor vehicle.

Junk vehicle or junk equipment. Any vehicle, trailer or equipment, or parts thereof, which violates any provision of this ordinance.

Motor vehicle. Any vehicle which is self-propelled, including industrial and construction equipment.

Person. Any natural person, firm, association, partnership, limited liability corporation or corporation.

Trailer. Any vehicle, with or without motive power, designed for carrying property or persons and for being drawn by another vehicle, including, but not limited to, house trailers, recreational trailers, trailer coaches, campers, fifth wheels, pole-trailers, semi-trailers and tractor trailers.

Vehicle. Any device in, upon, or by which any person or property is or may be transported or drawn.

(Ord. No. 170, 2-18-2014; Ord. No. 174, 2-21-2017)

Sec. 30-123. - Parking and storage restricted.

No person shall park, store or place upon any public right-of-way or public property any motor vehicle, trailer or equipment, or new or used parts or junk thereof; and no owner, possessor or occupier of land, and no person in charge of any land in the village shall park, store, place or permit the parking, storage or placement thereof upon any premises within the village, except as permitted by the zoning ordinance, any motor vehicle, trailer or equipment, or new or used parts or junk thereof, unless the vehicle, trailer or equipment, or part thereof, is wholly contained within a fully enclosed building and does not violate any zoning or building laws of the village, county or state, except for the following:

- (a) Operable vehicles or trailers with substantially all main component parts attached that are properly displaying a registration from the State of Michigan secretary of state that is currently valid or no more than 60 days expired;
- (b) Operable vehicles or trailers with substantially all main component parts attached that are kept as the stock in trade of a regularly licensed and established new or used automobile, trailer or other motorized vehicle dealer and that are insured in full accordance with Public Act 300 of 1949 (MCLA 257.511 et seq.);
- (c) Vehicles or trailers on private property that are temporarily inoperable because of minor mechanical failure but which are not in any manner dismantled and have substantially all main component parts attached, which may remain upon such private property for not to exceed 30 days; except that such vehicle may remain upon the premises of a licensed motor vehicle repair garage for a period not to exceed 90 days, with extension of additional 30-day

periods upon enforcement officer approval of written proof the offending vehicle is involved in insurance claim litigation or a similar matter and additional time is required for settlement before a vehicle can be moved;

- (d) No more than one vehicle or trailer, unless such vehicle or trailer presents a health or safety hazard, for which the body thereof is fully covered with a commercially manufactured cloth or opaque plastic car cover. Said car cover shall be kept in new or like new condition and shall be specifically designed to attach tightly to and cover the entire vehicle or trailer body; and
- (e) No more than one operable vehicle or trailer with substantially all main component parts attached that is not properly displaying a registration from the State of Michigan secretary of state that is currently valid or no more than 60 days expired, but that is being advertised for sale upon first obtaining a permit from the police chief. The sale shall be for no more than 60 days per calendar year per household, to be permitted in no more than two (2) increments of exactly 30 consecutive days each.
- (f) All vehicles or trailers, that fit the before mentioned requirements, must be parked on a cement pad or mowed grassy area.

(Ord. No. 170, 2-18-2014)

Sec. 30-124. - Repairs and similar work restricted.

No person shall repair, redesign, modify or dismantle any vehicle, trailer or equipment upon any public right-of-way or public property or on any property within the village, except as permitted by the zoning ordinance, for a period in excess of 48 hours, except as shall be accomplished within fully enclosed buildings, will not constitute a nuisance or annoyance to adjoining property owners or occupants, and does not violate any provisions of the zoning ordinance. Any such work within such 24-hour period shall not, however, consist of any major repair, redesigning, modifying or dismantling work, but only such occasional minor work as may infrequently be required to maintain a vehicle, trailer or equipment, or parts thereof, in normal operating condition.

No person shall perform any major repair, redesigning, modifying or dismantling work on any vehicle, trailer or equipment upon any property within the village, except as permitted by the zoning ordinance, without first obtaining a permit issued by the police chief. Said major work shall be for no more than 28 days per calendar year per household, to be permitted in no more than two increments of exactly 14 consecutive days each.

Sec. 30-125. - Responsibility for motor vehicles, trailers, equipment and/or parts thereof.

The provisions of this article shall apply to the person who owns the motor vehicle, trailer, equipment and/or parts thereof; to the person having charge, custody or control of the motor vehicle, trailer, equipment and/or parts thereof; and also to any person who owns, possesses, occupies or has charge, custody or control over any private premises on which the motor vehicle, trailer, equipment and/or parts thereof is located; and all such persons shall be responsible for the removal thereof.

For purposes of this article, a person shall be deemed to own premises if the person has a fee interest, jointly or separately, a land contract vendee's interest, an interest obtained pursuant to a mortgage foreclosure sale, a deed in lieu of foreclosure, land contract foreclosure or land contract forfeiture, whether or not said interest is subject to a right of redemption.

(Ord. No. 154, § 1, 1-20-2009)

Sec. 30-126. - Temporary waiver of restrictions.

If the regulations in this section create any special hardship beyond the control of a particular violator thereof because of unforeseen circumstances, the enforcement officer is hereby given the authority to grant permission to an applicant to operate contrary to the provisions of this ordinance for a limited period of not to exceed 14 days, provided that no adjoining property owner or occupant is unreasonably adversely affected thereby and the spirit and purpose of this ordinance are still substantially observed.

(Ord. No. 170, 2-18-2014)

Sec. 30-127. - Enforcement.

Before commencing prosecution under this article, the enforcement officer shall give, notice to the person or persons charged with violating this article. Such notice shall be in writing, and shall be served upon said person or persons or, at the option of the enforcement officer, by posting a copy of this notice on the land or attaching a copy of the notice to the building. In addition, a copy of the notice shall be sent by first class mail to said person or persons at their last known address. The notice shall specify that failure to remedy the violation within three days of the date of personal service or five days from the date of mailing shall result in the issuance of a municipal civil infraction violation notice.

For purposes of this article the owner of the premises, as defined in this article, shall be deemed to have been served with notice if the notice is mailed to the address as provided in the most recent tax roll of the village. If a person acquires an interest in premises pursuant to a mortgage foreclosure, deed in lieu of foreclosure, land contract foreclosure or forfeiture, said person shall be deemed to "have authorized notice as provided above, unless and until said person notifies the village assessor, in writing of a change, in address for the ad valorem property tax roll.

(Ord. No. 154, § 2, 1-20-2009; Ord. No. 170, 2-18-2014; Ord. No. 174, 2-21-2017)

Sec. 30-128. - Penalty.

Failure to comply with the notice given by the enforcement officer within the time specified shall constitute a municipal civil infraction, which shall be processed in accordance with sections 1-15 through 1-21 of this Code and the penalties for which are prescribed therein. Each day this ordinance is violated shall be considered as a separate violation.

In addition to the foregoing fines, the court may assess as costs, the damages and expenses incurred by the village in enforcement of this ordinance against the violator, including the costs of prosecution. The assessment and collection of these fines and costs shall be in accordance with MCLA 600.8701 et seq.

In addition to any remedies available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.

Sec. 30-129. - Removal and sale by village upon failure of owner to comply.

If the enforcement officer, or his/her designee, determines that a junk vehicle, equipment and/or parts thereof exists or has not been removed after service of the removal notice as set forth in section 30-126, the junk vehicle, equipment and/or parts thereof may be removed from the premises, impounded, and destroyed or sold for junk at the discretion of the enforcement officer. The chief of police shall keep or cause to be kept an accurate account of all expense incurred and property impounded, destroyed or sold with respect to each parcel of land entered upon in carrying out the provisions of this ordinance and shall make a sworn statement of the account and present it to the enforcement officer.

(Ord. No. 170, 2-18-2014)

Sec. 30-130. - Right of entry for removal; interference.

The enforcement officer or the chief of police, or their designated representatives, are hereby authorized to enter upon any premises in the village for the purpose of removing junk vehicles, equipment and/or parts thereof in accordance with the provisions of section 30-129.

(Ord. No. 170, 2-18-2014)

Sec. 30-131. - Collection of costs from owner.

A copy of the sworn statement provided for in section 30-129, including an account of the costs incurred on each of the several descriptions or parcels of property, shall be transmitted to the village treasurer. The village treasurer shall add to all such accounts so audited and allowed ten percent of the total of each account, and shall cause all such expenditures so audited and allowed, together with the additional ten percent, to be severally levied on the lands on which such expenditures were made. The amount levied for each such case shall be no less than \$150.00 per junk vehicle or piece of equipment removed. Such amounts shall be severally spread upon the tax roll in preparation and collection as other village taxes are made, and when collected shall be paid into the general fund of the village to reimburse the village for the costs of publication, overhead and other expense and outlay as authorized in this ordinance.

Any sums realized on the sale of any junk vehicle, equipment and/or parts thereof may be retained by the village to reimburse it for the costs incurred in such removal and sale to the extent of such costs outlined above. Any balance of such sums remaining after such reimbursement shall be returned to the owner of such junk vehicle, equipment and/or parts thereof.

Sec. 30-132. - Severability.

The various parts, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Sec. 30-133. - Conflict.

Any ordinances in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Secs. 30-134—30-150. - Reserved.

ARTICLE VII. - WEEDS

Sec. 30-151. - Definitions.

For the purpose of this ordinance, the following words, terms and phrases, shall have the meanings ascribed to them in this section:

Enforcement officer. The Village of Mayville Zoning Administrator, or any other officer of the village so designated shall enforce the provisions of this article.

Noxious or poisonous weeds. Canada thistle (*Cirsium arvense*), milkweed (*Asclepias cornutus*), oxeye daisy (*Chrysanthemum leucanthemum*), goldenrod (*Solidago*), burdock (*Arctium lappa*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior* 1.), poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron vernix*) or any other tree, shrub, plant, weed or other noxious material regarded as a common public nuisance.

Person. Any natural person, firm, association, partnership, limited liability corporation or corporation.

Public nuisance. Any tree, shrub, plant, weed, any accumulation of dead weeds, grass or brush, trash, debris, refuse, filth or other noxious material which endangers public property or the health or safety of the public.

(Ord. No. 171, 3-18-2014)

Sec. 30-152. - Prohibited conditions.

No owner, possessor or occupier of land, and no person in charge of any land in the village shall permit or maintain on any such premises any dead or diseased trees, noxious or poisonous weeds, shrubs or plants, any accumulation of dead weeds, grass or brush, trash, debris, refuse, filth or other noxious materials.

Sec. 30-153. - Duty of owners, occupants, etc.

As often as may be necessary to comply with the provisions of this ordinance, every owner, possessor or occupant of land, and every person in charge of any land in the village shall remove, destroy or cut, by lawful means, all dead or diseased trees, any accumulation of dead weeds, grass or brush, noxious or poisonous weeds, shrubs or plants growing thereon in such a manner as will also effectively prevent such weeds, shrubs or plants from blossoming, bearing seed, spreading to adjoining property or becoming a fire hazard.

Notwithstanding anything contained in this article to the contrary, every owner, possessor or occupant of land, and every person in charge of any land in the village, such parcel being ten acres or less, shall at all times keep any grass, weeds, rank vegetation, non-woody surface vegetation and other similar plants so that the height of such plants, or any part or portion thereof, from the ground to the part farthest away from the ground shall at all times be less than eight inches.

(Ord. No. 171, 3-18-2014; Motion of 6-17-2014)

Sec. 30-154. - Enforcement.

This ordinance will be published in the local newspaper, on the village web site, and mailed with the water bills in April of each year.

When a complaint comes to the village of a violation of this ordinance, the enforcement officer will inspect the property. Before commencing prosecution under this article, the enforcement officer shall post a copy of this ordinance violation to the building or structure. The notice shall specify that failure to remedy the violation within 48 hours of posting, shall entitle the village to enforce section 30-156 at the expense of the property owner.

(Ord. No. 155, § 1, 1-20-2009; Ord. No. 171, 3-18-2014)

Sec. 30-155. - Reserved.

Editor's note— Ord. No. 171, adopted Mar. 18, 2014, deleted § 30-155, which pertained to penalty and derived from Ord. No. 134, revised on June 21, 2005.

Sec. 30-156. - Penalty and cutting by village upon failure of owner to comply.

If any person shall fail or neglect to comply with the removal, destruction or cutting required by this ordinance, the superintendent of public works shall cause all such dead or diseased trees, noxious or poisonous weeds, shrubs or plants, any accumulation of dead weeds, grass or brush, trash, debris, refuse, filth or other noxious materials to be cut, removed or destroyed upon lands of the person not complying with the provisions of this ordinance at the expense of the property owner. The superintendent of public works shall keep or cause to be kept an accurate account of all expense incurred with respect to each parcel of land entered upon in carrying out the provisions of this ordinance and shall make a sworn statement of the account and present it to the village council.

The charges will be as follows:

\$35.00 per person per hour.

\$82.35 per hour for mower.

Plus the cost of any equipment rental rate.

These rates are subject to change by approval of the village council.

(Ord. No. 171, 3-18-2014)

Editor's note— Ord. No. 171, adopted Mar. 28, 2014, changed the title of § 30-156 from "Cutting by village upon failure of owner to comply" to "Penalty and cutting by village upon failure of owner to comply."

Sec. 30-157. - Right of entry for removal; interference.

The superintendent of public works or the chief of police, or their designated representatives, are hereby authorized to enter upon any premises in the village for the purpose of cutting, removing or destroying poisonous and noxious weeds, brush, grass, shrubs, plants, trees, non-woody surface vegetation, debris, refuse, filth or other noxious materials in accordance with the provisions of section 30-156.

(Ord. No. 171, 3-18-2014)

Sec. 30-158. - Collection of costs from owner.

A copy of the sworn statement provided for in section 30-156, including an account of the costs incurred on each of the several descriptions or parcels of property, shall be transmitted to the village treasurer. The village treasurer shall add to all such accounts so audited and allowed ten percent of the total of each account, and shall cause all such expenditures so audited and allowed, together with the additional ten percent, to be severally levied on the lands on which such expenditures were made. The amount levied for each such case shall be no less than \$117.35 unless changed by the village council. Such amounts shall be severally spread upon the tax roll in preparation and collection as other village taxes are made, and when collected shall be paid into the general fund of the village to reimburse the village for the costs of publication, overhead and other expense and outlay as authorized in this ordinance.

(Ord. No. 171, 3-18-2014)

Sec. 30-159. - Notice of requirements.

The village clerk shall on or before April 1 of each year give notice of requirements and provisions of this article by publishing a notice once a week for two successive weeks in a newspaper of general circulation in the village. In addition, a notice of requirements and provisions of this article shall be included in the last water bill of each account prior to April 1 of each year.

(Ord. No. 171, 3-18-2014)

Sec. 30-160. - Exemptions.

Exempted from the provisions of this article are flower gardens, plots of shrubbery, vegetable gardens and grain plots. An exemption under the terms of this section cannot be claimed unless the land has been cultivated and cared for in a manner appropriated to such exempt categories.

Sec. 30-161. - Severability.

The various parts, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent

jurisdiction, the remainder of the ordinance shall not be affected thereby.

Sec. 30-162. - Conflict.

Any ordinances in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Secs. 30-163—30-170. - Reserved.

ARTICLE VIII. - RESERVED

Secs. 30-171—30-180. - Reserved.

Chapter 34 - FIRE PREVENTION AND PROTECTION

ARTICLE I. - IN GENERAL

Sec. 34-1. - Inspections; correction of fire hazards.

- (a) The fire chief of the village, or a firefighter in uniform acting under the orders and direction of the fire chief, upon complaint of a person having an interest in a building or premises or property adjacent to a building or premises, or at the fire chief's own instance without a complaint, may, at any hour reasonable under the circumstances involved, enter into and upon a building on the premises within the village for the purpose of inspection and examination of the building or premises, together with their occupancies and contents, for the discovery of an existence of a fire hazard.
- (b) When the fire chief or his authorized firefighter finds a building or premises, either public or private, which for want of repairs or lack of or insufficient fire escapes, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, defective electrical wiring or electrical equipment, defective chimneys, defective gas connections, defective heating apparatus, or accumulation of rubbish, waste materials or flammable substances or decorations, or from any other condition, or for any other reason, may cause an otherwise preventable fire or explosion or endanger other property or premises or be dangerous to the public peace, security or safety, the fire chief shall order the condition remedied.
- (c) Every order made by the fire chief shall be promptly obeyed and complied with.
- (d)

Failure to remedy the conditions which result in an order from the fire chief shall be deemed to be a nuisance per se, and legal proceedings to enforce the order of the fire chief may be brought in any court of competent jurisdiction in the name of the village. Such action shall be taken only as authorized by the village council.

(Ord. No. 115, §§ 1—4, 6-28-1995)

State Law reference— Similar provisions, MCL 29.8, MSA 4.559(8).

Secs. 34-2—34-30. - Reserved.

ARTICLE II. - OUTDOOR BURNING

Sec. 34-31. - Purpose.

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Village of Mayville ("Village") due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

Sec. 34-32. - Applicability.

This ordinance applies to all outdoor burning and refuse burning within the Village, except for the following:

- (a) Grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- (b) Burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in Section 34-33 of this ordinance.
- (c) Use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

Sec. 34-33. - Definitions.

For the purpose of this ordinance, the following words, terms and phrases, shall have the meanings ascribed to them in this section:

Campfire. Any small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

Clean Wood. Natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

Cord. A unit of quantity for firewood, equal to 128 cubic feet in a stack measuring four feet by four feet by eight feet.

Firewood. Split wood or unsplit wood logs cut into lengths not exceeding four feet (4') for the purpose of burning in accordance with this ordinance.

Fire Chief. The Chief of the Mayville Fire Department or other person(s) authorized by the Fire Chief.

Open Burning. Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

Outdoor Burning. Open burning or burning in an outdoor furnace.

Outdoor Furnace. Any furnace, boiler, stove, equipment, device, appliance, structure or apparatus, or any part thereof, which:

- (a) Is not installed, affixed or situated within a building intended for habitation by humans or domestic animals
- (b) Exists for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.
- (c) Operates by burning wood or any other solid fuel, including but not limited to coal, paper pellets, and agricultural products.

Person. Any natural person, firm, association, partnership, limited liability corporation or corporation.

Refuse. Any waste material except clean wood.

Sec. 34-34. - General prohibition on outdoor burning and refuse burning.

No person shall utilize, maintain or otherwise permit open burning, outdoor burning and refuse burning on premises owned, leased, or occupied by him/her in the Village of Mayville unless the burning is specifically permitted by this ordinance.

Sec. 34-35. - Materials that may not be burned.

The following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device:

- (a) Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

- (b) Waste oil or other oily wastes.
- (c) Asphalt and products containing asphalt.
- (d) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- (e) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- (f) Rubber including tires and synthetic rubber-like products.
- (g) Newspaper, corrugated cardboard, container board, office paper and other recyclable materials.

Sec. 34-36. - Open burning of leaves, brush, clean wood, other vegetative debris and refuse.

It shall be unlawful for any person to burn leaves, weeds, brush, stumps, trees, other vegetative debris and refuse; except that the department of public works may burn trees, brush and other debris upon first obtaining the written permission of the Fire Chief.

Open burning of clean wood is lawful only in accordance with the following provisions:

- (a) All allowed open burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways or railroads. Open burning shall be conducted in conformance with all local and state fire protection regulations.
- (b) Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Michigan Department of Natural Resources has issued a burning ban applicable to the area.
- (c) No more than one (1) outdoor campfire for cooking, ceremonies or recreation is allowed per parcel in the Residential A or B zoning district, and only in accordance with the following provisions:
 - (1) The fire must be built in the rear yard of the residence.
 - (2) The fire must be built in a commercially manufactured fire pit or on bare ground and may not exceed a diameter of three (3) feet and height of three (3) feet.
 - (3) Only clean wood of no greater length than 16 inches may be burned.
 - (4) No refuse may be stored in any outdoor fire pit, whether lit or unlit.
- (d) Open burning shall be constantly attended and supervised by a competent person of such age, readily available fire extinguishing means and discretion as may be necessary for the total control of said fire until the fire is extinguished and is cold.
- (e)

Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 12 feet from any property line, combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

Sec. 34-37. - Outdoor furnaces.

An outdoor wood-fired furnace may be installed and used in the Village only in accordance with the following provisions:

- (a) No more than one (1) outdoor furnace may be installed and used in the rear yard of a parcel in any zoning district, except for Business A.
- (b) The outdoor furnace shall be installed and used only in parcels of sufficient size to meet the distance requirements of this ordinance.
- (c) The outdoor furnace shall not be used to burn any of the prohibited materials listed in Section 34-35 of this ordinance.
- (d) The outdoor furnace shall be located at least 15 feet from the nearest property line and at least 40 feet from the nearest habitable building which is not on the same property as the outdoor furnace.
- (e) The outdoor furnace shall have an insulated chimney that extends at least as high as the manufacturer's recommendation. If there are any other residences not served by the outdoor furnace within 250 feet, the insulated chimney shall also extend at least two (2) feet higher above the ground surface as the height of the roofs of all such residences. If such chimney height exceeds manufacturer's specifications, then the outdoor furnace shall not be permitted. Said chimney shall also have a spark arrestor installed on top and must be constantly maintained in good repair to the requirements of this ordinance, without rust or other blighted condition.
- (f) Outdoor furnaces which are designed to heat structures ten percent (10%) greater than the size of the structure(s) to be heated are not permitted.
- (g) The outdoor furnace shall meet all emission standards required by federal and state regulations.
- (h) No person shall install or use an outdoor furnace without first providing the Zoning Administrator of the Village of Mayville with detailed plans, which shall include a drawing, to scale, identifying the proposed location of the outdoor furnace in proximity to boundary lines and associated structures, height of stack, manufacturer's specifications and all other information necessary to assure compliance with this ordinance, and obtaining a zoning permit from the Zoning Administrator approving said plan.
- (i)

A grain bin, hopper or other container for storing wood or other solid fuel shall only be permitted outdoors in accordance with the following specifications:

- (1) The container must be of commercially manufactured construction.
- (2) The container must not exceed one ton in capacity.
- (3) The container must be permanently installed and anchored to footings at a depth below the frost level of forty-two inches (42") from finish grade to the bottom of the footing or to a floating slab-on-grade.

Sec. 34-38. - Storage of firewood.

No person shall keep, store, or permit the keeping or storage of firewood on premises owned, leased, or occupied by him/her unless such firewood is kept or stored for use on the premises and in conformance with the following:

- (a) No more than one (1) cord of firewood shall be kept or stored outdoors at any time.
- (b) Firewood shall not be kept or stored in the front yard of a parcel.
- (c) Firewood shall only be kept or stored in a straight, orderly, neat and secure stack, which shall be raised a minimum of six (6) inches from grade and is not stacked more than six (6) feet high.
- (d) Unless screened by a solid fence or wall, provided that it is stacked no higher than the solid fence or wall, firewood stacks shall be no closer than five (5) feet to the nearest property line.
- (e) Firewood shall not be permitted to become infested with rats, rodents or other vermin.
- (f) All brush, debris and refuse from processing of firewood shall be promptly removed from the premises.

Sec. 34-39. - Liability.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire. This ordinance shall not be a defense to any civil claims.

Sec. 34-40. - Right of entry and inspection.

The Fire Chief or any authorized officer, agent, employee or representative of the Village of Mayville who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

Sec. 34-41. - Penalty.

Every person who shall violate any of the provisions of this chapter shall be responsible for a municipal civil infraction, which shall be processed in accordance with sections 1-15 through 1-21 of this Code and the penalties for which are prescribed therein. Each day this ordinance is violated shall be considered as a separate violation.

In addition to the foregoing fines, the Court may assess as costs, the damages and expenses incurred by the Village in enforcement of this ordinance against the violator, including the costs of prosecution. The assessment and collection of these fines and costs shall be in accordance with MCLA 600.8701 et seq.

In addition to any remedies available at law, the Village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the Ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.

Sec. 34-42. - Severability.

The various parts, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Sec. 34-43. - Conflict.

Any ordinances in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Chapter 38 - HEALTH AND SANITATION

ARTICLE I. - IN GENERAL

Secs. 38-1—38-30. - Reserved.

ARTICLE II. - OUTDOOR ASSEMBLIES

DIVISION 1. - GENERALLY

Sec. 38-31. - Definitions.

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

Attendant means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.

Licensee means any person to whom a license is issued pursuant to this article.

Outdoor assembly and *assembly* mean any event attended by more than 5,000 attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including but not limited to musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:

- (1) An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property;
- (2) An event which is conducted or sponsored by any entity qualifying for tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1954, being 26 USC 501(C)(3), as incorporated by reference in section 201 of the Michigan income tax act of 1967, Public Act No. 28 of 1967 (MCL 206.201, MSA 7.557(1201)), or any other applicable law; or
- (3) An event held entirely within the confines of a permanently enclosed and covered structure.

Sponsor means any person who organizes, promotes, conducts or causes to be conducted an outdoor assembly.

(Comp. Ords. 1987, § 20.202)

Cross reference— Definitions generally, § 1-2.

Sec. 38-32. - Prohibited acts by licensees.

- (a) It shall be unlawful for a licensee or his employee or agent to knowingly:
 - (1) Advertise, promote or sell tickets to, conduct or operate an assembly without first obtaining a license as provided in this article.
 - (2) Conduct or operate an assembly in such a manner as to create a public or private nuisance.
 - (3) Conduct or permit, within the assembly, any obscene display, exhibition, show, play, entertainment or amusement.
 - (4) Permit any person on the premises to cause or create a disturbance in, around or near the assembly by obscene or disorderly conduct.
 - (5) Permit any person to unlawfully consume, serve or possess intoxicating liquor while on the premises.

(6) Permit any person to unlawfully use, sell or possess any narcotics, narcotic drugs, drugs or other substances as defined in Public Act No. 368 of 1978, § 7101 et seq. (MCL 333.7101 et seq., MSA 14.15(7101) et seq.).

(b) Any person found violating any of the provisions of this section shall, upon conviction, be punished in accordance with section 1-11. Any of the violations listed in this section is a sufficient basis for revocation of the license and for the immediate enjoining in the circuit court of the assembly.

(Comp. Ords. 1987, § 20.212)

Secs. 38-33—38-50. - Reserved.

DIVISION 2. - LICENSE

Sec. 38-51. - Required.

A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in the village unless he shall have first made application for and obtained, as prescribed in this division, a license for each such assembly.

(Comp. Ords. 1987, § 20.203)

Sec. 38-52. - Application.

Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the village, and shall be made at least 60 days prior to the date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee as established from time to time by the council and shall include at least the following:

- (1) The name, age, residence and mailing address of the person making the application. Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and addresses shall be provided of all shareholders having a financial interest greater than \$500.00.
- (2) A statement of the kind, character and type of the proposed assembly.
- (3) The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to the use of the site where the

proposed assembly is to be conducted.

- (4) The dates and hours during which the proposed assembly is to be conducted.
- (5) An estimate of the maximum number of attendants expected at the assembly for each day it is conducted, and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

(Comp. Ords. 1987, § 20.204)

Sec. 38-53. - Plans for provision of required services and facilities.

- (a) Each application for a license under this division shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective licensee's plans to provide for the following:
 - (1) Police and fire protection.
 - (2) Food and water supply and facilities.
 - (3) Health and sanitation facilities.
 - (4) Medical facilities and services, including emergency vehicles and equipment.
 - (5) Vehicle access and parking facilities.
 - (6) Camping and trailer facilities.
 - (7) Illumination facilities.
 - (8) Communications facilities.
 - (9) Noise control and abatement.
 - (10) Facilities for cleanup and waste disposal.
 - (11) Insurance and bonding arrangements.
- (b) In addition, the application shall be accompanied by a map of the overall site of the proposed assembly.

(Comp. Ords. 1987, § 20.205)

Sec. 38-54. - Investigation.

On receipt by the clerk, copies of the application for a license under this division shall be forwarded to the chief of police, the state fire marshal and such other appropriate public officials as the clerk deems necessary. Such officers and officials shall review and investigate matters relevant to the application, and within 20 days of receipt thereof shall report their findings and recommendations to the council.

(Comp. Ords. 1987, § 20.206)

Sec. 38-55. - Criteria for approval.

In processing an application for a license to conduct an outdoor assembly, the council shall, at a minimum, require the following:

- (1) *Security personnel.* The licensee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the chief of police, in cooperation with the director of state police, is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly.
- (2) *Water facilities.* The licensee shall provide potable water sufficient in quantity and pressure to ensure proper operation of all water-using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and, if not available, then from a source constructed, located and approved in accordance with Public Act No. 368 of 1978 (MCL 333.12701 et seq., MSA 14.15(12701) et seq.) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, or from a source and delivered and stored in a manner approved by the village.
- (3) *Restroom facilities.*
 - a. The licensee shall provide separate enclosed flush-type water closets as defined in Public Act No. 230 of 1972 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. If such flush-type facilities are not available, the village may permit the use of other facilities which are in compliance with Public Act No. 368 of 1978, § 12771 (MCL 333.12771, MSA 14.15(12771)) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.
 - b. The licensee shall provide lavatory and drinking water facilities constructed, installed and maintained in accordance with Public Act No. 230 of 1972 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water and soap and paper towels.
 - c. The number and type of facilities required shall be determined on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Toilets	1,300	1,200

Urinals	1,100	
Lavatories	1,200	1,200
Drinking fountains	1,500	
Taps or faucets	1,500	

- d. Where the assembly is to continue for more than 12 hours, the licensee shall provide shower facilities on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Shower heads	1:100	1:100

- e. All facilities shall be installed, connected and maintained free from obstructions, leaks and defects and shall at all times be in operable condition as determined by the village.

(4) *Food service.*

- a. If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Public Act No. 368 of 1978 (MCL 333.12901 et seq., MSA 14.15(12901) et seq.) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.
- b. If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed the attendants.

- (5) *Medical facilities.* If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be as prescribed by the village.

- (6) *Liquid waste disposal.* The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the village. If such rules and regulations are not available or if they are inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled, "Manual

of Septic Tank Practice." If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with Public Act No. 451 of 1991 (MCL 324.11701 et seq., MSA 13A.11701 et seq.) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, and, prior to issuance of any license, the licensee shall provide the village with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will ensure proper, effective and frequent removal of liquid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

(7) *Solid waste disposal; pest control.*

- a. The licensee shall provide for solid waste storage on the premises, and removal from the premises. Storage shall be in approved, covered, flytight and rodentproof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the village with a true copy of an executed agreement in force and effect with a refuse collector licensed in accordance with any applicable law, which agreement will ensure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.
- b. The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials such as insecticides or rodenticides shall not be used in any way so as to contaminate food or equipment or otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.

(8) *Public bathing beaches.* The licensee shall provide or make available or accessible public bathing beaches only in accordance with Public Act No. 368 of 1978, § 12541 et seq. (MCL 333.12541 et seq., MSA 14.15(12541) et seq.) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

(9) *Public swimming pools.* The licensee shall provide or make available public swimming pools only in accordance with Public Act No. 368 of 1978, § 12521 et seq. (MCL 333.12521 et seq., MSA 14.15(12521) et seq.) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

(10) *Access and traffic control.* The licensee shall provide for ingress to and egress from the premises so as to ensure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the state. Traffic lanes and other space shall be provided, designated and kept open for access by ambulances, fire equipment, helicopters and other

emergency vehicles. Prior to the issuance of a license, the director of the department of state police and the director of the department of state highways must approve the licensee's plan for access and traffic control.

- (11) *Parking.* The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one automobile space for every four attendants.
- (12) *Camping and trailer parking.* A licensee who permits attendants to remain on the premises between the hours of 2:00 a.m. and 6:00 a.m. shall provide for camping and trailer parking and facilities in accordance with Public Act No. 368 of 1978, § 12501 et seq. (MCL 333.12501 et seq., MSA 14.15(12501) et seq.) and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.
- (13) *Illumination.* The licensee shall provide electrical illumination of all occupied areas sufficient to ensure the safety and comfort of all attendants.
- (14) *Insurance.* Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$3,000,000.00 from a company approved by the state commissioner of insurance, which insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the clerk of the village in writing at least ten days before the expiration or cancellation of the insurance.
- (15) *Bond.* Before the issuance of a license, the licensee shall obtain, from a corporate bonding company authorized to do business in the state, a corporate surety bond in the amount of \$1,000,000.00, in a form to be approved by the village attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this article and all applicable provisions of state or local law, and which shall indemnify the village and its agents, officers and employees and the council against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly, and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash or other waste resulting from the assembly.
- (16) *Fire protection.* The licensee shall, at his own expense, take adequate steps, as determined by the state fire marshal, to ensure fire protection.
- (17) *Fencing; noise control.* The licensee shall erect a fence completely enclosing the site of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress. Sound-producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and other

recording devices, shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the village.

(18) *Telephones.* The licensee shall provide public telephone equipment for general use on the basis of at least one unit for each 1,000 attendants.

(19) *Additional conditions.* Prior to the issuance of a license, the council may impose any other conditions reasonably calculated to protect the health, safety, welfare and property of attendants or of citizens of the village.

(Comp. Ords. 1987, § 20.210)

Sec. 38-56. - Issuance.

Within 30 days of the filing of an application for a license under this division, the council shall issue, set conditions prerequisite to the issuance of, or deny a license. The council may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within five days of such action, notice thereof must be mailed to the applicant by certified mail, and in the case of denial the reasons therefor shall be stated in the notice.

(Comp. Ords. 1987, § 20.207)

Sec. 38-57. - Grounds for denial.

A license to conduct an outdoor assembly may be denied if:

- (1) The applicant fails to comply with any or all requirements of this article or with any or all conditions imposed pursuant to this article, or with any other applicable provision of state or local law; or
- (2) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

(Comp. Ords. 1987, § 20.208)

Sec. 38-58. - Contents; posting; transfer.

A license issued under this division shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license, and any other conditions imposed pursuant to this article. It shall be posted in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.

(Comp. Ords. 1987, § 20.209)

Sec. 38-59. - Revocation.

The council may revoke a license issued under this division whenever the licensee or his employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth in this article or with any and all provisions, regulations, ordinances, statutes or other laws incorporated in this article by reference.

(Comp. Ords. 1987, § 20.211)

Chapter 42 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

Secs. 42-1—42-30. - Reserved.

ARTICLE II. - OFFENSES AGAINST THE PEACE

DIVISION 1. - GENERALLY

Secs. 42-31—42-50. - Reserved.

DIVISION 2. - DISORDERLY PERSONS

Sec. 42-51. - Penalty.

Any person convicted of being a disorderly person shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished in accordance with section 1-11.

(Comp. Ords. 1987, §§ 20.122, 20.152)

Sec. 42-52. - Acts constituting disorderly conduct.

Any person who shall do any of the following acts in the village shall be guilty of disorderly conduct:

- (1) Refusing or neglecting his family when he has sufficient ability.
- (2) Engaging in prostitution.

- (3) Engaging in an illegal occupation or business.
- (4) Being intoxicated in a public place while either endangering directly the safety of another person or property or acting in a manner that causes a public disturbance.
- (5) Vagrancy.
- (6) Loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged or allowed.
- (7) Knowingly loitering in or about a place where an illegal occupation or business is being conducted.
- (8) Loitering in or about a police station, police headquarters building, county jail, hospital, court or other public building or place for the purpose of soliciting employment or legal services or the services of sureties upon criminal recognizances.

State Law reference— Similar provisions, MCL 750.167.

- (9) Inciting, encouraging, participating in any manner in or being connected with any row, riot, unlawful assemblage or disorder, or making or assisting in making any noise or disturbance which shall tend to destroy peace and good order.

State Law reference— Incitement to riot, MCL 752.542; committing riot, MCL 752.541; unlawful assembly, MCL 752.543.

- (10) Disturbing or being instrumental in disturbing any school, meeting or congregation lawfully assembled, whether religious, political or otherwise.

State Law reference— Disturbing public places, MCL 750.170; disturbing religious worship, MCL 752.525, 750.169.

- (11) Jostling or roughly crowding or pushing any person unnecessarily in any street, alley or other public place.

State Law reference— Similar provisions, MCL 750.167(1)(l).

- (12) Engaging in any fray, or committing any assault or assault and battery upon another or committing any act whatsoever amounting to a breach of the peace.

State Law reference— Assaults, MCL 750.81 et seq.

- (13) Being under the influence of intoxicating liquor or narcotic drugs upon any public street or in any public place.

State Law reference— Similar provisions, MCL 750.167(1)(e).

- (14) Making any immoral or obscene exhibition or exposure of person.

State Law reference— Person engaged in indecent or obscene conduct deemed a disorderly person, MCL 750.167(1)(f); indecent exposure, MCL 750.335a.

- (15) Engaging in any indecent, insulting, immoral or obscene conduct in any public street, alley or public place.

State Law reference— Person engaged in indecent or obscene conduct deemed a disorderly person, MCL 750.167(1)(f).

- (16) Uttering any profanity or indecent or improper language in any street, alley or other public place.

State Law reference— Indecent language, MCL 750.103, 750.337.

- (17) Publishing, selling, offering for sale, giving away, exhibiting or possessing for such purpose any obscene, indecent, immoral book, pamphlet, paper, picture, statuary, image or representation.

State Law reference— Obscene material, MCL 752.361 et seq.

- (18) Conducting, managing or being connected with any indecent or obscene show or exhibition of any kind.

State Law reference— Obscene material, MCL 752.361 et seq.

- (19) Engaging in any window peeking.

State Law reference— Similar provisions, MCL 750.167(1)(c).

- (20) Spitting on any street or sidewalk or on the floor or wall of any place of public assemblage.
(21) Discharging any firearm or airgun.

State Law reference— Firearms, MCL 28.421 et seq.; firearms and weapons, MCL 750.222 et seq.

- (22) Exploding any fireworks or firecrackers except with written permission of the village council.

State Law reference— Fireworks, MCL 750.243a et seq.

- (23) Maliciously or willfully destroying, defacing, damaging or injuring any public property or any private property owned by another.

State Law reference— Malicious mischief, MCL 750.377 et seq.

- (24) Reserved.

- (25) Insulting, accosting, molesting or otherwise annoying either by word of mouth, or by sign or motion, any person in any street, alley or other public place.

- (26) Misrepresenting or falsifying one's age, or the age of another, for the purpose of obtaining beer, wine, liquor or other intoxicating beverage for any minor under the age of 21 years.

State Law reference— Use of false identification to purchase or consume alcoholic liquor, MCL 436.1703.

- (27)

Obstructing, resisting, injuring, or failing or refusing to comply with any lawful order or direction of a police officer.

State Law reference— Obstruction of a police officer, MCL 750.479.

- (28) Engaging in throwing balls, frisbees or other objects in any manner that interferes with pedestrian or vehicular traffic, or loud playing of car radios and tape decks in such a manner which shall tend to destroy peace and good order.

(Comp. Ords. 1987, §§ 20.121, 20.151; Motion of 11-19-2013)

Sec. 42-53. - Disorderly conduct prohibited.

Disorderly conduct, as defined in section 42-52, is hereby prohibited in the village.

(Comp. Ords. 1987, § 20.151)

Secs. 42-54—42-70. - Reserved.

DIVISION 3. - LOITERING

Sec. 42-71. - Loitering in public place.

- (a) It shall be unlawful for any person to loiter on any street, sidewalk, overpass or public place. For the purpose of this section, loitering is defined as the act of standing or idling in or about any street, sidewalk, overpass or public place within the village so as to hinder or impede or tend to hinder or impede the passage of pedestrians or vehicles.
- (b) Any person violating the provisions of this section shall, upon conviction, be punished in accordance with section 1-11.

(Comp. Ords. 1987, §§ 20.721, 20.722)

Sec. 42-72. - Loitering in parking areas after business hours.

- (a) It shall be unlawful for any person, either individually or in pairs or in groups, to go upon and loiter upon or remain upon any public parking lot during close of business hours for any purpose other than parking and leaving an automobile, or, during close of business hours, to go upon and loiter and remain upon vacant portions, including driveways and parking areas, of any privately owned business or industrial establishment, without the consent of the owners, and for any purpose not connected with attending to business in the establishment on such premises.
- (b)

A person convicted of being in violation of this section shall be punished in accordance with section 1-11.
(Comp. Ords. 1987, §§ 20.731, 20.732)

Sec. 42-73. - Loitering on business premises after business hours.

- (a) *Applicability*. This section shall apply to all premises in the village on which are located business, commercial or industrial establishments.
- (b) *Loitering on vacant portions*. It shall be a trespass and unlawful for any person, during the close of business hours, to go upon and loiter and remain upon vacant portions, including driveways and parking areas, of any privately owned business, commercial or industrial establishment within the village for any purpose not connected with attending to business in the establishment on such premises.
- (c) *Standing or sitting on or against buildings*. It shall be a trespass and unlawful for any person, during close of business hours, to loiter and remain upon or against any business, commercial or industrial building within the village, including standing or sitting in doorways or other projecting parts of buildings, or leaning against windows or doors of buildings, for any purpose not connected with attending to business within such building.
- (d) *"Vacant portions" defined*. For purposes of this section, vacant portions shall include doorways, entranceways and indented or bay areas of any storefront.
- (e) *Posting of business hours*. Any owner may post a notice in or on a business, commercial or industrial building visible from outside of the building stating the business hours of the establishment and that such notice is posted pursuant to this section. Any acts prohibited by this section committed not within the posted business hours shall be a violation of this section.
- (f) *Penalty*. Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished in accordance with section 1-11.

(Comp. Ords. 1987, §§ 20.741—20.745, 20.748)

Secs. 42-74—42-100. - Reserved.

ARTICLE III. - OFFENSES AGAINST PROPERTY

Sec. 42-101. - Larceny.

Any person who shall commit the offense of larceny in the village by stealing the property of another, or any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, or any book of accounts for or concerning money or goods containing

a conveyance of land, or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record, if the property stolen shall be in the value of \$100.00 or less, shall be punished in accordance with section 1-11.

(Comp. Ords. 1987, § 20.381)

Secs. 42-102—42-130. - Reserved.

ARTICLE IV. - OFFENSES AGAINST PUBLIC SAFETY

DIVISION 1. - GENERALLY

Secs. 42-131—42-150. - Reserved.

DIVISION 2. - FIREARMS AND DANGEROUS WEAPONS

Sec. 42-151. - Penalty; parental responsibility for violations by minors.

(a) Any violation of this division shall be a misdemeanor, punishable, on conviction, in accordance with section 1-11.

(b) In case a misdemeanor is committed by a minor under 21 years of age, the parents or guardian of that minor shall be held responsible.

(Comp. Ords. 1987, § 20.363)

Sec. 42-152. - Permit required for discharge of firearms or weapons; exceptions.

No person, except a police officer or other peace officer or military personnel in the discharge of their duty, shall fire or discharge a firearm, air rifle, BB gun or other dangerous weapon within the limits of the village without first obtaining a permit from the village council.

(Comp. Ords. 1987, § 20.361)

Sec. 42-153. - Forfeiture.

All guns, pistols or other dangerous weapons carried or used contrary to section 42-152 are hereby declared forfeited to the village and can be redeemed only at the discretion of the village council, after all court fines and costs have been paid.

(Comp. Ords. 1987, § 20.362)

Secs. 42-154—42-170. - Reserved.

DIVISION 3. - HUNTING

Sec. 42-171. - Penalty.

A person convicted of being in violation of this division shall be punished by a fine of not to exceed \$5,000.00 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, at the discretion of the court.

(Comp. Ords. 1987, § 20.342)

Sec. 42-172. - Hunting with firearm or bow and arrow prohibited.

In the interest of public safety and general welfare, it shall be unlawful for any person with firearms or a bow and arrow to hunt for any animal within the village.

(Comp. Ords. 1987, § 20.341)

Secs. 42-173—42-200. - Reserved.

ARTICLE V. - OFFENSES INVOLVING UNDERAGE PERSONS

DIVISION 1. - GENERALLY

Secs. 42-201—42-220. - Reserved.

DIVISION 2. - CURFEW

Sec. 42-221. - Established; hours.

No minor under the age of 17 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian or some adult over the age of 20 years delegated by the parent or guardian to accompany the child.

(Ord. No. 143, 9-19-2006)

State Law reference— Similar provisions, MCL 722.751 et seq., MSA 28.324(1) et seq.

Sec. 42-222. - Enforcement; restrictions on detention of minors.

The chief of police and/or any other law enforcement official may take into his custody any minor found by him violating the provisions of this division and detain such minor until proper complaint can be made to the probate court for the county; provided, however, that no minor taken into custody under the provisions of this division shall be placed in any jail or locked up or shall be placed in any detention home without the order of the judge of the probate court.

(Comp. Ords. 1987, § 20.082)

Sec. 42-223. - Aiding or abetting violation.

Any parent, guardian or other person who assists, aids, allows, permits or encourages any minor under the age of 17 years to violate the provisions of section 42-221 shall, upon conviction thereof, be punished in accordance with section 1-11.

(Ord. No. 143, 9-19-2006)

Secs. 42-224—42-250. - Reserved.

ARTICLE VI. - OFFENSES AGAINST PUBLIC MORALS

Sec. 42-251. - Public nudity.

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

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 the female breast with less than a fully opaque covering of the nipple and areola.

Public place means any premises within the village used or controlled in whole or in part for the purpose of displaying an individual's genitals, anus or female breast for payment or promise of payment, and which is open to the general public as a business, club or association.

(b) *Prohibited acts.*

(1)

No person shall knowingly or intentionally cause, promote, invite, employ or encourage any person to knowingly or intentionally display in a public place, for payment or promise of payment, his or her genitals or anus with less than a fully opaque covering, or her female breast with less than a fully opaque covering of the nipple and areola.

- (2) No person shall knowingly or intentionally display his or her genitals or anus in a public place, for payment or promise of payment, with less than a fully opaque covering.
- (3) No female shall knowingly or intentionally display her breast in a public place, for payment or promise of payment, with less than a fully opaque covering of the nipple and areola. A woman's breast-feeding of a baby does not under any circumstances constitute public nudity within the meaning of this section, and a woman's breastfeeding of a baby, whether or not the nipple or areola is exposed during or incidental to the feeding, is under no circumstances prohibited by this section.
- (c) *Penalty.* A person convicted of being in violation of this section shall be punished in accordance with section 1-11.
- (d) *Premises in violation declared nuisance.* Any premises, building, dwelling or other structure in which public nudity is offered, promoted, allowed or encouraged shall constitute a public nuisance, and shall be subject to civil abatement proceedings initiated by the village before the circuit court.

(Ord. No. 119, §§ 1—5, 2-17-1998)

Secs. 42-252—42-260. - Reserved.

ARTICLE VII. - OUTDOOR DANCE AND ENTERTAINMENT

Sec. 42-261. - Findings.

The Village of Mayville acknowledges that various organizations within the village desire to provide limited outdoor entertainment opportunities to the general public. Outdoor entertainment opportunities should be allowed, provided that reasonable restrictions on such activities are complied with.

(Ord. No. 167, § 1, 6-21-2011)

Sec. 42-262. - Outdoor dance and entertainment.

It shall be unlawful for a licensee within the meaning of the Michigan Liquor Control Act, as amended, including private clubs, to allow or permit dancing and entertainment in outdoor areas unless the licensee has obtained a special outdoor dance and entertainment permit from the Village of Mayville.

(Ord. No. 167, § 2, 6-21-2011)

Sec. 42-263. - Application requirements.

A licensee within the meaning of the Michigan Liquor Control Act, as amended, including private clubs, which currently possesses a valid liquor license and dance and entertainment permit, shall apply for and obtain a permit from the village when outdoor entertainment, including music and/or dancing is likely to occur. A dance and entertainment event shall be limited to take place between the hours of 9:00 a.m. and 11:00 p.m. on days as determined by the village council. A maximum of six such permits may be issued to a licensee in any one calendar year. Applications for the permit shall be made in writing a minimum of 150 days prior to the planned outdoor event. If requested by the village council, the applicant shall appear before the Village of Mayville Council prior to issuance of the permit.

(Ord. No. 167, § 3, 6-21-2011)

Sec. 42-264. - Fees.

The village shall establish by resolution of the village council a permit fee which shall be paid at the time that application for outdoor entertainment is made. The application fee shall be subject to modifications by resolution of the village council.

(Ord. No. 167, § 4, 6-21-2011)

Sec. 42-265. - Civil infractions.

Any person or entity which violates any of the provisions of the Village of Mayville Dance and Entertainment Ordinance is responsible for a municipal civil infraction as defined by Michigan law and shall be subject to civil fine as determined in accordance with the Village of Mayville Civil Infraction Ordinance, section 1-15 et seq., of the Village Code.

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the village has incurred in connection with the violation. A violator of this article shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day that a violation of the article continues to exist constitutes a separate violation.

(Ord. No. 167, § 5, 6-21-2011)

Chapter 46 - PEDDLERS AND SOLICITORS

ARTICLE I. - IN GENERAL

Sec. 46-1. - Definitions.

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

Peddler, hawker, canvasser and house-to-house salesman mean any person who engages in the selling or taking of orders from house to house for any commodity of any kind or character from any vehicle or carried upon such person engaged in such business in the village, except where such person has a place of business situated within the village limits.

(Comp. Ords. 1987, § 20.308)

Cross reference— Definitions generally, § 1-2.

Sec. 46-2. - Penalty.

Any person violating or assisting in the violation of this chapter shall be punishable in accordance with section 1-11.

(Comp. Ords. 1987, § 20.309)

Sec. 46-3. - Enforcement.

The chief of police and/or any officers of the police department of the village are hereby required and directed to suppress and to abate any such nuisance as is prescribed in section 46-4.

(Comp. Ords. 1987, § 20.310)

Sec. 46-4. - Violations declared nuisance.

The practice of going in and upon private residences, ringing doorbells, and knocking upon doors in the village by solicitors, peddlers, hawkers, itinerant vendors and merchants and transient vendors of merchandise, not having been requested or invited so to do by the owner or occupant of such private residence, 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 goods, wares and merchandise, or giving away samples, is hereby declared to be a nuisance, and punishable as a misdemeanor.

(Comp. Ords. 1987, § 20.301)

Sec. 46-5. - Hours of operation.

The hours for door-to-door salesmen shall be from 9:00 a.m. until 9:00 p.m., Monday through Friday.

(Comp. Ords. 1987, § 20.307)

Secs. 46-6—46-30. - Reserved.

ARTICLE II. - LICENSE

Sec. 46-31. - Required.

It shall be unlawful for any person, or his agents or employees, to engage in the business of peddling, hawking, canvassing or house-to-house selling in the village without first having obtained a license therefor from the village.

(Comp. Ords. 1987, § 20.302)

Sec. 46-32. - Application; bond.

Any person desiring to engage in the business of peddling, hawking, canvassing or house-to-house selling in the village shall first apply to the village in writing, stating the applicant's name and address and the nature of the business to be engaged in, and such other information as shall be desired, and shall furnish bond in the sum as set in the license with sufficient sureties to be approved by the village council, running to any or all damages sustained by reason of the applicant engaging in such business in the village.

(Comp. Ords. 1987, § 20.303)

Sec. 46-33. - Fee; term.

- (a) At the time of applying for a license under the provisions of this division, the applicant shall deposit with the village as a license fee a sum as set from time to time.
- (b) The duration of the license issued shall be set by the village council and stated on the license, and the license shall be renewed at the expiration of such period.
- (c) The fee for a license issued during the year shall be computed as a proportionate share of the license fee determined by the unexpired period for which the license shall be issued, except that in no event shall the fee be less than \$3.00.

(Comp. Ords. 1987, § 20.304)

Sec. 46-34. - Expiration prior to specified date.

The license issued under this division can expire earlier than stated in section 46-33. However, this shall be only after the village council deems it necessary. This is in the interest of the safety and welfare of the village. Should such action be necessary, there will be no refund of any monies to the person holding such license.

(Comp. Ords. 1987, § 20.306)

Sec. 46-35. - Carrying of identification.

While engaged in the activity for which a license is granted under this division, each licensee and the licensee's agents and employees shall have in their immediate possession an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification which establishes the identity of the person. The picture identification shall be presented to any police officer or village official upon request.

(Comp. Ords. 1987, §§ 20.305, 20.306)

Chapter 50 - SECONDHAND GOODS

Sec. 50-1. - Garage sales.

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

Garage sale, yard sale, attic sale, rummage sale and basement sale or other similarly termed sales mean any sale of tangible property not otherwise regulated in the village.

- (b) *Permit required; conduct of sales.* It shall be unlawful to conduct a garage sale, yard sale, attic sale, rummage sale, basement sale or any similar sale without a permit issued by the police chief. The sale shall be for no more than ten days per year per household in any combination of days. All signs advertising the sale shall have the seller's name and address and the dates of the sale. The signs must be picked up within two days after each sale period. Failure to comply will result in the possible denial of future permits.

- (c) *Penalty.* Any violation of or any failure to comply with the provisions of this section shall be deemed a misdemeanor and shall be punishable in accordance with section 1-11.

(Comp. Ords. 1987, § 20.761)

Chapter 54 - SOLID WASTE

ARTICLE I. - IN GENERAL

Secs. 54-1—54-30. - Reserved.

ARTICLE II. - COLLECTION AND DISPOSAL

DIVISION 1. - GENERALLY

Sec. 54-31. - Definitions.

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

Garbage means the putrescible and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Inhabited residential dwelling means any room, or combination of rooms, in which one or more people are residing in any multiple dwelling intended to serve more than one family. Each unit thereof shall constitute an inhabited residential dwelling, and each unit shall be so assessed. Apartments, at all times, shall be considered separate units. Except in those cases where sleeping rooms are rented, it is the intent of this article to assess all structures used as multiple dwellings on a unit basis. The sanitation officer may determine the number of units at any given address, and anyone considering himself aggrieved may, within 20 days following receipt of his first billing, protest his ruling to the village council, which shall have authority to make further determination if necessary.

Rubbish means the miscellaneous waste material resulting from housekeeping, including ashes, cartons, tin cans, metal, small packing boxes and waste papers, excluding discarded materials from building construction, and further excluding automobile bodies or component parts of any substantial weight or size.

Sanitation officer means the superintendent of the sanitation division or other duly appointed representatives of the village council.

(Comp. Ords. 1987, § 35.151)

Cross reference— Definitions generally, § 1-2.

Sec. 54-32. - Penalty.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punishable in accordance with section 1-11.

(Comp. Ords. 1987, § 35.160)

Secs. 54-33—54-50. - Reserved.

DIVISION 2. - COLLECTION

Sec. 54-51. - Generally.

Garbage and rubbish shall be collected by village-approved contractors or village personnel at such times and pursuant to rules and regulations established by the sanitation officer. Such rules and regulations shall be published in a newspaper in general circulation in the village at least once before such rules and regulations become effective, and as often as the sanitation officer shall deem necessary.

(Comp. Ords. 1987, § 35.153)

Sec. 54-52. - Authorized collectors.

In the interest of providing the services as contemplated in this article, the village council shall have the right to enter into contracts with one or more contractors to provide the services required by this article, and no person shall undertake to dispose of garbage or rubbish for others without authority of the village council, and without there being in existence a contract between the village and the licensee for such purposes.

(Comp. Ords. 1987, § 35.159)

Sec. 54-53. - Duty of owners and occupants to arrange for collection service.

Every owner, occupant or lessor, or any agent thereof, of any building where garbage or rubbish accumulates shall arrange with the sanitation officer for garbage and rubbish collection.

(Comp. Ords. 1987, § 35.157)

Secs. 54-54—54-70. - Reserved.

DIVISION 3. - RECEPTACLES

Sec. 54-71. - Required.

The owner, occupant or lessor, or any agent thereof, of every premises where garbage and rubbish accumulate shall cause to be provided for such premises sufficient and proper receptacles as prescribed in this division. Receptacles that are broken, are without handles, or which otherwise fail to comply with the requirements of this article may be classed as "rubbish," and after due notice to the user may be collected as rubbish.

(Comp. Ords. 1987, § 35.154(A))

Sec. 54-72. - Garbage receptacles.

- (a) The receptacles for garbage shall be kept on the premises in the rear thereof within an approved distance of the rear entrance to the dwelling or premises. Containers shall be placed at the curb on pickup days and readily accessible to the collectors. Where approved liners are used, it will only be necessary to place the liner and contents at the curb, securely bound at the top.
- (b) Garbage receptacles shall be of substantial approved construction, free of holes, with proper handles and a tightfitting cover, and shall have a capacity of not less than ten gallons and not more than 20 gallons, and no single receptacle shall weigh more than 100 pounds when full. Garbage receptacles shall be adequate in size and number to hold one week's accumulation. All garbage receptacles shall be maintained in a sanitary condition.

(Comp. Ords. 1987, § 35.154(B), (C))

Sec. 54-73. - Rubbish receptacles.

Rubbish receptacles shall be metal or wooden bushel containers with handles, in good condition, and shall weigh not to exceed 100 pounds when full. Rubbish containers other than metal or wooden baskets with handles in good condition, as specified in this section, may be collected as rubbish without notice, except that garbage receptacles may be used as rubbish containers.

(Comp. Ords. 1987, § 35.154(D))

Sec. 54-74. - Large accumulations of rubbish.

Accumulations of rubbish larger than can be contained in a receptacle shall be securely tied in compact bundles not to exceed 100 pounds in weight and placed in a location designated by the sanitation officer.

(Comp. Ords. 1987, § 35.154(E))

Sec. 54-75. - Removal of empty containers from curb.

Empty garbage and rubbish containers shall not be left at the curb more than 24 hours.

(Comp. Ords. 1987, § 35.154(F))

Sec. 54-76. - Disposal of ashes.

Ashes will be removed only when placed in rubbish containers as specified in this division, and shall not contain live coals.

(Comp. Ords. 1987, § 35.154(G))

Sec. 54-77. - Disturbing receptacles or contents.

No person shall disturb the contents of any garbage or rubbish receptacle or bundle, or leave the receptacles or contents in a condition other than as provided in this article.

(Comp. Ords. 1987, § 35.154(H))

Secs. 54-78—54-100. - Reserved.

DIVISION 4. - INDUSTRIAL AND COMMERCIAL ESTABLISHMENTS

Sec. 54-101. - Authorized collectors; fees and charges.

The village shall designate approved contractors for waste collection service to industrial and commercial establishments, or may provide village personnel. Any fees or charges for such service to industrial and commercial establishments by the contractor shall be subject to review of the village council in order to ensure reasonableness and fairness of charges.

(Comp. Ords. 1987, § 35.155)

Secs. 54-102—54-120. - Reserved.

DIVISION 5. - DISPOSAL

Sec. 54-121. - Scope of division.

This division shall deal with the following:

- (1) Compelling removal of refuse, debris, junk or any other matter that causes a public nuisance.
- (2) Garbage, within the meaning of organic refuse or rejected food waste resulting from the preparation of food or the decaying and spoiling thereof.

- (3) Rubbish and trash, which is the miscellaneous waste material resulting from housekeeping and ordinary mercantile enterprises, and includes packing boxes, cartons, excelsior, papers, leaves and grass capable of burning and being incinerated without the use of auxiliary fuel.

(Comp. Ords. 1987, § 20.102)

Sec. 54-122. - Accumulations of refuse or junk.

- (a) *Declaration of nuisance.* The accumulation of refuse, debris and junk in open spaces upon private and/or public property and in the alleys and streets of the village is a menace to health and is a discomfort and inconvenience to the inhabitants of the village and therefore constitutes a public nuisance.
- (b) *Removal required.* All persons shall remove all accumulations of refuse, debris, junk or other matter that causes a public nuisance from open spaces upon any lot owned or occupied by them.
- (c) *Removal by village.* In case of refusal or neglect of such owner or occupant to remove such refuse, debris, junk or other matter that causes a public nuisance, then it shall be the duty of the chief of police to remove such refuse, debris and junk or other such matter, keeping an accurate account of the expense of such removal. Upon the completion of such removal, the costs thereof shall be a lien upon the land from which the refuse, debris and junk or other such matter shall have been removed, and in case the owner of the lot shall refuse or neglect to pay the costs of such removal on or before April 15 following such removal, the account shall be delivered to the treasurer of the village, who shall assess such sum against the lot from which such removal is made, which tax is levied as an improvement to the lot and shall be collected at the same time and in the same manner as other village taxes are collected, which sum when collected shall be placed in the general fund of the village to reimburse the village for the costs of such removal.

(Comp. Ords. 1987, § 20.103(A), (B))

Sec. 54-123. - Storage of garbage and refuse.

- (a) All garbage and refuse not otherwise disposed of to the satisfaction of the village shall be disposed of as follows:
- (1) Garbage shall be placed in containers which meet the requirements of division 3.
- (2) Refuse shall be placed in suitable containers which meet the requirements of division 3.
- (b) The garbage thus deposited shall be removed not less than once each week and the refuse shall be removed as often as may be necessary.
- (c) The placing in a garbage container of anything other than garbage shall be a violation of this article.
- (d)

The collection of garbage shall be under the supervision of the village, which shall have the authority to make such regulations as are necessary regarding the time and method of collection as it shall deem necessary for the public health and welfare, subject to the restrictions contained in subsection (c) of this section.

(Comp. Ords. 1987, § 20.104)

Sec. 54-124. - Burying or burning garbage; dumping garbage or rubbish.

No person shall bury or burn any garbage, or deposit garbage or rubbish upon any public way or upon any property owned by another or in any body of water within the village, nor shall any person deposit or place any garbage upon any premises owned or occupied by him unless the garbage is enclosed in a suitable container as required in this article.

(Comp. Ords. 1987, § 35.156)

Cross reference— Rubbish burning, § 34-31 et seq.

Sec. 54-125. - Bringing garbage or rubbish into village.

It shall be unlawful for any person residing outside the limits of the village to bring into the village any garbage and/or rubbish for the purpose of having such garbage and/or rubbish collected by the village or village-approved contractors under contract with the village.

(Comp. Ords. 1987, § 35.157(A))

Secs. 54-126—54-140. - Reserved.

DIVISION 6. - RATES AND CHARGES

Sec. 54-141. - Establishment.

The rates for garbage and rubbish collection shall be established by council resolution and amended at such times as deemed necessary by the village council to defray the cost of collection.

(Comp. Ords. 1987, § 35.158(A))

Sec. 54-142. - Billing.

Statements for garbage and rubbish services shall be rendered quarterly on April 1, July 1, October 1 and January 1.

(Comp. Ords. 1987, § 35.158(B))

Sec. 54-143. - Payment; late charge.

All charges for garbage and rubbish services shall be payable 30 days following the date of billing. Charges not paid within 30 days after the date of billing shall be subject to a collection charge of three percent for each month that the charges remain unpaid following the due date thereof.

(Comp. Ords. 1987, § 35.158(C))

Sec. 54-144. - Lien for unpaid charges.

The charges for garbage and rubbish services are hereby made a lien upon the premises served thereby. Whenever any such charge against any premises shall be delinquent as of October 1, the village treasurer shall certify such delinquency and such charges may be entered 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 special assessments against such premises.

(Comp. Ords. 1987, § 35.158(E))

Sec. 54-145. - Request for temporary discontinuance of service.

Any owner or occupant expecting to be absent from the village for a period of one month or more may notify the village clerk of the expected absence, which notice must be given at least ten days prior to the first day of the month in which service is desired to be discontinued. Discontinuance of service may only commence on the first day of any month. Service will be recommenced upon notice and request upon the first day of the month following the request for resumption of services.

(Comp. Ords. 1987, § 35.158(D))

Chapter 58 - SPECIAL ASSESSMENTS

Sec. 58-1. - Definitions.

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

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

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

(Comp. Ords. 1987, § 12.401)

Cross reference— Definitions generally, § 1-2.

Sec. 58-2. - Authority to assess costs of local public improvements.

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

(Comp. Ords. 1987, § 12.402)

Sec. 58-3. - Initiation of projects by council.

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

(Comp. Ords. 1987, § 12.403)

Sec. 58-4. - Initiation of projects by petition of property owners.

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

(Comp. Ords. 1987, § 12.404)

Sec. 58-5. - Survey and report.

Before the council shall consider the making of any local improvement, the council shall cause to be prepared a report, which shall include necessary plans, profiles, specifications and detailed estimates of cost, an estimate of the life of the improvement, a description of the assessment district, and such other pertinent information as will permit the council to decide the cost, extent and necessity of the improvement

proposed and what part or proportion thereof should be paid by special assessments upon the property especially benefited and what part, if any, should be paid by the village at large. The council shall not finally determine to proceed with the making of any local public improvement until such report has been filed, or until after a public hearing has been held by the council for the purpose of hearing objections to the making of such improvement.

(Comp. Ords. 1987, § 12.405)

Sec. 58-6. - Resolution determining necessity of improvement; notice of hearing on proposed improvement.

After receiving the report required in section 58-5 for making any local public improvement as requested in the resolution of the council, and after the council has reviewed the report, a resolution may be passed tentatively determining the necessity of the improvement, setting forth the nature thereof, prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefited and a determination of the 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, and 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 information 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 by mail in accordance with section 58-13. The publication of notice shall be made at least seven full days prior to the hearing, and the mailing of notice shall be made at least ten full days prior to the date of the hearing. The hearing required by this section may be held at any regular, adjourned or special meeting of the council.

(Comp. Ords. 1987, § 12.406)

Sec. 58-7. - Conduct of hearing on proposed improvement; resolution to proceed with improvement.

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 it shall 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 as prescribed in section 58-6. If, by a concurring vote of two-thirds of the members, the determination of the council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, assessment district and detailed estimates of cost, and directing the treasurer to prepare a special assessment roll in accordance with the council's determination and report the roll to the council for confirmation.

(Comp. Ords. 1987, § 12.407)

Sec. 58-8. - Deviation from plans and specifications.

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

(Comp. Ords. 1987, § 12.408)

Sec. 58-9. - Limitations on preliminary expenses.

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

(Comp. Ords. 1987, § 12.409)

Sec. 58-10. - Preparation of assessment roll.

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

(Comp. Ords. 1987, § 12.410)

Sec. 58-11. - Filing of assessment roll.

When the treasurer shall have completed the special assessment roll, he shall file the roll with the village clerk for presentation to the council for review and certification by it.

(Comp. Ords. 1987, § 12.411)

Sec. 58-12. - Resolution accepting assessment roll; hearing on proposed assessments; objections.

Upon receipt of the special assessment roll, the council, by resolution, shall accept the assessment roll and order it to be filed in the office of the village clerk for public examination, shall fix the time and place the council will meet to review such special assessment roll, and shall direct the village clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard. The notice

shall be given by publication once at least seven full days prior to the date of the hearing in a newspaper published or circulated within the village, and by mail in accordance with section 58-13. 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 or parties shall present in writing their objections, if any, to the assessments against them. The treasurer shall be present at every meeting of the council at which a special assessment is to be reviewed.

(Comp. Ords. 1987, § 12.412)

Sec. 58-13. - Mailing of notice of hearings; appearance and protest at hearing.

(a) *Mailing of notice generally; appearance and protest required in order to appeal.*

- (1) For each special assessment made against property, notice of all hearings in the special assessment proceedings shall be given as provided in this section in addition to any notice of hearings to be given by publication or posting as required by statute, or ordinance. The provisions of this section in respect to service of notice by mail shall supersede any existing statutory, or ordinance requirements for mailing notice. Notice of hearings in special assessment proceedings shall be given to each owner of or party in interest in property to be assessed whose name appears upon the last local tax assessment records by mailing by first class mail addressed to that owner or party at the address shown on the tax records at least ten days before the date of the hearing. For purposes of this section, the last local tax assessment records means the last assessment roll for ad valorem tax purposes that 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 on that roll.
- (2) The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal and shall describe the manner in which an appearance and protest shall be made.
- (3) An owner or party in interest, or his agent, may appear in person at the hearing to protest the special assessment, or shall be permitted to file his appearance or protest by letter and his personal appearance shall not be required.
- (4) The council shall maintain a record of parties who appear to protest at the hearing. If a hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance was recorded is considered to have protested the special assessment in person.

(b) *Record of names and addresses of owners and parties in interest.* Where any person claims an interest in real property whose name and correct address do not appear upon the last local tax assessment records, he shall be obligated to file immediately his name and address with the local

tax assessing officer. This requirement shall be deemed effective only for the purpose of establishing a record of the names and addresses of those persons entitled to notice of hearings in special assessment proceedings. It shall be the duty of each tax assessing officer to immediately enter on the local tax assessment records any changes in the names and addresses of owners or parties in interest filed with him and at all times to keep such tax assessment records current and complete and available for public inspection.

- (c) *Reliance on tax assessment records for purpose of mailing notice.* Any officer whose duty it is to give notice of hearings in special assessment proceedings may rely upon the last local tax assessment records in giving notice of hearing by mail.
- (d) *Failure to give notice.* Any failure to give notice as required in subsection (a) of this section shall not invalidate an entire assessment roll, but only the assessment on property affected by the lack of notice. A special assessment shall not be declared invalid as to any property if the owner or the party in interest thereof has actually received notice, has waived notice, or has paid any part of the assessment. If any assessment is declared void by court order or judgment, a reassessment against the property may be made.
- (e) *Statement of right to file written appeal.* If a special assessment is made against property, the notice of the special assessment sent to the property owner or person responsible for payment of the ad valorem property taxes under the general property tax act, Public Act No. 206 of 1893 (MCL 211.1—211.157, MSA 7.1—7.214), shall include, in addition to any other requirements by statute, a statement that the owner or any person having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

State Law reference— Similar provisions, MCL 211.741 et seq., MSA 5.3534(1) et seq.

Sec. 58-14. - Changes and corrections in assessment roll.

The council shall meet at the time and place designated for the review of the special assessment roll, and at such meeting, or a proper adjournment thereof, shall consider all objections thereto submitted in writing. The council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein, or it may, by resolution, annul the assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll. 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 the special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such roll, placing it on file in the office of the village clerk and directing the village clerk to attach his warrant to a certified copy thereof within ten days, therein commanding the treasurer to spread and the

treasurer to collect the various sums and amounts appearing thereon as directed by the council. The roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies unless contested in the manner provided in section 58-13, and subject to adjustment to conform to the actual cost of the improvement, as provided in section 58-20.

(Comp. Ords. 1987, § 12.413)

Sec. 58-15. - Objection to assessment.

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

(Comp. Ords. 1987, § 12.414)

Sec. 58-16. - Payment generally.

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.

(Comp. Ords. 1987, § 12.415)

Sec. 58-17. - Payment in annual installments.

The council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed 30 in number, the first installment being due upon confirmation of the roll or on such date as the council may determine and deferred installments being due annually thereafter, or, in the discretion of the council, the installments may be spread upon and made a part of each annual village tax roll thereafter until all are paid. Interest shall be charged on all deferred installments at a rate not to exceed seven percent per annum, or such other rate as may be established by the council in accordance with state statute, commencing on the due date of the first installment, or 60 days after the date of confirmation if the first installment is not due upon confirmation, and payable on the due date of each subsequent installment. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have 60 days from the date of confirmation to pay the full amount of the assessment, or the full amount of any installments thereof, without interest or penalty. Following such 60-day period, the assessment or first installment thereof shall, if

unpaid, be considered as delinquent, and the same penalties shall be collected on such unpaid assessments or first installment thereof as are provided by law to be collected on delinquent general village taxes. Deferred installments shall be collected without penalty until 60 days after the due date thereof, after which time such installments shall be considered as delinquent, and such penalties on the installments shall be collected as are provided by law to be collected on delinquent general village taxes. After the council has confirmed the roll, the 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 such notice or of such owner to receive the notice shall not invalidate any special assessment roll of the village or any assessment thereon, or excuse the payment of interest or penalties.

(Comp. Ords. 1987, § 12.416)

Sec. 58-18. - Collection of unpaid assessments; delinquency penalty.

Any assessment, or part thereof, remaining unpaid on the first Monday of March following the date when the assessment or part thereof 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 amount 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.

(Comp. Ords. 1987, § 12.417)

Sec. 58-19. - Lien for unpaid assessments.

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

(Comp. Ords. 1987, § 12.418)

Sec. 58-20. - Additional assessments; refunds.

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

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

(Comp. Ords. 1987, § 12.419)

Sec. 58-21. - Authority to provide for 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.

(Comp. Ords. 1987, § 12.420)

Sec. 58-22. - Disposition of assessments when bonds have been issued.

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

(Comp. Ords. 1987, § 12.421)

Sec. 58-23. - Special assessment accounts.

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

(Comp. Ords. 1987, § 12.422)

Sec. 58-24. - Contested assessments.

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

- (1) Within 45 days after the confirmation of the special assessment roll, written notice is given to the council indicating an intention to file such an action and stating the grounds on which it is claimed that the assessment is illegal; and
 - (2) The action is commenced within 90 days after the confirmation of the roll.
- (b) 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 the illegality may not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

(Comp. Ords. 1987, § 12.423)

Sec. 58-25. - Reassessment.

Whenever the council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the council shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.

(Comp. Ords. 1987, § 12.424)

Sec. 58-26. - Combination of districts.

The council may combine several districts into one project for the purpose of effecting a saving in the costs. There shall be established for each district separate funds and accounts to cover the cost of the project.

(Comp. Ords. 1987, § 12.425)

Sec. 58-27. - Division of lots after assessment has been made.

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the treasurer shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. The village treasurer shall, within ten days after such apportionment, send notice of such action to the persons

concerned at their last known address by certified mail. Such apportionment shall be final and conclusive on all parties unless protest in writing is received by the village treasurer within 20 days of the mailing of the notice.

(Comp. Ords. 1987, § 12.426)

Sec. 58-28. - Deferred payment in hardship cases.

The council may provide for the deferred payment of special assessments from persons who, in the opinion of the council and treasurer, by reason of poverty are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the village shall require mortgage security on the real property of the beneficiary payable on or before his death, or in any event on the sale or transfer of the property.

(Comp. Ords. 1987, § 12.427)

Sec. 58-29. - Reconsideration of petitions.

If the council shall fail to make any public improvement petitioned for under the provisions of section 58-4 during the calendar year during which any petition is filed, such petition shall be reconsidered by the council prior to March 1 of the succeeding calendar year for the purpose of determining whether such improvement should be made during such calendar year.

(Comp. Ords. 1987, § 12.428)

Sec. 58-30. - Assessment for abatement of hazards and nuisances.

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

(Comp. Ords. 1987, § 12.429)

Sec. 58-31. - Savings clause.

All special assessment proceedings commenced prior to the effective date of the ordinance codified in this chapter and conducted in conformity with the provisions of Public Act No. 3 of 1895 (MCL 61.1 et seq., MSA 5.1201 et seq.), as in effect prior to the effective date of Public Act No. 4 of 1974 (MCL 67.25 et seq., MSA 5.1309 et seq.), are hereby validated, ratified and confirmed. Any special assessment roll confirmed after the effective date of Public Act No. 4 of 1974 (MCL 67.25 et seq., MSA 5.1309), but prior to the effective date of the ordinance codified in this chapter, shall be conclusive, except that the period for contesting such assessment roll provided in section 58-24 shall commence upon the effective date of the ordinance codified in this chapter. All incomplete special assessment proceedings shall be continued under the applicable provisions of this chapter.

(Comp. Ords. 1987, § 12.430)

Chapter 62 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. - IN GENERAL

Secs. 62-1—62-30. - Reserved.

ARTICLE II. - SIDEWALKS

DIVISION 1. - GENERALLY

Secs. 62-31—62-50. - Reserved.

DIVISION 2. - CONSTRUCTION AND REPAIR

Sec. 62-51. - Authority of sidewalk committee.

Any sidewalk in the village shall be constructed and/or repaired at the discretion of the sidewalk committee, provided there is village council approval.

(Ord. No. 116, § 1, 6-28-1995)

Sec. 62-52. - Payment of costs by village.

- (a) *Construction of new sidewalks.* Construction of new sidewalks in locations where there is no existing sidewalk shall be paid for in full out of the general fund when construction is recommended by the sidewalk committee and approved by the village council.
- (b) *Repair of existing sidewalks.* Repair of existing sidewalks shall be paid for in full out of the general fund when construction is recommended by the sidewalk committee and approved by the village council.

(Ord. No. 116, §§ 2, 3, 6-28-1995)

Sec. 62-53. - Priority list; payment of costs by property owner.

The sidewalk committee shall prioritize which sidewalks should be repaired and/or constructed, and any homeowner desiring to be elevated on the priority list may notify the sidewalk committee in writing of such desire. If the sidewalk committee concurs in the request of the property owner to be so elevated and if the village council agrees with the recommendation of the sidewalk committee, then the property owner shall be elevated on the priority list; provided, however, that the property owner shall then be responsible in full for all costs associated with such construction and/or repair. The payment shall be made in full by the homeowner, based on then-current construction costs, before actual construction and/or repair of the sidewalk.

(Ord. No. 116, § 4, 6-28-1995)

Chapter 64 - TELECOMMUNICATIONS

Sec. 64-1. - Purpose.

The purposes of this ordinance 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.

Sec. 64-2. - Conflict.

Nothing in this ordinance shall be construed in such a manner as to conflict with the Act or other applicable law.

Sec. 64-3. - Terms defined.

The terms used in this ordinance shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

Village means the Village of Mayville.

Village council means the Village Council of the Village of Mayville 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.

Village manager means the Village Manager or his or her designee.

Permit means a non-exclusive permit issued pursuant to the Act and this ordinance to a telecommunications provider to use the public rights-of-way in the Village for its telecommunications facilities.

All other terms used in this ordinance shall have the same meaning as defined or as provided in the Act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Commission" in the Act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication facilities or *facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, *provider* and *telecommunications services* mean those terms as defined in Section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed

commercial mobile radio service as defined in Section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this ordinance 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.

Sec. 64-4. - 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 ordinance.
- (b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the Village Clerk, one copy with the Village Manager and one copy with the Village Attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.
- (c) *Confidential Information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- (d) *Application Fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.
- (e) *Additional Information.* The Village Manager may request an applicant to submit such additional information which the Village Manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Village Manager. If the Village and the applicant cannot agree on the requirement of additional information requested by the Village, the Village or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- (f) *Previously Issued Permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the Village under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the Village to telecommunications

providers prior to the 1995 enactment of Section 251 of the Michigan telecommunications act but after 1985 shall satisfy the permit requirements of this ordinance.

- (g) *Existing Providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the Village as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit to the Village an application for a permit in accordance with the requirements of this ordinance. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under subsection (c) 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.

Sec. 64-5. - Issuance of permit.

- (a) *Approval or Denial.* The authority to approve or deny an application for a permit is hereby delegated to the Village Manager. Pursuant to Section 15(3) of the Act, the Village Manager shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 64-4(b) of this ordinance for access to a public right-of-way within the Village. Pursuant to Section 6(6) of the Act, the Village Manager shall notify the MPSC when the Village Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Village Manager shall not unreasonably deny an application for a permit.
- (b) *Form of Permit.* If an application for permit is approved, the Village Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.
- (c) *Conditions.* Pursuant to Section 15(4) of the Act, the Village Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (d) *Bond Requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the Village Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

Sec. 64-6. - Construction/engineering permit.

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

Sec. 64-7. - 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 ordinance does not give a telecommunications provider a right to use conduit or utility poles.

Sec. 64-8. - Route maps.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the Village, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the Village. The route maps should be in paper or electronic format unless and until the Commission determines otherwise, in accordance with Section 6(8) of the Act.

Sec. 64-9. - 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.

Sec. 64-10. - Establishment and payment of maintenance fee.

In addition to the non-refundable application fee paid to the Village set forth in Section 4(d) of this Ordinance, 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.

Sec. 64-11. - 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 Ordinance, 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 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.

Sec. 64-12. - 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 11 above shall be void from the date the modification was made.

Sec. 64-13. - Use of funds.

Pursuant to Section 10(4) of the Act, all amounts received by the Village from the Authority shall be used by the Village solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the Village from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the Village under Act No. 51 of the Public Acts of 1951.

Sec. 64-14. - Annual report.

Pursuant to Section 10(5) of the Act, the Village Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

Sec. 64-15. - 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.

Sec. 64-16. - Existing rights.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this ordinance 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.

Sec. 64-17. - Compliance.

The Village declares that its policy and intent in adopting this ordinance is to fully comply with the requirements of the Act, and its provisions should be construed in such a manner as to achieve that purpose. The Village shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231, 215.246, as provided in Section 4(c) of this ordinance;
- (b) Allowing certain previously issued permits to satisfy these permit requirements, in accordance with Section 4(f) of this ordinance;
- (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 4(g) of this ordinance;
- (d) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the Village, in accordance with Section 5(a) of this ordinance;
- (e) Notifying the MPSC when the Village has granted or denied a permit, in accordance with Section 5(a) of this ordinance;
- (f) Not unreasonably denying an application for a permit, in accordance with Section 5(a) of this ordinance;
- (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 5(b) of this ordinance;
- (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 5(c) of this ordinance;
- (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 5(d) of this ordinance;
- (j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 6 of this ordinance;
- (k) Providing each telecommunications provider affected by the Village's right-of-way fees with a copy of this ordinance, in accordance with Section 11 of this ordinance;
- (l) Submitting an annual report to the Authority, in accordance with Section 14 of this ordinance; and
- (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 15 of this ordinance.

Sec. 64-18. - Reservation of police powers.

Pursuant to Section 15(2) of the Act, this ordinance 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.

Sec. 64-19. - Severability.

The various parts, sentences, paragraphs, sections, and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section, or clause of this ordinance 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 ordinance.

Sec. 64-20. - Authorized village officials.

The Village Manager or his or her designee is hereby designated as the authorized Village official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau) for violations under this ordinance as provided by the Village Code.

Sec. 64-21. - Municipal civil infraction.

A person who violates any provision of this ordinance or the terms or conditions of a permit is responsible for a municipal civil infraction.

Sec. 64-22. - Repealer.

All ordinances and portions of ordinances inconsistent with this ordinance are hereby repealed.

Chapter 66 - TRAFFIC AND VEHICLES

ARTICLE I. - IN GENERAL

Secs. 66-1—66-30. - Reserved.

ARTICLE II. - UNIFORM TRAFFIC CODE

Sec. 66-31. - Code and Amendments and Revisions adopted.

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan Department of State Police pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference.

Sec. 66-32. - References in Code.

References in the Uniform Traffic Code for Cities, Townships and Villages to a "governmental unit" shall mean the Village of Mayville.

Sec. 66-33. - Notice to be Published.

The Mayville Village clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for Cities, Townships, and Villages and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

Sec. 66-34. - Penalties.

The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.

Secs. 66-35—66-50. - Reserved.

ARTICLE III. - MOTOR VEHICLE CODE

Sec. 66-51. - Code and Amendments and Revisions adopted.

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, and all future amendments and revisions to the Michigan Vehicle Code when they are promulgated and effective in this state are incorporated by reference.

Sec. 66-52. - References in Code.

References in the Michigan Vehicle Code to "local authorities" shall mean the Village of Mayville.

Sec. 66-53. - Notice to be Published.

The Mayville Village clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

Sec. 66-54. - Penalties.

The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the village may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

Secs. 66-55—66-60. - Reserved.

ARTICLE IV. - STOPPING, STANDING AND PARKING

Sec. 66-61. - Penalty.

Any person who violates this article is responsible for a civil infraction, and any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than \$100.00 and costs in accordance with section 907 of the Michigan Vehicle Code. For purposes of this section, civil infraction means an act or omission prohibited by law which is not a crime as defined in Public Act No. 328 of 1931, § 5 (MCL 750.5, MSA 28.195), as amended, and for which civil sanctions may be ordered.

(Comp. Ords. 1987, § 20.503)

Sec. 66-62. - Presumption regarding responsibility for violations.

The fact that a vehicle which is illegally parked is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such parking.

(Comp. Ords. 1987, § 20.502)

Sec. 66-63. - Overnight parking.

No person shall park any vehicle on any street or highway located within the village between the hours of 2:00 a.m. and 6:00 a.m., with the following exception: Parking shall be allowed on the village streets between April 1 and October 1 except on Main Street between Lincoln and Trend Streets and Fulton Street between High and Railroad Streets for motor vehicles only.

No person shall park any vehicle on property owned by the Village of Mayville or Mayville Downtown Development Authority between the hours of 11:00 p.m. and 7:00 a.m. with the following exceptions: 1) A current parking permit has been purchased and visibly displayed in the front window from the Mayville Police Department, or 2) Government owned vehicles/equipment and emergency vehicles/equipment.

Parking permit(s) shall be issued by the Mayville Police Department and shall be valid for one calendar year (January through December 20XX). Fees for parking permits shall be regulated by resolution of the Mayville Village Council.

(Comp. Ords. 1987, § 20.501; Ord. No. 161, 11-17-2009; Amend. of 11-18-2014)

Sec. 66-64. - Two hour parking.

No person shall stand, stop or park any vehicle for a continuous period of longer than two (2) hours between the hours of 8:00 o'clock a.m. and 5:00 o'clock p.m., except on Sundays and holidays, on any of the following streets or highways, or portions thereof, located within the village:

- (a) Main Street from Fulton Street to 145 feet east of Fulton Street;
- (b) Fulton Street from Main Street to 215 feet south of Turner Street; and
- (c) Turner Street from Fulton Street to 120 feet west of Fulton Street.

(Ord. No. 141, 5-16-2006)

Sec. 66-65. - Parade and event parking.

The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the standing, stopping or parking of vehicles on any street or highway located within the village, or portions thereof, constituting a part of the route of a parade or other event or street closing authorized by the Village Council. The chief of police shall post signs to such effect and it shall be unlawful for any person to stand, stop or park any vehicle in violation thereof.

(Ord. No. 141, 5-16-2006)

Sec. 66-66. - Conflict.

Any ordinances in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

(Ord. No. 141, 5-16-2006)

Secs. 66-67—66-90. - Reserved.

ARTICLE V. - OPERATION OF VEHICLES GENERALLY

Sec. 66-91. - Speed limits.

The following speed limits shall be enforced on all streets inside the village limits, as described below:

(1) *Fifty-five miles per hour zones.*

M-24 (Ohmer Road), from the west village limits to Schott Road. Six-tenths of a mile long.

(2) *Forty-five miles per hour zones.*

M-24 (Ohmer Road), from Schott Road to the east village limits. Six-tenths of a mile long.

(3) *Twenty-five miles per hour zones.*

East Main Street, from M-24 (Ohmer Road) to Fulton Street (at the traffic signal). Three-tenths of a mile long.

West Main Street, from Fulton Street (at the traffic signal) to the west village limits. Five-tenths of a mile long.

North Fulton Street, from the north village limits to Main Street (at the traffic signal). Five-tenths of a mile long.

South Fulton Street, from Main Street (at the traffic signal) to the south village limits. Five-tenths of a mile long.

(4) All other village speed limits are non-posted 25-mph zone limits according to law. All prior ordinances of the Village of Mayville or parts of ordinances in conflict herewith are hereby repealed.

(Ord. No. 136, 7-19-2005)

Secs. 66-92—66-120. - Reserved.

ARTICLE VI. - OPERATION OF VEHICLES ON SCHOOL PROPERTY

DIVISION 1. - GENERALLY

Sec. 66-121. - Purpose and scope of article.

The purpose of this article is to regulate the operation of all vehicles of every description while upon property owned or leased by the Mayville Community School District, Tuscola and Lapeer Counties, situated within the village, and to authorize the village police to issue traffic citations or arrest warrants for violations, pursuant to a resolution dated November 20, 1986, from the school district requesting such regulations.

(Comp. Ords. 1987, § 20.551)

Sec. 66-122. - Definitions.

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

Motor vehicle means every vehicle which is self-propelled.

School means the Mayville Community School District, Tuscola and Lapeer Counties.

School property means all real property owned or leased by the Mayville Community School District, Tuscola and Lapeer Counties, situated within the village.

Street and *roadway* mean that portion of a street or highway improved, designed or ordinarily used for vehicular travel, located upon the real property of the Mayville Community School District, Tuscola and Lapeer Counties, situated within the village.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, specifically including every device propelled by human power.

(Comp. Ords. 1987, § 20.552)

Cross reference— Definitions generally, § 1-2.

Sec. 66-123. - Penalty.

Any person violating any provision of this article shall be responsible for a civil infraction, and any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than \$100.00 and costs.

(Comp. Ords. 1987, § 20.559)

Sec. 66-124. - Traffic violation tickets.

It shall be the duty of the village police department to enforce all street traffic laws contained in this article, and to issue a traffic ticket whenever any vehicle is observed in violation of this article. It shall be the duty of the officer issuing the ticket to note the location of the offense, the state of the vehicle registration, the vehicle license number and any other information displayed which may identify the driver, his

demeanor, and the manner of operation of the vehicle for purposes of issuing a traffic violation ticket. In all cases, a copy of the traffic violation ticket shall be directly given to the operator of the vehicle. Under circumstances where the owner of the vehicle does not appear or answer to the charge, or fails or refuses to pay a prescribed traffic violation fee within 14 days after issuance of the ticket, inclusive of Saturdays, Sundays and holidays, the village police department shall notify the office of the village attorney and a final notice shall be sent to the owner of the vehicle informing him of the violation, warning that if such notice is disregarded the ticket will be filed with the district court and proceedings will continue pursuant to the Uniform Traffic Code as a civil infraction.

(Comp. Ords. 1987, § 20.558)

Sec. 66-125. - Traffic and parking signs.

Whenever, by this article, any traffic regulation is imposed or specified, or parking is prohibited, it shall be the duty of the board of education of the Mayville Community School District to determine the proper placement of and cause to be erected all necessary and appropriate regulatory signs, the contents of which shall provide notice of the applicable traffic or parking regulation. No traffic regulation or prohibition as provided in this article shall be effective unless such signs are erected and in place at the time of any alleged offense in compliance with section 66-126.

(Comp. Ords. 1987, § 20.555)

Sec. 66-126. - Traffic and parking diagram.

Whenever, by this article, any traffic regulation is imposed or specified or parking is prohibited, it shall be the duty of the board of education of the Mayville Community School District to maintain a traffic and parking diagram on file in the office of the village clerk, which diagram shall reflect the location of all prohibitions on parking and limitations on traffic movement as contained in this article. This diagram is referred to in this article as schedule I and shall be specifically adopted by the board of education of the Mayville Community School District in order that this article may be properly enforced. No traffic regulation or prohibition as provided in this article shall be effective unless this diagram shall first be on file in the office of the village clerk. All amendments to the original diagram and the original diagram shall remain as a permanent file with the village clerk.

(Comp. Ords. 1987, § 20.560)

Secs. 66-127—66-140. - Reserved.

DIVISION 2. - MOTOR VEHICLE OPERATION

Sec. 66-141. - Vehicles to be operated only on designated roadways.

It shall be unlawful for a person to operate a motor vehicle upon any school property except upon streets and roadways properly designated for vehicular traffic.

(Comp. Ords. 1987, § 20.553(A))

Sec. 66-142. - Operation of unlicensed vehicle.

No person shall operate an unlicensed motor vehicle upon any school property.

(Comp. Ords. 1987, § 20.553(B))

Sec. 66-143. - Speed.

(a) All persons operating a motor vehicle upon school property shall drive within a careful and prudent speed not greater than or less than a speed which is reasonable and proper, and in no event shall such speed exceed 25 miles per hour on all roadways and streets maintained by the school.

(b) It shall be prima facie unlawful for any person to violate or exceed any of the limitations in this section.

(Comp. Ords. 1987, § 20.553(C), (D))

Secs. 66-144—66-160. - Reserved.

DIVISION 3. - STOPPING, STANDING AND PARKING

Sec. 66-161. - Parking violation tickets.

It shall be the duty of the village police department, whenever any vehicle is found parked in violation of this article, to note the location of the parked vehicle, the state of vehicle registration, the vehicle license number, and any other information displayed which may identify the driver of the vehicle, and to thereafter issue a parking violation ticket, which shall be conspicuously affixed to the illegally parked vehicle, on a form provided by the village clerk. The form ticket shall notify the driver of the vehicle of the need to answer the parking violation charge against him within ten days during certain hours and at a place specified in the ticket. Under circumstances where the owner of the vehicle does not make an appearance or answer to the charge, and fails or refuses to pay a prescribed parking violation fee within ten days after its issuance, inclusive of Saturdays, Sundays and holidays, the village police department shall notify the office of the

village attorney and a final notice shall be sent to the owner of the vehicle informing him of the violation and warning that if such notice is disregarded the ticket will be filed with the district court and proceedings will continue pursuant to the Uniform Traffic Code as a civil infraction.

(Comp. Ords. 1987, § 20.556)

Sec. 66-162. - Presumption regarding responsibility for violations.

In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking a registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, or authorized such parking or placement.

(Comp. Ords. 1987, § 20.557)

Sec. 66-163. - Stopping, standing and parking prohibited or restricted in certain places.

- (a) *Compliance.* It shall be unlawful for a person to stand, stop or park a motor vehicle on school property, whether occupied or unoccupied, in violation of this section.
- (b) *Parking in place reserved for handicapped persons.* No person shall park a vehicle in any place reserved by the school for handicapped persons which displays a sign or is marked with the official international wheelchair symbol or a reasonable facsimile or otherwise, unless the vehicle displays a valid Michigan handicap permit or handicap license plate or a valid temporary disability permit issued by the school.
- (c) *Parking in restricted area.* No person shall park a vehicle within any parking space, parking lot or parking ramp which is designated by a sign restricting parking to vehicles of the faculty, staff, employees or students of the school, or visitors, or holders of a valid parking permit for that space, lot or ramp, unless the vehicle displays a valid permit issued by the school which authorizes the vehicle to park in the space, lot or ramp.
- (d) *Parking in no parking area, traffic lane or pedestrian access.* No person shall stand, stop or park a vehicle in an area posted as a no parking area, within any traffic lane, entrance or exit, or upon any other pedestrian access. All areas upon which vehicles of every description may lawfully be parked shall be specifically indicated in schedule I, as noted in section 66-126.
- (e) *Parking in fire lane.* It shall be unlawful for any person to stop, stand or park a vehicle, whether occupied or unoccupied, in any area designated as a fire lane. Members of the police department are hereby authorized to remove or cause to be removed any such vehicle, trailer or other object

to a garage or other place designated or maintained by the police department when such vehicle is illegally left in any fire lane in violation of this section, provided that such fire lanes are clearly discernible as such and are specifically indicated on schedule I, as noted in section 66-126.

(Comp. Ords. 1987, § 20.554)

Secs. 66-164—66-180. - Reserved.

ARTICLE VII. - LOW SPEED VEHICLES

Sec. 66-181. - Definitions.

Low speed vehicle shall mean a golf cart with a validate ORV sticker when operating upon any roadway of the village.

Streets, roadway, or public right-of-way shall mean all public or private ways within the corporate boundaries of the village excluding state or federal highways.

Village shall mean the Village of Mayville, Fremont Township, and Tuscola County, Michigan.

Driver's license means an operator's or chauffeur's license issued to an individual by the secretary of the state under chapter III of the Michigan Vehicle Code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

Operator means an individual who operates or is in actual physical control of the operation of a low speed vehicle.

Maintained portion for this article includes the gravel shoulder/paved shoulder.

All golf cart operating in the village shall mean a vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes

Validation ORV sticker means a person operating a motorized low speed vehicle shall have a current ORV sticker displayed on the driver's rear fender of the low speed vehicle. ORV Stickers are not required for parades.

(Ord. No. 128, 6-17-2003; Ord. No. 128(2); 7-21-2015)

Sec. 66-182. - General Regulation.

- (a) *Compliance with Uniform Traffic Code and Chapter III - Michigan Vehicle Code.* All low speed vehicles operated on the public ways of the village shall comply with the Uniform Traffic Code for cities, townships and villages as promulgated by the director of state police which is adopted by

reference and is made a part of this article as if fully set forth in this article.

- (b) *Operation on roadway.* A person operating a bicycle, low-speed vehicle, or moped upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. A person riding a bicycle, motorcycle, or moped upon a roadway shall not ride more than two abreast except on a path or part of a roadway set aside for the exclusive use of those vehicles. Where a usable and designated path by bicycles is provided adjacent to a roadway, a bicycle rider shall be required to use the path. Low-speed vehicles shall not be operated on a sidewalk constructed for the use of pedestrians.
- (c) All low speed vehicles operated on the public or private ways of the village shall comply with the Uniform Traffic Code for Villages as promulgated by the director of the state police which is adopted by reference and is made a part of this article as if fully set forth in this article.
- (d) No motorized low speed vehicle shall be operated in the village at any time on state or federal highways.
- (e) All persons operating a motorized low speed vehicle shall have a validate ORV sticker and will be displayed on the low speed vehicle.

(Ord. No. 128, 6-17-2003; Ord. No. 128(2); 7-21-2015)

Sec. 66-183. - Operation on roadway; speed limit; occupant.

- (a) A low speed vehicle may operate on the far right maintained portion of a street, roadway, or public right-of-way and shall ride as near to the far right side of the maintained portion of roads within the village.
- (b) The maximum speeds at which a low speed vehicle may be operated as permitted, under the provisions of this article is 25 mph or less so as not to cause dust or gravel to leave the road.
- (c) All low speed vehicles are required to have a red reflector on the rear of a type that shall be visible from all distances up to 500 feet to the rear when in front of lawful low beams of headlamps on a motor vehicle. All low speed vehicles are required to display a lighted headlight and lighted taillight beginning January 1, 2010.
- (d) Low speed vehicles shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons and vehicle on the roadway at a distance of 500 feet or when roads are snow covered.
- (e) Low speed vehicle shall not be operated on a road or street in a negligent manner. For the purpose of this subsection "to operate in a negligent manner" is defined as the operation of a low speed vehicle in such a manner as to endanger any person or property, or to obstruct, hinder, or

impede the lawful course of travel of any motor vehicle or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways, or parks.

- (f) Low speed vehicles shall travel single file, except that a golf cart may travel abreast of another ORV when it is overtaking and passing, or being overtaken and passed by another ORV.
- (g) A low speed vehicle shall not be to [utilized] carry more persons at one time than the number for which it is designed and equipped.

(Ord. No. 128(2); 7-21-2015)

Sec. 66-184. - Civil infractions; penalties for violation.

- (a) The village[']s and or the village council's interpretation of the above rules and regulations are final.
- (b) The village council reserves the right to revoke this article at any time.
- (c) Unless a violation of an ordinance is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.
- (d) The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by the Code or any ordinance.
- (e) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the Code or any ordinance, plus any cost, damages, expenses, and other sanctions, as authorized under chapter 87 of Public Act 236 of 1961, as amended, and other applicable laws.
 - (1) Unless otherwise specifically provide for, the civil fine for a particular municipal civil infraction violation shall be not less than \$100.00, plus costs and other sanctions, for each infraction. Costs shall include all expenses, direct and indirect, to which the village has been put in connection with the municipal civil infraction.
 - (2) Increased civil fines may be imposed for repeated violations by a person of any ordinance provision. As used in this article, "repeat offense" means a second (or any subsequent) municipal civil infraction violation (based on the date of the commission of the offense) of the same requirement or provision (i) committed by a person within any three-year period (unless some other period is specifically provided by ordinance) and (ii) for which the person admits responsibility or is provided by ordinance for a particular municipal civil infraction violation, the increased fines for a repeat offense shall be as follows:
 - a. No less than \$250.00 dollars, plus costs.
 - b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500.00 dollars, plus costs.

- c. A "violation" includes any act which is prohibited by any ordinance or any omission or failure to where the act is required by any ordinance.
- d. Each act of violation and each day on which any violation of any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- e. In addition to any remedies available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the ordinance. The penalty or sanction shall be in addition to the abatement of the violating condition, any injunctive relief, revocation of any permit or license, or other process.
- f. The penalties and sanctions provided by this section, unless another penalty or sanction as expressly provided, shall apply to the amendment of any section of this Code whether or not such penalty or sanction is enacted in the amendatory ordinance.

(Ord. No. 128(2); 7-21-2015)

Sec. 66-185. - Severability.

Should any section, subdivision, clause, or phrase of this article be declared by the courts to be invalid, the validity of the article as a whole, or in part, shall not be affected other than the part invalidated.

(Ord. No. 128(2); 7-21-2015)

Sec. 66-186—66-190. - Reserved.

ARTICLE VIII. - SNOWMOBILE OPERATION

Sec. 66-191. - Purpose.

The purpose of this article is to regulate the use and operation of snowmobiles, pursuant to the police powers of the village within the village limits.

(Ord. No. 152, § 1, 1-20-2009)

Sec. 66-192. - Definitions.

[For the purpose of this article, the following words, terms and phrases, shall have the meanings ascribed to them in this section:]

Operate means to ride in or on, or to be in actual physical control of a snowmobile.

Operator means any person who operates or is in actual physical control of a snowmobile.

Owner means any of the following:

- (1) A person who holds the legal title to a snowmobile in his or her name;
- (2) A vendee or lessee of a snowmobile that is subject of an agreement for conditional sale or lease thereof, with the right to purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional, vendee or lessee;
- (3) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.

Public property means property owned, leased or otherwise controlled by the Village of Mayville, including, but not limited to, cemeteries, burial grounds, parks, recreational areas and parking lots.

Snowmobile means a motor-driven vehicle which is designed for travel primarily on snow or ice and which utilizes sled-type runners or skis, an endless belt tread or a combination of sled-type runners, skis, endless belt or other similar means of contact with the surface on which it is operated.

Street means the entire width between the boundary lines of every right-of-way, including the shoulders and nonpaved areas thereof, which is publicly maintained within the Village of Mayville, and which is open to the use of the public for purposes of vehicular travel.

(Ord. No. 152, § 2, 1-20-2009)

Sec. 66-193. - Registration, certificate and display.

- (a) A snowmobile shall not be operated within the boundaries of the Village of Mayville unless and until it is registered by the owner, pursuant to Act No. 58 of the Public Acts of Michigan of 1995 (MCL 324.82101 et seq.), as amended, except that the following snowmobiles maybe operated without being registered:
 - (1) A snowmobile operated exclusively on lands owned by or under the control of the snowmobile owner;
 - (2) A snowmobile used exclusively in an approved safety education and training program conducted by a certified snowmobile safety instructors; or
 - (3) A snowmobile that is exclusively operated in a special event of limited, duration, which is conducted according to a pre-arranged schedule under a permit from the Village of Mayville.
- (b)

A certificate of registration issued by the State of Michigan shall be carried on the snowmobile when it is in operation and shall be displayed on demand of a law enforcement officer. If the certificate is lost, mutilated or illegible, the owner shall immediately obtain a duplicate certificate by application to the secretary of state.

- (c) The registration decal shall be prominently displayed on each side of the forward half of the cowl above the foot-well of the snowmobile, unless the snowmobile is operated exclusively on lands owned or under the control of the snowmobile owner or for a snowmobile used exclusively in a safety education and training program.

(Ord. No. 152, § 3, 1-20-2009)

Sec. 66-194. - Equipment.

- (a) A snowmobile shall be equipped with brakes, which are capable of stopping the snowmobile not more than 40 feet from an initial steady speed of 20 miles per hour and which locks the snowmobile traction belt or belts, while the snowmobile travels on packed snow and carries an operator who weighs 175 pounds or more.
- (b) A snowmobile shall be equipped with one head light and one tail light, and the lights shall be illuminated when the snowmobile is operated between one-half hour before sunset and one-half hour after sunrise.
- (c) A snowmobile shall be equipped with a muffler in good, working order and in constant operation from which noise emission at 50 feet at right angles from the vehicle path under full throttle does not exceed 86 DBA, decibels on the A scale, on a sound meter having characteristics defined by the American standards association S1, 4-1966, "general purpose sound meter." All snowmobiles manufactured after February 1, 1972, and operated in this governmental unit shall not exceed 82 DBA of the 1970 society of automotive engineers code J-192a. A snowmobile manufactured after July 1, 1977, and sold or offered for sale in this state shall not exceed 78 decibels of sound pressure at 30 feet as measured under the 1974 society of automotive engineers code j-192a, this subdivision does not apply to a snowmobile which is being used in an organized race on a course which is used for racing.

(Ord. No. 152, § 4, 1-20-2009)

Sec. 66-195. - Operation.

- (a) No person shall operate a snowmobile upon any public property, railroad right-of-way or public utility area, except as follows:
 - (1) Snowmobiles may be operated in these areas in the performance of official duties for law enforcement.

- (2) Snowmobiles may be operated in these areas during a period of emergency or when travel by conventional automotive equipment is not possible as declared by a police agency having jurisdiction.
- (3) Snowmobiles may be operated in these areas for a special, snowmobile event of limited duration, which is conducted according to a pre-arranged schedule under a permit from the Village of Mayville.
- (b) No person shall operate a snowmobile upon any sidewalk or municipal right-of-way within the village, unless it becomes necessary to cross that sidewalk or right-of-way. However, the snowmobile shall be brought to a complete stop before entering the sidewalk or right-of-way and the operator shall yield to all approaching pedestrians and motorized and nonmotorized vehicles. A person who is at least 12 years of but less than 16 years of age may cross a street only if he or she has a valid snowmobile safety certificate in his or her immediate possession.
- (c) Snowmobiles shall only be operated upon the streets, alleys or other public roadways of the village as follows:
 - (1) Snowmobiles shall only be operated in these areas between the hours of 7:00 a.m. and 11:00 p.m.
 - (2) When operating snowmobiles in these areas, they shall only be driven along the extreme right side of the proper lane of traffic for that street, alley or other public roadway.
- (d) When two or more snowmobiles are operated together, they shall be driven in single file.
- (e) No person shall operate a snowmobile while under the influence of alcoholic liquor, a controlled substance, or a combination thereof.
- (f) No person shall operate a snowmobile on private property without the consent of the property owner or his or her agent.
- (g) No person shall operate or ride a snowmobile without wearing a crash helmet on his or her head, unless such person is riding or operating the snowmobile on his or her own private property.
- (h) No person shall operate a snowmobile with more than the designated occupant/passenger capacity.
- (i) No person shall operate a snowmobile within 100 feet of a slide, ski or skating area. However, a snowmobile may enter such an area for the purpose of servicing that area for medical emergencies.
- (j) No person shall use a snowmobile to hunt, pursue, injure or kill a wild bird or animal.
- (k) No person shall transport a bow or firearm on a snowmobile unless the bow is unstrung or the firearm is securely encased or equipped with, and made inoperative by a manufactured, key-locked, trigger-housing mechanism.
- (l)

The owner of a snowmobile shall not permit his or her snowmobile to be operated in violation of the provisions of this article.

(Ord. No. 152, § 5, 1-20-2009)

Sec. 66-196. - Age restrictions.

- (a) A parent or legal guardian shall not permit a child who is under the age of 12 years to operate a snowmobile except, on land owned by or under the control of the parent or legal guardian. An operator under the age of 12 shall not cross a street.
- (b) A person who is 12 to 17 years of age may operate, a snowmobile if:
 - (1) He or she is under the direct supervision of a person who is not less than 21 years of age.
 - (2) He or she has in his or her immediate possession a snowmobile safety certificate issued by the State of Michigan or under authority of law of another state or the Province of Canada.
 - (3) He or she is traveling upon land owned or controlled by his or her parent or legal guardian.

(Ord. No. 152, § 6, 1-20-2009)

Sec. 66-197. - Accident, notice and liability.

- (a) The operator of a snowmobile who is involved in an accident which results in injury to or the death of any person, or property damage which is estimated to exceed \$100.00, shall immediately notify the Village of Mayville Police Department, the county sheriff department or the Michigan Department of State Police.
- (b) The Village of Mayville Police Department shall complete a report of the accident on a form prescribed by the State of Michigan and shall forward the report to the state police within 14 days. A copy of the accident report shall be retained by the Village of Mayville for not less than three years.
- (c) Any snowmobile operated within the Village of Mayville will be presumed to be operated with the consent of the owner.
- (d) The owner of a snowmobile may be held jointly and severally liable with the operator of said snowmobile.

(Ord. No. 152, § 7, 1-20-2009)

Sec. 66-198. - Violation, arrest and confiscation.

- (a) A person who violates this article is guilty of a civil infraction, unless such violation constitutes a felony as set forth under the laws of the State of Michigan.
- (b)

The operator of a snowmobile who is given a visual or audible signal by hand, voice, emergency light or siren, by a uniformed law enforcement officer who is acting in the lawful performance of his or her duties, which directs, the operator to bring his or her snowmobile to a stop, shall do so. An operator shall not willfully fail to obey the directives by increasing his or her speed, extinguishing his or her lights or otherwise attempting to flee or elude the law enforcement officer.

- (c) If a law enforcement officer has reasonable cause to believe that a person was, at the time of an accident the operator of a snowmobile involved in the accident and was driving the snowmobile while under the influence of alcoholic liquor, a controlled substance or a combination thereof, the police officer may arrest the alleged operator of the snowmobile without an arrest warrant.
- (d) A snowmobile operated contrary to or in violation of any provision of this article or Public Act 58 of the Public Acts of Michigan 1995, as amended, by someone other than the owner of the snowmobile, who can/prove such ownership, or any snowmobile operated with defective equipment, may be confiscated at the direction of a law enforcement officer. In the event a snowmobile is confiscated, the owner of the snowmobile must prove ownership of the snowmobile and pay any and all costs associated with the transportation, towing and storage of the snowmobile before it will be released to him or her.

(Ord. No. 152, § 8, 1-20-2009)

Chapter 70 - UTILITIES

ARTICLE I. - IN GENERAL

Sec. 70-1. - Definitions.

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

Utility service means water or sewer service provided by the village.

Cross reference— Definitions generally, § 1-2.

Sec. 70-2. - Procedure for discontinuance of water or sewer service.

- (a) Before disconnecting a utility customer, the village shall first send a notice to the customer by hand delivery (which shall include attaching the notice to an exterior door of the customer's premises) or by registered mail to the customer's last known address on file with the village.
- (b) The notice shall advise the customer of the following:
 - (1) That the utility service will be disconnected.

- (2) The date after which it will be disconnected.
 - (3) The reason why it is being disconnected. If for nonpayment of a bill, the notice or an attachment thereto shall show a meter reading and the amount in arrears.
 - (4) That, if the customer disputes the reason for discontinuance, a hearing is available before a hearing officer, and that the hearing officer will have the authority to make a final determination of the complaint.
 - (5) That the customer may be represented at the hearing by any person and may present evidence supporting his claim.
 - (6) The days, times and location that the customer may request a hearing.
 - (7) That, if the customer does not pay or resort to a hearing, service will be discontinued without further warning.
- (c) There will be a charge of an amount as set from time to time to the customer for each disconnect notice sent by hand delivery and a charge for each notice sent by registered mail.
- (d) The customer shall request a hearing in person or by his representative at the village office or pay the amount of the bill within ten days of receipt of a hand-delivered disconnect notice or within ten days of mailing of a disconnect notice by registered mail. After the ten-day period, if the customer has not paid or has not requested a hearing, or has received an unfavorable decision in a hearing, the village may discontinue service.
- (e) A hearing will be available during the normal business hours of the village office as provided in this subsection.
- (1) The hearing officer shall be the department of public works administrator or the village clerk or other official as the village may appoint.
 - (2) The hearing officer shall have the power to make a final determination on any dispute.
 - (3) The hearing officer shall allow the customer to present evidence orally, in writing or by witness and shall allow the customer to be represented by the person of the customer's choosing.
 - (4) Once a hearing is timely requested, the village may not discontinue service until after a decision unfavorable to the customer or after a hearing has been scheduled at a time of which the customer had notice and the customer fails to attend.
 - (5) If a decision unfavorable to the customer is reached, service will not be disconnected if the customer pays the disputed amount within the ten-day period or payment is made immediately if the ten-day period has expired.
 - (6) Notice and hearing shall not be required if an emergency situation demands that the utility be disconnected.

ARTICLE II. - WATER ORDINANCE

DIVISION 1. - GENERALLY

Sec. 70-31. - Short title.

This article shall be known and may be cited as the "Village of Mayville Water Ordinance".

(Ord. No. 168, § I, 9-17-2013)

Sec. 70-32. - Operation on public utility rate basis.

It is hereby determined to be desirable and necessary for the public health, safety and welfare of the Village of Mayville that all water supply facilities of the village, whether owned by the village or operated as lessee and agent, be operated on a public utility rate basis in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended.

(Ord. No. 168, § II, 9-17-2013)

Sec. 70-33. - Findings—Mandatory connection.

- (a) *Arsenic compounds.* The presence of the arsenic compounds in potable drinking water constitutes a health hazard to the residents of the Village of Mayville, requiring the filtration and treatment of all drinking water which is produced within the Village of Mayville. In 2006, the Village of Mayville initiated a construction project whose purpose was the removal of arsenic compounds from the village municipal water system. As a part of its undertaking of the project, all premises are required to connect to and use the village municipal water system.
- (b) *Testing.* A variance from mandatory connection may be granted only if the applicant furnishes the village with test results which were prepared by a licensed analytical laboratory which demonstrates that the drinking water quality from the premises water well meets all drinking water quality standards of the State of Michigan. The water sampling source shall be verified by the Tuscola County Health Department, or its designee, or by a person who is approved by the Village of Mayville for conducting water sampling.
- (c) *Annual water sampling.* A variance shall be granted for one year. A variance shall not be renewed unless the applicant submits test results which comply with subsection (b) and which are from a water sample which was taken within 30 days of the variance renewal application date.
- (d)

Fees. The village shall establish by resolution of the village council a variance application fee which shall be paid at the time that the application for variance or variance renewal is made. The application fee amount shall be subject to modification by resolution of the village council.

(Ord. No. 168, § III, 9-17-2013)

Sec. 70-34. - Definitions.

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

Backflow. The word "backflow" shall be construed to mean water of questionable quality, waste or other contaminants entering the system due to a reversal of flow.

Charges. The terms "charges for water services" or "charges" shall be deemed to mean the amount charged to each premises in the village connected to the system for the purpose of receiving a supply of water.

Connection cost charge. The term "connection cost charge" shall mean the amount charged to any applicant for the installation of the water main connection from the public water main to the property line as determined by the village council, including the tapping of the water main, service pipe, water meter and meter pit at the road right-of-way.

Cross connection. The term "cross connection" shall be construed to mean a connection or arrangement of piping or appurtenances through which a backflow could occur.

Dwelling unit. The term "dwelling unit" shall mean a structure containing one or more rooms, with bathroom and principal kitchen facilities, designed as self-contained unit for occupancy by one family for living, cooking, and sleeping.

Premises. The term "premises" shall mean a lot or parcel of land, exclusive of buildings, however owned, or occupied.

Revenues, net revenues. Whenever the words "revenues" and "net revenues" are used in this article, they shall be understood to have the meanings as defined in Section 3, Act 94, Public Acts of Michigan, 1933, as amended.

System. Whenever the word "system" is referred to in this article, it shall be understood to mean the complete water supply facilities of the Village of Mayville, including all water lines, pumps, storage or treatment facilities, and all other facilities used or useful in the transmission and distribution of potable water, including all appurtenances thereto and including all extensions and improvements thereto, which may hereafter be acquired.

Tap-in-charges. The terms "tap-in-charges" and "tap-in-fees" shall be construed to mean a charge made to any applicant for water services for the privilege of connection to such water service.

Village. The term "village" shall be construed to mean the Village of Mayville and the term "county" shall be construed to mean the County of Tuscola, both in the State of Michigan; the term "village council" shall [be] construed to mean the Village of Mayville Council, the legislative and governing body thereof.

Village water system operator. The term "village water system operator" shall mean the director of department of public works or an agent designated by the director.

Water service. The term "water service" shall be construed to mean the providing of a supply of water to premises connected to the system.

(Ord. No. 168, § IV, 9-17-2013)

Sec. 70-35. - Supervision and control of system.

- (a) *Designation of authority.* The operation, maintenance, alteration, repair, and management of the system shall be under the supervision and control of the village council.
- (b) *Mandatory water connection.* A water connection shall be initiated by filing an application with the village, containing the name and address of the applicant; the size of the water service connection pipes desired; and the distance, if known, that the property is located from any existing public water main.

(Ord. No. 168, § V, 9-17-2013)

Secs. 70-36—70-40. - Reserved.

DIVISION 2. - CONNECTION

Sec. 70-41. - Installation of connection.

The village reserves to itself the right to install any required service connection or main extension, to subcontract the same to any private licensed contractor. An inspection and supervision fee shall be paid by the applicant to the village.

(Ord. No. 168, § VI(6.1), 9-17-2013)

Sec. 70-42. - Security deposit.

The village reserves to itself the right to require a security deposit for water service. The amount of the required deposit shall be determined by resolution of the Village of Mayville Council. This amount will be evaluated and adjusted as needed by resolution of the Village of Mayville Council.

(Ord. No. 168, § VI(6.2), 9-17-2013)

Sec. 70-43. - Size and installation.

- (a) All water service connections from the water main to the meter pit at the right-of-way shall be one-inch K copper or two-inch poly tubing SDR-9 with bronze fittings and shall be installed by Village of Mayville at the expense of the property owner.
- (b) The service line from the meter pit to the building shall be installed by the owner at the owner's expense and must be inspected by the village. Any water loss from the service line will be the responsibility of the premises owner.

(Ord. No. 168, § VI(6.3), 9-17-2013)

Sec. 70-44. - Turn-on.

No person other than an authorized representative of the village shall turn on or off any water service to any public or private premises at the connection of the premises to the water main.

(Ord. No. 168, § VI(6.4), 9-17-2013)

Sec. 70-45. - Water meters.

- (a) All premises connected to the public water system shall be equipped with a water meter, so located that all water entering the premises shall pass through such meter and be measured as to volume consumed for period computation of water charges.
- (b) The water meter shall be installed at a location as determined by the village.

(Ord. No. 168, § VI(6.5), 9-17-2013)

Sec. 70-46. - Outdoor register.

All individual meters shall be equipped with an outdoor register, said register to be installed by the village and charges therefor will be paid for by the water users and customers.

(Ord. No. 168, § VI(6.6), 9-17-2013)

Sec. 70-47. - Escape through defective plumbing prohibited.

The escape of water through defective plumbing is prohibited. This shall including knowingly or recklessly permitting defective plumbing to remain out of repair and water to escape. The "plumbing" shall include but not be limited to water service lines from the water meter to the curb shut off valve.

(Ord. No. 168, § VI(6.7), 9-17-2013)

Secs. 70-48—70-55. - Reserved.

DIVISION 3. - CHARGES

Sec. 70-56. - Connection cost charges.

All connections to the system shall be made by the village at a reasonable charge. The owner of the premises shall pay, in addition to all other charges and fees provided herein, in advance of the commencement of such connection, the actual cost to the village plus a percentage thereof as an administrative fee, to be determined from time to time by the village council. The owner of the premises shall pay the cost of a meter or meters installed, all of which shall be equipped with an outdoor register. The connection charges may be changed from time to time by resolution of the village council to reflect changes in connection costs and to maintain a fairly uniform charge within the village.

(Ord. No. 168, § VII(7.1), 9-17-2013)

Sec. 70-57. - Tap-in-charges.

- (a) *Condition of tap-in-charges.* A tap-in-charge is hereby established for the privilege of connecting premises within the village, or which are to be connected to the system, upon which are located buildings or structures, or for which use of water is requested to the water system if the following conditions are met:
 - (1) A direct connection to the system is available to the premises;
 - (2) All connection and other charges have been paid and the plumbing to be connected has been fully inspected and approved by the village.
- (b) *Minimum tap-in-charge.* The minimum tap-in charge shall be determined periodically by resolution of the village council. It shall be calculated by taking into the account the following factors:
 - (1) Depreciated asset value of the water system;
 - (2) Anticipated cost of capital improvements to the system over not less than five years nor more than ten years;

(3) Current and anticipated customer base over the next five to ten years.

- (c) *Tap-in charge-multi-unit commercial and multi unit residential.* If a premises contains more than one building or structure which is used as a dwelling unit and which constitutes a permitted use under the Village Zoning Ordinance, there shall be one tap-in fee for the premises based on master meter size. Any meters which are connected beyond the point of installation of the master meter shall be considered to be a private water distribution system and shall be the customer's responsibility to maintain. Where multi unit commercial developments contain more than one building or structure and constitute a permitted use under the Village Zoning Ordinance, there shall be one tap-in charge based upon the master meter size. Any meters which are located beyond the point of installation of the master meter shall be considered to be part of a private water distribution system and shall be the customer's responsibility.
- (d) *Tap-in charge—Residential duplex (two unit).* The minimum tap-in charge shall be one and one-half times the residential charge. The duplex shall be required to have two separate water taps and meters.

(Ord. No. 168, § VII(7.2), 9-17-2013)

Sec. 70-58. - Revision of charges.

The charges provided in this division shall be subject to adjustment by resolution of the Village of Mayville Council.

(Ord. No. 168, § VII(7.3), 9-17-2013)

Sec. 70-59. - Rates for water service.

The rates for water service are hereby established as follows:

- (1) *Ready to serve charge.* The following charge is hereby established for the following size meters:

Meter Size	Monthly	Quarterly
1-inch meter and smaller	\$ 7.10	\$ 21.30
2-inch meter	41.10	122.30
4-inch meter	63.78	191.34

These amounts will be evaluated and adjusted by resolution of the village council.

- (2) *Monthly water consumption charge.* Water consumption will be charged at the rate of \$5.08 per 1,000 gallons with a monthly minimum charge of \$21.30. The minimum monthly water consumption charge includes the use of the first 1,000 gallons of water and the ready to serve charge. Monthly consumption charges shall be subject to adjustment in an amount equal to the increase in the cost of water which is paid by the village. These amounts shall be subject to adjustment by resolution of the village council.
- (3) *Village charges.* The village shall pay for all water used by it at the foregoing rates, except that for fire hydrant service, there shall be no ready to serve charge or minimum water consumption charge.
- (4) *Rate revisions authorized.* The rates hereinbefore established are estimated to be sufficient to provide for the payment of the 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; and to provide for such other expenditures and funds for the system as are required by this provision. Rates shall be fixed and revised from time to time by village resolution so as to produce the foregoing amounts, and the village covenants and agrees to maintain at all times such rates for services furnished by the system as shall be sufficient to provide for the foregoing.
- (5) *Estimated water use.* Water consumption charges will be based on an actual reading. Village of Mayville, however, reserves the right to estimate water usage if the meters cannot be read.

(Ord. No. 168, § VIII, 9-17-2013)

Sec. 70-60. - Funds.

Upon receipt of billings and any other receipts, such moneys shall be deposited in such funds as may be required by ordinances and resolutions provided by the village council for financing of the system and such other funds as the village council may deem appropriate. The village council hereby creates a fund to be known as "The Village of Mayville Water Fund".

(Ord. No. 168, § X, 9-17-2013)

Sec. 70-61. - Investments.

Moneys in any fund or account established by the provisions of this article may be invested in obligations of the United States of America in the manner and subject to the limitations provided in Act 94, Public Acts of Michigan, 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 such investments were made.

(Ord. No. 168, § XI, 9-17-2013)

Secs. 70-62—70-70. - Reserved.

DIVISION 4. - REGULATION

Sec. 70-71. - Billing.

Bills will be rendered monthly, payable without penalty within 30 days after the date thereon. Payments received after such period shall bear a penalty of ten percent of the amount of the bill.

(Ord. No. 168, § XI(9.1), 9-17-2013)

Sec. 70-72. - Enforcement.

The charges for services which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, are made a lien on all premises served thereby, unless notice is given that a tenant is responsible, and are hereby recognized to constitute such lien, and whenever any such 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 September 1st of each year, to the tax-assessing officer of the village the facts of such delinquency, whereupon such charge shall be by said officer entered 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 as provided by Section 21, no further service shall be rendered to such premises until a cash deposit in the amount of \$150.00 shall have been made as security for payment of such charges and service.

(Ord. No. 168, § XI(9.2), 9-17-2013)

Sec. 70-73. - Discontinuation of service.

In addition to the forgoing, the Village of Mayville shall have the right to shut off any premises for which charges for water service are more than 30 days delinquent, and such service shall not be re-established until all delinquent charges, penalties, a turn off charge of \$15.00 and a turn on charge of \$80.00 (a total of \$95.00) have been paid. Further, such charges and penalties may be recovered by the village by court action, including attorney fees and costs.

(Ord. No. 168, § XI(9.3), 9-17-2013)

Sec. 70-74. - Tampering prohibited.

No person other than an authorized employee or representative of Village of Mayville shall break or injure the seal on or change the location of, alter or interfere in any way with any meter that is property of or has been furnished by the Village of Mayville.

(Ord. No. 168, § XI(9.4), 9-17-2013)

Sec. 70-75. - Faulty metering.

In the event a meter shall fail to register properly, the village shall estimate the quantity of water used on the basis of former consumption and bill accordingly.

(Ord. No. 168, § XI(9.5), 9-17-2013)

Sec. 70-76. - Inspection and reading.

No person shall refuse to admit to premises owned or occupied by him or hinder any authorized agent of the village entering said premises for the purposes of reading a water meter or inspecting a water meter or any piping in connection with the water distribution system.

(Ord. No. 168, § XI(9.6), 9-17-2013)

Sec. 70-77. - Damaged meters or hydrants.

Whenever a water meter or a water hydrant is damaged because of any act or negligence on the part of the owner or occupant of the premises where such meter is installed or hydrant is located, the expense to the village caused thereby shall be charged to and collected from such owner or occupant.

(Ord. No. 168, § XI(9.7), 9-17-2013)

Sec. 70-78. - Damaged water lines.

All repairs to damaged water lines connecting the water main to the curb stop valve, meter, or dwelling unit shall be charged to and collected from the owner or occupant of the premises.

(Ord. No. 168, § XI(9.8), 9-17-2013)

Sec. 70-79. - Use of fire hydrants.

No fire hydrant shall be used for any purpose other than for fire protection without the prior approval of the village.

(Ord. No. 168, § XI(9.9), 9-17-2013)

Sec. 70-80. - Penalty.

Any person, firm or corporation, public or private, or any public agency or instrumentality that receives water service without actually notifying the village in writing and without having paid the appropriate charges shall be punished by a civil infraction sanction of \$500.00 in addition to being assessed appropriate charges for water service previously received as reasonably estimated by the village.

(Ord. No. 168, § XI(9.10), 9-17-2013)

Sec. 70-81. - No free service.

No free service shall be furnished by said system to any person, firm or corporation, public or private, or to any public agency or instrumentality. When the water system operator becomes aware of an unauthorized water usage, the operator shall disconnect the water line and notify the Village of Mayville ordinance enforcer. The ordinance enforcer shall issue a civil infraction, which shall include a fine up to \$500.00 for unauthorized water use. The water cannot be reconnected until all fines and fees are paid in full. The connection fee shall be \$150.00 and any meter and valve fees if needed. Also the water usage will be estimated back to the time the water service was available, and billed equal to the maximum usage for each year or billing cycle.

(Ord. No. 168, § XI(9.11), 9-17-2013)

Sec. 70-82. - No resale.

No resale of water service shall be furnished from said system by any person, firm or corporation, public or private, or to any public agency or instrumentality.

(Ord. No. 168, § XI(9.12), 9-17-2013)

Secs. 70-83—70-90. - Reserved.

DIVISION 5. - WATER CONSERVATION

Sec. 70-91. - Determination of need for water conservation.

When the village president determines that the consumption of water by the village has or is about to equal or exceed 80 percent of the total supply of water which is available from the village water system, he shall declare that a period of water conservation is necessary and the following water uses are restricted as

explained during the period of such need for water conservation.

(Ord. No. 168, § XII(12.1), 9-17-2013)

Sec. 70-92. - Restrictions and uses restricted during water conservation period.

When the village president declares that water conservation is necessary as provided herein, the use and withdrawal of water by any person from the system for any of the following purposes is hereby restricted such that customers with odd-numbered street addresses may use water for the following purposes on odd-numbered days only and customers with even-numbered street addresses may use water for the following purposes on even-numbered days only:

- (1) *Watering of yards:* The sprinkling, watering of irrigation of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers or any other vegetation, except in conjunction with the operation of a commercial greenhouse.
- (2) *Cleaning outdoor surfaces:* The washing of sidewalks, driveways, filling station aprons, porches and other outdoor surfaces.
- (3) *Swimming pools:* Swimming and wading pools not employing a filter and recirculating system.

(Ord. No. 168, § XII(12.2), 9-17-2013)

Sec. 70-93. - Notice of water conservation period.

When the village president declares that a water conservation is necessary as provided herein, notice thereof shall be given to the official newspaper of the village and to radio and television stations as determined by the village. Such notice shall advise of the time of commencement of such water conservation period; that the water conservation period will continue until notice of termination is given by the president; the restrictions and restricted uses; and the penalty for violations.

(Ord. No. 168, § XII(12.3), 9-17-2013)

Sec. 70-94. - Penalty.

Any person who shall knowingly, during any water restriction, use or withdraw water from the village water distribution system for any of the purposes prohibited in this section, shall be punished by a civil infraction. Each day's failure of compliance with any provision of this section shall constitute in a separate offense.

(Ord. No. 168, § XII(12.4), 9-17-2013)

Sec. 70-95. - Enjoining violations.

Legal proceedings to enjoin the violation of any of the provisions of this article may be brought in any court of competent jurisdiction in the name of the Village of Mayville. Such action shall be taken only as authorized by the village council.

(Ord. No. 168, § XII(12.5), 9-17-2013)

Secs. 70-96—70-100. - Reserved.

DIVISION 6. - WATER EMERGENCY

Sec. 70-101. - Determination of water emergency.

When the village president determines that the consumption of water by the village has or is about to equal or exceed the total supply of water which is available from the village water system, he shall declare that critical water consumption period exists and the following water uses are prohibited during the continuance of such water emergency.

(Ord. No. 168, § XIII(13.1), 9-17-2013)

Sec. 70-102. - Uses prohibited during water emergency.

When the village president declares that a water emergency exists as provided herein, the use and withdrawal of water by any person from the system for any of the following purposes is hereby prohibited.

- (1) *Watering of yards:* Sprinkling, watering or irrigation of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers or any other vegetation, except in conjunction with the operation of a commercial greenhouse.
- (2) *Cleaning outdoor surfaces:* The washing of sidewalks, driveways, filling station aprons, porches and other outdoor surfaces.
- (3) *Swimming pools:* Swimming and wading pools not employing a filter and recirculating system.

(Ord. No. 168, § XIII(13.2), 9-17-2013)

Sec. 70-103. - Notice of water emergency.

When the village president declares that a water emergency exists as provided herein, notice thereof shall be given to the official newspaper of the village and to radio and television stations as determined by the village maintaining offices or studios within the village. Such notice shall advise of the time of

commencement of such emergency; that the emergency will continue until notice of termination is given by the president; the prohibited uses; and the penalty for violations.

(Ord. No. 168, § XIII(13.3), 9-17-2013)

Sec. 70-104. - Termination of water emergency.

When the village president determines the conditions which caused the declaration of the water emergency no longer exists, he shall so declare and give notice of such determination as provided above.

(Ord. No. 168, § XIII(13.4), 9-17-2013)

Sec. 70-105. - Penalty.

Any person who shall knowingly, during any water emergency, use or withdraw water from the village water distribution system for any of the purposes prohibited in this section shall be punished by a civil infraction with a fine of not more than \$500.00. Each day's failure of compliance with any provision of this section shall constitute a separate offense.

(Ord. No. 168, § XIII(13.5), 9-17-2013)

Sec. 70-106. - Enjoining violations.

Legal proceedings to enjoin the violation of any of the provisions of this article may be brought in any court of competent jurisdiction in the name of the Village of Mayville. Such action shall be taken only as authorized by the village council.

(Ord. No. 168, § XIII(13.6), 9-17-2013)

Secs. 70-107—70-115. - Reserved.

DIVISION 7. - CROSS CONNECTION CONTROL PROGRAM

Sec. 70-116. - Introduction.

In accordance with the requirements set forth by the Michigan Department of Environmental Quality, the village adopts by reference the current version of, and future amendments to, the Water Cross Connection Rules of the Michigan Department of Environmental Quality.

(Ord. No. 168, § XIV(14.1), 9-17-2013)

Sec. 70-117. - Local ordinance.

The authority to carry out and enforce a local cross connection control program will be in accordance with this article, any other amendments thereto and in accordance with the Cross Connection Rules Manual published by the Michigan Department of Environmental Quality.

(Ord. No. 168, § XIV(14.2), 9-17-2013)

Sec. 70-118. - Local inspection.

The village water system operator and/or his designated agent, or such other person designated by the village council, shall be responsible for making the initial cross connection inspections and re-inspections to check for the presence of cross connections with the system. Individuals responsible for carrying out the cross connection inspections and re-inspections shall have obtained necessary training through any available manuals on cross connection prevention including the Cross Connection Rules Manual published by the Michigan Department of Environmental Quality and attendance at any cross connection training sessions sponsored by the Michigan Department of Environmental Quality or other recognized agencies.

(Ord. No. 168, § XIV(14.3), 9-17-2013)

Sec. 70-119. - Compliance time.

The time allowed for correction or elimination of any cross connection found shall be as follows:

- (1) Cross connections which pose an imminent and extreme hazard shall be disconnected immediately and so maintained until necessary protective devices or modifications are made.
- (2) Cross connections which do not pose an imminent and extreme hazard to the system should be corrected within a reasonable period of time. A reasonable period of time allowed for correction may vary depending on the type of device necessary for protection. The village shall indicate to each customer where a cross connection is found to exist the time period allowed for compliance.

(Ord. No. 168, § XIV(14.4), 9-17-2013)

Sec. 70-120. - Annual reporting and record keeping.

Sufficient data to complete an annual report to the Michigan Department of Environmental Quality and to monitor the program adequately for village purposes shall be maintained by the village water department, or that person designated by the village so to do, and their responsible agents. An inspection form will be used during the initial inspection procedure and all re-inspections. Inspection forms will be used to monitor the status of the protective device as well as the test results reported by a qualified backflow tester.

(Ord. No. 168, § XIV(14.5), 9-17-2013)

Secs. 70-121—70-130. - Reserved.

DIVISION 8. - CROSS CONNECTIONS PROHIBITED

Sec. 70-131. - Inspections.

It shall be the duty of the village to cause inspections to be made of all properties served by the system where cross connections with the system are deemed possible. The frequency of inspections and re-inspections, based on potential health hazards involved, shall be established by the village council and approved by the Michigan Department of Environmental Quality.

(Ord. No. 168, § XV(15.1), 9-17-2013)

Sec. 70-132. - Right of access, information.

The village water system operator and/or his designated agent, or such other person designated by the village council, shall have the right to enter, at any reasonable time, any property served by a connection to the system for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to said representative 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 sections.

(Ord. No. 168, § XV(15.2), 9-17-2013)

Sec. 70-133. - Discontinuing water service.

The village is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any cross connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the 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 article.

(Ord. No. 168, § XV(15.3), 9-17-2013)

Sec. 70-134. - Protection of potable water.

The system's water shall be protected from possible contamination as specified by this article, the State Plumbing Code of the village as adopted and in conjunction with any acts of the Michigan Department of Environmental Quality. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the system must be labeled in a conspicuous manner as: "Water Unsafe for Drinking".

(Ord. No. 168, § XV(15.4), 9-17-2013)

Sec. 70-135. - Construction of article.

This article does not supersede the State Plumbing Code which had been adopted by reference as the plumbing code for the village, or any other ordinances that the village has adopted, but is supplementary to them.

(Ord. No. 168, § XV(15.5), 9-17-2013)

Sec. 70-136. - Penalty.

Any person or other entity who violated any of the provisions of this article is responsible for a municipal civil infraction as defined by Michigan law and subject to civil fine determined in accordance with the following schedule:

1st violation within 3-year
period * \$150.00

2nd violation within 3-year
period* \$300.00

3rd violation within 3-year
period * To be determined by the court

*Determined on the basis of the date of violation(s).

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the village has put in connection with the violation. In no case, however, shall costs of less than \$50.00 or more than \$200.00 be ordered. A violator of this article shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of the article continues to exist constitutes a separate violation.

(Ord. No. 168, § XV(15.6), 9-17-2013)

Secs. 70-137—70-240. - Reserved.

ARTICLE III. - SEWER SERVICE

DIVISION 1. - GENERALLY

Sec. 70-241. - Definitions.

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

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius, expressed in parts per million by weight.

Building drain means that part of the lowest horizontal piping or 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 surface of the building wall.

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

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

Industrial wastes means the liquid wastes from industrial processes, as distinct from sanitary sewage.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

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

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments.

Sewer means a pipe or conduit for carrying sewage.

Storm sewer and *storm drain* mean a sewer which carries stormwater and surface water and drainage but excludes sewage and industrial wastes.

Superintendent means the department of public works superintendent.

(Comp. Ords. 1987, § 25.001)

Cross reference— Definitions generally, § 1-2.

Sec. 70-242. - Management of system.

The construction, alteration, repair and management of the sewer system shall be under the supervision and control of the village council, and the village council may employ such persons in such capacities as it deems advisable to carry on the efficient management and operation of the system. The village council may make such rules, orders and regulations as it deems advisable and necessary to ensure the efficient management and operation of the system.

(Comp. Ords. 1987, § 25.057)

Sec. 70-243. - Operating year of system.

The sewer system shall be operated on the basis of an operating year commencing on April 1 and ending on March 31 next following.

(Comp. Ords. 1987, § 25.061)

Secs. 70-244—70-260. - Reserved.

DIVISION 2. - REVENUE BONDS

Sec. 70-261. - Applicability of state law.

The bonds referred to in this division, which are the bonds authorized to be issued by Ordinance No. 48, shall be sold and the proceeds applied in accordance with the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended.

(Comp. Ords. 1987, § 25.065)

Sec. 70-262. - Disposition of proceeds.

- (a) The proceeds of the sale of the bonds authorized to be issued by Ordinance No. 48 shall be deposited in the Mayville State Bank, Mayville, Michigan, a bank 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 such amount as will be necessary to pay interest for the period for which interest is capitalized, and to the operation and maintenance fund the amount of such capitalized expenses. The balance of such proceeds shall be applied solely in payment of the cost of the public improvement described in Ordinance No. 48 and any engineering, legal and other expenses incident thereto and to the financing thereof. Payments for

construction, either on account or otherwise, shall not be made unless the registered engineer in charge of such work shall file with the village council a signed statement to the effect that the work has been completed in accordance with the plans and specifications therefor, that it was done pursuant to and in accordance with the contract therefor, and that such work is entirely satisfactory.

- (b) Any unexpended balance of the proceeds of sale remaining after completion of such public improvement 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.

(Comp. Ords. 1987, § 25.066)

Sec. 70-263. - Covenants.

The village 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:

- (1) *Maintenance of system; rates and charges.* The village will maintain the system in good repair and working order and will operate the system efficiently and will faithfully and punctually perform all duties with reference to the system required by the constitution and laws of the state, 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 article and Ordinance No. 48.
- (2) *Financial records and reports; audits.* 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 60 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 their 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 75 days after the close of each operating year with the municipal finance commission, and a copy sent to the manager of the account purchasing the bonds. 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 their 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. Such audit shall be completed and so made available not later than three months after the close of each operating year and may, at the option of the village, be furnished to the municipal finance commission in lieu of the report mentioned in this subsection.

- (3) *Insurance.* The village will maintain and carry, for the benefit of the holders of the bonds, insurance on all physical properties of the system, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of similar systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used shall be used for the purpose of calling bonds.
- (4) *Operation of system; transfer of control.* 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 system 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 of the bonds. The village will not grant any franchise that will result in the operation of a competing system.

(Comp. Ords. 1987, § 25.067)

Sec. 70-264. - Issuance of additional bonds.

- (a) The right is reserved, in accordance with the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, to issue additional bonds payable from the revenues of the system, which shall be of equal standing with the bonds authorized in Ordinance No. 48, but only for the following purposes:
 - (1) To complete the public improvement in accordance with the plans and specifications therefor, and 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 improvement in accordance with the plans and specifications therefor. If such certificate shall be so executed and filed with the village clerk, it shall be the duty of the village council to provide for and issue additional revenue bonds in the amount stated in such certificate to be necessary to complete the public improvement in accordance with the plans and specifications.
 - (2)

For subsequent extensions and improvements to the system; provided that no such additional bonds shall be issued unless the net revenues for the last preceding completed operating year of the system, 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 extensions and improvements to be paid for in whole or in part from the proceeds of sale of additional bonds, shall be equal to at least 135 percent of the largest annual principal and interest requirements thereafter maturing on the bonds authorized by Ordinance No. 48, on any then previously issued bonds of equal standing with the bonds authorized by Ordinance No. 48, and on such additional bonds then being issued. For the purpose of determining net revenues under the requirements of this subsection, 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 the last preceding operating year shall be augmented to an amount reflecting the effect of such increase had the village's sewer billings during such year been at the increased rates. In addition, the net revenues for the last preceding operating year shall be increased by an amount to reflect the increase in net revenues estimated to accrue from the extensions and improvements. Prior to the issuance of any additional bonds pursuant to this subsection, there shall be filed with the village clerk a statement showing the net revenues for the last preceding completed operating year, 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. The 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.

- (b) Except as authorized in this section, no additional bonds having equal standing with the bonds authorized by Ordinance No. 48 shall be authorized or issued.

(Comp. Ords. 1987, § 25.068)

Secs. 70-265—70-280. - Reserved.

DIVISION 3. - RATES AND CHARGES

Sec. 70-281. - Establishment.

The rates and charges for service furnished by the sewer system shall be established by resolution of the village council.

(Comp. Ords. 1987, § 25.058)

Sec. 70-282. - Sufficiency of rates; review and revision of rates.

The rates fixed pursuant to this division are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the system as are necessary to preserve the system in good repair and working order, to provide for the payment of the interest upon and the principal of all the bonds as and when the interest and principal become due and payable and the creation of the reserve therefor required by this article, and to provide for such other expenditures and funds for the system as this article 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 expenses mentioned in this section.

(Comp. Ords. 1987, § 25.060)

Sec. 70-283. - Special rates.

For miscellaneous sewer service for which a special rate shall be established, such rates shall be fixed by the village council.

(Comp. Ords. 1987, § 25.058)

Sec. 70-284. - Billing; late charges.

All sewer service customers will be billed quarterly. All bills must be paid within 20 days from the date of the bill, and ten percent will be added to the amount of the bill if not paid within such period.

(Comp. Ords. 1987, § 25.058)

Sec. 70-285. - Lien for unpaid charges.

The charges for sewer services which are, under the provisions of Public Act No. 94 of 1933, § 21 (MCL 141.121, MSA 5.2751), made a lien on all premises served thereby, unless notice is given that a tenant is responsible, are hereby recognized to constitute such lien, and whenever any such charge against any piece of property shall be delinquent for six months, the village official 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. Such charge shall be by him entered upon the next tax roll as a charge against such premises, and shall be collected and the lien therefor enforced in the same manner as general village taxes against such premises are collected and the lien enforced: provided, however, where notice is given that a tenant is

responsible for such charges and service as provided by Public Act No. 94 of 1933, § 21 (MCL 141.121, MSA 5.2751), no further service shall be rendered such premises until a cash deposit equal to not less than two quarters' charges shall have been made as security for payment of such charges for service.

(Comp. Ords. 1987, § 25.058)

Sec. 70-286. - Free service prohibited.

No free service shall be furnished by the sewer system to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(Comp. Ords. 1987, § 25.059)

Sec. 70-287. - Disposition of revenue.

- (a) The revenues of the sewer system shall be set aside as collected and deposited in a separate depository account in the Mayville State Bank, Mayville, Michigan, a bank duly qualified to do business in the state, in an account to be designated "Sewage Disposal System Receiving Fund" (referred to in this section as the "receiving fund"), and such 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 specified in this section:

(1) *Operation and maintenance fund.*

- a. Out of the revenues in the receiving fund, there shall be first set aside, commencing with the first quarter of operation of the system, and quarterly thereafter, 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 system in good repair and working order, as well as any sums necessary to pay current bills.
- b. The village council, prior to the commencement of each operating year, shall adopt a budget covering such expenses for each year, and such total expenses shall not exceed the total amount specified in the budget, except by a vote of four-fifths of the members of the village council.

(2) *Bond and interest redemption fund.*

- a. 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 authorized by this article. The moneys in the bond and interest redemption fund

(including the bond reserve account established in this subsection) shall be kept on deposit with the bank or trust company where the principal and interest on the bonds are currently payable.

- b. 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, quarterly, in the bond and interest redemption fund, a sum proportionately sufficient to provide for the payment of the principal of and interest upon all outstanding bonds payable from the revenues of the system as and when the principal and interest become due and payable. Commencing May 1, 1969, the amount so set aside for interest during each quarter of each operating year shall not be less than one-half of the total amount of interest maturing on the following interest payment date. The amount so set aside for principal during each quarter, commencing May 1, 1969, shall be not less than one-quarter of the amount of principal maturing on November 1 of the following year. 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.
 - c. 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, the sum of \$2,000.00 during the fiscal year commencing April 1, 1969, until the bond reserve account shall total \$10,000.00. The money in the bond reserve account shall be used solely for the payment of the principal and interest on the 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 section 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 such redemption of callable bonds.
 - d. 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 the 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.
- (3) *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. There shall be set aside into the 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), the sum of \$1,000.00 during each of the fiscal years commencing April 1, 1969, through April 1, 1972, inclusive, until the replacement fund shall total \$4,000.00. If at any time it shall be necessary to use moneys in the 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 section to be used for the operation and maintenance fund or the bond and interest redemption fund (including the bond reserve account).

- (4) *Improvement fund.* There shall next be established and maintained an improvement fund for the purpose of making improvements, extensions and enlargements to the system. There shall be deposited into the fund each quarter, after providing for all of the requirements in subsections (a)(1) through (3) of this section, such sum as the village council shall determine.
- (5) *Surplus moneys.* Moneys remaining in the receiving fund at the end of any operating year, after full satisfaction of the requirements of the funds described in subsections (a)(1) through (4) of this section, may be transferred to the bond and interest redemption fund and used for the purpose of calling bonds for redemption, in the manner specified in this section, or transferred to the improvement fund at the option of the village council; provided, however, that if there shall 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 required by this section, 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.
- (b) If 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.

(Comp. Ords. 1987, §§ 25.062, 25.063)

Sec. 70-288. - Investment of funds.

Moneys in any fund or account established by the provisions of this article, including moneys derived from the proceeds of sale of bonds, may be invested in obligations of the United States of America, in the manner and subject to the limitations provided in Public Act No. 94 of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended. If such investments are made, the securities representing the investments shall be kept on deposit with the bank or trust company having on deposit the fund from which such purchase was made. Income received from such investments shall be credited to the fund from which such investments were made.

(Comp. Ords. 1987, § 25.064)

Secs. 70-289—70-310. - Reserved.

DIVISION 4. - SEWER USE

Sec. 70-311. - Unlawful deposit of waste; discharge of waste to natural outlet.

No persons shall place or deposit in an unsanitary manner upon public or private property within the village any human or animal excrement, garbage or other objectionable waste. No person shall discharge to any natural outlet within the village any unsanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this article.

(Comp. Ords. 1987, § 25.002)

Sec. 70-312. - Privies and septic tanks.

Except as provided in this article, 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.

(Comp. Ords. 1987, § 25.003)

Sec. 70-313. - Connection to public sewer required.

The owner of each house, building and property used for human occupancy, employment, recreation or other purpose, situated within the village and abutting on any street, alley or right-of-way in which there is located a public sanitary or combined sewer, is hereby required at his 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 article within 90 days after the date of official notice to do so, provided that the public sewer is within 200 feet of the property line.

(Comp. Ords. 1987, § 25.004)

Sec. 70-314. - Building sewers.

- (a) *Permit for installation.* No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the department of public works superintendent. The permit application shall be supplemented by any plans, specifications or other information considered

pertinent in the judgment of the department of public works superintendent. A permit and inspection fee for a building sewer permit as set from time to time shall be paid at the time the application is filed.

- (b) *Separate building sewer required for each building.* A separate and independent building sewer shall be provided for every building; except that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- (c) *Use of old building sewers.* Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the department of public works superintendent, to meet all requirements of this article.
- (d) *Installation standards.* All building sewer construction and the installation of pipes, fittings and appurtenances shall be done in accordance with village building regulations and such supplementary rules and regulations as the department of public works superintendent may prescribe, which shall be effective upon approval by the council.
- (e) *Supervision of connection.* The applicant for the building sewer permit shall notify the department of public works superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made by the department of public works or under its immediate supervision.

(Comp. Ords. 1987, §§ 25.012—25.016)

Sec. 70-315. - Prohibited discharges.

Except as provided in this article, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.
- (2) Any water or waste which may contain more than 100 parts per million by weight of fat, oil or grease.
- (3) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (4) Any garbage that has not been properly shredded.
- (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, or other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage works.
- (6) Any waters or wastes having a Ph lower than 6.6 or higher than 10.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewerage works.
- (7)

Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.

- (8) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(Comp. Ords. 1987, § 25.017)

Sec. 70-316. - Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the department of public works superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the department of public works superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(Comp. Ords. 1987, § 25.018)

Sec. 70-317. - Restricted discharges; preliminary treatment facilities.

- (a) The admission into the public sewers of any waters or wastes having any of the following characteristics shall be subject to the review and approval of the department of public works superintendent:
 - (1) Having a five-day biochemical oxygen demand greater than 300 parts per million by weight;
 - (2) Containing more than 350 parts per million by weight of suspended solids;
 - (3) Containing any quantity of substances having the characteristics described in section 70-315:
or
 - (4) Having an average daily flow greater than two percent of the average daily sewage flow of the village.
- (b) Where necessary in the opinion of the department of public works superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:
 - (1) Reduce the biochemical oxygen demand to 300 parts per million and the suspended solids to 350 parts per million by weight;
 - (2) Reduce objectionable characteristics or constituents to within the maximum limits provided for in section 70-315; or

(3) Control the quantities and rates of discharge of such waters or wastes.

- (c) Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the department of public works superintendent and of the state department of health, and no construction of such facilities shall be commenced until such approvals are obtained in writing.

(Comp. Ords. 1987, § 25.019)

Sec. 70-318. - Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in sections 70-315 and 70-317 shall be determined in accordance with Standard Methods for the Examination of Water and Wastewater, as published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation.

(Comp. Ords. 1987, § 25.020)

Sec. 70-319. - Special agreements for acceptance of industrial waste.

Nothing contained in this article 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.

(Comp. Ords. 1987, § 25.021)

Secs. 70-320—70-340. - Reserved.

DIVISION 5. - PRIVATE SEWAGE DISPOSAL SYSTEMS

Sec. 70-341. - Use required when public sewer is not available.

Where a public sanitary or combined sewer is not available under the provisions of section 70-313, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(Comp. Ords. 1987, § 25.005)

Sec. 70-342. - Permit.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the department of public works 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 department of public works superintendent. A permit and inspection fee as set from time to time shall be paid at the time the application is filed.

(Comp. Ords. 1987, § 25.006)

Sec. 70-343. - Inspection.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the department of public works superintendent.

(Comp. Ords. 1987, § 25.007)

Sec. 70-344. - Installation standards.

The type, capacity, location and layout of a private sewage disposal system shall comply with the recommendations of the department of public health of the state, and the system shall be constructed and connected in accordance with the plumbing regulations of the village. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(Comp. Ords. 1987, § 25.008)

Sec. 70-345. - Discontinuance of use and connection to public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 70-313, a direct connection shall be made to the public sewer in compliance with this article and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Comp. Ords. 1987, § 25.009)

Sec. 70-346. - Operation and maintenance.

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

(Comp. Ords. 1987, § 25.010)

Sec. 70-347. - Authority to impose additional requirements.

Nothing contained in this division shall be construed to interfere with any additional requirements that may be imposed by the village, or otherwise limit its powers.

(Comp. Ords. 1987, § 25.011)

Secs. 70-348—70-370. - Reserved.

DIVISION 6. - SEWER INSTALLATION

Sec. 70-371. - Fees.

The following fees and charges shall be set from time to time: wastewater disposal system connection charge, construction inspection charge and plan review charge.

(Comp. Ords. 1987, § 25.080)

Sec. 70-372. - Liability insurance or cash deposit.

- (a) Proof of liability insurance in a minimum amount as set from time to time shall be posted with the village clerk by the sewer installation contractor or such person applying for a new sanitary sewer installation permit prior to the issuance of the new sanitary sewer installation permit.
- (b) Should cash be posted instead of liability insurance, such amount shall be redeemed within 30 days after final inspection and approval of the sewer hook-up, which will be made by the department of public works superintendent or his designated representative. The amount returned shall be less the verified amount of damage committed to the existing sewer line of the village. Such verification shall be made by the department of public works superintendent. Should damage be committed to any village utility as the result of installation of a new sanitary sewer, the amount of damage committed upon such utility shall also be deducted from such amount and any remaining sum of money shall be returned as specified in this section.

(Comp. Ords. 1987, §§ 25.303, 25.304)

Sec. 70-373. - Liability for damage to existing facilities.

If damage over and above the amount of the liability insurance required by section 70-372 is committed upon the village utilities, including but not limited to the existing sewer line, then in that event the contractor and the person whose name appears on the installation permit shall be jointly and severally liable for such damage.

(Comp. Ords. 1987, § 25.305)

Sec. 70-374. - Specifications for pipes and joints.

The minimum specifications for pipes and joints which shall be acceptable for new sanitary sewer installation shall be as established by the village.

(Comp. Ords. 1987, § 25.306)

Sec. 70-375. - Connection to existing plumbing.

(a) All new sanitary sewer systems shall be connected to existing septic systems and basement drains.

(b) All new sanitary sewer systems shall be connected to existing septic systems and all household water.

(Comp. Ords. 1987, § 25.307)

Sec. 70-376. - Time limit for completion of installation.

Installation of a new sanitary sewer system shall be completed within 30 days from the date of the issuance of the installation permit.

(Comp. Ords. 1987, § 25.308)

Sec. 70-377. - Inspection and approval.

Final inspection and approval of the sewer hook-up shall be made by the department of public works superintendent or his designated representative prior to the covering up of the newly installed sewer pipe. Inspections shall be made on weekdays, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m.

(Comp. Ords. 1987, § 25.309)

Secs. 70-378—70-400. - Reserved.

DIVISION 7. - SEWER EXTENSIONS

Sec. 70-401. - Purpose and intent of division.

The purpose of this division is to treat all property owners as fairly and equally as possible with respect to the cost of extension of the village sewer facilities.

(Comp. Ords. 1987, § 25.102)

Sec. 70-402. - Responsibility for payment of costs.

- (a) *Portion of costs to be paid by village.* The village shall assume all costs of any sewer extension within the village limits from the nearest available point of an existing sewer line to the nearest property line.
- (b) *Portion of costs to be paid by property owner.* All costs involved in extension of a sewer on the owner's property, from property line to property line, the course of such line being at the absolute discretion of the department of public works superintendent, and to the owner's building, shall be that of property owner.
- (c) *Items included as costs.* The term "cost," as used in this section, includes all expenses that may occur in the project of extending the sewer lines, including survey work, engineering, material, digging, and all labor, whether performed by village personnel or as contracted labor.
- (d) *Charge for labor and materials supplied by village.* All labor and materials supplied by the village for sewer extension projects shall be charged for at the then-current costs of such labor and materials.

(Comp. Ords. 1987, § 25.103)

Sec. 70-403. - Reimbursement of property owner for village's share of costs.

- (a) *Initial payment of costs.* The entire cost of any sewer extension, including the share payable by the village, must in the first instance be paid by the property owner. The share payable by the village as outlined in this division may be paid by the village at the completion of the project or as outlined in this section, at the option of the village.
- (b) *Time limit.* The time limit for the village to so reimburse the property owner for the village share of the cost as defined in this division is ten years after the completion of the project, such village share to be paid annually in equal installments. It is understood that the village shall make every effort to pay at or before completion of the project when financially able to do so.
- (c) *Effect of transfer of ownership of property.* In the event of a transfer of property to a new owner, the village is under no obligation to make such reimbursement to the new owner, but shall continue to make the reimbursements, if any are due, to the original owner.

(Comp. Ords. 1987, § 25.104)

Sec. 70-404. - Reimbursement of property owner upon development of property bypassed by original extension.

If any extension of sewer shall require such extension to bypass undeveloped property, the owner of such property, upon development of it, shall be required to pay for his share of the original extension based on a per-foot price from the original point of extension, the amount to be payable to the owner of the property requiring the original extension, plus seven percent per year from the time of the completion of the original extension; provided, however, that no new property owner shall be required to pay anything after ten years from the completion of the original extension, and provided further that no new property owner under this section shall be required to make any reimbursements for the original extension if he purchased his property from the owner of the property which required the original extension.

(Comp. Ords. 1987, § 25.105)

Sec. 70-405. - Exceptions.

- (a) *Street extensions.* This division does not obligate the village to any payments which arise by reason of street extensions.
- (b) *New subdivisions.* This division is not applicable to new subdivisions, such subdivisions being subject to the Subdivision Ordinance, Ordinance No. 52.

(Comp. Ords. 1987, § 25.106)

Sec. 70-406. - Hook-up charges.

There shall be a hook-up charge payable by the property owner in an amount as set from time to time.

(Comp. Ords. 1987, § 25.107)

CODE COMPARATIVE TABLE - 1987 COMPILATION

This table gives the location within this Code of those sections of the 1987 Compilation, as updated through December 17, 1991, which are included herein. Sections of the 1987 Compilation, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

1987 Compilation Section	Section this Code
12.001—12.013	<u>2-101</u> —2-113

12.051, 12.052	<u>2-51, 2-52</u>
12.101	<u>18-31</u>
12.131, 12.132	<u>22-34, 22-35</u>
12.133	<u>22-32</u>
12.140	<u>22-31</u>
12.151	<u>22-33</u>
12.152	<u>22-36</u>
12.160	<u>22-35</u>
12.401—12.412	<u>58-1</u> —58-12
12.413—12.430	<u>58-14</u> —58-31
18.001—18.005	<u>18-81</u> —18-85
18.006—18.008	<u>18-101</u> —18-103
18.009	<u>18-63</u>
20.001	<u>6-1</u>
20.002—20.005	<u>6-33</u> —6-36
20.006	<u>6-32</u>
20.041	<u>6-1</u>
20.043	<u>6-55</u>
20.046—20.049	<u>6-51</u> —6-54

20.081—20.083	<u>42-221—42-223</u>
20.101	<u>30-31</u>
20.102	<u>54-121</u>
20.102(c)	<u>30-62</u>
20.103(A), (B)	<u>54-122</u>
20.104	<u>54-123</u>
20.105	<u>30-62</u>
20.121	<u>42-52</u>
20.122	<u>42-51</u>
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