

**VILLAGE OF LAWTON, MICHIGAN**

**CODE OF ORDINANCES**

**LAWTON, MICHIGAN  
CODE OF ORDINANCES  
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### **10. RULES OF CONSTRUCTION; GENERAL PENALTY**

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### §10.01 HOW CODE DESIGNATED AND CITED.

This code shall constitute and be designated as the *Lawton Village Code*.

#### ***Statutory reference:***

*Codification authority, see MCL §66.3a, as amended*

### §10.02 DEFINITIONS.

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

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

**CODE.** The *Lawton Village Code*, as designated in §10.01.

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

**COUNTY.** County of Van Buren, Michigan.

**GENERAL LAW VILLAGE.** The Village of Lawton is a general law village pursuant to Public Act 3 of 1895, being MCL §61.1 *et seq.*, as amended.

**JUVENILE.** Any person under 17 years of age.

**MINOR.** A person under 18 years of age.

**MUNICIPAL CIVIL INFRACTION.** An act or omission that is prohibited by this code or any ordinance of the Village, but which is not a crime under this code or any other ordinance of the Village, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs may be ordered, as authorized by Public Act 236 of 1961, Ch. 87, being MCL §600.8701 *et seq.*, as amended. A **MUNICIPAL CIVIL INFRACTION** is not a lesser included offense of any criminal offense in this code.

**MUNICIPALITY.** The Village of Lawton, Michigan.

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

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

**PERSON.**

(a) Any natural individual, firm, trust, partnership, association, limited liability company or corporation. Whenever the word **PERSON** is used in any section of this code prescribing a penalty or fine, as applied to partnerships, associations or limited liability companies, the word includes the partners, or members thereof, and as applied to corporations, the word includes officers, agents or employees thereof who are responsible for any violations of the section.

(b) The singular includes the plural. The masculine gender includes the feminine and neuter genders.

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

**VILLAGE.** The Village of Lawton, Michigan.

**VILLAGE COUNCIL** or **COUNCIL.** The Village Council of the Village of Lawton.

**§10.03 SECTION CATCHLINES AND OTHER HEADINGS.**

(A) The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of the sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or reenacted.

(B) No provision of this code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, subchapter or division.

#### **§10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.**

(A) Nothing in this code or the ordinance adopting this code shall affect any ordinance not in conflict with or inconsistent with this code, and all the ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code:

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

(2) Containing any administrative provisions of the Village Council;

(3) Granting any right or franchise;

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

(5) Making any appropriation;

(6) Levying or imposing taxes;

(7) Establishing or prescribing grades in the Village;

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

(9) Dedicating or accepting any plat or subdivision in the Village;

(10) Extending or contracting the boundaries of the Village;

(11) Prescribing the number, classification or compensation of any Village officers or employees;

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

(13) Pertaining to rezoning; and

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

(B) The ordinances are on file in the Village Clerk's office.

#### **§10.05 CONTINUATION OF ORDINANCES.**

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

#### **§10.06 PRIOR RIGHTS, OFFENSES AND THE LIKE.**

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

#### **§10.07 ORDINANCES REPEALED NOT REENACTED.**

No ordinance or part of any ordinance heretofore repealed shall be considered reordained or reenacted by virtue of this code, unless specifically reenacted. The repeal of any curative or validating ordinances shall not impair or affect any cure or validation already effected thereby.

#### **§10.08 AMENDMENTS TO CODE.**

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

(B) If a new section not heretofore existing in the code is to be added, the following language shall be used: "That the *Lawton Village Code* is hereby amended by adding a section, to be numbered \_\_\_\_, which the section reads as follows: . . .". The new section shall then be set out in full as desired.

#### **§10.09 SUPPLEMENTATION OF CODE.**

(A) By contract or by Village personnel, supplements to this code shall be prepared and



printed whenever authorized or directed by the 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 the adoption of the latest ordinance included in the supplement.

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

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

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement, and make changes in the catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words “this ordinance” or words of the same meaning to “this chapter”, “this subchapter”, “this division” and the like, as the case may be, or to “\_\_\_\_\_ through \_\_\_\_\_” (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

#### **§10.10 APPEARANCE TICKETS.**

Only a police officer of the Lawton Police Department is authorized to issue and serve appearance tickets with respect to ordinances of the Village, as provided by Public Act 147 of 1968, being MCL §764.9c, as amended, when the officer has reasonable cause to believe that a person has committed an offense in violation of a Village ordinance.

#### **§10.11 SEPARABILITY OF PROVISIONS.**

Each section, paragraph, sentence, clause and provision of this code is separable and, if any

provision shall be held unconstitutional or invalid for any reason, the decision shall not affect the remainder of this code, or any part thereof, other than that part affected by the decision.

***Cross-reference:***

*Ordinances repealed not reenacted, see §10.07*

*Prior rights, offenses and the like, see §10.06*

**§10.99 GENERAL PENALTY.**

Unless another penalty is expressly provided by this code for any particular provision or section, every person convicted of a violation of any provision of this code, or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than \$500 and costs of prosecution or by imprisonment for not more than 90 days, or by both the fine and imprisonment; unless there is a fine or penalty specifically set forth in the ordinance which provides for a greater penalty, and, in that event, the greater penalty shall control. If any violation of any provision of this code substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days, every person convicted of such a violation shall be punished by a fine of not more than \$500 and costs of prosecution or by imprisonment for not more than 93 days, or by both the fine and imprisonment, unless there is a fine or penalty specifically set forth in the ordinance which provides for a greater penalty, and, in that event, the greater penalty shall control. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this code whether or not the penalty is reenacted in the amendatory ordinance. Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the chapter or the orders, rules, regulations and permits issued thereunder.

### **TITLE III: ADMINISTRATION**

Chapter

- 30. VILLAGE OFFICIALS AND ORGANIZATIONS**
- 31. VILLAGE POLICIES**
- 32. FINANCE**

## CHAPTER 30: VILLAGE OFFICIALS AND ORGANIZATIONS

### Section

- 30.01 Term and manner of elections and appointment
- 30.02 Planning Commission
- 30.03 Basic standing committees
- 30.04 Downtown Development Authority

### **§30.01 TERM AND MANNER OF ELECTIONS AND APPOINTMENT.**

(A) Three Village Council Trustees and three Library Board Trustees shall be elected at each biennial Village election for the term of four years and until their successors are qualified.

(B) (1) As authorized by Section 1(3) Chapter II of Act 3 of 1895, as amended, the Village Clerk and Village Treasurer shall be chosen by nomination by the Village President and appointment by a majority of the Village Council.

(2) The term of office of the Village Clerk and Village Treasurer shall be four years from the first Tuesday after the first Monday in November beginning in 2012 and every four years thereafter and until a successor is appointed. The person first appointed as Village Clerk or Village Treasurer under this ordinance shall have an initial term of office commencing as of the date such person takes and subscribes the oath of office and files the same with the Village Clerk, together with the filing of any bond required by law, but such initial term of office shall commence not earlier than the vacating of the office of clerk or the first Tuesday after the first Monday in November, 2012. (Ord. 188 and 189, effective 10-28-11).

(C) Compensation for Village Officers, Trustees and appointees shall be as established by the Village Council from time to time and on file at the office of the Village Clerk.

### **§30.02 PLANNING COMMISSION.**

(A) There is created a Planning Commission in the Village for the purpose of studying and recommending to the Village Council long range plans for the development, improvement and growth of the Village.

(B) The Commission shall consist of not less than five members or more than seven, one of whom shall be a Council member.

(C) Membership on the Commission shall be limited to residents of the Village.

(D) (1) Members shall be appointed by the Village President with the approval of the Council and their terms, except for the Council member, shall be for three years. Initial

appointments shall divide the Commission in equal numbers for one-year, two-year and three-year terms. The Council member shall serve at the pleasure of the Council.

(2) Vacancies on the Commission shall be filled in like manner, except that the appointee's term shall be for the balance of the unexpired term.

(E) A vacancy may be declared by a two-thirds vote of the Council whenever a member shall fail to attend any meeting of the Commission over a six-month period.

(F) The Commission shall hold at least one meeting each quarter and shall report to the Council their activities at least twice each year.

(G) The Planning Commission members shall elect a Chairperson, Vice-Chairperson and Secretary, who shall function in the usual manner.

(H) The Council shall provide the Commission with a meeting place and necessary supplies. Compensation for attending meetings shall be established by the Council.

(I) The Planning Commission shall have such other or further responsibilities as the Council may from time to time delegate to it.  
(Ord. 121, passed 8-14-1990; Ord. 142, passed 6-14-1996)

### **§30.03 BASIC STANDING COMMITTEES.**

(A) There shall be appointed each year at the organizational meeting, the following standing committees, namely: Public Safety, Finance and Administration, Civic Activities, Streets and Sidewalks, Water and Sewer and Public Works. Public Safety shall include Police and Fire Departments. Finance and Administration shall include salaries and wages, personnel activities, Council activities, general activities and ordinances and zoning. Civic Activities shall include museum and library and parks and recreation. Public Works shall include motor pool, cemetery and buildings and grounds.

(B) New committees may be added to those enumerated in division (A) above as the need arises, upon a two-thirds affirmative vote of the Council at any time during the year. No committee so established shall be discontinued, except by a two-thirds affirmative vote of the Council, to be effective at the end of the Village year.

(C) All committees shall be composed of three members of the Council, nominated by the Village President, one of which shall be by him or her designated as Chairperson, and approved by an affirmative vote of the Council. The chairperson shall serve for the ensuing Village year or until a replacement has been duly designated by the President and affirmed by the Council.

(D) The Village President shall be an ex-officio member of all committees, or in his or her absence, the President pro-tem.

(E) A vacancy shall be deemed to have occurred whenever any Council member shall during his or her term of office cease to be a Council member. Replacement of the committee person shall be in accordance with division (C) above.

(Ord. 116, passed 2-27-1990)

#### **§30.04 DOWNTOWN DEVELOPMENT AUTHORITY.**

(A) The Authority shall be named the Lawton Downtown Development Authority.

(B) The Authority is hereby established pursuant to Public Act 197 of 1975, being MCL 125.1651 *et seq.*, as amended.

(C) The Downtown Development Authority District boundaries shall be as follows:

(1) *North of the north railroad right-of-way line.* Beginning at the intersection of the northerly right-of-way line of the railroad right-of-way and the east line of Section 32, Town 3 South, Range 13 West; thence northerly along said east line of Section to the northeast corner of said Section and the north corporation limits of the Village of Lawton; thence westerly along the north line of said Section 32 and the north corporation line to the northwest corner of the village, being the North Eighth post in the Southwest Quarter of Section 29, Town 3 South, Range 13 West; thence southerly on said Eighth line to the east and West Eighth line in the Southwest Quarter of said Section 29; thence west on said Eighth line to the West line of the East 3/8 of the Southwest Quarter of the Southwest Quarter of said Section 29; thence southerly on said West line to the Section line common to Sections 29 and 32, Town 3 South, Range 13 West; thence east along said Section line 379.5 feet; thence South 0° 19' 58" East parallel with the West Section line of said Section 32, 264 feet; thence west parallel with the North Section line of Section 32, 49.5 feet; thence south parallel with the West Section line of said Section 32 to the north line of the railroad right-of-way; thence northeasterly on said north railroad right-of-way line to the place of beginning.

(2) *South of the south railroad right-of-way line.* Commencing at the intersection of the north line of Dodge's Addition and the easterly right-of-way of Main Street; thence northwesterly along said easterly line of Main Street 192.37 feet; thence on a line 40 feet southerly of and parallel with the centerline of the main track of the railroad 860 feet to the place of beginning; thence southeasterly 172 feet (except any portion thereof lying within Lot 7 Block 11 of Bitely's Addition); thence southwesterly along the north line of said Dodge's Addition to the centerline of Railroad Avenue; thence southeasterly along said centerline of Railroad Avenue to the centerline of Fourth Street; thence westerly on Fourth Street to the centerline of Main Street; thence southeasterly in the center of Main Street parallel with the east line of Whitehead's Addition to a line which is 200 feet south of the north line of said addition extended to the center of Main Street; thence westerly parallel with and 200 feet south of the northerly line of said Whitehead's Addition to the west line of said Addition and the North and South Quarter line in Section 32, Town 3 South, Range 13 West; thence south on said North and South Quarter line to the East and West Eighth line in the Southwest Quarter of said Section 32; thence east on same to the centerline of Main Street; thence south and westerly to the south line of said Section 32 and the south corporation limits of the Village of Lawton; thence west on the South Section line and the south corporation limits of the Village of Lawton to the North and South Eighth line in the Southwest Quarter of said Section 32;

thence north on the North and South Eighth line of to the East and West Quarter line of said Section 32; thence west on said East and West Quarter line to the south line of the railroad right-of-way; thence northeasterly on the said south railroad right-of-way line to the place of beginning.

(D) (1) The Downtown Development Authority shall be governed by a board, consisting of the Village President and ten additional members appointed by the Village President with approval of the Village Council.

(2) A majority of the Board members shall be persons having an interest in property located in the designated downtown district. The terms of office shall be as prescribed in §4 of the Act.

(E) The Downtown Development Authority shall have such powers as from time to time may be authorized by the Act.

(Ord. 92, passed 4-16-1985; Ord. 181, passed 12-9-2008)

## CHAPTER 31: VILLAGE POLICIES

### Section

- 31.01 Annual service charge in lieu of taxes for Village Commons Apartments
- 31.02 Annual service charge in lieu of taxes for Vintage Court Apartments
- 31.03 Public buildings; sale or disposition
- 31.04 Freedom of Information Procedures and Guidelines

### **§31.01 ANNUAL SERVICE CHARGE IN LIEU OF TAXES FOR VILLAGE COMMONS APARTMENTS.**

(A) *Purpose.* This section authorizes and approves an annual service charge in lieu of taxes for residential housing developments that:

- (1) Serve low income or moderate income persons (as defined in the State Housing Development Authority Act, Public Act 346 of 1966, being MCL 125.1401 *et seq.*, as amended, and this section);
- (2) Are financed or assisted by the Authority in accordance with Act 346;
- (3) Are located within the Village; and
- (4) Comply with this section.

(B) *Title.* This section shall be known and cited as the “Village of Lawton Tax Exemption for Village Commons Apartments.”

(C) *Preamble.*

(1) It is acknowledged that it is a proper public purpose of the state and its political subdivisions to provide housing for low income citizens and to encourage the development of the housing by providing for a service charge in lieu of property taxes in accordance with Act 346. The village is authorized by Act 346 and this section to establish or change the annual service charge to be paid in lieu of taxes by any and all classes of housing exempt from taxation under Act 346 at any amount it chooses not to exceed the taxes that would be paid, but for Act 346. It is further acknowledged that housing for low income persons and families is a public necessity, and as the Village will be benefitted and improved by such housing, the encouragement of the same by providing certain real-estate tax exemptions for the housing is a valid public purpose; further that, the continuance of the provisions of this section for tax exemption and the service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic



feasibility of housing developments which are constructed and financed in reliance on the tax exemption.

(2) The Village acknowledges that Lawton Village Limited Dividend Housing Association, LLC (the “sponsor”, as defined in division (D) below) has offered, subject to or having a federally assisted loan with rural development, to rehabilitate, own and operate a housing development identified as “Village Commons Apartments” on certain property located at 121 Walker and 350 W. Fourth Street, within the village, which is legally described in division (D) below, to serve low-income or moderate-income persons, and that the sponsor has offered to pay and will pay to the Village, on account of the housing development, an annual service charge for public services in lieu of all taxes.

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

**ACT.** The State Housing Development Authority Act, being Public Act 346 of 1966, being MCL 125.1401 *et seq.*, as amended.

**ANNUAL SHELTER RENT.** The total actual collections during each calendar year from all occupants of a housing development representing rents or occupancy charges, which rental amounts shall be exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

**AUTHORITY.** The State Housing Development Authority.

**CLASS.** The housing development known as “Village Commons Apartments” for low-income or moderate-income persons.

**CONTRACT RENTS.** As defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended.

**HOUSING DEVELOPMENT.** A development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority and rural development determines to improve the quality of the development as it relates to housing for persons of low income. For the purposes of this section, **HOUSING DEVELOPMENT** means “Village Commons Apartments” located on the property legally described as: Property Legal Description 80-45-700-086-11, COM ON S L OF UNION ST AT PT 402.5' WLY ALG SAME FROM N & S 1/4 L, TH S 132' TO BEG OF DESC, TH N 8', TH WLY PAR TO S L OF UNION ST TO E L OF WALKER ST, TH SLY ON SD E L 273.91', TH N 89 DEG 58' 21" E 108', TH N 74 DEG 28' 21" E 129.67', TH N 59 DEG 28' 21" E 95', TH N 7 DEG 50' 27" W 224.32', TH WLY TO BEG. ALSO 80-45-700-086-30, BEG AT A PT ON N & S 1/4 L OF SEC S 0 DEG 1' 44" W 1500.35' FROM N 1/4 PT OF SD SEC, TH CON ALG SD 1/4 L S DEG 11' 44" W 452.85' TO N L OF 4TH ST, TH S 81 DEG 50' 3" W ALG SD N L 173', TH N 28 DEG 25' 55" W 240.4' TH N 7 DEG 50' 27" W 224.32', TH N 82 DEG 7' 23" E 319.55' TO BEG OF DES.

**LOW-INCOME OR MODERATE-INCOME PERSONS.** As defined in the Act, as amended, from time to time, and shall include low-income or moderate-income families and the elderly.

**RURAL DEVELOPMENT.** The United States Department of Agriculture-Rural Development through the Rural Rental Housing Program under §515 of the Federal Housing Act of 1949, as amended.

**SPONSOR.** Person(s) or entities which have applied to the Authority for or previously received from the Authority a reservation of low income housing tax credits to finance a housing development and/or has a federally assisted mortgage loan with rural development. For the purposes of this section, the **SPONSOR** is Lawton Village Limited Dividend Housing Association, LLC.

**TAX CREDITS.** The low income housing tax credits made available by the Authority to the sponsor for rehabilitation of the housing development by the sponsor in accordance with the Low Income Housing Tax Credit Program administered by the Authority under I.R.C. §42 of 1986, as amended.

**UTILITIES.** Fuel, water, sanitary sewer service and/or electrical service, which are paid by the housing development.

(E) *Class of housing development.* This section shall apply only to the housing development to the extent that the housing development provides housing for low income and moderate income persons and is financed or assisted by the Authority or rural development pursuant to the Act.

(F) *Establishment of annual service charge.*

(1) The Village acknowledges that the sponsor and rural development have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and payment of an annual service charge in lieu of taxes in an amount established in accordance with this division (F). In consideration of the sponsor's offer to rehabilitate, own and operate the housing development, the Village agrees to accept payment of an annual service charge of 6% of the annual shelter rents for public services in lieu of all ad valorem property taxes that would otherwise be assessed to the housing development under state law.

(2) The housing development, and the property on which it shall be constructed, shall be exempt from all property taxes from and after the commencement of rehabilitation of the housing development by the sponsor under the terms of this section.

(G) *Limitation on the payment of annual service charge.* Notwithstanding division (F) above, if any portion of the housing development is occupied by other than low-income and moderate-income persons, the service charge in lieu of taxes to be paid each year for those units within the housing development shall be equal to the full amount of the taxes that would be paid on those units of the housing development if the housing development were not tax exempt.

(H) *Contractual effect of ordinance.* Notwithstanding the provisions of §15(a)(5) of the Act to the contrary, and subject to the terms of this section including, but not limited to, division (K) below, this section constitutes a contract between the Village and the sponsor to provide an exemption from ad valorem property taxes and to accept the payment of an annual service charge in lieu of the taxes, as previously described in this section. It is expressly recognized that the Authority and rural development are third party beneficiaries to this section.

(I) *Payment of service charge.* The service charge in lieu of taxes shall be payable to the Village in the same manner as ad valorem property taxes are payable, except that the annual payment shall be paid on or before February 28 of each year for the previous calendar year.

(J) *Duration.*

(1) Subject to division (J)(2) below, this section shall remain in effect and shall not terminate so long as the Housing Development remains subject to income and rent restrictions pursuant to I.R.C. §42 of 1986, as amended, and/or is subject to a mortgage from rural development.

(2) (a) This section shall automatically terminate if rehabilitation of the housing development:

1. Does not commence within two years from the effective date of this section; or
2. Is not completed within one year of commencement of rehabilitation.

(b) For purposes of this division (J)(2), **COMPLETED** means the issuance of a certificate of occupancy by the appropriate building or zoning official.

(K) *Filing of annual audit.* The sponsor, or its successor, shall file a copy of any and all audits required to be provided to rural development, the state and/or the Authority simultaneously with the village.

(Ord. 177, passed 1-8-2008)

### **§31.02 ANNUAL SERVICE CHARGE IN LIEU OF TAXES FOR VINTAGE COURT APARTMENTS.**

*Preamble.* It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for low income citizens and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with Act 346. The Village is authorized by Act 346 and this Section of the Lawton Village Code of Ordinances to establish or change the annual service charge to be paid in lieu of taxes by any and all classes of housing exempt from taxation under Act 346 at any amount it chooses not to exceed the taxes that would be paid but for Act 346. It is further acknowledged that housing for low income persons and families is a public necessity, and as the Village will be benefitted and improved by such housing, the encouragement of the same by providing certain real-estate tax exemptions for such housing is a valid public purpose; further, that the continuance of the provisions of this Section of the Lawton Village Code of Ordinances for tax exemption and the service charge

in lieu of taxes during the period contemplated in this Section of the Lawton Village Code of Ordinances are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The Village acknowledges that T J Vintage Court Limited Dividend Housing Association Limited Partnership (the “Sponsor” as defined in Paragraph B of this Section of the Lawton Village Code of Ordinances) has committed to rehabilitate, own and operate a housing development identified as “Vintage Court Apartments” on certain property located on 401 Orchard Street, Lawton, Michigan, which is legally described in this Section of the Codified Ordinances, to serve Low Income or Moderate Income Persons, and that the Sponsor has offered to pay and will pay to the Village, on account of the Housing Development, an annual service charge for public services in lieu of all taxes.

(A) *Title.* This Section shall hereafter be known and cited as the “Village of Lawton Tax Exemption for Vintage Court Apartments.”

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

“Act” means the State Housing Development Authority Act, being Act 346 of the Public Acts of Michigan of 1966, (1966 PA 346, as amended; MCL 125.1401 et seq).

“Annual Shelter Rents” means the total actual collections during each calendar year from all occupants of a housing development representing rents or occupancy charges, which rental amounts shall be exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

“Authority” means the Michigan State Housing Development Authority.

“Class” means the Housing Development known as Vintage Court Apartments for Low Income or Moderate Income Persons.

“Contract Rents” are as defined by the U. S. Department of Housing and Urban Development in regulations promulgated pursuant to the U. S. Housing Act of 1937, as amended.

“Federally-Aided Mortgage” means any of the following:

A below market interest rate mortgage insured, purchased, or held by the Secretary of the Department of Housing and Urban Development (“HUD”) or United States Department of Agriculture – Rural Development (“USDA-RD”);

A mortgage receiving interest reduction payments provided by the HUD or USDA – RD;

A Housing Development to which the Authority allocates low income housing tax credits under Section 22b of the Act; or

A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the Act.

“Housing Development” means a development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines to improve the quality of the development as it relates to housing for persons of low income. For the purposes of this Section of the Lawton Village Code of Ordinances, “Housing Development” means Vintage Court Apartments located on the property legally described as:

That part of the Southeast 1/4 of Section 32, Town 3 South, Range 13 West, Antwerp Township, Van Buren County, Michigan, described as: Commencing at the East 1/4 corner of said Section 32; thence due South 00 degrees 00 minutes 08 seconds East 1320.00 feet along the East line of said Section to the East 1/8 corner of said Southeast 1/4; thence South 89° 51' 52" West 826.40 feet along the East-West 1/8 line of said Southeast 1/4 (being the centerline of Orchard Street) to the Point of Beginning of this description, said point of beginning lying North 89° 51' 52" East 788.7 feet from the centerline of Main Street; thence continuing South 89° 51' 52" West 410.00 feet; thence North 00° 13' 03" West 265.32 feet; thence North 89° 51' 52" East 410.00 feet; thence South 00° 13' 03" East 265.32 feet to the point of beginning.

“Low Income or Moderate Income Persons” means persons and families eligible to reside in the Housing Development as defined in the Act, as amended.

“Sponsor” means person(s) or entities which have applied to the Authority for the Tax Credits to finance a Housing Development. For the purposes of this Section of the Lawton Village Code of Ordinances, the Sponsor is T J Vintage Court Limited Dividend Housing Association Limited Partnership.

“Tax Credits” means the low income housing tax credits made available by the Authority to the Sponsor for rehabilitation of the Housing Development by the Sponsor in accordance with the Low Income Housing Tax Credit Program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

“USDA-RD” means the United States Department of Agriculture, Rural Services Division.

“Utilities” means fuel, water, sanitary sewer service and/or electrical service, which are paid by the Housing Development.

(C) *Class of Housing Development.* This Section of the Lawton Village Code of Ordinances shall apply only to the Housing Development to the extent that the Housing Development provides housing for Low Income and Moderate Income Persons and is financed or assisted by USDA-RD or the Authority pursuant to the Act.

(D) *Establishment of Annual Service Charge.*

(1) The Village acknowledges that the Sponsor and USDA-RD and/or the Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Section of the Lawton Village Code of Ordinances and the qualification of the Housing Development for exemption from all ad valorem property taxes and payment of an annual service charge in lieu of ad valorem taxes in an amount established in accordance with this Section. In consideration of the Sponsor’s offer to rehabilitate, own and operate the Housing Development, the Village agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes that would otherwise be assessed to the Housing Development under Michigan law.

(a) Effective upon the adoption of this Section of the Lawton Village Code of Ordinances and subject to the receipt by the Village of the “Notification of Exemption” (or such other similar notification) by the Sponsor and/or the Authority, the annual service charge shall be equal to Five (5%) percent of Annual Shelter Rents.

(b) The Housing Development, and the property on which it is constructed, shall be exempt from all ad valorem property taxes from and after the commencement of rehabilitation of the Housing Development by the Sponsor under the terms of this Section of the Lawton Village Code of Ordinances.

(E) *Limitation on the Payment of Annual Service Charge.* Notwithstanding the above Paragraph (D), if any portion of the Housing Development is occupied by other than Low Income and Moderate Income Persons, the full amount of the taxes that would be paid on those units of the Housing Development if the Housing Development were not tax exempt shall be added to the service charge in lieu of taxes.

(F) *Contractual Effect of Ordinance.* Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, and subject to the terms of this Section of the Lawton Village Code of Ordinances including, but not limited to Paragraph I herein, this Section of the Lawton Village Code of Ordinances constitutes a contract between the Village and the Sponsor to provide an exemption from ad valorem property taxes and to accept the payment of an annual service charge in lieu of such taxes, as previously described in this Section of the Lawton Village Code of Ordinances. It is expressly recognized that the Authority and USDA-RD are third party beneficiaries to this Section of the Lawton Village Code of Ordinances.

(G) *Payment of Service Charge.* The annual service charge in lieu of taxes shall be payable to the Village in the same manner as ad valorem property taxes are payable, to the Village and distributed to the several units levying the general property tax in the same proportion as paid with the general property tax in the previous calendar year. The annual payment shall be paid on or before May 1 of each year for the previous calendar year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.11, et seq.

(H) *Duration.* This Section of the Lawton Village Code of Ordinances shall remain in effect and shall not terminate for so long as the Housing Development remains subject to a Federally Aided Mortgage and so long as the housing development submits the required annual notification of exemption pursuant to MCL 125.1415a(1), as amended. The term of this Section of the Lawton Village Code of Ordinances shall commence upon the issuance of the Notification to Local Assessor of Exemption as issued by the Authority.

(I) *Filing of Annual Audit.* The Sponsor, or its successor, shall file a copy of any and all annual audits required to be provided to the federal government, the State of Michigan, and/or the Authority simultaneously with the Village. The audit shall include detail with respect to occupancy of the Housing Development, Annual Shelter Rents received from the Housing Development, and the cost for utilities during the audit period.

(J) *Publication; Effective Date.* This Section of the Lawton Village Code of Ordinances shall become effective the day following its publication or the day following publication of a summary of its provisions in a newspaper of general circulation in the Village.

(K) *Severability.* The various Paragraphs and provisions of this Section of the Lawton Village Code of Ordinances shall be deemed to be severable, and should any Paragraph or provision of this Section of the Lawton Village Code of Ordinances be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Section of the Lawton Village Code of Ordinances as a whole or any Paragraph or provision of this Section of the Lawton Village Code of Ordinances, other than the Paragraph or provision so declared to be unconstitutional or invalid.

(L) *Repeal.* All ordinances or parts of ordinances in conflict with this Section of the Lawton Village Code of Ordinances are repealed to the extent of such inconsistency or conflict.

### **§31.03 PUBLIC BUILDINGS; SALE OR DISPOSITION.**

(A) The Village, by a majority vote of the Council, may sell, dispose of or rent any public grounds or buildings, or any part or parts thereof, within the Village.

(B) The buildings and/or grounds may be sold at public or private sale or may be leased.

(C) In the case of sale of any public park, the same may not be sold without the consent of a majority of the electors of the Village, voting on the question at an election.

(D) The President and Clerk shall be the designated persons to execute any such documents on behalf of the Village, unless the resolution for the same shall specifically designate someone else to sign on behalf of the Village.

(E) Before any building and/or grounds shall be sold, notice of the intent shall be posted in three public places within the Village, one being on the bulletin board at the Village Hall, and by publishing one time in a publication of general circulation within the village, at least ten days prior to the Council action on the same.

(Ord. 156, passed 2-13-2001)

### **§31.04 FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

#### **(A) Preamble: Statement of Principles**

It is the policy of the Village of Lawton that all persons, *except those who are serving a sentence of imprisonment*, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they fully participate in the democratic process.

The Village of Lawton's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

The Village of Lawton acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The Village of Lawton acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

The Village of Lawton will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The Village of Lawton's policy is to disclose public records consistent with and in compliance with State law.

## **(B) General Policies**

The Village Council acting pursuant to the authority at MCL 15.236 designates the Village Clerk as the FOIA Coordinator. He or she is authorized to designate other Village staff to act on his or her behalf to accept and process written requests for the Village's public records and approve denials.

If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail and delivered to a Village spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

The FOIA Coordinator shall review Village spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with Village Council and appropriate Committees dealing with Information Technology ("IT") to develop administrative rules for handling spam and junk-mail so as to protect Village systems from computer attacks which may be imbedded in an electronic FOIA request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines, to administer the acceptance and processing of FOIA requests.

The Village is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other Village staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all written requests for public records received by the Village on file for a period of at least one year.

## **(C) Requesting a Public Record**

A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by Village of Lawton must do so in writing. The request must sufficiently describe a public record so as to enable Village personnel to identify and find the requested public record.



No specific form to submit a request for a public record is required. However the FOIA Coordinator may make available a FOIA Request Form for use by the public.

Written requests for public records may be submitted in person or by mail to the Village Clerk's office. Requests may also be submitted electronically by facsimile and e-mail. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, electronically mailed or other otherwise provided to him or her in lieu of paper copies. The Village will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued or disseminated by the Village of Lawton on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

A person who makes a verbal, non-written request for information believed to be available on the Village's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

*A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.*

#### **(D) Processing a Request**

Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request the Village will issue a response. If a request is received by facsimile, e-mail or other electronic transmission, the request is deemed to have been received on the following business day. The Village will respond to the request in one of the following ways:

Grant the request.

Issue a written notice denying the request.

Grant the request in part and issue a written notice denying in part the request. Issue a notice indicating that due to the nature of the request the Village needs an additional 10 business days to respond. Only one such extension is permitted.

Issue a written notice indicating that the public record requested is available at no charge on the Village's website.

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request. A copy of these Procedures and Guidelines shall be provided to the requestor with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and its Written Public Summary

are maintained on the Village's website, then a website link to those documents may be provided in lieu of providing paper copies.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If based on a good faith calculation by the Village, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, the Village will require a good-faith deposit before processing the request. In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the Village to process the request and also provide a best efforts estimate of a time frame it will take the Village to provide the records to the requestor. The best efforts estimate shall be nonbinding on the Village, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the Village; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the Village President, or its designee, or seek judicial review in the Van Buren County Circuit Court; and
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.

The Notice of Denial shall be signed by the FOIA Coordinator.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

The Village shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect Village records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal Village operations.

The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

**(E) Fee Deposits**

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation by the Village, the requestor will be asked to provide a deposit not exceeding on-half of the total estimated fee.

If a request for public records is from a person who has not fully paid the Village for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:

the final fee for the prior written request is not more than 105% of the estimated fee; the public records made available contained the information sought in the prior written request and remain in the Village's possession;  
the public records were made available to the individual, subject to payment, within the time frame estimated by the Village to provide the records;  
90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;  
the individual is unable to show proof of prior payment to the Village; and the FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:

the person making the request is able to show proof of prior payment in full to the Village;  
the Village is subsequently paid in full for the applicable prior written request; or  
365 days have passed since the person made the request for which full payment was not remitted to the Village.

**(F) Calculation of Fees**

A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Village because of the nature of the request in the particular instance, and the Village specifically identifies the nature of the unreasonably high costs.

The following factors shall be used to determine an unreasonably high cost to the Village:

The particular request incurs costs greater than incurred from the typical or usual request received by the Village. *See Bloch v Davison Community Schools, 2011 Mich App Lexis 771, 2011 WL 1564645*

Volume of the public record requested

Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.

Whether public records from more than one Village department or various Village offices is necessary to respond to the request.

The available staffing to respond to the request.

Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The Village may charge for the following costs associated with processing a FOIA request:

Labor costs directly associated with searching for, locating and examining a requested public record.

Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.

The actual cost of computer discs, computer tapes or other digital or similar media. The cost of duplication of publication, not including labor, of paper copies of public records.

The cost of labor associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means.

The actual cost of mailing or sending a public record.

Labor costs will be calculated based on the following requirements:

All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.

Labor costs will be charged at the hourly wage of the lowest-paid Village employee capable of doing the work in the specific fee category, regardless of who actually performs work.

Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.

The Village may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.

The cost of labor directly associated with duplication, publication or transferring records to nonpaper physical media can be charged in time increments of the public body's choosing with all partial increments rounded down.

If using contract or outside labor to separate and delete exempt material from non-exempt material, the public body must clearly note the name of person or firm who does the work and the total labor cost may not exceed an amount 6 times the state minimum hourly wage, which is currently \$8.15.

Overtime wages will not be included in labor costs until agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

Computer disks, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.

This cost will only be assessed if the Village has the technological capability necessary to provide the public record in the requested non-paper physical media format. In order to ensure the integrity and security of the Village's technological infrastructure, the Village will procure any requested non-paper media and will not accept non-paper media from the requestor.

The cost to provide paper copies of records will be based on the following requirements:

Paper copies of public records made on standard letter (8 1/2 x 11) or legal (8 1/2 x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for nonstandard sized sheets of paper will reflect the actual cost of reproduction.

The Village may provide records using double-sided printing, if cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

The actual cost to mail public records using a reasonably economical and justified means. The Village may charge for the least expensive form of postal delivery confirmation. No cost will be made for expedited shipping or insurance unless requested.

If the FOIA Coordinator does not respond to a written request in a timely manner, the following shall be required:

Reduce the labor costs by 5% for each day the Village exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:

The late response was willful and intentional.

The written request, within the first 250 words of the body of a letter facsimile, e-mail or e-mail attachment conveyed a request for information.

The written request included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy" or a recognizable misspelling of such, or legal code reference to MCL 15. 231 et seq or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.

Fully note the charge reduction in the Detailed Itemization of Costs Form

**(G) Waiver of Fees**

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because such can be considered as primarily benefitting the general public.

The FOIA Coordinator will waive the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

indigent and receiving specific public assistance; or

if not receiving public assistance stating facts demonstrating an inability to pay because of indigency.

An individual is not eligible to receive the waiver if:

the requestor has previously received discounted copies of public records from the Village twice during the calendar year; or

the requestor requests information in connection with other persons who are offering or providing payment to make the request.

An affidavit is sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

A nonprofit organization designated to by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 200 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

is made directly on behalf of the organization or its clients;

the FOIA requires that an indigent requestor is entitled to at least two discounted fees in a calendar year; however a public body may permit more than two if it so chooses to do so.

is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931; is accompanied by documentation of its designation by the State.

#### **(H) Appeal of a Denial of a Public Record**

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial with the Village President. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial.

Within 10 business days of receiving the appeal the Village President, or its designee, will respond in writing by:

reversing the disclosure denial;

upholding the disclosure denial; or

reverse the disclosure denial in part and uphold the disclosure denial in part.

Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the Village President may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal.

Whether or not a requestor submitted an appeal of a denial to the Village President, he or she may file a civil action in Van Buren County Circuit Court within 180 days after the Village's final determination to deny the request.

If the Court determines that the public record is not exempt from disclosure, the court will award the appellant reasonable attorneys' fees, cost and disbursements. If the court determines that the appellant prevails only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs and disbursements.

If the court determines that the Village arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages in the amount of \$1,000. The Court shall also order that the public body pay a civil fine of \$1,000 to the general fund of the State treasury.

If the head of the public body is a board or commission, it is not considered to have received a written appeal of either a denial or a fee amount until its first regularly scheduled meeting following the submission of the appeal. It then has 10 business days to respond to the appeal.

**(I) Appeal of an Excessive FOIA Processing Fee**

If a requestor believes that the fee charged by the Village to process a FOIA request exceeds the amount permitted by state law, he or she must first submit a written appeal for a fee reduction to the Office of the Village President. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Village President will respond in writing by:

waive the fee; reduce the fee and issue a written determination indicating the specific basis that supports the remaining fee, accompanied by a certification by the Village President that the statements in the determination are accurate and the reduced fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA;  
uphold the fee and issue a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee, accompanied by a certification by the Village President that the statements in the determination are accurate and the fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA;  
or issue a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Village President will respond to the written appeal.

Within 45 days after receiving notice of the Village President's determination of a fee appeal, a requestor may commence a civil action in Van Buren County Circuit Court for a fee reduction. If a civil action is filed appealing the fee, the Village is not obligated to process the request for the public record until the Court resolves the fee dispute.

If the court determines that the Village required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible amount. If the appellant in the civil action prevails by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that Village has acted arbitrarily and capriciously by charging an excessive fee, the court shall also award the appellant punitive damages in the amount of \$500.

**(J) Conflict with Prior FOIA Policies and Procedures; Effective Date**

A public body does not have to provide for administrative fee appeals; if such is the case, the fee appeal is made directly to circuit court within 45 days of receiving notice of the required fee.

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by Village Council or the Village Administration these Procedures and Guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the Village Council or the Village Administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the Village Council or the Village Administration, and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the Village Council of any change in these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015.



## CHAPTER 32: FINANCE

### Section

#### *Downtown Development Authority Development and Tax Increment Financing Plans*

- 32.01 Definitions
- 32.02 Approval and adoption of the Downtown Development Authority development and tax increment financing plans
- 32.03 Boundaries of development area
- 32.04 Preparation of base-year assessment roll
- 32.05 Preparation of annual assessment roll
- 32.06 Account status report
- 32.07 Implementation
- 32.08 Duration of tax increment financing plan

### **DOWNTOWN DEVELOPMENT AUTHORITY DEVELOPMENT AND TAX INCREMENT FINANCING PLANS**

#### **§32.01 DEFINITIONS.**

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

**ACT 197.** The Downtown Development Authority Act, Public Act 197 of 1975, being MCL §125.1651 *et seq.*, as amended.

**CAPTURED ASSESSED VALUE.** 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 development and tax increment financing plans.

**DEVELOPMENT AREA.** The area within the boundaries of the Downtown Development Authority District, as described in §30.04, and as illustrated in the Downtown Development Authority development and tax increment financing plans.

**DEVELOPMENT PLAN.** The development plan for the Downtown Development Authority District, illustrated in the Downtown Development Authority development and tax increment financing plans.

**DOWNTOWN DEVELOPMENT AUTHORITY.** The Downtown Development Authority as established in §30.04.

**INITIAL ASSESSED VALUE.** 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 at the time of adoption of this subchapter, as more fully described in the Downtown Development Authority and tax increment financing plans.

**TAX INCREMENT.** The portion of the tax levy of all taxing jurisdictions paid each year on real property in the Downtown Development Authority District on the captured assessed value, as more fully described in the Downtown Development Authority Development and tax increment financing plans.

**TAX INCREMENT FINANCING PLAN.** The tax increment financing plan for the Downtown Development Authority District, as transmitted to the Village Council by the Downtown Development Authority for public hearing, and as confirmed by this subchapter.

**TAXING JURISDICTION.** Each unit of government levying an ad valorem property tax on property in the Downtown Development Authority District.  
(Ord. 183, passed 5-12-2009)

## **§32.02 APPROVAL AND ADOPTION OF THE DOWNTOWN DEVELOPMENT AUTHORITY DEVELOPMENT AND TAX INCREMENT FINANCING PLANS.**

(A) Pursuant to Public Act 197 of 1975, §19(1), being MCL §125.1669(1), the Village Council of the Village of Lawton, Van Buren County, hereby finds and determines in accordance with said Act as follows:

(1) The development and tax increment financing plans constitute and embody a public purpose of the Village;

(2) The development and tax increment financing plans meet the requirements set forth in Public Act 197 of 1975, §14(2) and 17(2), being MCL §125.1664(2) and 125.1667(2); and

(3) That the proposed method of financing the development activities described in the development and tax increment financing plans is feasible;

(4) The development activities described in the development and tax increment financing plans are reasonable and necessary to carry out the purposes of Public Act 197 of 1975, being MCL §125.1651 *et seq*;

(5) The development and tax increment financing plans are in reasonable accord with the approved master plan of the Village;

(6) Public services, such as fire and police protection and utilities are, or will be, adequate to service the Downtown Development Authority District;

(7) The Village Council created a Downtown Development Authority Area Citizens Council pursuant to Public Act 197 of 1975, §21, being MCL §125.1671; and

(8) The village held a public hearing on December 9, 2008 to amend the DDA Development District and to declare its intent to create development and tax increment financing plans after proper public notice to affected property owners, citizens and affected taxing jurisdictions as required by Public Act 197 of 1975, §3, being MCL §125.1603.

(B) In accordance with the foregoing considerations, the Downtown Development Authority development and tax increment financing plans are hereby approved and adopted for all purposes of Public Act 197 of 1975, being consistent with the plans.

(C) Copies of the development and tax increment financing plans, and all respective attachments, exhibits and amendments thereto, shall be maintained on file in the Village Clerk's office and shall be cross-indexed to this subchapter.

(Ord. 183, passed 5-12-2009)

### **§32.03 BOUNDARIES OF DEVELOPMENT AREA.**

The boundaries of the development area are hereby adopted and confirmed as set forth in §30.04.

(Ord. 183, passed 5-12-2009)

### **§32.04 PREPARATION OF BASE-YEAR ASSESSMENT ROLL.**

(A) Within 90 days of the effective date of this subchapter, the initial base year assessment roll shall be prepared. 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 the effective date of this subchapter, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes, excluding all local school operating millages, on the property in the Development District.

(B) The copies of the base year assessment roll shall be transmitted to the Village Treasurer, 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 subchapter and the development and tax increment financing plans approved by this subchapter.

(Ord. 183, passed 5-12-2009)

### **§32.05 PREPARATION OF ANNUAL ASSESSMENT ROLL.**

Each year, within 15 days following the final equalization of property in the Development District, an updated annual assessment roll shall be prepared. 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 to the same person as

the base year assessment roll, together with a notice that it has been prepared in accordance with this subchapter and the development and tax increment financing plans.  
(Ord. 183, passed 5-12-2009)

### **§32.06 ACCOUNT STATUS REPORT.**

Annually, the Authority shall submit to the governing body of the municipality and the State Tax Council 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 governing body or the State Tax Council considers necessary. The report shall be published in a newspaper of general circulation in the municipality.

(Ord. 183, passed 5-12-2009)

### **§32.07 IMPLEMENTATION.**

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 and tax increment financing plans 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 or accounts in a bank or banks approved by the Village Council, to be designated Downtown Development Authority Project Fund. All amounts payable to the Downtown Development Authority shall, subject to the foregoing, be deposited directly in the Downtown Development Authority Project Fund.

(Ord. 183, passed 5-12-2009)

### **§32.08 DURATION OF TAX INCREMENT FINANCING PLAN.**

The tax increment financing plan will continue in effect until all purposes of the Development and Tax Increment Financing Plans have been fulfilled.

(Ord. 183, passed 5-12-2009)

## **TITLE V: PUBLIC WORKS**

Chapter

**50. UTILITIES GENERALLY**

**51. WATER**

**52. SEWERS**

**53. 2010 REVENUE BONDS**

## CHAPTER 50: UTILITIES GENERALLY

### Section

#### *Water Supply System and Sewer Disposal System*

- 50.01 Combined system
- 50.02 Definitions
- 50.03 System
- 50.04 Meters, connections, attachments and repairs
- 50.05 Interconnections
- 50.06 Deposits, rates and revenues
  
- 50.99 Penalty

#### ***WATER SUPPLY SYSTEM AND SEWER DISPOSAL SYSTEM***

##### **§50.01 COMBINED SYSTEM.**

It is hereby determined to be necessary for the public health, benefit and welfare of the village to operate the water supply system and the sewage disposal system of the village as one combined system, to be designated as the water supply and sewage disposal system, to be operated on a combined-rate basis under the provisions of Public Act 94 of 1933, being MCL §141.101 *et seq.*, as amended.

(Ord. 100, passed 10-14-1986)

##### **§50.02 DEFINITIONS.**

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

***DEPARTMENT.*** The Water and Sewer Department of the Department of Public Works.

***SYSTEM.*** The system shall consist of the water supply and sewage disposal system.  
(Ord. 100, passed 10-14-1986)

##### **§50.03 SYSTEM.**

(A) The water supply and sewage disposal system shall include all water mains and laterals, wells, pumping stations, sewers, storage facilities, sewage disposal facilities and all facilities or appurtenances used or useful in connection with the supplying and distributing of water or the collection, treatment or disposal of sewage, either now in existence or hereafter acquired.

(B) It is hereby determined to be necessary for and to secure the public health, safety and welfare of the village to operate, construct and make improvements to the system, described generally as follows:

(1) *Water system.*

(a) Elevated storage tank or tanks which will provide an adequate supply of water at good pressures at times of normal, peak and fire demand loads.

(b) New wells with pump houses and necessary piping.

(c) Additional water mains.

(2) *Sewage disposal system.*

(a) A stabilized lagoon or lagoons with necessary interceptor sewers, pumps and the land therefor, together with necessary appurtenances and attachments therefor and the extension and improvement thereof.

(b) The operation, repair and management of the system shall be under the immediate supervision and control of the Village Council through the Department of Public Works, Water and Sewer Department and the Village Council may make such rules, orders and regulations, as it deems necessary to assure the efficient management and operation of the system.

(Ord. 100, passed 10-14-1986)

#### **§50.04 METERS, CONNECTIONS, ATTACHMENTS AND REPAIRS.**

The following shall apply to the installation of all meters, connections, and attachments to the combined system.

(A) Only personnel of the Department may:

(1) Install, remove or repair water meters.

(2) Turn on or off valves connecting the system to private distribution lines.

(3) Make connections of private water or sewer lines to the system.

(4) Perform any work within the street, park, alley or public areas in the village.

(5) Issue permits for private connection to the system.

(6) All applications for permits for private connection to the system shall be in writing and shall include the date, legal description of the property, as well as street address, type of service, such as, residential, commercial, industrial, size of service, if known, the names and

address and telephone number of the owners, the names and address and telephone number of the applicant, if other than owner, the address where bills are to be sent and the application fee.

(7) The fees for one-inch water service connection shall be as established by the Village Council from time to time and on file at the Office of the Village Clerk and Department of Public Works.

(8) The fees for six-inch sewer service connection shall be as established by the Village Council from time to time and on file at the Office of the Village Clerk and Department of Public Works.

(9) The fees for two-inch water service connection and larger and for sewer service connection over six inches shall be on a time and material basis. An initial fee based upon an estimate by the Department shall be paid before any work is commenced. Any balance due or refund shall be paid or adjusted upon a final statement when work is completed.

(10) Confirmation that the permitted work has been completed shall be filed with the Department within 48 hours after it is completed. The immediate area of connection shall be left open until inspected by the Department.

(11) All meters are and shall remain Village property.

(12) If a meter becomes out of order or fails to register, the consumer shall be charged the average based on the preceding four quarters consumption. Repairs or replacement of meters shall be made when deemed necessary by the Department.

(a) The property owner shall be responsible for the installation of all water and sewer lines from the edge of the public right-of-way (property line) to the building(s) serviced thereby. All work shall be in accordance with:

1. All state rules and regulations;
2. All county rules and regulations;
3. The current Village building codes;
4. All rules and regulations promulgated from time to time by the Department;
5. Shall be approved by the Plumbing Inspector.
6. Shall not be covered at the point of connection until tested and inspected by the Department.

(b) Routine line cleaning from the point of connection to the village sewer shall be the responsibility of the property owner (occupant). Exception: Where a service line becomes clogged or plugged, it shall be the responsibility of the property owner to remove such clogging or plugging to the main village line to which the service line is connected. Any service requiring



entrance from the street shall be performed only under the direct supervision of the Department of Public Works. When replacement of service lines is determined to be necessary by the Department of Public Works, the village shall replace that portion thereof from the main village line to the abutting property line. All further replacement shall be the responsibility of the property owner.

(c) No individual, firm or corporation shall:

1. By-pass any meter;
2. Alter, change or modify any meter; or
3. Alter, change or modify any line directly connecting to the system without complying with the provisions of this chapter and approval of the Plumbing Inspector.

(d) The Department and its designated employees shall have free access at all reasonable times to enter upon and into lands and buildings of the use for the purpose of reading, repairing, removing and replacement of meters and for inspecting the municipal portions of all water and sewer lines and to inspect for all illegal and unauthorized connections, interconnections or modifications, and the user, by applying for such service, does hereby license and authorize the village to enter upon and into the premises for all lawful purposes in connection with such water and sewer service.

(Ord. 100, passed 10-14-1986; Ord. 139, passed 2-14-1995)

#### **§50.05 INTERCONNECTIONS.**

(A) The Village adopts by reference the water supply cross connection control rules of the Michigan Department of Environmental Quality - Water Bureau, or its successor, Public Health being R 325.11401 to R 325.11407 of the Michigan Administrative Code, as amended.

(B) It shall be unlawful and strictly prohibited for anyone to cross-connect any system receiving water from the system with any private well waters or sources of water other than from the system through any connection or arrangement of piping, connections or appurtenances.

(C) It shall be the duty of the Department to cause inspections of all properties served by the system where cross-connections with the public water supply system is deemed possible. The frequency of inspections shall be as established by the Department or recommended by the Michigan Department of Health.

(D) Members of the Department or their representatives shall have the right to enter at any reasonable time any property serviced by the water system for the purpose of inspecting the piping of the system or systems for cross-connections. Upon request, the owner, lessees or occupants of any property so served, shall furnish to the Department any pertinent information regarding the piping system or systems. Refusal of such information or refusal of access shall be deemed prima facie evidence of the presence of unlawful cross-connections.

(E) The Department is hereby authorized to discontinue water service to any property where a connection in violation of this subchapter exists and to take such other precautionary measures as are deemed necessary to eliminate any danger of contamination of the public water supply. Water service to such property shall not be restored until any cross-connection has been eliminated and verified by inspection.  
(Ord. 100, passed 10-14-1986)

#### **§50.06 DEPOSITS, RATES AND REVENUES.**

(A) The rates to be charged and meter deposit for water and sewage disposal services furnished by the system shall be as follows effective for the April 10, 1995 billing (covering the January, February and March quarter):

(1) *Water meter service deposit.* A water meter service deposit for each residential owner, renter or commercial and industrial user shall be as established from time to time by the Village Council and on file at the Office of the Village Clerk and Department of Public Works. Upon termination of service and payment of the final bill, the service deposit shall be refunded.

(2) *Billing.* Billings for water and sewage disposal services shall be rendered monthly, such bills shall be due and payable on the date specified on the bill, and for bills not paid by the 25th day of the month following the due date, a penalty of 10% of the amount of the bill shall be added. If the bill is not paid within 60 days of the due date, the water shall be turned off and a fee as established from time to time by the Village Council and on file at the Office of the Village Clerk and Department of Public Works will be charged for shut-off and for turn-on.

(3) *Enforcement.*

(a) Charges for service provided by the system shall constitute a lien on the property served and if not paid within six months after the same are due, the official or officials in charge of the collection thereof shall, prior to April 1 of each year, certify to the proper Village assessing officer or Agency the fact of the delinquency, whereupon the Village assessing officer or Agency shall enter such delinquent charges upon the next general Village tax roll as a charge against such premises, and the same 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; provided, however, where notice is given that a tenant is responsible for such charges and service as provided in Public Act 94 of 1933, Section 21, being MCL §141.121, as amended, no further service shall be rendered to such premises until a cash deposit as established by the Village Council and on file at the Office of the Village Clerk and Department of Public Works shall have been made as security for payment of such charges and services.

(b) The lien created by this chapter shall have priority over all other liens except liens for taxes or special assessments, whether or not such liens accrued or were recorded prior to the lien herein created.

(c) If the character of sewage from any manufacturing or industrial plant or any other building or premises shall be such as to impose an unreasonable additional burden upon the sewers of the system, then an additional charge may be made over and above the regular rates by the Village Council, or it may be required that such sewage be treated by the person, firm or corporation responsible therefor before being emptied into the sewer, or the right to empty such sewage may be denied, if necessary, for the protection of the sewer and sewage disposal facilities of the system or the public health or safety.

(d) The rates established by the Council shall be of an amount to make the system self-sufficient and 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 same in good repair and working order and to provide for reasonable extensions and improvements.

(e) The system shall be operated on the basis of an operating year commencing on March 1 and ending on the last day of the following February.

(f) The revenues of the system are hereby ordered to be set aside as collected and deposited in a designated depository in an account to be designated "Water Supply and Sewage Disposal System Fund" and the revenues so deposited are pledged for use in the combined system.

(B) The Village Council prior to the commencement of each operating year, shall adopt a budget covering the projected expenses and costs for each year, and such total expenses shall not exceed the total amount specified in the budget, except by a vote of two-thirds of the members of the Village Council.

(Ord. 100, passed 10-14-1986; Ord. 139, passed 2-14-1995)

#### **§50.99 PENALTY.**

(A) Any person violating any provision of this Chapter shall, upon being determined responsible, be guilty of a municipal civil infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the chapter or the orders, rules, regulations and permits issued thereunder.

## **CHAPTER 51: WATER**

### **Section**

#### **51.01 Contamination and pollution**

##### **§51.01 CONTAMINATION AND POLLUTION.**

(A) It shall be unlawful for any person to construct or maintain, or permit to be constructed or maintained, within a radius of 200 feet from any of the municipal water wells within the Village from which the Village draws its water supplies, any source of possible contamination or pollution to the wells.

(B) It shall be unlawful for any person to do any act, or to allow to be done any act, that may contaminate or pollute or contribute to the contamination or pollution of the water supply, wells or water system of the Village.

(Ord. 28, passed 10-2-1951) Penalty, see §10.99

## CHAPTER 52: SEWERS

### Section

#### *General Provisions*

- 52.01 Definitions
- 52.01 Abbreviations

#### *Discharges and Deposits; Use Regulations*

- 52.15 Unsanitary deposits, discharge to natural outlets prohibited
- 52.16 Process wastewater
- 52.17 Private sewage disposal
- 52.18 Building sewer and connections
- 52.19 Use of public sewers
- 52.20 Disposal at wastewater treatment plant
- 52.21 Fees for pretreatment
- 52.22 Protection from damage

#### *Administration and Enforcement*

- 52.35 Inspectors
- 52.36 Orders
- 52.37 Administrative appeals; Board of Appeals
- 52.38 Enforcement operation
- 52.39 Records retention
- 52.40 Records
- 52.41 User charge system
- 52.42 Variances

- 52.99 Penalty

#### ***Cross-reference:***

*Ground Water Protection, see Chapter 151*

*Zoning, see Chapter 153*

## GENERAL PROVISIONS

### §52.01 DEFINITIONS

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

**ACT** or **THE ACT**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 *et seq.*, as amended.

**APPLICABLE COUNTY HEALTH DEPARTMENT** or **COUNTY HEALTH DEPARTMENT**. The Van Buren County Department of Health.

**AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER**. An authorized representative of an industrial user may be:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

(3) A duly authorized representative of the individual designated above if the representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

**BIOCHEMICAL OXYGEN DEMAND (BOD)**. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days of 20 degree C expressed in terms of weight and concentration (milligrams per liter).

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

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

**CATEGORICAL STANDARDS**. The National Categorical Pretreatment Standards of Pretreatment Standard.

**CHEMICAL OXYGEN DEMAND (COD)**. A measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as **OC** and **DOC**, **OXYGEN CONSUMED** and **DICHROMATE OXYGEN CONSUMED**, respectively.

**CHLORINE DEMAND.** The difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.

**COMBINED SEWER.** A sewer receiving both surface runoff and sewage.

**COMMERCIAL USER.** An establishment listed in the Office of the Management and Budget's *Standard Industrial Classification Manual* (SICM), involved in a commercial enterprise, business or service which, based on a determination by the municipality discharges primarily segregated domestic wastes or wastes from sanitary conveniences. A multi-family residential dwelling containing more than two units shall be considered a **COMMERCIAL USER**.

**COMMERCIAL WASTE.** A liquid or water-carried waste material from a commercial business engaged in buying, selling, exchanging goods or engaging in the goods or services.

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

**COMPOSITE SAMPLE.** A series of samples taken over a specific time period whose volume is proportional to the flow in the waste stream, which are combined into one sample.

**COOLING WATER.** The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**COUNTY.** The County of Van Buren, State of Michigan.

**COUNTY HEALTH OFFICER.** A registered sanitarian employed by the Van Buren County Department of Public Health.

**DEBT SERVICE CHARGE.** Charges levied to customers of the system which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system. The **DEBT SERVICE CHARGE** shall be in addition to the user charge specified below.

**DIRECT DISCHARGE.** The discharge of treated or untreated wastewater directly to the waters of the state.

**DUPLEX.** A residential user whose building(s) consist of two separate living areas.

**ENVIRONMENTAL PROTECTION AGENCY** or **EPA.** The U.S. Environmental Protection Agency, Administrator or other duly authorized official.

**GARBAGE.** Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

**GOVERNMENTAL USER.** Any federal, state or local government user of the wastewater treatment works.

**GRAB SAMPLE.** A sample which is taken from a waste stream and without consideration of time.

**HOLDING TANK WASTE.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum tanks trucks.

**INCOMPATIBLE POLLUTANTS.** Any pollutant which is not a compatible pollutant.

**INDIRECT WASTES.** Any wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structure with these characteristics, or distinct from their employee's domestic wastes or wastes from sanitary conveniences.

**INDUSTRIAL USER.** Any user who discharges "indirect wastes", as defined in this chapter.

**INFILTRATION/INFLOW.** The total quantity of water from both infiltration and inflow.

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

**INTERFERENCE.** The inhibition or disruption of the POTW treatment processes or operations, which contributes to a violation of any requirement of the NPDES permit or reduces the efficiency of the POTW.

**LABORATORY DETERMINATION.** The measurements, tests and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition at the time of any such measurement, test or analysis of *Standard Methods for Examination of Water and Waste Water*, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation or in accordance with any other method prescribed by rules and regulations promulgated pursuant hereto.

**LATERAL LINE.** The portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk line and which collects sewage from a particular property for transfer to the trunk line.

**MAJORITY CONTRIBUTING INDUSTRY.** Any industry user of the publicly-owned treatment works that:

- (1) Has a flow of 50,000 gallons or more per average work day;



(2) Has a flow greater than 5% of the flow carried by the municipality receiving the wastes;

(3) Has in its waste, a toxic pollutant in toxic amounts as defined in the standards under §307(a) of the Federal Water Pollution Control Act of 1972; or

(4) Is found by the permit issuance authority in connection with the issuance NPDES permit to the publicly-owned treatment works receiving the waste, to significantly impact, either singly or in combination with the other contributing industries, on that treatment works or upon the quality of effluent from that treatment works. All major contributing industries shall be monitored.

**MUNICIPALITY.** The Village of Lawton, County of Van Buren, State of Michigan.

**NATIONAL CATEGORICAL PRETREATMENT STANDARD OR PROHIBITIVE DISCHARGE STANDARD.** Any federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial users.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT or NPDES PERMIT.** A permit issued pursuant to §401 of the Act (33 U.S.C. §1342).

**NATIONAL PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE DISCHARGE STANDARD.** Any regulation developed under the authority of §307(b) of the Act and 40 C.F.R. §403.5.

**NATURAL OUTLET.** Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**NEW SOURCE.** Any source, the construction of which is commenced after the adoption of this chapter.

**NORMAL DOMESTIC SEWAGE (NDS).** Wastewater which, when analyzed, shows a daily average concentration of not more than 200 mg/l of BOD; no more than 240 mg/l of suspended solids; no more than five mg/l of phosphorus; no more than 100 mg/l of fats, oils and grease; no more than 20 mg/l of total nitrogen.

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

**OPERATION AND MAINTENANCE.** All work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation and treatment system consistent with ensuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations, and includes the cost of replacement.

**OWNER OR OWNERS OF RECORD.** Of the freehold of the premises or lesser estate therein, a mortgagor or vendee in possession, assignee or rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

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

**pH.** The logarithm (base ten) of the concentration of hydrogen ions expressed in grams per liter of solution.

**POLLUTANT.** The human-made or human-induced alteration of the chemical, physical, biological and radiological integrity of water.

**POTW/PUBLICLY OWNED TREATMENT WORKS.** A treatment works as defined by §212 of the Act (22 U.S.C. §1292), which is owned, in this instance, by the City of Marshal. This definition includes any sewers that convey wastewater to the POTW treatment plant.

**POTW TREATMENT PLANT.** The portion of the POTW designed to provide treatment to wastewater.

**PRETREATMENT or TREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing the pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes other means, except as prohibited by 40 C.F.R. §403.6(d).

**PRIVATE SEWER LINES.** All service lines and equipment for the disposal of sewage installed or located on any property, from the property line to and including any structure or facility which exists on the property.

**PROPERLY SHREDDED GARBAGE.** The wastes from the preparation, cooking and dispensing of food that have been shredded to the degree that all particles will be carried freely under the low conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

**PROPERTY OWNER.** The owner of the property which abuts the street.

**PUBLIC SEWER.** A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

**REPLACEMENT.** The replacement in whole or in part of any equipment, appurtenances and accessories in the wastewater transportation or treatment systems to ensure continuous treatment of wastewater in accordance with the NPDES permit and other applicable state and federal regulations.

**RESIDENTIAL EQUIVALENT UNIT (REU).** A unit with equivalent flow of an average residential user and normal domestic sewage. An **REU** shall be the basis for billing unmetered users. The average residential flow is 5,600 gallons per month.

**RESIDENTIAL USER.** A user of the treatment works whose premises or buildings are used primarily as a domicile for one or more persons and shall include single or duplex dwelling units and mobile homes. (Transit lodging and multi-family units in excess of two units are not included, they are considered commercial.)

**SANITARY SEWAGE.** A sewer which carries sewage and to which storm surface and ground waters are not intentionally admitted.

**SERVICE CONNECTION.** The installation of a private sewer line from a new source to a lateral line or trunk line.

**SEWAGE.** A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground waters as may be present.

**SEWAGE TREATMENT PLANT** or **WASTEWATER TREATMENT PLANT.** Any arrangement of devices and structures used for treating sewage.

**SEWER.** A pipe or conduit for carrying sewage.

**SEWER SERVICE CHARGE.** The sum of the applicable user charge, surcharges and debt service charges.

**SHALL.** Mandatory; **MAY** is permissive.

**SIGNIFICANT INDUSTRIAL USER.** Any industrial user of the wastewater disposal system who:

- (1) Has a discharge flow of 25,000 gallons or more per average work day;
- (2) Has a flow greater than 5% of the flow in the wastewater treatment system;
- (3) Has in his or her wastes toxic pollutants as defined pursuant to §307 of the Act, state statutes and rules; or
- (4) Is found by the State Department of Natural Resources, or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

**SLUG LOAD.** Any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

**STANDARD INDUSTRIAL CLASSIFICATION (SIC).** A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

**STATE.** The State of Michigan.

**STORMSEWER OR STORM DRAIN.** A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

**STORM WATER.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.

**SURCHARGE.** As part of the service charge, any customer discharging wastewater having strength in excess of normal domestic strength shall be required to pay an additional charge to cover the cost of treatment of the excess strength wastewater.

**SUSPENDED SOLIDS.** The total suspended matter that floats on the surface or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering.

**SYSTEM.** The water supply and sewage disposal system of the village established, pursuant to village ordinance.

**TOXIC POLLUTANT.** Any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment including those listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of the Clean Water Act §307(a) or other Acts.

**TRUNK LINE.** The main sewer line located under any street or within any street right-of-way which collects and transmits the sewage of the various properties served by the sewer system.

**UNCONTAMINATED INDUSTRIAL WASTE.** Wastewater which has not come into contact with any substance used in or incidental to industrial processing operations and which no chemical or other substance has been added.

**USER.** Any person who contributes, causes or permits the contribution of wastewater into the POTW.

**USER CHARGE.** A charge levied on users of a treatment works for the cost of operation and maintenance of treatment works pursuant to §204(b) of the Clean Water Act.

**USER CLASS.** The kind of user connected to sanitary sewers, including, but not limited to, residential, industrial, commercial, institutional and governmental.

**WASTEWATER.** The liquid and water carrying industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground

waters, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

***WATERCOURSE.*** A channel in which a flow of water occurs, either continuously or intermittently.

***WATERS OF THE STATE.*** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.  
(Ord. 150, passed 4-13-1999)

## **§52.02 ABBREVIATIONS.**

The following abbreviations shall have the designated meanings.

***BOD.*** Biochemical oxygen demand.

***C.F.R.*** Code of Federal Regulations.

***COD.*** Chemical oxygen demand.

***CWA.*** Clean Water Act.

***E.P.A.*** Environmental Protection Agency.

***l.*** Liter.

***mg.*** Milligrams.

***mg/l.*** Milligrams per liter.

***NDS.*** Normal domestic sewage.

***NPDES.*** National Pollutant Discharge Elimination System.

***O&W.*** Operation and maintenance.

***P.*** Phosphorus.

***POTW.*** Publicly-owned treatment works.

***REU.*** Residential equivalent unit.

***SIC.*** *Standard Industrial Classification Manual.*

*SICM. Standard Industrial Classification Manual.*

*SS. Suspended soils.*

*SWDA. Solid Waste Disposal Act, 42 U.S.C. §6901 et seq.*  
(Ord. 150, passed 4-13-1999)

### ***DISCHARGES AND DEPOSITS; USE REGULATIONS***

#### **§52.15 UNSANITARY DEPOSITS, DISCHARGE TO NATURAL OUTLETS PROHIBITED.**

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

(B) It shall be unlawful, when sewage and/or treatment facilities are available, to discharge to any natural outlet within the municipality or in any area under the jurisdiction of the municipality, any sanitary sewage, industrial wastes or other polluted waters, unless specifically permitted by the applicable county health department.

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

(D) It is hereby determined and declared that public sewers are essential to the health, safety and welfare of the people of the municipality; that the owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated and abutting on any street, alley, right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer is hereby required at the owner's expense to install suitable sewage facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this subchapter, within 90 days after the mailing or posting of notice that the services are available by the appropriate municipal official. The notification and enforcement of this section shall be in conformity with state law.  
(Ord. 150, passed 4-13-1999) Penalty, see §52.99

#### **§52.16 PROCESS WASTEWATER.**

(A) *Wastewater contribution information.*

(1) Any industry or structure discharging process flow to the sanitary sewer, storm sewer or receiving stream shall file the material listed below with the municipality. Any industry which does not normally discharge to the sanitary sewer, storm sewer or receiving stream,

but has the potential to do so from accidental spills or similar circumstances, shall also file the material listed below.

(2) The municipality may require each person who applies for or receives sewer service, or through the nature of the enterprise, creates a potential environmental problem, to file the material listed below on a disclosure form prescribed by the municipality:

(a) Name, address and location (if different from the address);

(b) SIC number according to the *Standard Industrial Classification Manual*, Bureau of the Budget, 1972, as amended;

(c) Wastewater constituents and characteristics, including, but not limited to, those mentioned in §52.15 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with the procedures and methods detained in:

1. *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, current edition; and

2. *Annual Book of Standards, Part 131, Water, Atmospheric Analysis*, American Society of Testing Materials, current edition.

(d) Time and duration of contribution;

(e) Average daily wastewater flow rates, including daily, monthly and seasonal variations, if any;

(f) Industries identified as significant industries or subject to the national categorical pretreatment standards or those required by plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any of the municipality's, state or the federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required by the industrial user to meet applicable pretreatment standards;

(i) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule.

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards.

2. No increment referred to in division (A)(2)(i)1. above shall exceed nine months.

3. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the municipality including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between the progress reports to the municipality.

(j) Each project produced by type, amount, process or processes and rate of production;

(k) Type an amount of raw materials processed, average and maximum per day;

(l) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(m) Any other information as may be deemed necessary to evaluate the impact of the discharge on the POTW;

(n) The discharge form shall be signed by a principal executive officer of the user and a qualified engineer; and

(o) The municipality will evaluate the complete disclosure form and data furnished and may require additional information. Within 90 days after full evaluation and acceptance of the data furnished, the municipality shall notify the user of the acceptance thereof.

(B) *Discharge modifications.* Within nine months of the promulgation or revision of a national categorical pretreatment standard, all affected users must submit to the municipality the information required by divisions (A)(2)(h) and (i) above.

(C) *Discharge conditions.* Wastewater discharges shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the municipality. The municipality may:

(1) Set unit charges or a schedule of user charges and fees for the wastewater to be discharged to the POTW;

(2) Limit the average and maximum wastewater constituents and characteristics;



(3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;

(4) Require the installation and maintenance of inspection and sampling facilities;

(5) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(6) Establish compliance schedules;

(7) Require submission of technical reports or discharge reports;

(8) Require the maintaining, retaining and furnishing of pretreatment records relating to wastewater discharge as specified by the municipality, and affording municipality access thereto, and copying thereof;

(9) Require notification to the municipality for any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(10) Require notification of sludge discharges;

(11) Require other conditions as deemed appropriate by the municipality to ensure compliance with this chapter;

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

(13) Require records and file reports to be maintained on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents or other wastes.

(D) *Compliance date report.* Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, and user subject to pretreatment standards and requirements shall submit to the municipality a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by the pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or regulations are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement will be signed by an authorized representative of the industrial user and certified to by a qualified representative.

(E) *Periodic compliance reports.*

(1) Any user or new source discharging into the POTW shall submit to the municipality during the months of June and December, unless required more frequently in pretreatment standards or this chapter. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in division (C)(3) above. At the discretion of the municipality and in consideration of such factors as local high or low rates, holidays, budget cycles and the like, the municipality may agree to alter the months during which the above reports are to be submitted.

(2) The municipality may also impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases in which the imposition of mass limitations is appropriate. In such cases, the report required by division (E)(1) above shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

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

(G) *Inspection and sampling.* The municipality shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the municipality or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, records copying or in the performance of any of their duties. The municipality, State Department of Natural Resources and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identifications, personnel from the municipality, State Department of Natural Resources and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(H) *Pretreatment.*

(1) Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations and as required by the municipality. Any facilities required to pretreat wastewater to a level acceptable to the municipality shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures will, in no way, relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the municipality under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the municipality prior to the user's initiation of the changes.

(2) The municipality shall annually publish in the major local newspaper a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or State Department of Natural Resources upon request.

(I) *Confidential information.*

(1) Confidential information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the municipality that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(2) When requested by the person furnishing a report, the portion of a report which might disclose trade secrets processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, or the pretreatment programs; provided, however, that, the portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the municipality as confidential shall not be transmitted to any governmental agency or to the general public by the municipality until and unless a ten-day notification is given to the user.

(Ord. 150, passed 4-13-1999)

**§52.17 PRIVATE SEWAGE DISPOSAL.**

(A) Where a public sewer is not available under the provisions hereof, the building sewer shall be connected to an approved private sewage disposal system.

(B) (1) Before commencement of a private sewage disposal system, the owner shall first apply to the County Health Department for a soil evaluation test. The fee shall be determined by the County Health Department and shall be paid to the County Health Department.

(2) At completion of the above soil evaluation test showing positive results, the property owner shall apply for a permit for installation for the proposed sewage system. He or she shall include plans, specifications and other information as deemed necessary by the County Health Department. At the time the application is filed, the fee determined by the County Health Department for the permit and inspection shall be paid.

(C) (1) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the County Health Department. The County Health Department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the County Health Department when the work is ready for final inspection and before any underground portions are covered.

(2) The inspection shall be made within seven days of the receipt of notice by the County Health Department. All persons receiving a permit for a private sewer disposal system shall provide the municipality with copies of all final approved inspection reports issued by the County Health Department.

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

(E) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided herein, a direct connection shall be made to the public sewer in compliance with this subchapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned for sanitary use, crushed and filled with a suitable granular material.

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

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by any other agency having legal jurisdiction. (Ord. 150, passed 4-13-1999) Penalty, see §52.99

## **§52.18 BUILDING SEWER AND CONNECTIONS.**

(A) No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof, without first notifying the municipality in writing. No building sewer shall be covered until after it has been inspected and approved by the municipality.

(B) The owner or his or her agent shall make application for service with the municipality. The application shall be supplemented by any plans, specifications or other information required by this chapter or considered pertinent in the judgment of the municipality.

(C) All cost and expense incidental to the installation, connection and maintenance of the building sewer to the public sewer connection shall be borne by the property owner. A fee for the service connection shall be established from time to time by resolution of the municipality.

(D) (1) All liabilities incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify and save harmless the municipality from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(a) It shall be the duty of each property owner to maintain, clean and repair the private sewer lines on his or her property at his or her own expense as necessary to keep the lines free and clear of obstructions and in good working order and to maintain and keep clear of obstructions the lateral lines servicing his or her property.

(b) It shall be the duty of the municipality to maintain, clean and repair as necessary and at its expense the sewer trunk lines and to repair or replace any broken or crushed lateral lines. The municipality shall not be responsible for cleaning or maintenance of lateral lines.

(c) In the case of a bona fide dispute as to whether needed maintenance, cleaning or repair of a portion of sewer line is the responsibility of the property owner or the municipality under the provisions of this chapter, it shall be the duty of the property owner to establish that the obstruction, disrepair or defect has occurred in that portion of the line for which the municipality is responsible.

(2) If the property owner fails to establish the municipality responsibility, it shall be the property owner's responsibility to perform the necessary maintenance as provided in this chapter. If the municipality's responsibility is established, the municipality shall perform the necessary maintenance to repair the sewer.

(3) The property owner would be responsible under this chapter for the total maintenance and repair of the private sewer lines on his or her property and for the maintenance and cleaning of the entire sewer line out to the trunk line.

(4) The municipality, on the other hand, is responsible for major repair of the trunk line and lateral lines only and has no responsibility of any sort for the private lines. The municipality also has no responsibility to clean the lateral lines.

(E) Any property owner who shall violate the provisions of this chapter shall be liable to the municipality for civil damage incurred in correcting the defect, and in addition, shall be guilty of a misdemeanor. If any property owner fails to maintain a private sewer line as required by this chapter, in addition to the other penalties prescribed, the sewer may be declared a public nuisance

by the County Health Officer and the defect may be corrected by the municipality. Any costs so incurred shall be assessed against the property and become a lien on the property if not timely paid.

(F) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior (lot) and no public sewer is available or can be constructed to the rear building through an adjoining alley, yard or driveway, the building sewer from the front building may be extended to the rear building. This exception shall be requested in writing by the user and approved in writing by the municipality.

(G) Old building sewers may be used in connection with new buildings only when they are found, on examination by the municipality, to meet all requirements of this subchapter.

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

(I) The size and slope of the building sewer shall be subject to approval by the municipality, but in no event shall the diameter be less than four inches. The slope of the four-inch pipe shall be not less than one-quarter inch per foot, unless otherwise permitted. The slope of pipe, the diameter of which is six inches or more, shall be not less than one-eighth inch per foot unless otherwise permitted.

(J) (1) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be straight or laid with properly curved pipe and fittings.

(2) Changes in direction greater than 45 degrees shall be provided with clean-outs accessible for cleaning.

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

(L) All joints and connections shall be made gas-tight and water-tight. All joints shall be approved by the municipality and discharged to the building sewer.

(M) No sewer connection will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for treatment of BOD and suspended solids.

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

(O) All sewers shall be constructed in accordance with the latest edition of the *Ten State Standards*.  
(Ord. 150, passed 4-13-1999)

## **§52.19 USE OF PUBLIC SEWERS.**

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

(1) Any liquids, solids or gases which by reason of their nature are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides;

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing wastes;

(3) Any wastewater having a pH less than six and one-half or greater than nine and one-half, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the POTW;

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a categorical pretreatment standard. This prohibition of toxic pollutants will conform to §307(a) of the Act;

(5) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

(6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process;

(7) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards;

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees C (104 degrees F);

(10) Any pollutants, including oxygen demanding pollutants (BOD and the like) released at a flow rate and/or pollutant concentration which will cause interference to the POTW;

(11) Any wastewater containing any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the manager in compliance with applicable state or federal regulations;

(12) Any wastewater which causes a hazard to human life or creates a public nuisance;

(13) Any unpolluted water including, but not limited to storm water, ground water, roof water or non-contract cooling water;

(14) Any waters or wastes containing suspended solids or any constituent of a character and quantity that unusual attention or expense is required to handle the materials at the sewage treatment plant;

(15) Any waste from individual sewage disposal systems except at the POTW treatment plant as provided herein; except that, waste from any individual sewage disposal system may be disposed of directly into a sanitary sewer upon entering into an agreement with the municipality, which agreement shall specify the site of disposal, sewage disposal charge and such other conditions as may be required to satisfy the sanitation and health requirements of the county. For the purpose of this division, **INDIVIDUAL SEWAGE DISPOSAL SYSTEM** is defined to include every means of disposing of industrial, commercial, household, domestic or other water-carried sanitary waste or sewage other than a public sanitary sewer; and

(16) Any sludge, precipitate or congealed substances resulting from an industrial or commercial process or resulting from the pretreatment of wastewater or air pollutants.

(B) *Specific pollutant limitations.*



(1) No person shall discharge wastewater containing in excess of that allowed in the municipality's discharge permit (NPDES).

(2) If any waters are discharged or are proposed to be discharged to the public sewers, which waters contain substances or possess characteristics in excess of the municipality's discharge permit limits, and which in the judgment of the municipality may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the municipality may:

(a) Reject the wastes;

(b) Require pretreatment to the level defined as Anormal domestic sewage;

(c) Require control over the quantities and rates of discharge;

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges; and

(e) Require new industrial customers or industries with significant changes in strength or flow to submit prior information to the municipality concerning the proposed flows.

(3) If the municipality permits the pretreatment or equalization or waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the municipality and shall be subject to the requirements of all applicable codes, ordinances and laws.

(C) *National categorical pretreatment standards.* Upon the establishment and promulgation of the national categorical pretreatment standards for a particular subcategory, the pretreatment standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitation imposed under this chapter and shall be considered part of this chapter. The municipality shall notify all affected users of the applicable reporting requirements.

(D) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(E) *Municipality right of revision.* The municipality reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in §52.15.

(F) *Discharge and the like.* No user shall discharge or cause to be discharged any surface water, ground water from footing drains, or roof water to any sanitary sewer or sewer connection. Any premise connected to a storm sewer shall comply with county, state and federal requirements as well as those of the municipality. Downspouts and roof leaders shall be disconnected from sanitary sewers within six months of the date of this chapter. If this is done, the municipality shall

perform this work and bill the user. Storm water, ground water and all other unpolluted drainage shall be discharged to the sewers as are specifically designed as combined sewers or storm sewers. Discharge of cooling water or unpolluted process water to a natural outlet will be approved only by the State Water Resource Commission.

(G) *Grease, oil and sand interceptors.*

(1) Grease, oil and sand interceptors shall be provided when in the opinion of the municipality 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, the interceptors shall not be required for private living quarters or dwelling units.

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

(H) *Maintenance.* Where installed, all grease, oil and sand interceptors or flow equalizing facilities shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.

(I) *Prohibitions.*

(1) The municipality may prohibit the admission into the public sewers of any waters or wastes containing:

- (a) Five-day BOD greater than 200 parts per million by weight;
- (b) Containing more than 250 parts per million by weight of suspended solids;
- (c) Containing more than ten parts per million by weight of phosphorus;
- (d) Containing any quantity of substances having the characteristics described

herein; or

(e) Having an average daily flow greater than 2% of the average daily sewage flow of the municipality, or having a rate of flow (gallons per day) greater than 10% of the average daily municipality flow for a period of one hour or more, shall be subject to review and approval of the municipality.

(2) Where necessary, in the opinion of the municipality the property owner shall provide at his or her expense, the preliminary treatment as may be necessary to reduce the five-day BOD, suspended solids and phosphorus to the concentrations given in divisions (I)(1)(a), (b) and (c) above; or to reduce objectionable characteristics of constituents to within the maximum limits provided for herein, or control the quantities and rates of discharge of the waters or wastes.

(J) *Added charge.*

(1) Where the strength of sewage from an industrial, commercial or institutional establishment exceeds: 200 parts per million of biochemical oxygen demand; or 250 parts per million by weight of suspended solids; or ten parts per million by weight of phosphorus; or 100 parts per million by weight of fats, oils, grease; or 20 parts per million by weight of total ammonia nitrogen and where the wastes are permitted to be discharged to the sewer system by the municipality, an added charge, as noted below, will be made against the establishment according to the strength of the wastes.

(2) The cost of taking and making the first of these samples shall be borne by the municipality. The cost of any subsequent sampling and testing shall be borne by the industry or establishment, whether owner or lessee. Tests shall be made by an independent laboratory or at the municipality's wastewater treatment plant.

(3) Added charges shall be based on the cost of operation, maintenance and equipment replacement for the wastewater treatment plant.

(K) *Control manhole.* When required by the municipality, the owner of any property serviced by a building carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the municipality. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(L) *Special manholes; sampling.*

(1) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in divisions (A) and (H) above, shall be determined in accordance with the latest edition, at the time, of *Standard Methods for Examination of Water and Sewage*, and shall be determined at the control manhole provided for in § 52.16(C), or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

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

(a) One person from each industry shall be delegated the authority to be responsible for industrial wastes admitted to the municipal sewers. The person would be involved with maintaining the pretreatment facility operations and assuring a continual high level of performance. In case no pretreatment is provided, the person would be involved with the prevention

of accidental discharges of process wastes admitted to the sanitary sewer system. The person must become aware of all potential and routine toxic wastes generated by their industry. The person must also be informed of all process alterations which could, in any manner, increase or decrease normal daily flow or waste strength discharged to the sanitary sewers.

(b) This industrial representative must catalog all chemicals stored, used or manufactured by their industry. Such a listing should include specific chemical names, not manufacturer's codes. Those wastes admitted to the sanitary sewer are a prime concern; however, all discharges should be cataloged. An estimate of daily average flows and strengths must be made including process, cooling, sanitary and the like. Such a determination should separate the flows according to appropriate categories. The aforementioned flow and chemical listing is to be sent to the municipality.

(c) The industrial representative shall determine whether or not large process alterations will occur during the next few years; one year, two years, five years. Management should be consulted to determine if the alterations are scheduled and forthcoming.

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

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

(f) Throughout the industry, adequate secondary containment or curbing must be provided to protect all floor drains from accidental spills and discharges to receiving sewers. The curbing should be sufficient to hold 150% of the total process area tank volume. All floor drains found within the containment area must be plugged and sealed. Spill trough and sumps within process areas must discharge to appropriate pretreatment tanks. Secondary containment should be provided for storage tanks which may be serviced by commercial haulers and for chemical storage areas.

(g) An adequate sampling vault or manhole must be provided in an accessible place for the wastewater treatment plant personnel to obtain samples and flow measurement data. The complexity of the vault will vary with the sampling requirements the municipality determines necessary to protect the treatment plant and receiving stream. Should the municipality desire continual flow recording and long duration, 24-hour composite sampling, then a more complex manhole would be mandatory, complete with 100 volt AC. Samples collected could be divided

between the industry and municipality for analysis, if so desired, by the industry. The sampling vault should be located so as to give access by municipality personnel without entering the industrial property.

(h) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the municipality that the release of the information would divulge information, processing or methods of production entitled to protection as trade secrets of the user.

(3) When requested by the person furnishing the report, the portion of the report which might disclose trade secrets or secret processes shall not be made available upon written request to governmental agencies for uses related to this chapter. The National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs; wastewater constituents and characteristics will not be recognized as confidential shall not be transmitted to any governmental agency or to the general public by the municipality until and unless a ten-day notification is given to the user.

(4) Industrial cooling water containing such pollutants as insoluble oils or grease or other suspended solids shall be pretreated for removal of the pollutants and then discharged to a State Department of Natural Resources approved drainage outlet. Agents of the municipality, County Health Department, Michigan Department of Natural Resources or U.S. Environmental Protection Agency shall have the right to enter all properties for the purpose of inspecting, measuring, sampling and testing the wastewater discharge and copying applicable pretreatment records.

(M) *Sewage flow; methods.* To determine the sewage flow from any establishment, the municipality may use one of the following methods:

(1) The amount of water supplied to the premises by the municipality or a private water company as shown upon the water meter if the premises are metered;

(2) If the premises are supplied with river water or water from private water company as shown upon the water meter if the premises are metered;

(3) If the premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system made by the municipality from the water, gas or electric supply;

(4) The number of gallons of sewage discharged into the sewer system as determined by measurements and samples taken at a manhole installed by the owner of the property served by the sewer system at his or her own expense in accordance with the terms and conditions of the permit issued by the municipality pursuant to §52.18; or

(5) A figure determined by the municipality by a combination of the foregoing, a table of equivalent REUs or by any other equitable method.

(N) *Excessive discharges.* No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant specific limitation developed by the municipality or state. Dilution may be an acceptable means of complying with some of the prohibitions set forth in division (A) above, upon prior written approval of the municipality.

(O) *Accidental discharge.*

(1) Where required, a user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge or prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the municipality for review, and shall be approved by the municipality before construction of the facility. All required users shall complete such a plan within 180 days after the adoption of this chapter.

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

(a) *Written notice.* Within five days following an accidental discharge, the user shall submit to the municipality a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall the notification relieve the user of any fines, civil penalties or other liability which may be imposed by this subchapter or other applicable law.

(b) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(P) *Special agreements and the like.* No statement contained in this section shall be construed as preventing any special agreement or arrangement between the municipality and any person, firm or corporation whereby waste of unusual strength or character may be accepted by the

municipality, subject to payment by the person, firm or corporation; provided, the waste will not damage the sanitary sewer or storm sewer or wastewater treatment plant or the receiving waters. (Ord. 150, passed 4-13-1999)

#### **§52.20 DISPOSAL AT WASTEWATER TREATMENT PLANT.**

(A) Waste from individual sewage systems may be accepted with permission of the municipality at the wastewater treatment plant.

(B) No waters or wastes described in §52.19 shall be disposed of at the wastewater treatment plant.

(C) Pretreatment rates for disposal at the wastewater treatment plant shall be determined by the municipality.

(Ord. 150, passed 4-13-1999) Penalty, see §52.99

#### **§52.21 FEES FOR PRETREATMENT.**

(A) *Purpose.* It is the purpose of this section to provide of the recovery of costs from users of the wastewater treatment works for the implementation of the pretreatment program established herein. The applicable charges or fees shall be as set forth by resolution or ordinance adopted by the legislative body of the municipality.

(B) *Charges and fees.*

(1) For reimbursement of costs of setting up and operating the pretreatment program;

(2) For monitoring, inspections and surveillance procedures;

(3) For reviewing accidental discharge procedures and construction;

(4) For filing appeals;

(5) For consistent removal by the municipality of pollutants otherwise subject to federal pretreatment standards;

(6) And others as the municipality may deem necessary to carry out the requirements contained herein;

(7) Additional surcharges may be made by the municipality to compensate the municipality for the cost of treatment of pollutant loadings not normally treated or in excess of the limits expressed in the definition of normal domestic strength;

(8) There shall be additional charges for laboratory testing of wastewater. The laboratory charge shall be for the cost thereof and will be determined for each industrial user; and

(9) The charges and fees for the services provided by the system shall be levied upon any user which may have any sewer connections and which discharges industrial waste to the wastewater treatment plant or any part thereof. The charges shall be based upon the quantity and quality of industrial wastewater used thereon or therein.

(Ord. 150, passed 4-13-1999)

#### **§52.22 PROTECTION FROM DAMAGE.**

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

(Ord. 150, passed 4-13-1999) Penalty, see §52.99

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§52.35 INSPECTORS.**

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

(B) The municipality and other duly authorized employees of the municipality acting as his or her duly authorized agent, bearing proper credentials and identification, shall be permitted to enter upon properties as may be necessary for the purpose of inspection, observation, measurement, sampling and testing in accordance with provisions of this subchapter.

(Ord. 150, passed 4-13-1999)

#### **§52.36 ORDERS.**

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

(A) *Immediate cease and desist order.*

(1) The municipality may issue an order to cease and desist from discharging any wastewater, incompatible pollutant or illegal discharge. The order shall have immediate effect where the actual or threatened discharge of pollutants to the system presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes interference with the operation of the public sewers or treatment plant.



(2) If action is not taken immediately to correct illegal discharge, the municipality will implement whatever action is necessary to halt the discharge. Any penalties, fines, expenses or losses incurred as applicable will be assessed through provisions of § 52.41.

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

(C) *Order to effect pretreatment.* The municipality may issue an order to show cause why a user should be required to pretreat in accordance with this section.

(1) Any user subject to an order to pretreat shall prepare a plan to effect and achieve the pretreatment of its wastewater so that the same shall comply with the requirements of this section. The plan shall be submitted to the municipality within a reasonable period specified in the pretreatment order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary as well as identify the measure which may be implemented without necessitating construction. The plan shall contain a schedule of compliance for the completion of each of the various phases necessary to implement full pretreatment, which schedule shall be approved by an order of the municipality.

(2) A pretreatment plan shall include a schedule of compliance consisting of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard.

(3) The following steps or phases shall be included in the schedule of compliance where applicable and appropriate:

- (a) Retain a qualified engineer and/or consultant;
- (b) Obtain any engineering or scientific investigations or surveys deemed necessary;
- (c) Prepare and submit a preliminary plan to achieve pretreatment;
- (d) Prepare plans and specifications, working drawings or other engineering or architectural documents which may be necessary to effect pretreatment;
- (e) Establish a time to let any contract necessary for construction;
- (f) Establish completion times for any construction necessary;
- (g) Establish a time limit to complete full pretreatment pursuant to the final order;

and

(h) In the event a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phase or unit.

(D) *Order to perform affirmative action.*

(1) The municipality may also issue an order requiring a user to perform any action required under these regulations, and/or to submit samples; install sampling, metering and monitoring equipment; submit reports; and permit access for inspection, sampling, testing, monitoring and investigation.

(2) An order issued by the municipality shall contain the facts and grounds for its issuance and the remedial action ordered, together with the time within the action shall be taken. No such order shall be deemed insufficient, however, for inconsequential errors and commissions in the facts and grounds for the order. If any user deems the content of the order to contain insufficient information, it may request additional information from the municipality; however, no request shall extend any time limit or defer any payment, except as hereinafter set forth.

(3) In the event noncompliance with an order is due to factors beyond the reasonable control of the user, as determined by the municipality, the noncompliance shall not be in violation and the order shall be subject to amendment, change or revocation; provided, notice of the action is served upon the user in the same manner as the original order and is subject to the same procedures for review and appeal.

(Ord. 150, passed 4-13-1999)

**§52.37 ADMINISTRATIVE APPEALS; BOARD OF APPEALS.**

(A) In order that the provisions of this chapter may be reasonably applied and substantial justice done in instances where unnecessary hardship would result from carrying out the strict letter of these sections, the legislative body of the municipality shall serve as a Wastewater Board of Appeals. The duty of the Board shall be to consider appeals and to determine, in particular cases, whether any deviation from strict enforcement will violate the intent of the order or jeopardize the public health or safety.

(B) (1) An informal hearing before the municipality may be requested in writing by any user or contractee deeming itself aggrieved by any citation, order, charge, fee, surcharge, penalty or action within ten days after the date thereof, stating the reasons therefore with supporting documents and data. The information hearing shall be scheduled at the earliest practicable date, but not later than five days after receipt of the request, unless extended by mutual written agreement.

(2) The hearing shall be conducted on an informal basis at such place as designated by the municipality.

(C) (1) Appeals from orders of the municipality may be made to a Board of Appeals, within 30 days from the date of any citation, order, charge, fee, surcharge, penalty or other action. The appeal may be taken by any person aggrieved. The appellant shall file a notice of appeal with

the municipality and with its legislative body, specifying the ground therefore. Prior to a hearing, the municipality shall transmit to the Board a summary report of all previous action taken.

(2) The Board may, at its discretion, call upon the municipality to explain the action. The final disposition of the appeal shall be in the form of a resolution, either reversing, modifying or affirming, in whole or in part, the appealed decision or determination. In order to find for the appellant, a majority of the Board must concur.

(3) The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give due notice thereof to interested parties, and decide the same within a reasonable time. Within the limits of its jurisdiction, the Board of Appeals may reverse or affirm, in whole or in part, or may make the order, requirements, decision or determination as, in its opinion, ought to be made in the case under consideration, and to that end have all the powers of the official from whom the appeal is taken. The decision of the Board shall be final.

(4) The Board of Appeals shall meet at such times as the Board may determine. There shall be a fixed place of meeting and all meeting shall be open to the public in accordance with applicable laws. The Board shall adopt its own rules of procedure and keep a record of its proceedings, showing findings of fact, the action of the Board, and the vote of each member upon each question considered.

(5) The presence of three members shall be necessary to constitute a quorum.

(6) The Board of Appeals may prescribe the sending of notice to such persons as it deems to be interested in any hearing by the Board.

(D) All charges for service, penalties, fees or surcharges outstanding during any appeal process shall be due and payable to the municipality. Upon resolution of any, the municipality shall adjust the amounts accordingly; however, the adjustments shall be limited to the previous one year's billing unless otherwise directed by court order.

(E) If an information or formal hearing is not demanded within the periods specified herein, the administrative action shall be deemed final. In the event either or both the hearings are demanded, the action shall be suspended until a final determination has been made except for immediate cease and desist orders issued pursuant to the section.

(F) Appeals from the determinations of the Board of Appeals may be made to the Circuit Court within 20 days as provided by law. The appeals shall be governed procedurally by the Administrative Procedures Act of the state (Public Act 306 of 1979, being MCL §24.201 *et seq.*). All findings of fact, if supported by the evidence, made by the Board shall be conclusive upon the Court.

(Ord. 150, passed 4-13-1999)

## **§52.38 ENFORCEMENT OPERATION.**

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

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

(Ord. 150, passed 4-13-1999)

### **§52.39 RECORDS RETENTION.**

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

(Ord. 150, passed 4-13-1999)

### **§52.40 RECORDS.**

(A) The municipality will maintain and keep proper books or records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the system. The municipality will cause an annual audit of the books of record and account for the preceding operating year to be made by a recognized independent certified public accountant and will supply the audit report to authorized public officials on request.

(B) In conjunction with the audit, there shall be an annual review of the sewer charge system for adequacies meeting expected expenditures for the following year and to ensure proportionality among user classes as required by federal regulations.

(C) Classification of old and new industrial users shall also be reviewed annually.

(D) The municipality will maintain and carry insurance on all physical properties of the system, of all kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All monies received for losses under any such insurance policies shall be solely to the replacement and restoration of the property damaged or destroyed.

(Ord. 150, passed 4-13-1999)

### **§52.41 USER CHARGE SYSTEM.**

(A) *Established; basis for computations.*

(1) Rates and charges for the use of the wastewater system of the municipality shall be based upon the methodology in the user charge system approved by the State Department of Environmental Quality. Rates and revisions to the rates for total sewer service charges are to be established by resolution of the legislative body of the municipality, which may be enacted apart from the published ordinances as necessary to ensure sufficiency of revenues in meeting operation, maintenance and replacement costs, as well as debt service.

(2) User charges for operation, maintenance and replacement shall be subject to the annual review of the user charge system. The charges and rates shall be made against each lot, parcel of land or premises which may have any sewer connections with the sewer system of the municipality, or which may otherwise discharge sewage or industrial waste, either directly or indirectly, into the system or any part thereof. The charges shall be based upon the quantity of water used thereon or therein or upon such other methodology as the municipality determines.

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

(C) *Annual audit.*

(1) The rates hereby fixed are estimated to be sufficient to provide for the expenses of operation, maintenance and replacement of the system as are necessary to preserve the same in good repair and working order.

(2) The rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on the audit, rates for sewage services shall be reviewed annually and revised as necessary by the legislative body of the municipality by resolution to meet system expenses and to insure that all user classes pay their proportionate share of operation, maintenance and equipment replacement cost.

(D) *Billing.* Billing for wastewater service shall be the municipality's responsibility. All water meters shall be read quarterly and sewer bills rendered due and payable on the tenth day of each month.

(E) *Termination of service for nonpayment.* If payment is not received or satisfactory arrangements have not been made by the twenty-fifth day of the month in which the bill was issued, an additional charge of 10% of the total unpaid balance shall be added. Water and sewer service will be terminated if payment is not received within 60 days of the billing date. A disconnect and reconnect fee will be charged for service terminated as a result of non-payment.

(F) *Collection of delinquent accounts.* Unpaid charges for sewage disposal service furnished to any premise within the municipality shall be a lien against the premise. Enforcement of this lien shall be made pursuant to the municipal code and/or statute. This lien remedy does not preclude any other remedy provided by law.

(G) *Annual notification.* All customers of the municipality's wastewater works will receive an annual notification, either printed on the bill or enclosed in a separate letter, which will show the breakdown of the sewer into its components for operation, maintenance and replacement and for debt service.

(H) *Miscellaneous fees.* Miscellaneous fees for customer requests to disconnect and/or reconnect service, returned checks, deposits and other services shall be established from time to time by resolution of the municipality.

(I) *Funds.*

(1) The system shall be operated on the basis of the municipality's operating year.

(a) *Receiving Fund.* The revenues of the system shall be set aside, as collected and deposited in a separate depository account designated by the legislative body of the municipality, which bank shall be duly qualified to do business in the state, in an account to be designated Water and Sanitary Sewer System Receiving Fund (hereinafter, for brevity, referred to as the "Receiving Fund"), and the revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at the times hereafter specified.

(b) *Operation and Maintenance Fund.* Out of the revenues in the Receiving Fund, there shall be first set aside monthly into a depository account, designated Water and Sanitary Sewer System Operation and Maintenance Fund, (hereinafter, for brevity, referred to as the "Operations and Maintenance Fund"), a sum sufficient to provide for the payment of the current expenses of administration and operation of the system and the current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

(c) *Debt Service Reserve.* There shall next be established and maintained a reserve within the Operation and Maintenance Fund designated "Debt Service", which shall be used solely for the payment of the municipality's obligations to the county, pursuant to the aforesaid contract. There shall be transferred to the reserve, monthly, after requirements of the Operation and Maintenance Fund have been met, such sums as shall be necessary to pay the contractual obligations when due. Should the revenues of the system prove insufficient for this purpose, the revenues may be supplemented by any other funds of the municipality legally available for such purpose.

(d) *Replacement Reserve.* There shall next be established and maintained a reserve within the Operation and Maintenance Fund designated Replacement Reserve, 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, after provision has been made for the Operation and Maintenance Fund and the Debt Service, the revenues as the municipality shall deem necessary for this purpose.

(e) *Surplus moneys.* Moneys remaining in the Operation and Maintenance Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing, may, at the option of the legislative body of the municipality, be used in connection with any other project of the municipality reasonably related to purposes of the system.

(f) *Bank accounts.* All moneys belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the moneys shall be allocated on the books and records of the municipality within this single bank account, in the manner above set forth.

(2) In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, any moneys and/or securities in other funds of the municipality, except sums in the debt service derived from tax levies, shall be transferred to the Operation and Maintenance Fund, to the extent of any deficit therein.

(3) Moneys in any fund or account established by the provisions of this chapter may be invested in accordance with the investment policy, as amended, which was adopted by the municipality in December 1998.

(Ord. 150, passed 4-13-1999)

#### **§52.42 VARIANCES.**

Any person, upon written application to the municipality within 90 days after the effective date of this chapter, as amended, who shows, in the case of the activity being conducted or operated, that compliance with §52.19 would either be impossible or constitute an undue hardship because of time limitations, may be granted a variance by the municipality for a reasonable time, not to extend beyond two years from the effective date of this chapter, as amended, at which date all variances shall terminate and after which date no new variances will be granted. Any variance granted by the municipality within six months after the date of the granting of the variance shall make reports to the municipality periodically as to the progress being made toward compliance with §52.20. A variance shall not be granted under the provisions of this section where a person applying therefore is causing a public nuisance or other injury to the general public, or is subject to a national categorical standard, any such variances shown to have been granted under the provisions of this section shall not be construed to relieve the person who shall receive it from any liability or penalties imposed by other law for the commission or maintenance of a nuisance.

(Ord. 150, passed 4-13-1999)

#### **§52.99 PENALTY.**

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

(B) (1) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal civil infraction.

(2) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(3) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the chapter or the orders, rules, regulations and permits issued thereunder.

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

(D) Any person violating any of the provisions of this chapter which results in fines or penalties being levied against the municipality, shall, upon conviction, be subject to the penalties as set out in §10.99 and shall become liable for the fine or penalty, plus any expenses, loss or damage occasioned by the violation, in addition to the fines and costs identified in §10.99.  
(Ord. 150, passed 4-13-1999)



## CHAPTER 53: REVENUE BONDS

### Section

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### **§53.10 DEFINITIONS.**

Whenever used in this Chapter, except when otherwise indicated by the context, the following terms shall have the following meanings:

**ACT 94.** Act 94, Public Acts of Michigan, 1933, as amended.

**ADJUSTED NET REVENUES.** The excess of revenues over expenses for any operating year for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the Issuer in lieu of taxes, to which may be made the following adjustments.

(1) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of additional Bonds or to be placed into effect before the time principal or interest on the additional Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.

(2) Revenues may be augmented by amounts which may be derived from rates and charges to be paid by new customers of the System.

The adjustment of revenues and expenses by the factors set forth in (1) and (2) above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the Issuer.

**AUTHORITY.** The Michigan Municipal Bond Authority.

**AUTHORIZED OFFICERS.** The Village President, Village Clerk and Village Treasurer.

**BONDS.** The Series 2010 Bond, together with any additional bonds of equal standing hereafter issued.

**COUNTY BONDS.** The Van Buren County Sanitary Sewer System No. 1 (Village of Lawton) Bond (Limited Tax General Obligation), issued by the County of Van Buren on June 25, 1998.

**ENGINEERS.** Wightman & Associates, Inc., Benton Harbor, Michigan.

**ISSUER OR VILLAGE.** The Village of Lawton, County of Van Buren, State of Michigan.

**MDEQ.** The Michigan Department of Environmental Quality, or its successor.

**PROJECT.** The improvements to the System consisting generally of constructing a new well and a new water tower, installing new water mains, looping system water mains to improve water quality and flow, installing a radio read meter system and acquiring, constructing and installing related site improvements, structures, equipment and appurtenances thereto.

**REVENUES AND NET REVENUES.** The revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues" the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance, and other revenues derived from or pledged to operation of the System.

**SERIES 2010 BOND.** The 2010 Water Supply and Sewage Disposal System Revenue Bond (General Obligation Limited Tax), of the Issuer in the principal amount of not to exceed \$3,750,000 authorized by this Ordinance.

**SUFFICIENT GOVERNMENT OBLIGATIONS.** Direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which, without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Series 2010 Bond and the principal and redemption premium, if any, on the Series 2010 Bond as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any principal installment of the Series 2010 Bond is to be called for redemption prior to maturity, irrevocable instructions to call the principal installment for redemption shall be given to the paying agent.

**SUPPLEMENTAL AGREEMENT.** The supplemental agreement among the Issuer, the Authority and MDEQ relating to the Series 2010 Bond.

**SYSTEM.** The Water Supply and Sewage Disposal System of the Issuer, including such facilities thereof as are now existing, are acquired and constructed as the Project, and all enlargements, extensions, repairs and improvements thereto hereafter made.

**§53.11 NECESSITY; APPROVAL OF PLANS AND SPECIFICATIONS.**

It is hereby determined to be a necessary public purpose of the Issuer to acquire and construct the Project in accordance with the plans and specifications prepared by the Engineers, which plans and specifications are hereby approved. The Project qualifies for the Drinking Water Revolving Fund financing program being administered by the MDEQ and the Authority, whereby bonds of the Issuer are sold to the Authority and bear interest at a fixed rate of two and one-half percent (2.50%) per annum.

**§53.12 COSTS; USEFUL LIFE.**

The cost of the Project is estimated not to exceed Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be not less than thirty (30) years.

**§53.13 PAYMENT OF COST; BONDS AUTHORIZED.**

To pay the cost of acquiring and constructing the Project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2010 Bond, the Issuer shall borrow the sum of not to exceed Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) and issue its Series 2010 Bond therefor pursuant to the provisions of Act 94. The remaining cost of the Project, if any, shall be defrayed from Issuer funds on hand and legally available for such use.

**§53.14 ISSUANCE OF SERIES 2010 BOND; DETAILS.**

The Series 2010 Bond of the Issuer, to be designated 2010 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BOND (GENERAL OBLIGATION LIMITED TAX), authorized to be issued in the aggregate principal sum of not to exceed Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) or as otherwise determined by order of the Michigan Department of Environmental Quality ("MDEQ") for the purpose of paying the cost of the Project, including the costs incidental to the issuance, sale and delivery of the Series 2010 Bond. The Series 2010 Bond shall be payable primarily out of the Net Revenues as set forth more fully in Section 7 hereof. The Series 2010 Bond shall be in the form of a single fully-registered, nonconvertible bond of the denomination of the full principal amount thereof, dated as of the date of delivery of the Series 2010 Bond, payable in principal installments serially as set forth in Section 14 of this Ordinance or as finally determined by the order of the MDEQ at the time of sale of the Series 2010

Bond and approved by the Authority and an Authorized Officer. Final determination of the Principal Amount and the payment dates and amounts of principal installments of the Series 2010 Bond shall be evidenced by execution of a Purchase Contract (the "Purchase Contract") between the Issuer and the Authority providing for sale of the Series 2010 Bond, and each of the Authorized Officers are authorized and directed to execute and deliver the Purchase Contract when it is in final form and to make the determinations set forth above.

The Series 2010 Bond shall bear interest at a rate of two and one-half percent (2.50%) per annum on the par value thereof or such other rate as evidenced by execution of the Purchase Contract, but in any event not to exceed the rate permitted by law, payable semiannually on the dates as finally determined in the Purchase Contract. The Series 2010 Bond principal amount is expected to be drawn down by the Issuer periodically, and interest on the principal amount shall accrue from the date such principal amount is drawn down by the Issuer.

The President and the Village Clerk are authorized to execute and deliver the Series 2010 Bond in accordance with the delivery instructions of the Authority. The Bonds shall be signed with the manual or facsimile signatures of the President and the Village Clerk and shall have the Issuer's seal impressed or printed thereon. The Series 2010 Bond bearing the manual or facsimile signatures of the President and the Village Clerk sold to the Authority shall require no further authentication.

The Series 2010 Bond shall not be convertible or exchangeable into more than one fully-registered bond. Principal of and interest on the Series 2010 Bond shall be payable as provided in the form of the Series 2010 Bond set forth in Section 14 of this Ordinance.

The Series 2010 Bond or principal installments thereof will be subject to prepayment prior to maturity with the prior written approval of the Authority in the manner and at the times as provided in the Series 2010 Bond form in this Ordinance.

The Village Clerk shall record on the registration books payment by the Issuer of each installment of principal or interest or both when made and the cancelled checks or other records evidencing such payments shall be returned to and retained by the Village Clerk.

Upon payment by the Issuer of all outstanding principal of and interest on the Series 2010 Bond, the Authority shall deliver the Series 2010 Bond to the Issuer for cancellation.

#### **§53.15 REGISTRATION AND TRANSFER.**

Any Bond may be transferred upon the books required to be kept pursuant to this section by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the transfer agent. Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the transfer agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount. The transfer agent shall require payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The transfer agent shall not be required (i) to issue, register the transfer of or exchange any Bond during a period beginning at

the opening of business 15 days before the day of the giving of a notice of redemption of Bonds selected for redemption as described in the form of Series 2010 Bond contained in Section 14 of this Ordinance and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange any Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds being redeemed in part. The Issuer shall give the transfer agent notice of call for redemption at least 20 days prior to the date notice of redemption is to be given.

The transfer agent shall keep or cause to be kept, at its principal office, sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the Issuer; and, upon presentation for such purpose, the transfer agent shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on said books, Bonds as hereinbefore provided.

If any Bond shall become mutilated, the Issuer, at the expense of the holder of the Bond, shall execute, and the transfer agent shall authenticate and deliver, a new Bond of like tenor in exchange and substitution for the mutilated Bond, upon surrender to the transfer agent of the mutilated Bond. If any Bond issued under this Ordinance shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the transfer agent and, if this evidence is satisfactory to both and indemnity satisfactory to the transfer agent shall be given, and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended (“Act 354”), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the Issuer, at the expense of the owner, shall execute, and the transfer agent shall thereupon authenticate and deliver, a new Bond of like tenor and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond the transfer agent may pay the same without surrender thereof.

#### **§53.16 PAYMENT OF BONDS; SECURITY.**

The Series 2010 Bond and the interest thereon shall be payable primarily from the Net Revenues, and to secure such payment, there is hereby created a statutory lien upon the whole of the Net Revenues which shall be a first lien to continue until payment in full of the principal of and interest on the Series 2010 Bond, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of the Series 2010 Bond then outstanding, principal and interest on such Series 2010 Bond to maturity, or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to the Series 2010 Bond, the holders of the Series 2010 Bond shall have no further rights under this Ordinance except for payment from the deposited funds, and the Series Bond shall no longer be considered to be outstanding under this Ordinance.

The Issuer hereby pledges its limited tax full faith and credit for the payment of the principal of and interest on the Series 2010 Bond. Should the Net Revenues of the System at any time be insufficient to pay principal and interest on the Series 2010 Bond, as the same become due, then the Issuer shall advance from any funds legally available therefor, or, if necessary, levy taxes upon all taxable property in the Issuer, in an amount sufficient to make such payment, subject however to

constitutional and statutory tax rate limitations. The Issuer shall be reimbursed for any such advance from the Net Revenues of the System subsequently received which are not otherwise pledged or encumbered by this Ordinance.

### **§53.17 BONDHOLDERS' RIGHTS; RECEIVER.**

The holder or holders of the Bonds representing in the aggregate not less than twenty percent (20%) of the entire principal amount thereof then outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the Issuer, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest on the Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the Issuer and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the Issuer more particularly set forth herein and in Act 94.

The holder or holders of the Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Bonds and the security therefor.

### **§53.18 MANAGEMENT; FISCAL YEAR.**

The operation, repair and management of the System and the acquiring of the Project shall continue to be under the supervision and control of the Village Council. The Village Council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The Village Council may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The System shall be operated on the basis of an operating year which shall coincide with the Issuer's fiscal year.

### **§53.19 NO FREE SERVICE OR USE.**

No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the Issuer.

### **§53.20 FIXING AND REVISING RATES; RATE COVENANT.**

The rates now in effect and the rate adjustments to be placed into effect 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 principal of and interest on the Bonds as the same

become due and payable, and the maintenance of the reserve therefor and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. The 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 to fix and maintain rates for services furnished by the System at all times sufficient to provide for the foregoing.

### **§53.21 FUNDS AND ACCOUNTS; FLOW OF FUNDS.**

Commencing upon the adoption of this Ordinance, all funds and accounts belonging to the System shall be maintained as provided herein (including without limitation accounting separately for revenues, expenses, depreciation and debt service related to the delivery of water supply service and sewage disposal service) and all Revenues of the System shall continue to be set aside and accounted for separately from the other funds and accounts of the Issuer and credited to one or more accounts to be designated collectively as the *WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM RECEIVING ACCOUNT* (the "Receiving Account"). The Revenues credited to the Receiving Account are pledged for the purpose of the following accounts and shall be transferred or debited from the Receiving Account periodically in the manner and at the times and in the order of priority hereinafter specified:

A. *OPERATION AND MAINTENANCE ACCOUNT*: Out of the Revenues credited to the Receiving Account, there shall be first set aside monthly in, or credited to, accounts designated *WATER OPERATION AND MAINTENANCE ACCOUNT and SEWAGE OPERATION AND MAINTENANCE ACCOUNT* (together, the "Operation and Maintenance Account"), sums sufficient to provide for the payment of the next month's expenses of administration and operation of the water and sewer service components of the System, respectively, and such current expenses for the maintenance of the water and sewer service components of the System, respectively, as may be necessary to preserve the same in good repair and working order.

A budget, showing in detail the estimated costs of administration, operation and maintenance of the water and sewer service components of the System for the next ensuing operating year, shall be prepared by the Issuer prior to the commencement of each ensuing operating year.

B. *BOND AND INTEREST REDEMPTION ACCOUNT*: There shall be established and maintained a separate depository account designated *BOND AND INTEREST REDEMPTION ACCOUNT* (the "Redemption Account"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of and interest on the Series 2010 Bond.

Out of the Revenues remaining in the Receiving Account, after provision for the Operation and Maintenance Account, there shall be set aside each month commencing March 1, 2010 in the Redemption Account a sum proportionately sufficient to provide for the payment when due of the current principal of and interest on the Series 2010 Bond, less any amount in the Redemption Account representing investment income on amounts on deposit in the Redemption Account. Commencing on the first day of the first fiscal year quarter following the delivery of the first installment of the Series 2010 Bond until the entire principal amount of the Series 2010 Bond has been received, the amount set aside each month for interest on the Series 2010 Bond shall be equal to a fraction derived from the number of months from the first day of the first month following

delivery of the first installment to the first interest payment date of the total amount of interest on the Series 2010 Bond next coming due. Commencing on the first interest payment date after the entire principal amount of the Series 2010 Bond has been received, the amount set aside each month for interest on the Series 2010 Bond shall be 1/6 of the total amount of interest on the Series 2010 Bond next coming due. The amount set aside each month for principal, commencing the first day of the first fiscal year quarter following the delivery of the initial installment of the Bonds, shall be equal to that amount which is that fraction derived from the number of months from that date to the first principal payment date of the amount of principal next coming due by maturity and the amount set aside each month for principal payment commencing on the first principal payment date, shall be 1/12 of the amount of principal next coming due by maturity. If there is any deficiency in the amount previously set aside, that deficiency shall be added to the next succeeding monthly requirements. The amount to be set aside for the payment of principal and interest on any date shall not exceed the amount which, when added to the money on deposit in the Redemption Account, including investment income thereon, is necessary to pay principal and interest due on the Series 2010 Bond on the next succeeding principal payment date.

No further payments need be made into the Redemption Account after enough of the principal installments of the Series 2010 Bond have been retired so that the amount then held in the Redemption Account is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the principal installments of the Series 2010 Bond then remaining outstanding.

The moneys in the Redemption Account shall be invested in accordance with Section 13 of this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in Section 13 of this Ordinance.

C. *COUNTY BONDS ACCOUNT*: There shall be established and maintained a separate account on the books of the Issuer designated *COUNTY BONDS ACCOUNT* (the "County Bonds Account"), the moneys on deposit therein from time to time to be used for the purpose of paying principal of and interest on the County Bonds.

Out of the revenues remaining in the Receiving Account after provision for the Operation and Maintenance Account and the Redemption Account, the Issuer shall set aside each quarter in the County Bonds Account a sum proportionately sufficient to provide for the payment due of the current principal of and interest on the County Bonds, less any amount retained in the Receiving Account from previous collections of Revenues that the then current operating budget of the System has determined to be used for this purpose.

D. *REPLACEMENT AND IMPROVEMENT ACCOUNT*: There may next be established and maintained an account designated *REPLACEMENT AND IMPROVEMENT ACCOUNT* (the "Replacement Account"), the money credited thereto to be used solely for the purpose of making repairs, replacements, improvements, enlargements or extensions to the System including any buildings or structures related to the System. The purposes for which money in the Replacement Account may be used include without limitation expenditures included in calculating the replacement reserve required by MDEQ. Out of the Revenues and moneys of the System remaining in the Receiving Account each year after provision has been made for the deposit of moneys in the



Operation and Maintenance Account, the Redemption Account and the County Bonds Account, there may be deposited in the Replacement Account the amount, if any.

E. *SURPLUS MONEYS*: Thereafter, any Revenues in the Receiving Account after satisfying all the foregoing requirements of this Section may, at the discretion of the Issuer, be used for any of the following purposes:

1. Transferred to the Replacement Account.
2. Transferred to the Redemption Account and used for the purchase of Bonds on the open market at not more than the fair market value thereof or used to redeem Bonds prior to maturity pursuant to Section 50.15 of this Chapter.
3. Retained in the Receiving Account.

**§53.22 BOND PROCEEDS.**

The proceeds of the sale of the Series 2010 Bond as received by the Issuer shall be deposited in an account separate from other money of the Issuer and held in a bank or banks qualified to act as depository of the proceeds of sale under the provisions of Section 15 of Act 94 designated 2010 DWRF PROJECT CONSTRUCTION FUND (the “Construction Fund”). Moneys in the Construction Fund shall be applied solely in payment of the cost of the Project including any engineering, legal and other expenses incident thereto and to the financing thereof.

**§53.23 BOND FORM.**

The Series 2010 Bond shall be in substantially the following form subject to such changes as may be required by the Authority:

UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF VAN BUREN

VILLAGE OF LAWTON  
2010 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BOND  
(GENERAL OBLIGATION LIMITED TAX)

REGISTERED OWNER: Michigan Municipal Bond Authority

PRINCIPAL AMOUNT: \_\_\_\_\_ Dollars (\$ \_\_\_,000)

DATE OF ORIGINAL ISSUE: \_\_\_\_\_, 2010

The VILLAGE OF LAWTON, County of Van Buren, State of Michigan (the “Issuer”), for value received, acknowledges itself to owe and for value receive hereby promises to pay, but only out of the hereinafter described Net Revenues of the System (hereinafter defined), to the Michigan

Municipal Bond Authority (the "Authority"), or registered assigns, the Principal Amount shown above, or such portion thereof as shall have been advanced to the Issuer pursuant to a Purchase Contract between the Issuer and the Authority and a Supplemental Agreement by and among the Issuer, the Authority and the State of Michigan acting through the Department of Environmental Quality, in lawful money of the United States of America, unless prepaid or reduced prior thereto as hereinafter provided.

During the time the Principal Amount is being drawn down by the Issuer under this bond, the Authority will periodically provide to the Issuer a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the Authority to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the Issuer of its obligation to repay the outstanding Principal Amount actually advanced (subject to any principal forgiveness as provided for in Schedule A), all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this bond.

The Principal Amount shall be payable on the dates and in the annual principal installment amounts set forth on the Schedule I attached hereto and made a part hereof, as such Schedule may be adjusted if less than \$3,750,000 is disbursed to the Issuer or if a portion of the Principal Amount is prepaid as provided below, with interest on said principal installments from the date each said installment is delivered to the holder hereof until paid at the rate of two and one-half percent (2.50%) per annum. Interest is first payable on \_\_\_\_\_ 1, 2010, and semiannually thereafter and principal is payable on the first day of October commencing \_\_\_\_\_ 1, 201\_ (as identified in the Purchase Contract) and annually thereafter.

The Bonds are subject to redemption prior to maturity by the Issuer only with the prior written consent of the Authority and on such terms as may be required by the Authority.

Notwithstanding any other provision of this bond, as long as the Authority is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at The Bank of New York Mellon Trust Company, N.A., or at such other place as shall be designated in writing to the Issuer by the Authority (the "Authority's Depository"); (b) the Issuer agrees that it will deposit with the Authority's Depository payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 Noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; in the event that the Authority's Depository has not received the Issuer's deposit by 12:00 Noon on the scheduled day, the Issuer shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment; and (c) written notice of any redemption of this bond shall be given by the Issuer and received by the Authority's Depository at least 40 days prior to the date on which such redemption is to be made.

#### Additional Interest

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the Authority's cost of providing funds (as determined by the Authority) to make payment on the bonds of the Authority issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a

consequence of the Issuer's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority issued to provide funds to purchase this bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the Authority issued to fund such account, the Issuer shall and hereby agrees to pay on demand only the Issuer's pro rata share (as determined by the Authority) of such deficiency as additional interest on this bond.

For prompt payment of principal and interest on this bond, the Issuer has irrevocably pledged the revenues of its Water Supply and Sewage Disposal System, including all appurtenances, extensions and improvements thereto (the "System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory lien thereon is hereby recognized and created.

This bond is a single, fully-registered, non-convertible bond in the principal sum indicated above issued pursuant to Ordinance No. \_\_\_ duly adopted by the Village Council of the Issuer, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying the cost of acquiring and constructing improvements to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of superior and equal standing may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described ordinance.

This bond is primarily a self-liquidating bond, payable, both as to principal and interest, primarily from the Net Revenues of the System. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned. As additional security, the Issuer has pledged its limited tax full faith and credit for payment of the principal of and interest on this bond. In the event the Net Revenues are insufficient to pay the principal of and interest on this bond when due, the Issuer shall advance sufficient funds to make such payment from its general fund or, if necessary, from ad valorem taxes levied on all property in the Issuer subject to taxation, provided that such levy shall be subject to constitutional and statutory tax rate limitations.

The Issuer has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of the bonds of this issue, as and when the same shall become due and payable, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are 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 said ordinance.

This bond is transferable only upon the books of the Issuer by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the transfer agent, duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the ordinance authorizing the bonds, and upon payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the Village of Lawton, County of Van Buren, State of Michigan, by its Village Council, has caused this bond to be executed with the facsimile or manual signatures of its President and its Village Clerk and the corporate seal or a facsimile thereof to be impressed or printed hereon, all as of the Date of Original Issue.

VILLAGE OF LAWTON

By \_\_\_\_\_  
Its President

(Seal)  
Countersigned:

Its \_\_\_\_\_  
Village Clerk

*[Form of Schedule A; Final Version in Purchase Contract]*

DEQ Project No.:  
DEQ Approved Amt:  
Loan Amount Forgiven\*:  
Loan Amount to be Repaid\*:

SCHEDULE A

Based on the schedule provided below unless revised as provided in this paragraph, repayment of principal of the Bond shall be made until the full amount advanced to the Issuer is repaid. In the event the Order of Approval issued by the Department of Environmental Quality (the "Order") approves a principal amount of assistance less than the amount of the Bond delivered to the Authority, the Authority shall only disburse principal up to the amount stated in the Order. In the event (1) that the payment schedule approved by the Issuer and described below provides for payment of a total principal amount greater than the amount of assistance approved by the Order, (2) that less than the principal amount of assistance approved by the Order is disbursed to the Issuer by the Authority, or (3) that any portion of the principal amount of assistance approved by the Order and disbursed to the Issuer is forgiven pursuant to the Order, the Authority shall prepare a new payment schedule which shall be effective upon receipt by the Issuer.

<u>Principal Installment Due on April 1</u>	<u>Amount of Principal Installment</u>
2012	\$145,000

2013	145,000
2014	150,000
2015	155,000
2016	160,000
2017	165,000
2018	170,000
2019	175,000
2020	180,000
2021	185,000
2022	185,000
2023	190,000
2024	195,000
2025	205,000
2026	215,000
2027	215,000
2028	220,000
2029	225,000
2030	230,000
2031	240,000

Interest on the bond shall accrue on that portion of principal disbursed by the Authority to the Issuer which has not been forgiven pursuant to the Order from the date such portion is disbursed, until paid, at the rate of 2.50% per annum, payable October 1, 2010, and semi-annually hereafter.

The Issuer agrees that it will deposit with the Authority's Depository, or such other place as shall be designated in writing to the Issuer by the Authority payments of the principal of, premium, if any, and interest on this bond in immediately available funds by 12:00 noon at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise. In the event that the Authority's Depository has not received the Issuer's deposit by 12:00 noon on the scheduled day, the Issuer shall immediately pay to the Authority as invoiced by the Authority an amount to recover the Authority's administrative costs and lost investment earnings attributable to that late payment.

\*Not to exceed amount. Loan reductions at close out will result in a proportional decrease.

**§53.24 ADDITIONAL BONDS.**

Except as hereinafter provided, the Issuer shall not issue additional Bonds of equal or prior standing with the Series 2010 Bond.

The right is reserved in accordance with the provisions of Act 94, to issue additional Bonds payable from the Revenues of the System which shall be of equal standing and priority of lien on the Net Revenues of the System with the Series 2010 Bond but only for the following purposes and under the following terms and conditions:

(a) To complete the Project in accordance with the plans and specifications therefor. Such bonds shall not be authorized unless the engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the Project in accordance with the plans and specifications therefor and stating the amount that will be required to complete the Project. If such certificate shall be so executed and filed with the Issuer, it shall be the duty of the Issuer to provide for and issue additional revenue bonds in the amount stated in said certificate to be necessary to complete the Project in accordance with the plans and specifications plus an amount necessary to issue such bonds or to provide for part or all of such amount from other sources.

(b) For subsequent repairs, extensions, enlargements and improvements to the System or for the purpose of refunding part of any Bonds then outstanding or for both purposes and paying costs of issuing such additional Bonds including deposits which may be required to be made to a bond reserve account, if any. Bonds for such purposes shall not be issued pursuant to this subparagraph (b) unless the Adjusted Net Revenues of the System for the preceding twelve-month operating year shall be at least equal to the maximum amount of principal and interest thereafter maturing in any operating year on the then outstanding Bonds and on the additional Bonds then being issued. If the additional Bonds are to be issued in whole or in part for refunding outstanding Bonds, the annual principal and interest requirements shall be determined by deducting from the principal and interest requirements for each operating year the annual principal and interest requirements of any Bonds to be refunded from the proceeds of the additional Bonds. For purposes of this subparagraph (b) the Issuer may elect to use as the last preceding operating year any operating year ending not more than sixteen months prior to the date of delivery of the additional Bonds. Determination by the Issuer as to existence of conditions permitting the issuance of additional Bonds shall be conclusive. No additional Bonds of equal standing as to the Net Revenues of the System shall be issued pursuant to the authorization contained in this subparagraph if the Issuer shall then be in default in making its required payments to the Operation and Maintenance Account or the Redemption Account.

(c) For refunding all or a part of the outstanding Bonds and paying costs of issuing such additional Bonds including deposits which may be required to be made to a bond reserve account, if any. No additional Bonds shall be issued pursuant to this subsection unless the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding.

### **§53.25 NEGOTIATED SALE; APPLICATION TO MDEQ AND AUTHORITY.**

The Village Council determines that it is in the best interest of the Issuer to negotiate the sale of the Series 2010 Bond to the Authority because the Drinking Water Revolving Fund financing program provides significant savings to the Issuer compared to competitive sale in the municipal bond market. The Authorized Officers are hereby authorized to make application to the Authority for placement of the Series 2010 Bond with the Authority. The Authorized Officers are further authorized to execute and deliver such contracts, documents and certificates as are necessary or advisable to qualify the Series 2010 Bond for the Drinking Water Revolving Fund. Prior to the sale of the Series 2010 Bond to the Authority, any Authorized Officer is hereby authorized to make such

changes to the form of Series 2010 Bond contained in Section 14 of this Ordinance as may be necessary to conform to the requirements of 1985 PA 227 (“Act 227”), including, but not limited to changes in the principal maturity and interest payment dates and references to additional security required by Act 227.

#### **§53.26 COVENANT REGARDING TAX EXEMPT STATUS OF THE BONDS.**

The Issuer shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the Series 2010 Bond from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended, (the “Code”) including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds, and to prevent the Bonds from being or becoming “private activity bonds” as that term is used in Section 141 of the Code.

#### **§53.27 APPROVAL OF BOND DETAILS.**

The Authorized Officers are each hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing is authorized to exercise the authority and make the determinations authorized pursuant to Section 7a(1)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters, provided that the principal amount of Series 2010 Bond issued shall not exceed the principal amount authorized in this Ordinance, the interest rate per annum on the Series 2010 Bond shall not exceed two and one-half percent (2.50%) per annum, and the Series 2010 Bond shall mature in not more than twenty (20) annual installments with the first principal installment due not sooner than April 1, 2011 and the final principal installment due not later than October 1, 2033.

#### **§53.28 APPOINTMENT OF BOND COUNSEL.**

The representation of the Issuer by Miller, Canfield, Paddock and Stone, P.L.C. (“Miller Canfield”), as bond counsel is hereby reconfirmed and approved notwithstanding the representation by Miller Canfield of the Authority in connection with the Drinking Water Revolving Fund program which may include advising the Authority with respect to this borrowing.

#### **§53.29 REPEAL, SAVINGS CLAUSE.**

All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Chapter are, to the extent of such conflict, repealed.  
(Ord. 184, passed 11-10-2009; Ord. 185, passed 12-8-2009)

## **TITLE VII: TRAFFIC CODE**

Chapter

**70. GENERAL PROVISIONS**

**71. RECREATIONAL VEHICLES**



## CHAPTER 70: GENERAL PROVISIONS

### Section

- 70.01 *Michigan Vehicle Code*
- 70.02 Uniform Traffic Code
- 70.03 Parking of vehicles and trailers
  
- 70.99 Penalty

### **§70.01 MICHIGAN VEHICLE CODE.**

(A) The Village hereby adopts by reference the *Michigan Vehicle Code*, Public Act 300 of 1949, being MCL§257.1 *et seq.*, as amended, and also makes its provisions applicable to the Lawton Community Schools property as provided by Public Act 175 of 1958, being MCL §257.961. The Village may place the traffic control devices as may be required based on engineering studies, as provided in MCL §257.605, and that conform with the state’s *Manual and Specifications for the Traffic Control Devices*, as provided in MCL §257.610. Any violation of this section shall be a municipal civil infraction.

(B) Nothing in this section shall prohibit the Village from enforcement of the *Michigan Vehicle Code* for careless, reckless, operating a vehicle while intoxicated or impaired or any other driving behavior as may be a violation punishable under the *Michigan Vehicle Code* on school property.  
(Ord. 180, passed 11-11-2008)

(C) References in the *Michigan Vehicle Code* to local authorities shall mean “the Village of Lawton.”

(D) The penalties provided by the *Michigan Vehicle Code* are adopted by reference provided, however, that the Village may not enforce any provisions of the *Michigan Vehicle Code* for which the maximum period of imprisonment is more than 93 days.

### **§70.02 UNIFORM TRAFFIC CODE.**

(A) The *Uniform Traffic Code for Cities, Townships and Villages* as promulgated by the Director of the Department of State Police pursuant to the Administrative Procedures Act of 1969, Public Act 306 of 1969, being MCL §24.201 *et seq.*, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in the state are incorporated by reference.

(B) References in the *Uniform Traffic Code for Cities, Townships and Villages* to a “governmental unit” shall mean the “Village of Lawton”.

(C) The Village Clerk shall publish this section 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.

(D) The penalties provided by the *Uniform Traffic Code for Cities, Townships and Villages* are adopted by reference.  
(Ord. 160, passed 11-12-2002)

### **§70.03 PARKING OF VEHICLES AND TRAILERS.**

(A) *Definition.* The term **VEHICLE** shall include all motor-driven motorcycles, tractors and trailers.

(B) *Parking on public streets and public alley rights-of-way.*

(1) No vehicle shall be parked or be permitted to remain on or within any public street or public alley right-of-way within the village between the hours of 2:00 a.m. and 6:00 a.m., daily from November 1 to April 1 of each year.

(2) No motor vehicle or trailer shall be parked on any street or alley with the village for more than two consecutive hours, where two-hour limited parking is designated, namely: 2nd Street and 3rd Street (first block only); M-40 to Railroad Street.

(3) No truck tractors of six wheels or more or trailers or semi-trailers of 40 feet or more in length, separately or in combination, shall be parked or permitted on or within any public street or public alley right-of-way within any area zoned residential within the Village, except during the actual loading or unloading.

(4) No truck tractors of six wheels or more, or trailers or semi-trailers of 40 feet or more in length, separately or in combination, shall be parked or permitted to remain on or within any public street or public alley right-of-way within any area zoned business district within the Village, between the hours of 2:00 a.m. and 6:00 a.m. daily, except during the actual process of loading or unloading.

(5) Except in specific parking areas designated by the Village as “truck parking areas” and subject to any rules posted therein.

(a) All vehicles (as defined herein) shall have affixed thereto current licenses.

(b) No vehicle shall be parked in this area for more than 48 continuous hours at one time.

(c) During the period between April 1 and September 1, no tractor engine or auxiliary motor or engine, such as for refrigeration and the like, shall be operated within the area,

except when the units are in the process of being parked or removed, between the hours of 7:00 a.m. and 9:00 p.m. daily and weekends between the hours of 12:00 noon on Saturday and 7:00 a.m. Monday.

(d) For additional general rules, copies of Ord. 107 are available at the office of Village Clerk or the Police Department. As this area has been established for convenience and benefit within the village, its continuance depends on cooperation in abiding by the provisions of the section and the posted rules.

(6) No vehicle or trailer shall be parked on or across any sidewalk except while attended for the purpose of loading or unloading.

(7) The foregoing provisions shall be applied to vehicles or trailers owned and/or operated by the Village while on official business.  
(Ord. 107, passed 2-9-1988; Ord. passed 6-13-1989) Penalty, see §70.99

#### **§70.99 PENALTY.**

(A) Any person violating the provisions of §70.03 shall, upon being determined responsible, be guilty of a municipal civil infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the chapter or the orders, rules, regulations and permits issued thereunder.  
(Ord. 107, passed 2-9-1988; corrected 1-12-2010)

## CHAPTER 71: RECREATIONAL VEHICLES

### Section

71.01 Unicycles, bicycles and the like

71.02 Snowmobiles

71.99 Penalty

### **§71.01 UNICYCLES, BICYCLES AND THE LIKE.**

(A) *Laws applicable.* Every person riding a vehicle propelled by human power upon a public street or alley within the village shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle provided by the laws of the state, declaring rules of the road and traffic ordinances of the village applicable to the vehicles, and to the driver of the vehicles, except as to those provisions of state law or local ordinances, which by their nature, can have no application.

(B) *Obedience to traffic control devices.* Any person operating a unicycle, bicycle, skateboard, scooter or other device propelled by human power shall obey instructions of official traffic control signals, signs and other control devices applicable to vehicles unless otherwise directed by a police officer.

(C) *Bicycle equipment; lamps, brakes.*

(1) Each bicycle, when in use at night time, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear, of a type which shall be visible from all distances from 50 to 500 feet to the rear, when directly in front of lawful upper beams of headlamps on motor vehicles. A lamp emitting a red light, visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake, which shall enable the operator to make the braked wheels skid on dry, level, clean pavement.

(D) *Speed.* No unicycle, bicycle, skateboard, scooter and/or other device propelled by human power shall be operated at any time faster than is reasonable or proper and every unicycle, bicycle, skateboard, scooter and/or other device propelled by human power shall be operated with reasonable regard to the safety of the rider and other persons and property.

(E) *Riding on sidewalks.*

(1) No person shall ride a unicycle, bicycle, skateboard, scooter and/or other device propelled by human power upon any sidewalk within a business district or any other sidewalk or highway where official traffic devices or signs are posted prohibiting the riding of the vehicles.

(2) When any person is riding any such vehicle upon a sidewalk, where permitted, the person shall yield the right-of-way to any pedestrian and, if necessary, the person riding the vehicle shall dismount and vacate the sidewalk in order to prevent a collision, and any person riding the vehicle upon the sidewalk must have the vehicle under control at all times.

(F) *Impoundment of vehicles; penalties.*

(1) Members of the Police Department are hereby authorized to remove unicycles, bicycles, skateboards, scooters and/or other device propelled by human power from a public place to the Village bicycle pound at the Department of Public Works garage, or other place of safety, under the following circumstances:

(a) When any such vehicle is believed to be stolen;

(b) When any such vehicle has been left unattended on any public street, alley or sidewalk continuously for a period of 24 hours, or when any such vehicle is left in a manner as to obstruct reasonably the flow of vehicles or pedestrian traffic on any public street, alley or sidewalk; and

(c) When an operator of any such vehicle is detained because of a traffic violation and/or violation of this section, or refuses to provide their name and address.

(2) No impounded unicycle, bicycle, skateboard, scooter and/or other device propelled by human power shall be discharged or removed from the bicycle pound, except upon payment by the owner or authorized representative of an impounding fee. The fees shall be paid at the police station or at such other location as posted by the Village. A copy of this section shall be given to the individual paying the impound fee as established by the Village Council from time to time and on file at the office of the Village Clerk and the Lawton Police Department.

(3) Any unicycle, bicycle, skateboard, scooter and/or other device propelled by human power and impounded under the provisions of this section may, after 90 days from the date of impoundment, be sold by the Police Department at public sale and the monies deposited in the General Fund of the Village.

(G) *Exempt applications.* This section shall have no application to wheelchairs or similar devices, which are otherwise lawfully and reasonably used for the direct benefit of a handicapped person or one with special needs.

(Ord. 172, passed 4-12-2005) Penalty, see §71.99

**§71.02 SNOWMOBILES.**

(A) Snowmobiles may be operated under the following rules and conditions on certain Village property and on roadways under the control of, and within the Village, from December 1 through April 1 of each year, when there is an adequate snow fall.

(B) No off-road or all terrain motor vehicles shall be operated on the roadways or alleys within the Village at any time of the year. Farm tractors and equipment, as defined in the *Michigan Motor Vehicle Code*, are exempt from this division (B).

(C) All snowmobiles operated within the Village must possess and/or display a current and valid registration issued by the state of residence of the registered owner of the snowmobile. The snowmobile must also comply with State rules and regulations as they apply to registration of snowmobiles.

(D) No person under 17 years of age shall operate a snowmobile on the roadways or alleys within the Village or on any Village property, unless under the direct and immediate supervision of a parent or a legal guardian who is at least 21 years of age. All persons under 17 must comply with any licensing or safety certification as required by the State.

(E) No person shall operate or allow another person to operate a snowmobile anywhere within the Village when the noise from the operation becomes a nuisance.

(F) No snowmobile shall be operated within the Village between the hours of 10:00 p.m. and 9:00 a.m., Sunday through Thursday, and 12:00 midnight until 9:00 a.m., Friday and Saturday. Snowmobiles operating on the state snowmobile trail will be exempt from the provisions of this division (F).

(G) No snowmobile may be operated on a village sidewalk, except with approval from the Village Police Department, while assisting during a weather emergency that has been declared by the Village.

(H) No snowmobiles may be operated on any Village property, other than the roadways and alleys, without written permission and a signed waiver of liability from the Village.

(I) No snowmobile shall be operated on any Village street or alley at a speed greater than 25 mph.

(J) Snowmobiles shall be operated on the non-traveled portion of any street or alley whenever possible and must travel in the same direction as the vehicular traffic operating on the traveled portion of the roadway.

(K) Snowmobiles operating on a street or alley within the Village shall operate as close to the right-hand edge of the traveled portion of the roadway as possible, and in the same direction as all other vehicular traffic operating on the traveled portion of the roadway.

(L) No snowmobile shall be operated within the Village in a careless or reckless manner that is likely to endanger the safety of the operator, other persons or property.

(M) Snowmobiles operating on any street or alley within the Village will also be subject to enforcement of all rules of the road, as they pertain to snowmobiles, under the *Michigan Vehicle Code* and the *Uniform Traffic Code for Cities, Villages and Townships* of the state and all applicable State rules and regulations.

(Ord. 145, passed 11-11-1997) Penalty, see §71.99

#### **§ 71.99 PENALTY.**

(A) Any person violating any provision of this Chapter shall, upon being determined responsible, be guilty of a municipal civil infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the chapter or the orders, rules, regulations and permits issued thereunder.

(Ord. 145, passed 11-11-1997; Ord. 172, passed 4-12-2005)

## **TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. CEMETERIES**
- 91. ANIMALS**
- 92. FAIR HOUSING**
- 93. HEALTH AND SANITATION; NUISANCES**
- 94. PARKS AND PUBLIC PLACES**
- 95. MEDICAL MARIHUANA**



## CHAPTER 90: CEMETERIES

### Section

90.01 Authority to establish

90.02 Cemetery regulations

90.99 Penalty

### **§90.01 AUTHORITY TO ESTABLISH.**

(A) The Village Council shall, from time to time, make and adopt rules and regulations for the management and control of Oak Grove Cemetery to effectuate the purposes expressed herein.

(B) These rules and regulations shall be known as “cemetery regulations” and are set out in §90.02.

(C) The Village Clerk shall keep copies of the cemetery regulations available for distribution to the public, as well as keep a permanent copy of the cemetery regulations open to inspection by the public at all times.

(D) Any alterations, amendments or other changes to the cemetery regulations shall be published, once, in a newspaper having a general circulation in the Village.  
(Ord. 45, passed 2-14-1995) Penalty, see §90.99

### **§90.02 CEMETERY REGULATIONS.**

(A) *General.*

(1) These regulations are for the management and control of Oak Grove Cemetery and are subject to change as revisions are deemed appropriate by the Village Council under the terms hereof.

(2) The intent is to guard and preserve the rights and interest of all grave owners and to keep attractive the grounds, where, in quiet dignity, are placed the mortal remains of loved ones.

(B) *Forward.*

(1) Oak Grove is a perpetual care cemetery. The term **PERPETUAL CARE** is intended to cover the basic care of the graves therein: cleaning in the spring, mowing and trimming the grass at reasonable intervals during the summer, removing leaves in the fall and the care of shrubs and trees as may be necessary.

(2) It is intended that this care shall continue forever without further charge to any grave owner(s), unless changed by the Village Council at some future date.

(3) At the present time, the cost of this perpetual care is partially covered by the grave charge and the grave opening fees, with the village contributing the remainder.

(C) *Graves.*

(1) The price of graves shall be as established by the Village Council from time to time.

(2) Resident price applies for personal use only by a Village resident and/or an immediate family member and is limited to the number of persons living in the household at the time of purchase.

(3) Graves are sold only on a cash basis and purchases are made through the Village Clerk's office.

(4) Graves may be conveyed by deed, issued by the Cemetery Board (consisting of the Village Clerk and the Village President), which shall secure to the purchases, their families or heirs, a burial place forever, subject to the rules and regulations as are now in force or may be adopted from time to time by the Cemetery Board or Village Council.

(5) The cost of each deed, for a single grave site or multiple grave sites, shall be as established by the Village Council from time to time and on file at the office of the Village Clerk.

(6) Any owner, having no further use for any grave(s), may dispose of the same only through the Cemetery Board at the original purchase price.

(7) Owners of graves shall have the right to give permission, by written order, for the burial of the remains of other than their immediate families, but not for profit.

(8) No more than one regular burial shall be made in the same grave, except of an adult and an infant. Additionally, cremations may be interred as space allows.

(9) No grave site shall be used for other than the burial of human remains.

(D) *Grave openings.*

(1) Grave openings are priced as established by the Village Council from time to time.

(2) Fees must be paid at the time of burial.

(3) When a grave opening is ordered, it is important that the precise location be given by either a family member or the Funeral Director handling arrangements; the Cemetery Board cannot be held responsible for any misunderstanding.

(4) Notice for grave openings should be given at least 24 hours in advance of the time scheduled for the burial.

(5) No burial shall be made in Oak Grove Cemetery (other than for cremation) without the use of an outer burial receptacle that meets national standards.

(6) No person other than a Village employee or a Village contractor shall open any grave site or do any excavating within the cemetery.

(E) *Monuments and markers.*

(1) The use of granite, marble or bronze for monuments is suggested and strongly urged, since they are highly durable and long-lasting materials. The choice, however, of the material used remains the prerogative of the purchaser.

(2) Upright grave markers shall be limited to one per grave; placed at the head of the grave and in alignment with all others. Any additional markers for multiple burials on one grave site shall be flush with the turf.

(3) The placement of a family monument for multiple graves is subject to approval by the Cemetery Sexton.

(4) All monuments and grave markers must be located on a suitable foundation, two inches on all sides larger than the monument or marker's base.

(5) All foundations will be built by the Village or monument company. Village-built foundations will be billed per square inch at a price that is determined from time to time.

(F) *Ground maintenance.*

(1) The Village-appointed Sexton will supervise all maintenance work, burials, setting of memorial markers and the general care of the cemetery such as mowing, pruning and removal of trees/shrubs and ground clean up.

(2) Any improvement contemplated by a grave owner shall be first discussed with the Sexton for consideration and approval.

(3) No grave, lot or parcel of land shall be defined by any fence, railing, edging, hedge, flower-border, embankment or depression. No grading, leveling or excavation upon any grave is allowed.

(G) *Plantings, decorations and displays.*

(1) The following restrictions apply.

(a) No ground plantings, decorative stone, wood chips or loose artificial material will be allowed.

(b) Wreaths, flower urns, single hooks holding one basket and ornamental statues shall be limited to one per grave and must be placed on either side or immediately in front of the marker. Two flower urns may be used, one on each side, or directly in front of a marker designating multiple burials.

(c) Bouquets of cut flowers in an appropriate receptacle, not directly in the soil, shall be limited to one per grave and must be aligned with or immediately in front of the marker.

(d) Plantings, decorations and displays in excess of these restrictions will be removed and disposed of by village personnel.

(2) As soon as flowers, wreaths, displays and the like used at funerals or placed on graves at other times become faded or unsightly, they will be removed. Responsibility for the same will not be assumed by the village or its personnel. All winter wreaths and decorations must be removed by April 15 each year to allow for the spring clean up of cemetery grounds. After that date, the winter decorations will be removed by the village personnel.

(H) *Miscellaneous.*

(1) There shall be no loitering on the cemetery grounds. Pets are not permitted within the cemetery.

(2) The diamond-shaped sections between the circles or part-circles are not platted and are reserved by the village for the planting of shrubbery and trees.

(3) The possession of firearms and air-rifles within the cemetery grounds is forbidden, except that military or other patriotic organizations may carry arms for the purpose of firing a salute over the grave at the burial of a member, or in the observance of an appropriate national holiday.

(4) The use of recreational vehicles within the cemetery is prohibited.

(5) The Sexton and his or her assistants shall have the right to trap and dispose of dogs, cats and other predatory animals within the cemetery grounds when, in their judgment, such is necessary for the best interests of the cemetery.

(6) Cemetery records shall be complete in detail and open to public inspection during normal working days upon sufficient notification. They shall contain information as to the ownership of lots and all grave locations.

(7) The Village Clerk and the Sexton shall have complete records and the Sexton shall be responsible for keeping the same up-to-date.  
(Ord. passed 3-12-2007) Penalty, see §90.99

**§90.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal civil infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the chapter or the orders, rules, regulations and permits issued thereunder.

## CHAPTER 91: ANIMALS

### Section

91.01 Control, possession and the like

91.02 Dogs running at large

91.99 Penalty

### **§91.01 CONTROL, POSSESSION AND THE LIKE.**

(A) It shall be unlawful to stable or keep, except temporarily during parade or festival periods, when the same will be ridden, driven or shown within the Village, horses, ponies, mules, donkeys, calves, cows, steers, bulls, pigs, shoats, sheep, goats, pigeons, doves, geese, ducks, chickens, rabbits, snakes or any other domestic livestock, poisonous or exotic reptiles or fowls.

(B) It shall be unlawful for any person owning, possessing, or having charge of a dog in the Village to violate any of the following restrictions:

(1) No person shall permit or allow any dog to run at large as herein provided, or stray beyond the premises on which it is kept unless said dog is under leash control, with a fixed leash by a person of such age and discretion as necessary to physically control said dog.

(2) No person who is the owner of any female dog shall permit or allow such a female dog to go beyond the premises of such an owner when the dog is in heat.

(3) No person shall permit any dog to become or cause a nuisance by destroying property of another person or by trespassing on the property of another person. No person shall own, harbor, or keep any dog which has become or caused a nuisance by destroying the property of another person or by trespassing on the property of another person.

(4) A person who owns, possesses or keeps a dog which attacks, bites or physically injures a human being or domestic animal without adequate provocation, or which, because of temperament or training has a known propensity to attack, bite or physically injure human beings or domestic animals shall:

(a) confine such dog to a building or secure enclosure; and

(b) whenever such dog is off the premises on which it is kept, keep such dog securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not more than three (3) feet in length, or caged.

(5) All animals legally possessed must have and wear a current valid license when required by Van Buren County ordinance or state statute or regulation and must have had all

shots or inoculations required by county ordinance or state statute or regulation. Evidence of all shots or inoculations shall be shown upon request to any enforcement officer.

(6) Dogs of mixed breed or of other breeds than the above listed, which breed or mixed breed is known as pit bull dogs or pit bull terriers; and

(7) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier and any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers or a combination of any of these breeds.

(C) All animals legally possessed must have and wear a current valid license when required by county ordinance or state statute or regulation and must have had all shots or inoculations required by county ordinance or state statute or regulation. Evidence of all shots or inoculations shall be shown upon request to any enforcement officer.

(D) It shall be unlawful to permit any dog or other pet owned or possessed to make continuous or intermittent barking, yelping, growling or other loud or disturbing noises which shall cause annoyance to neighbors or third parties.

(Ord. 103, passed 4-14-1987) Penalty, see § 91.99

#### **§91.02 DOGS RUNNING AT LARGE.**

(A) No owner, keeper or custodian of any dog shall permit the same to run at large within the corporate limits of the Village.

(B) Proof that any dog was found running at large within the corporate limits of the Village shall be prima facie evidence that the running at large was with the permission of the owner, keeper or custodian of the dog.

(C) It shall be the duty of any police officer of the Village, or any County animal control officer or similar position to take into custody and control any dog found running at large within the corporate limits of the Village. All dogs so taken into custody shall, as soon as practical, be handed over to the County animal control officer for impoundment.

(D) Upon apprehension of any dog, the Village Police Department, if the dog has a collar, license or other evidence of ownership, shall notify the owner in writing of the impoundment. No dog shall be disposed of for four days if the dog has no evidence of ownership and for seven days from the date of mailing of the notice if the dog has evidence of ownership. These time limits shall not apply to animals who are sick or injured to the extent that the holding period would cause undue suffering or to animals whose owners request immediate disposal.

(E) The owner, custodian or keeper of any dog apprehended running at large may, during the period of holding set forth in division (D) above, retrieve the dog from the county pound upon

payment to the Village an apprehension fee as established by the Village Council, plus all county charges for care and maintenance.

(F) No person shall willfully:

(1) Torment, torture, abuse, cruelly kill or otherwise inflict cruelty upon any animal;

(2) Fail to provide any domesticated animal with proper food, drink, shelter or protection from the weather;

(3) Confine or leave an animal in a vehicle or other enclosure without adequate ventilation;

(4) Abandon any diseased, maimed, hopelessly sick, infirm or disabled animal in any place within the Village.

(G) No person shall:

(1) Throw or deposit, or cause to be thrown or deposited, any poisonous substance upon any outdoor area where it endangers or is likely to endanger any animal;

(2) Place or cause to be placed in or upon any portion of any street, alley, park, sidewalk or any other place to which the public has access, a lethal trapping device. For purposes of this subsection, a lethal trapping device is any device which by means of gas, spikes, steel jaws, or other instrument, is designed to trap animal by killing it or restraining its movement in a way that will physically injure it.

Nothing in this section shall be deemed to prohibit the use of such materials by a licensed exterminator, Village, State or County employee using practices common to the profession.

#### **§91.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal civil infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees, and other expenses of litigation by appropriate Court action against the person found to have violated this Chapter or the orders, rules, regulations and permits issued thereunder.

(Ord. 88, passed 5-15-1984; Ord. 103, passed 4-14-1987)



## CHAPTER 92: FAIR HOUSING

### Section

- 92.01 Statement of fact and policy
- 92.02 Discrimination prohibited
- 92.03 Exemption

#### **§92.01 STATEMENT OF FACT AND POLICY.**

It is hereby found that the population of the Village consists of people of many races, colors, religions, ancestries and national origins, and that discrimination in housing violates the public policy of the village and that the discrimination in housing is injurious to the public health, safety and general welfare of the Village and its inhabitants.

(Ord. 70, passed 4-4-1978)

#### **§92.02 DISCRIMINATION PROHIBITED.**

No owner of real property, lessee, sublessee, real estate broker or salesperson, lender, financial institution, builder, advertiser, agent of any of the forgoing shall discriminate against any other person because the religion, race, color or national origin of the other person or because of the religion, race, color or national origin of the friends or associates of the other person, in regard to the sale or rental or dealings concerning real property in the village.

(Ord. 70, passed 4-4-1978) Penalty, see §10.99

#### **§92.03 EXEMPTION.**

(A) The provisions of this chapter shall not apply to the rental of a room or rooms to three or less persons in a single dwelling unit, the remainder of which dwelling unit is occupied by:

- (1) The owner or member of his or her immediate family; or
- (2) A lessee of the entire dwelling unit to members of his or her immediate family.

(B) Nothing in this chapter shall require an owner to offer property to the public at large before selling or renting it, nor shall the chapter be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color or national origin.

(Ord. 70, passed 4-4-1978)

## CHAPTER 93: HEALTH AND SANITATION; NUISANCES

### Section

- 93.01 Anti-blight
- 93.02 Combustible materials; burning
- 93.03 Smoke detectors
- 93.04 Fire limits; fire prevention generally
- 93.05 Placing building material on sidewalks, streets and the like

- 93.99 Penalty

### §93.01 ANTI-BLIGHT.

(A) *Purpose.* Consistent with the letter and spirit of Public Act 344 of 1945, being MCL §125.71 *et seq.*, as amended, it is the purpose of this section to prevent, reduce or eliminate blight or potential blight in the village by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist in the Village.

(B) *Cause of blight or blighting factors.* It is hereby determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods. On and after the effective date of this chapter, no person, firm or corporation of any kind shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the Village, which is owned, leased, rented or occupied by such person, firm or corporation.

(1) In any area, the storage upon any property of one or more junk automobiles, except in a completely enclosed building. For the purposes of this section, the term “junk” automobile shall include any motor vehicle which is not licensed for use upon the highways of the state, cannot be lawfully driven on public streets pursuant to state statutes, or whether so licensed or not, include any motor vehicle which is inoperable. “Inoperable” means incapable of being operated or propelled under its own power by reason of dismantling, disrepair or other cause, for any reason. Recreational vehicles, travel trailers, “fifth wheels” and other similar vehicles that are normally used for travel purposes and that are licensed either annually or during the period of use, which are kept in repair and parked in the driveway, parallel to the side of a residence, or in the back yard, shall be exempt from this subsection. No such vehicle shall be allowed to remain on any property when used for living purposes.

(2) In any area, the storage upon any property of building materials, except in a completely enclosed building, unless there is in force a valid building permit issued by the Village for construction upon the property and the materials are intended for use in connection with such construction. Building materials shall include, but not be limited to: wood, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other material used in constructing any structure.

(3) In any area, the storage or accumulation of junk, trash, rubbish, or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance. The term “junk” shall

include bottles, cans, garbage, rubbish, parts of machinery or motor vehicles, appliances stored in the open, remnants of wood, metal or any other materials and/or building materials, or other cast-off material of any kind, whether or not the same could be put to any reasonable use.

(4) In any area, the existence of any structure, or part of structure, which because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, nor legally occupiable, pursuant to Village zoning, building or other Village regulations, nor useful for any other purpose for which it may have been intended.

(5) In any area, the existence of any vacant dwelling, garage, or other out-buildings not kept securely locked, windows kept glazed, or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

(6) In any area, the existence of any partially completed structure, unless such structure is in the course of construction, in compliance with a valid building permit issued by the Village and the construction is completed within a reasonable time.

(7) In any area, the storage upon any property of one or more junk watercraft, except in a completely enclosed building. For the purposes of this section, the term “junk” watercraft shall include any boats, pontoon boats, watercraft or devices designed for water recreational purposes, which are not registered with the state, cannot be lawfully used on any waters of the state pursuant to state statutes, or whether so registered or not, any boats, pontoon boats, watercraft or devices designed for water recreational purposes, which are inoperable. “Inoperable” means incapable of being operated or propelled under its own power by reason of dismantling, disrepair or other cause.

(8) In any area, the existence of semi-trailers being used for storage, unless they are kept in the ordinary course of business in a district zoned specifically for commercial business.

(9) In any area, the existence of noxious weeds. Noxious weeds shall be defined as in MCL §247.62 *et seq.*, as amended, and the Enforcement Officer is appointed as the Village Noxious Weed Commissioner, pursuant to the statute. Owners of property within the Village shall be required to destroy, control, or remove noxious weeds as defined above.

(10) In any area, the existence of grass weeds or brush in violation of an ordinance governing the cutting and destroying of grass, weeds and brush in the village.

(11) In any area, the existence of large amounts of lumber and/or timber. An accumulation of this type of material is allowed as a designated wood pile under the following conditions: the woodpile area to be located within the back yard; the wood is to be stacked orderly, with no random piles; the woodpile is to be maintained in such a manner so as not to allow harborage for rodents, snakes or other vermin. Woodpiles must be maintained so as not to endanger the safety of others or tend to depreciate the value of the property of others.

(12) In any area, the storage upon any property of one or more junk snowmobiles or motorcycles, except in a completely enclosed building. For the purposes of this section, the junk snowmobiles or motorcycles shall include any snowmobiles or motorcycles which are not registered with the state, cannot be lawfully driven where permitted, pursuant to state statutes, or whether so registered or not, any snowmobiles or motorcycles which are inoperable for any reason. “Inoperable” means incapable of being operated or moved under its own power by reason of dismantling, disrepair or other cause.

(C) *Enforcement.*

(1) The owner, if possible, and the occupant of any property upon which any of the causes of blight or blighting factors set forth above is found to exist, shall be notified in writing to remove or eliminate such causes of blight or blighting factors from such property within ten days

after service of the notice. Such notice may be served personally or by certified mail, return receipt requested, or by leaving the same with an adult person on the premises, or by affixing the same on two prominent places on the premises, in which latter case, a copy of the notice shall be sent to the owner or occupant at his or her last known address by regular mail with proof of mailing. Additional time may be granted by the Enforcement Officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

(2) Failure to comply with such notice within the time allowed by the owner and/or occupant shall constitute a violation of this section.

(3) Owners and occupants with a prior violation under this Ordinance found to have blight on their property are in immediate violation of this Ordinance and may be issued a citation without providing 10 days' notice.

(4) A person found to have violated this ordinance by a court of competent jurisdiction shall be penalized as follows:

(a) 1<sup>st</sup> Offense. A civil fine of up to \$100 plus costs of up to \$500.

(b) 2<sup>nd</sup> Offense. Where the Defendant has one (1) prior violation, a civil fine of up to \$250 plus costs of up to \$500.

(c) 3<sup>rd</sup> Offense. Where the Defendant has two (2) prior violations, a civil fine of up to \$500 plus costs of up to \$500.

(d) 4<sup>th</sup> Offense. Where the Defendant has three (3) prior violations, a civil fine of up to \$1,000 plus costs of up to \$500.

In addition to the above, said Court may issue and enforce any judgment, writ, or order necessary to enforce this ordinance, including but not limited to ordering abatement of the blight or issuing a standing blight removal order permitting the Village of Lawton to remove said blight and seek post order or judgment compensation for the costs of removal, or grant any other relief permitted by MCL 600.8302.

If 31 days after payment is due in the judgement or order of the court, the amount due in said judgement or order (excluding damages) is not paid, and if the legal description is contained in the Judgement itself, the Judgement may be recorded as a lien on the real property containing the blight pursuant to MCL §600.8731(1).

The costs recoverable are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Village of Lawton has incurred pursuant to MCL §600.8727(3).

(5) The Village Council, Planning Commission or the Village Attorney may institute injunction, mandamus, abatement, or any other appropriate action, or proceedings to prevent, enjoin, abate or remove any blight or blighting factors. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

(6) In addition to enforcement by a law enforcement officer, the Village may designate one or more code enforcement officers to enforce this ordinance.

(7) A "prior violation" as defined by this ordinance, includes a Judgment in favor of the Village for a violation of this Ordinance, and any alleged violation of this Ordinance that was dismissed pursuant to an agreement entered into between the Village of Lawton and the individual, firm or corporation, maintaining or permitting to be maintained the blight.

(Ord. 159, passed 2-12-2002, Amended Effective 5-3-2016) and see Penalty see §93.99

## **§93.02 BURNING**

(A) *Prohibited open burning.*

(1) General prohibition on open burning. Open burning is prohibited in the Village unless the burning is specifically permitted by this Section, or otherwise permitted by the Village Council and in accordance with all Fire Department rules and regulations.

(2) Open burning of refuse. Open burning of refuse is prohibited. Refuse is defined as anything thrown away, waste, or rubbish.

(3) Burning of materials. Burning of trees, logs that do not fit into a burn pit or patio wood-burning unit, shrubbery, brush, stumps, leaves, refuse and grass is prohibited.

(4) Burning of construction and demolition waste. Burning of construction and demolition waste is prohibited.

(5) Burning Barrels prohibited. No person shall install, use, maintain or operate a “burning barrel” or other similar fire resistant container for open burning.

(B) *Permitted outdoor and open burning.*

(1) Outdoor wood-fired boilers. The installation, use, or maintenance of outdoor wood-fired boilers in the Village shall be with the approval of the Village Council and shall be subject to all zoning regulations. Outdoor wood-fired boilers shall not be located closer than 75' from the nearest structure which is not on the same property as the outdoor wood-fired boiler and shall not be a nuisance to neighboring property.

(2) One backyard burn pit or patio unit(s) e.g. barbecue or smoker grill, table top burners, portable fire pits or chiminea, may be used and/or installed in the Village only in accordance with all of the following:

(a) The backyard burn pit or patio unit shall not be used to burn refuse, leaves, brush, grass clippings, or construction or demolition waste.

(b) The backyard burn pit or patio unit shall only burn clean wood or commercially produced fuel products.

(c) The backyard burn pit or patio unit shall be located at least 25 feet from the nearest structure which is not on the same property as the backyard burn pit or patio burning unit.

(d) The backyard burn pit or patio unit shall not cause a nuisance to neighbors.

(e) The backyard burn pit or patio unit shall be approved by the Village or Fire Department.

(f) The backyard burn pit or patio unit shall be attended by an adult at all times until extinguished and any ashes are cold.

(C) *Village Bags.*

The Village Department of Public Works maintains a supply of biodegradable bags for the purpose of bagging leaves and other biodegradable refuse. Bags may be purchased at the Village Clerk's office at such price as the Village Council shall from time to time establish, which price shall be posted at the Department of Public Works and the Clerk's Office. Only bags obtained from the Village shall be used. Each bag shall be sealed at the top by string, metal twisted strip or such other means as shall ensure that the contents will not spill out. Twigs and sticks may be placed in the bags if they do not substantially damage them. Branches and larger sticks or limbs shall be neatly placed next to the bags set out for pick-up, as provided in division (B)(3) below, or upon arrangements made by, and at the expense of, the property owner or the person or persons responsible for the maintenance of the property.

(D) *Village Council Exceptions.*

The Village Council, upon special request, may grant one-time permits for campfires, organizational bonfires and other open burning within the Village, when it deems the same not to be against the public interest and not contrary to the underlying purpose of this Section 93.02. The requests shall be made to the Village Clerk in writing and factually supported by the applicant or his or her representative at the time of the Council's consideration.

(Ord. 78, passed 2-9-1988; Ord. 119, passed 5-22-1990; Ord. 122, passed 9-11-1990 Amended Effective March 29, 2016). Penalty, see §93.99.

**§93.03 SMOKE DETECTORS.**

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

***SLEEPING AREA.*** An area of a building in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate ***SLEEPING AREAS***, but bathrooms are not separate ***SLEEPING AREAS***. Bedrooms or sleeping areas on different floors or levels are separate ***SLEEPING AREAS***.

***SMOKE DETECTOR.*** A device, approved or listed by a recognized independent testing laboratory, which detects visible or invisible particles of combustion other than heat and which, when activated, provides an alarm suitable to warn the occupants.

(B) *Requirements.*

(1) *New dwellings.* The installation of a minimum of one smoke detector per sleeping area is hereby required for all new single- or multiple-occupancy residential dwelling constructed subsequent to the effective date of this section. As an alternative to a smoke detector, a fire detection system may be installed. No fire detection system shall be installed unless a permit is issued therefor by the Building Inspector.

(2) *Existing dwellings.* All existing single- and multiple-occupancy residential structures shall, within three years of the effective date of this section, at the time of any change in ownership or in the case of rental property at the time of any change in tenants or when a structural change or repair is made costing \$1,000 or more, whichever occurs first, shall have installed therein a minimum of one smoke detector per sleeping area or a detection system. No detection system shall be installed unless a permit is issued thereof by the Building Inspector.

(3) *Special installations.* In buildings other than a single-family residence, where a common hallway is used, smoke detectors shall be spaced not more than 25 feet apart in the hallway; in buildings other than a single-family residence, a smoke detector shall be placed on each level, including the basement, of the building.

(4) *Installation.* Each required smoke detector shall be mounted on the ceiling or a wall not more than 12 inches from the ceiling, at a point centrally located in a corridor or area giving access to rooms in each sleeping area. In an efficiency dwelling unit, the detector shall be centrally located on the ceiling of the main rooms. Where sleeping rooms are on an upper level, the detector shall be placed at the center of the ceiling directly above the stairway. Care should be exercised to ensure that the installation will not interfere with the operating characteristics of the detector. When activated, the detector shall provide an audible alarm in the dwelling unit. Smoke detectors with D.C. power supply only are permitted, as are detectors with A.C. power supply backed up by a secondary supply which is D.C. An A.C. only powered unit is not permitted for residential type occupancies. Where A.C. /D.C. combination units are used it is required that all A.C. lines be wired directly to the building's power supply. All D.C. power detectors shall have built-in protection to warn of battery failure.

(5) *Maintenance.* It shall be the responsibility of the owner of each dwelling unit and structure covered by this section to maintain all smoke detectors in good working order. This requirement applies to smoke detectors required to be installed by any state or federal law as well as smoke detectors required to be installed by this section, unless otherwise required by state or federal law.

(Ord. 102, passed 4-14-1987) Penalty, see §93.99

#### **§93.04 FIRE LIMITS; FIRE PREVENTION GENERALLY.**

(A) No building or structure shall hereafter be constructed, altered or removed, nor shall the equipment of a building, structure or premises be constructed, altered or repaired or removed, except in conformity with the provision of this section.

(B) No building or structure shall hereafter be built, enlarged, altered or moved without a permit from the building official to be appointed by the Village Council.

(C) Fire limits of the Village shall be and are hereby declared to be all land or property lying within the following blocks or areas:

(1) Blocks 1, 2, 3, 4, 5, 6 and 7 inclusive of the Original Plat of the Village;

- (2) Tyler's Addition to the Village;
- (3) Block 1 of Furnace Addition to the Village;
- (4) Hight's Addition to the Village;
- (5) Block 8, Whiteheads Addition to the Village;
- (6) Blocks 1, 2 and 3 inclusive, Dodge's Addition to the Village; and

(7) Also those lands, exclusive of Block 1 of Furnace Addition and Hight's Addition to the Village, lying Northerly of the Penn-Central RR right-of-way, Westerly of Main Street (M-119), Easterly of Walker Street and Southerly of White Oak Street in the Village.

(D) Within the fire limits above described, no building or structure shall hereafter be extended on any side or new building constructed or old building moved within the limits unless the construction conforms to the requirements of this section.

(1) No building of frame construction or unprotected metal construction, except private dwellings, shall hereafter be moved from without to within the fire limits.

(2) No building of frame construction or unprotected metal construction or which has a wooden cornice, except private dwellings, except as hereinafter provided in division (D)(3) below, shall be erected hereafter within the fire limits.

(3) Subject to the following provisions, laminated wood trusses may be used only in churches or church buildings used only for religious purposes, but in no event may they be used in any building where general education of schooling takes place.

(a) The char-rating of the trusses must be adequate, in specific ratings from the manufacturer, to conform to underwriter's specifications and the State Inspection Bureau.

(b) The trusses shall not be enclosed.

(c) The trusses may not be re-worked in any manner after their original manufacturer.

(d) Any building in which the trusses are used may not be decked with any combustible material.

(e) The first floor and basement of any building using the trusses must be of a fire-retardant construction.

(Ord. 16, passed 1-6-1970) Penalty, see §93.99

**§93.05 PLACING BUILDING MATERIAL ON SIDEWALKS, STREETS AND THE LIKE.**



(A) No person, either personally or by agent, or employee owing, building or repairing any house or other building shall permit any lumber, brick, plaster, mortar, earth, clay, sand, stone or other material to remain on any sidewalk of the Village after sunset of the day on which it was placed there, without the permission of the Superintendent of Public Works or the Chief of the Police Department.

(B) No person, either personally, by agent or employee shall place any stone, timber, lumber, planks, boards, bricks or other material in or upon any street, alley or public space of the Village, except for the purpose of building, and only then upon permission first obtained from the Superintendent of Public Works or Chief of the Police Department, and the material shall not be allowed to remain in the street, alley or public space after the completion of the building. The space to be used can only be that space in front of the lot or premises upon which the material is to be used and shall not occupy and obstruct more than one-half of any street or alley and, after the building is completed, all building material, dirt and rubbish shall be removed without delay.

(C) It shall be the duty of the person before occupying any public sidewalk, street or alley for any purposes heretofore expressed to file application with the Village Clerk for a permit to use the sidewalk, street or alley. After the application has been made and filed with the Village Clerk, the Superintendent of Public Works or Chief of the Police Department shall investigate the space designated in the application and, if it is approved, may issue a permit stating therein the sidewalk, street or alley to be occupied, and the length of time the permit is to be in force; provided, however, that the applicant, before receiving the permit, shall deposit with the Village Clerk a deposit as established by the Village Council from time to time, to be returned to the applicant if the Superintendent of Public Works or Chief of the Police Department so recommends. It being understood that the facts heretofore stated are the guarantee that the applicant will properly guard by good and sufficient fence or other barrier during the daytime, and guard by a sufficient number of red lanterns during the nighttime, and should the applicant fail to properly guard the material in the opinion of the Superintendent of Public Works or the Chief of the Police Department, then in that event, the Superintendent of Public Works or the Chief of Police may proceed to properly guard same and deduct from the deposit what he or she believes to be a proper charge for the service.

(D) It is understood that any applicant applying for a permit agrees to be responsible for any and all damages resulting to any persons or property as a result of placing any material upon any sidewalk, street or alley.

(Ord. 21, passed 1-6-1970) Penalty, see §93.99

### **§93.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the Chapter or orders, rules, regulations and permits issued thereunder.

## CHAPTER 94: PARKS AND PUBLIC PLACES

### Section

- 94.01 Hours and use generally
- 94.02 Chancey Lewis Park
- 94.99 Penalty

### **§94.01 HOURS AND USE GENERALLY.**

(A) No public use or gatherings in any public park or public place within the Village shall be permitted after 10:00 p.m. local time, or prior to 7:00 a.m. local time, without the express prior permission of the Village Council.

(B) No person shall cause to be conducted, assist, aid, encourage or conduct any illegal activities in a park area.

(C) No person shall cause to be created any excessive or unusual noises, unusual or excessive bright lights, or engage in activity that will unduly disturb persons occupying adjacent properties to any park.

(D) No person shall violate any posted rule or regulation of the Village in any park area.

(E) No person shall litter by any waste, junk, refuse or garbage in any park area.

(F) No person, except a law enforcement officer, shall discharge, bring into or have in their possession in a Village park, any explosive, fireworks, handgun, rifle, shotgun, airgun, pellet gun, spring gun, slingshot, cross bow, bow and arrow, any device from which a projectile can be propelled, any trapping device, any incendiary device, any smoke or other bomb, any disabling chemical or agent, any acid or caustic substance, any flammable liquid except charcoal lighter fluid, propane or camp stove fuel contained in cans properly marked.

### **§94.02 CHANCEY LEWIS PARK**

(A) Chancey Lewis Park shall be closed from one half hour after ~~before~~ sunset until one half hour before sunrise, but no later than 10:00 p.m. or earlier than 7:00 a.m. local time, whichever is more restrictive.

(B) No person shall smoke or chew any tobacco, plant, weed or related product, whether by pipe, cigarette, cigar, e-cigarette, chew, snuff or similar use in any area of the park.

(C) No person shall broadcast any music or sounds by means of any amplifying system whether by speakers, or similar products except in-ear (ear buds) or on-ear (headphones) which do not broadcast sounds to anyone other than the user in any area of the park including the parking lot.

(D) In addition to the penalties as set forth herein, a person who violates or fails to comply with Paragraphs (B) or (C) above may first be asked to stop the conduct in violation of these restrictions or be asked to leave the premises.

(E) Any person found to have violated Paragraphs (B) or (C) by a court of competent jurisdiction shall be penalized as follows:

(1) 1<sup>st</sup> Offense. A civil fine of up to \$50 plus costs of up to \$250.

(2) 2<sup>nd</sup> Offense. Where the Defendant has one (1) prior violation, a civil fine of up to \$100 plus costs of up to \$500.

(3) 3<sup>rd</sup> Offense. Where the Defendant has two (2) prior violations, a civil fine of up to \$500 plus costs of up to \$500.

(F) The Village Council may grant exceptions to these provisions for any appropriate event or special use.

(Ord. 80, passed 8-18-1981, Revised 6-11-2013, Revised 8-09-2016) Penalty, see §94.99

#### **§94.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the Chapter or orders, rules, regulations and permits issued thereunder.

## CHAPTER 95: MEDICAL MARIHUANA

### Section

- 95.01 Findings
- 95.02 Purpose
- 95.03 Definitions
- 95.04 Compliance required
- 95.05 Requirements for qualifying patients
- 95.06 Requirements for primary caregiver

- 95.99 Penalty

### **§95.01 FINDINGS.**

(A) Voters in the State of Michigan approved the referendum authorizing the use of marihuana for certain medical conditions.

(B) The intent of the referendum was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate/grow, use and distribute marihuana and to assist specifically registered individuals identified in the statute without fear of criminal prosecution under limited, specific circumstances.

(C) Despite the specifics of the state legislation and the activities legally allowed, as set forth therein, marihuana is still a controlled substance under Michigan law and the legalization of obtaining, possessing, cultivating/growing, using and distributing in specific circumstances, has a potential for abuse that should be monitored closely and, to the extent permissible, regulated by local authorities.

(D) If not closely monitored or regulated, the presence of marihuana even for the purposes legally permitted by the legislation can present an increase for illegal conduct and/or activity and this threat affects the health, safety and welfare of the residents of the Village of Lawton, Michigan.

It is the intention of the Village Council of the Village of Lawton, Michigan, that nothing in this Ordinance be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, possession or control of marihuana for non-medical purposes or allow activity relating to cultivating/growing, distributing or consuming marihuana that is otherwise illegal.

### **§95.02 PURPOSE.**

It is the purpose of this Ordinance to impose specific requirements for those individuals registering with the State of Michigan as a “qualifying patient” or “primary caregiver,” as those

terms are defined in MCL §333.26421, the Michigan Medical Marihuana Act, and to regulate the conduct of activity pursuant thereto in the Village of Lawton, Michigan so as to protect the health, safety and welfare of the general public.

### **§95.03 DEFINITIONS.**

For purposes of this Ordinance, the words and phrases as contained herein shall have the meanings as set forth in MCL §333.26423 and the regulations adopted by the State of Michigan, Department of Community Health, pursuant to authority conferred by Section 5 of Initiated Law 1 of 2008..

### **§95.04 COMPLIANCE REQUIRED.**

Those individuals within the Village of Lawton, Michigan who are “registered qualifying patients” or “registered primary caregivers” as those terms are used in the Michigan Medical Marihuana Act, shall comply with the requirements set forth herein for qualifying patients, Section 5, and for primary caregivers, Section 6.

### **§95.05 REQUIREMENTS FOR QUALIFYING PATIENTS**

A person within the Village of Lawton, Michigan who has been issued and possesses a valid registry identification card or its equivalent as a qualifying patient, as set forth in MCL §333.26421 *et seq.*, as amended, shall comply with the following requirements:

- (A) Consumption of marihuana shall not occur in any public place.
- (B) Growing of marihuana shall only be allowed inside an enclosed structure or building with walls and roof and secured with locks to prevent unintended or uninvited access.
- (C) Any unauthorized access and/or removal of marihuana from the structure or building shall be reported to the Lawton Police Department as soon as possible after discovery. Failure to report an unauthorized access or removal within 24 hours after discovery shall be a violation of this Ordinance and subject the owner to the penalties specified in Section §95.07.
- (D) Three unauthorized break-ins and/or thefts from the same building or structure within a twelve month period shall be conclusive evidence that the premises are not secure and thereafter no marihuana shall be grown or cultivated therein, except by Order of the Lawton Police Chief, after consultation with the Village Council.
- (E) The location from which a qualifying patient grows, cultivates or consumes marihuana shall not be within 1,000 feet of a drug-free school zone and shall only occur as permitted and defined under the Zoning Ordinance of the Village of Lawton, Michigan as a “home occupation.”

## **§95.06 REQUIREMENTS FOR PRIMARY CAREGIVER.**

A person within the Village of Lawton, Michigan who has been issued and possesses a valid registry identification card or its equivalent as a primary caregiver as set forth in MCL §333.26421 shall comply with the following requirements:

(A) The growing or cultivating of marihuana shall only be allowed inside an enclosed structure or building with walls and roof secured with locks to prevent unintended or uninvited access.

(B) Any unauthorized access and/or removal of marihuana from the structure or building shall be reported to the Lawton Police Department as soon as possible after discovery. Failure to report an unauthorized access or removal within 24 hours after discovery shall be a violation of this Ordinance and subject the owner to the penalties specified in Section §95.07.

(C) Three unauthorized break-ins and/or thefts from the same building or structure within a twelve month period shall be conclusive evidence that the premises are not secure and thereafter no marihuana shall be grown or cultivated therein, except by Order of the Lawton Police Chief, after consultation with the Village Council.

(D) The location from which a primary caregiver provides services to a qualifying patient shall be under the control, through written lease, contract or deed, in favor of the primary caregiver or the qualifying patient.

(E) The location from which a primary caregiver grows, cultivates or otherwise provides services to a qualifying patient shall not be used by another primary caregiver, for that primary caregiver's services, as allowed under the Michigan Medical Marihuana Act.

(F) The location from which a qualifying patient grows, cultivates or consumes marihuana shall not be within 1,000 feet of a drug-free school zone and shall only occur as permitted and defined under the Zoning Ordinance of the Village of Lawton, Michigan as a "home occupation."

(G) Cultivating/growing or distributing marihuana shall not occur in connection with/or at a location at which any other commodity, product or service is also available.

(H) No consumption of marihuana shall occur at a primary caregiver's location for cultivating/growing, or a primary caregiver's legal residential address, except by a qualifying patient residing on the premises.

(I) A primary caregiver who provides service to more than one qualifying patient shall register with the Lawton Village Police Department, which shall keep a non-public record of the location and identification of the primary caregiver.

## **§95.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the Chapter or orders, rules, regulations and permits issued thereunder.

(Ord.186, passed 11-9-2010)



## **TITLE XI: BUSINESS REGULATIONS**

Chapter

### **110. GENERAL BUSINESS REGULATIONS**

## CHAPTER 110: GENERAL BUSINESS REGULATIONS

### Section

- 110.01 Telecommunications providers
- 110.02 Yard and garage sales
- 110.03 Garbage
- 110.04 Peddlers, Solicitors and Temporary Businesses
- 110.05 Handbills; advertising

110.99 Penalty

### §110.01 TELECOMMUNICATIONS PROVIDERS.

(A) *Purpose.* The purposes of this section are to regulate access to and on-going 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 (Public Act 48 of 2002, being MCL §484.3101 *et seq.*, as amended) (“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.

(B) *Conflict.* Nothing in this section shall be construed in such a manner as to conflict with the Act or other applicable law.

(C) *Definitions.*

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

**ACT.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Public Act 48 of 2002, being MCL §484.3101 *et seq.*, as amended).

**PERMIT.** A non-exclusive permit issued pursuant to the Act and this section to a telecommunications provider to use the public rights-of-way in the Village for its telecommunications facilities.

**VILLAGE.** The Village of Lawton.

**VILLAGE CLERK.** The Village Clerk or designee.

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

(2) All other terms used in this section shall have the same meaning as defined or as provided in the Act, including, without limitation, the following.

**AUTHORITY.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority, created pursuant to §3 of the Act, being MCL §484.3103.

**MPSC.** The Michigan Public Service Commission in the Department of Licensing and Regulatory Affairs, or its successor, and shall have the same meaning as the term “Commission” in the Act.

**PERSON.** An individual, corporation, limited liability company, partnership, association, governmental entity or any other legal entity.

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

**TELECOMMUNICATION FACILITIES** or **FACILITIES.** The equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes and sheaths, which are used to or can generate, receive, transmit, carry, amplify or provide telecommunication services or signals. **TELECOMMUNICATION FACILITIES** or **FACILITIES** do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally-licensed commercial mobile service, as defined in §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 C.F.R. §20.3, and service provided by any wireless, two-way communication device.

**TELECOMMUNICATIONS PROVIDER, PROVIDER** and **TELECOMMUNICATIONS SERVICES.** Those terms as defined in §102 of the Michigan Telecommunications Act, Public Act 179 of 1991, being 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 §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 C.F.R. §20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this section only, a **PROVIDER** also includes all of the following:

1. A cable television operator that provides a telecommunications service;
2. Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way; and
3. A person providing broadband Internet transport access service.

(D) *Permit required.*

(1) *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 section.

(2) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with §6(1) of the Act, being MCL §484.3106(1). A telecommunications provider shall file three copies of the application with the Village Clerk. Upon receipt, the Village Clerk shall make copies of the application and distribute a copy to the Superintendent of Public Works and 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 §6(5) of the Act, being MCL §484.3106(5).

(3) *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, Public Act 442 of 1976, being MCL §15.231 *et seq.*, pursuant to §6(5) of the Act, being MCL §484.3106(5), the telecommunications provider shall prominently so indicate on the face of each map.

(4) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in an amount established by the Village Council from time to time.

(5) *Additional information.* The Village may request an applicant to submit such additional information the Village deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for additional information established by the Village. 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 §6(2) of the Act, being MCL §484.3106(2).

(6) *Previously issued permits.* Pursuant to §5(1) of the Act, being MCL §484.3105(1), authorizations or permits previously issued by the village under §251 of the state's Telecommunications Act, Public Act 179 of 1991, being MCL §484.2251 and authorizations or permits issued by the Village to telecommunications providers prior to the 1995 enactment of §251 of the state's Telecommunications Act, but after 1985 shall satisfy the permit requirements of this section.

(7) *Existing providers.* Pursuant to §5(3) of the Act, within 180 days from 11-1-2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the village as of the date, that has not previously obtained authorization or a permit under §251 of the state's Telecommunications Act, Public Act 179 of 1991, being MCL §484.2251, shall submit to the Village an application for a permit in accordance with the requirements of this section. Pursuant to §5(3) of the Act, a telecommunications provider submitting an application under this division is not required to pay the application fee required under division (D)(4) above. A provider under this division shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in §5(4) of the Act.

(E) *Issuance of permit.*

(1) *Approval or denial.* Pursuant to §15(3) of the Act, being MCL §484.3115(3), the Village Council shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under division (B)(2) above for access to a public right-of-way within the Village. Pursuant to §6(6) of the Act, being MCL §484.3106(6), the Village Clerk shall notify the MPSC when the Village Council has granted or denied a permit, including information regarding the date on which the application was filed and the date on which the permit was granted or denied. The Village shall not unreasonably deny an application for a permit. A copy of the application form as approved by the Commission can be obtained on the Internet at <http://www.cis.state.mi.usimpsc/conirn/rightofway/rightofway.htm>.

(2) *Form of permit.* If an application for permit is approved, the Village shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with §6(1), 6(2) and 15 of the Act , being MCL §484.3106(1),(2) and §484.3115.

(3) *Conditions.* Pursuant to §15(4) of the Act, being MCL §484.3115(4), the Village 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.

(4) *Bond requirement.* Pursuant to §15(3) of the Act, being MCL §484.3115(3), and without limitation on division (E)(3) above, the Village 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.

(F) *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, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(G) *Conduit or utility poles.* Pursuant to §4(3) of the Act, being MCL §484.3104(3), obtaining a permit or paying the fees required under the Act or under this section does not give a telecommunications provider a right to use conduit or utility poles.

(H) *Route maps.* Pursuant to §6(7) of the Act, being MCL §484.3106(7), a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the Village, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the Village. The route maps should be in paper or electronic format unless and until the MPSC determines otherwise, in accordance with §6(8) of the Act, being MCL §484.3106(8).

(I) *Repair of damage.* Pursuant to §15(5) of the Act, being MCL §484.3115(5), a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public

right-of-way in the Village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition. Copies of the permit forms currently approved by the MPSC can be obtained on the Internet at <http://www.cis.state.mi.us/mpsc/comm/rightofway/rightofway.htm>.

(J) *Establishment and payment of maintenance fee.* In addition to the non-refundable application fee paid to the Village set forth in division (D)(4) above, a telecommunications provider with telecommunications facilities in the village's public right-of-way shall pay an annual maintenance fee to the Authority pursuant to §8 of the Act, being MCL §484.3108.

(K) *Modification of existing fees.* In compliance with the requirements of §13(1) of the Act, being MCL §484.3113(1), the Village hereby modifies, to the extent necessary, any fees charged to telecommunications providers after 11-1-2002, 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 §13(4) of the Act, being MCL §484.3113(4), the Village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the Village's boundaries, so that those providers pay only those fees required under §8 of the Act, being MCL §484.3108. The Village shall provide each telecommunications provider affected by the fee with a copy of this section, in compliance with the requirement of §13(4) of the Act, being MCL §484.3113(4). 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, the imposition is hereby declared to be contrary to the Village's policy and intent, and upon application by a provider or discovery by the Village, shall be promptly refunded as having been charged in error.

(L) *Savings clause.* Pursuant to §13(5) of the Act, being MCL §484.3113(5), if §8 of the Act, being MCL §484.3108 is found to be invalid or unconstitutional, the modification of fees under division (K) above shall be void from the date the modification was made.

(M) *Use of funds.* Pursuant to §10(4) of the Act, being MCL §484.3110(4), all amounts received by the Village from the Authority shall be used by the Village solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the Village from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the Village under Public Act 51 of 1951, being MCL §247.651 *et seq.*

(N) *Annual report.* Pursuant to §10(5) of the Act, being MCL §484.3110(5), the Village Clerk shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

(O) *Cable television operators.* Pursuant to §13(6) of the Act, being MCL §484.3113(6), the Village shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after 11-1-2002, 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.

(P) *Existing rights.* Pursuant to §4(2) of the Act, being MCL §484.3104(2), except as expressly provided herein with respect to fees, this section 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.

(Q) *Compliance.* The Village hereby declares that its policy and intent in adopting this section is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The Village shall comply in all respects with the requirements of the Act, including, but not limited to, the following:

(1) Exempting certain route maps from the Freedom of Information Act, Public Act 442 of 1976, being MCL §15.231 to §15.246, as provided in division (D)(3) above;

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with division (D)(4) above;

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing the providers from the application fee, in accordance with division (D)(7) above;

(4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the Village, in accordance with division (E)(1) above;

(5) Notifying the MPSC when the Village has granted or denied a permit, in accordance with division (E)(1) above;

(6) Not unreasonably denying an application for a permit, in accordance with division (E)(1) above;

(7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in division (E)(2) above;

(8) 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 division (E)(3) above;

(9) 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 division (E)(4) above;

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with division (F) above;

(11) Providing each telecommunications provider affected by the Village's right-of-way fees with a copy of this section, in accordance with division (K) above;

(12) Submitting an annual report to the Authority, in accordance with division (N) above; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with division (O) above.

(R) *Reservation of police powers.* Pursuant to §15(2) of the Act, being MCL §484.3115(2), this section shall not limit the Village's right to review and approve a telecommunication provider's access to and on-going use of a public right-of-way or limit the Village's authority to ensure and protect the health, safety and welfare of the public. (Ord. 167, passed 12-9-2003) Penalty, see §110.99

#### **§110.02 YARD AND GARAGE SALES.**

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

**PERSON.** Individuals, partnerships, limited partnerships, limited liability companies, corporations and voluntary associations except non-profit organizations duly qualified and existing under the laws of the state or the United States.

**YARD OR GARAGE SALE.** All garage, lawn, porch, attic, yard, barn, auction, rummage, flea market or other similar casual sales of tangible personal property in a residential zone by a person, which is advertised in any manner to the general public.

(B) *Conducting.* No sale shall last more than three consecutive days and no more than two sales may be conducted on a premises within any given calendar year.

(C) *Permits.* No advertising signs shall be erected and no sale conducted until a permit has been applied for and issued by the Village Clerk. (Ord, amend passed 6-12-2012)

#### **§110.03. GARBAGE; STORAGE AND COLLECTION.**

(A) No person shall store any trash, refuse or similar debris outside of any building, except in a closed metal or rigid plastic container or dumpster in good condition. However, on designated pick-up days, the same contained in boxes or plastic bags may be positioned at curbside, for pick-up. All containers not removed during the pick-up, and any spills, shall be removed and cleaned up that day.



(B) The cover on the container or dumpster shall, at all times, fit snugly and provide a good seal and shall be kept in a closed position on the container or dumpster at all times, except during filling or emptying, so as to prevent the blowing of trash, refuse or similar debris, the attraction of insects, rodents or other animals, or the emission of odors or other noxious fumes.

(C) Except for commercial dumpsters located in areas zoned for commercial or industrial use, or temporary ones installed during the building or remodeling of a structure, all containers kept out-of-doors shall be positioned adjacent to the building or in a screened or enclosed area. On collection day, the containers shall be placed at curbside for pickup and returned to their normal location when emptied.

(D) Except for garbage, the above provisions shall not only apply during the specific dates established and noticed by the Village Council for the annual "Clean-Up Week", during which trash, refuse or similar debris may be set at curbside in plastic bags, boxes or other containers or, if appropriate, without containers for pickup by the Village; subject, however, to additional published instructions as the Village may issue for that collection period.

(E) This section shall not modify any additional requirements of any superior governing body or unit of or any agency thereof having jurisdiction of or control over the matters contained herein, but shall be deemed, at all times, supplemental thereto.

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

***GARBAGE.*** Waste resulting from the handling, preparation, cooking or consumption of food; wastes from the handling, storage and sale of produce; any organic matter subject to decay, excepting, however, yard trimmings, small branches of trees or bushes or leaves.

***TRASH, REFUSE or SIMILAR DEBRIS.*** Combustible material, including, but not limited to, paper, cartons, boxes, barrels, clothing or bedding; non-combustible material, including, but not limited to, metals, tin cans, glass, small quantities of rock or pieces of concrete. (Ord. 96, passed 4-22-1986; Ord. 131, passed 10-12-1993) Penalty, see §110.99

#### **§110.04 PEDDLERS, SOLICITORS AND TEMPORARY BUSINESSES.**

(A) **PURPOSE.** The purpose of this chapter shall be to protect the health, safety and welfare of the citizens of the Village by regulating solicitors, transient merchants, door-to-door salespersons, roadside stands, street vendors and other temporary businesses.

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

***ROADSIDE STAND or TEMPORARY BUSINESS.*** Any place at which food, goods, wares, merchandise or services are sold or offered for sale, other than from a permanent structure duly approved for such use.

**SOLICITOR or DOOR-TO-DOOR SALESPERSON.** Any person who sells or offers for sale any food, goods, wares, merchandise or services by traveling about the Village and, in the course of business, enters upon residentially-owned property.

**TRANSIENT MERCHANT.** Any person who temporarily offers for sale or sells any food, goods, wares, merchandise or services from a permanent structure duly approved for the use.  
*Statutory reference: Transient Merchants, see MCL §445.371 et seq.*

(C) **LICENSE REQUIRED.** Solicitors, transient merchants, door-to-door salespersons, roadside stands, temporary businesses shall not operate within the Village without first obtaining a license in compliance with the provisions of this chapter.

(D) **APPLICATION FOR LICENSE.** Persons required to obtain a license shall apply for it at the office of the Village Clerk. Each individual solicitor will apply for a license and provide a valid driver's license or State ID. The content of the application form shall be prescribed by the Village Clerk and approved by the Village Council. *Statutory reference: Home solicitation sales, see MCL §445.111 et seq.*

(E) **FEES REQUIRED.** A license fee, set by resolution of the Village Council, shall be paid in full prior to issuance of the license.

(F) **EXEMPTIONS.**

(1) The following persons shall not be required to obtain licenses as specified herein and shall not be required to pay the fees prescribed herein; duly authorized solicitors on behalf of any religious organization and any locally recognized charitable, educational or other approved organization and any other persons otherwise exempted by law. The Village Clerk, or Village Council on appeal from a determination by the Village Clerk, shall make the final determination regarding exemptions. Exempt persons or organizations shall be required to register with the Village Clerk for identification purposes when engaging in any activity regulated by this Section.

(2) Persons selling newspapers, commercial travelers or selling agents calling upon commercial establishments in the usual course of business, and any business operating under the auspices of a civic event sanctioned by the Village, shall not be required to obtain a license.

(3) *Persons selling food, goods, wares or merchandise made, constructed or grown on the premises.*

(G) **INVESTIGATION AND ISSUANCE; NOTICE OF DENIAL.**

(1) Upon receipt of an application for a solicitor's or temporary business license, the Village Clerk and the Chief of Police may cause the investigation of the person's or persons' business responsibility and character to be made as they deem necessary for the protection of the public good. If, as a result of the investigation, the applicant's character and business reputation appear to be satisfactory, the Village Clerk shall proceed to issue a license.

(2) The Village Clerk shall keep a full record of all licenses issued and shall submit a copy of the record to the Chief of Police. Within three working days of receipt of an application, the Village Clerk shall either issue to the applicant the requested license or issue a written notice of denial and the reason therefor. The person whose license has been denied shall have the right to appeal to the Village Council within seven days of the denial.

(H) EXPIRATION OF LICENSE. All licenses issued under the provisions of the chapter shall expire as of the date listed on the face thereof.

(I) REVOCATION OF LICENSE; APPEAL.

(1) The licenses issued pursuant to this chapter may be revoked at any time by the Village Clerk or the Chief of Police, or their duly authorized representatives, for any of the following reasons:

(a) Any fraud, misrepresentation or false statement contained in the application for license;  
(b) Any fraud, misrepresentation or false statement contained in connection with the selling of food, goods, wares, merchandise or services;

(c) Any violation of a Village ordinance, including the Village zoning ordinances, building codes and the Village sign ordinance;

(d) Conviction of the applicant or other persons acting under the authority of the applicant's license for any felony or of a misdemeanor conviction involving moral turpitude within five years; and/or

(e) Conducting the business permitted under this chapter in an unlawful manner or in such a manner as, to constitute a breach of the peace, nuisance or a menace to the health, safety or general welfare of the public.

(2) Within three working days of the revocation of a license, the Village Clerk shall send to the person whose license has been revoked, notice setting forth specifically the grounds of the revocation. The notice shall be mailed to the person to whom the license was issued at the address shown on the license application.

(3) The person whose license has been revoked shall have the right to appeal to the Village Council within seven days of the revocation.

(J) DISPLAY OF LICENSE. Any person or business licensed under the provisions of this chapter shall have the license issued to him or her in his or her immediate possession and shall display the same upon demand of any duly authorized representative of the Village. Solicitors shall produce their license upon demand by any person.

(K) HOURS OF BUSINESS. No person shall engage in any door-to-door soliciting or operate any roadside stand or other temporary business at any place in the Village during the period from 8:00 p.m. until 9:00 a.m.

(L) LOCATION. Roadside stands and temporary businesses shall comply with the following location requirements.

(1) When located upon private property, the stands or businesses must be located within the central business district or a commercial use district provided in the Village Zoning Ordinance.

(2) When located within a public right-of-way, such stands or businesses must, if not continually moving:

(a) Be located within or adjacent to the central business district or a commercial use district as provided in the Village Zoning Ordinance;

(b) Be at least ten feet from the traveled portion of any public drive, roadway or alley; and

(c) Provide at least six feet clearance on all public walks or pedestrian ways.

(3) When located on public property other than the public rights-of-way, the stands or businesses shall be permitted at the discretion of the Village Council. The Village Council may, by

ordinance or resolution, establish such additional programs or requirements it deems fit for the operation on public property of any business regulated by this chapter.

(M) SALES FROM A VEHICLE. It shall be unlawful for any person traveling about the Village doing business from any vehicle which is self-propelled, propelled by human power or propelled by any other means to:

- (1) Operate a vehicle when under the age of 18 years;
- (2) Double park in any manner;
- (3) Operate the vehicle backwards in making or attempting to make a sale;
- (4) Permit any person to hang on the vehicle;
- (5) Refuse to remove the vehicle from any street, sidewalk or public place in the Village upon the request of a police officer when, in the opinion of the police officer, the vehicle is causing traffic congestion;
- (6) Cry their wares in a loud voice or use any noise-making device other than a soft chime *so as to not violate Chapter 130 Section 130.07 of this Codified Ordinance being the Village of Lawton Noise Ordinance*; or
- (7) Make or attempt to make a sale from a side of a vehicle not closest to the nearest curb or edge of roadway.

(N) RESTRICTIONS ON OPERATIONS OF SOLICITORS, ROADSIDE STANDS AND TEMPORARY BUSINESSES.

(1) The Village Clerk or Chief of Police may place such reasonable restrictions upon the location, hours, provisions for parking, ingress or egress or methods of operation of any solicitor, roadside stand or temporary business licensed under this chapter, as deemed necessary to protect the general public health, safety or welfare. The restrictions may be imposed, modified or withdrawn at the time of licensure or any point thereafter.

(2) The Village Council may, by resolution, establish general policies and guidelines, in addition to the provisions of this chapter, governing the location, hours or methods of operation of solicitors, roadside stands or temporary business in general, or any class thereof. Any such resolution shall not have the effect of invalidating any license already issued.

(O) ENFORCEMENT. The Chief of Police and the Village Clerk and their duly authorized representatives shall have the authority to examine all places of business and persons within the Village, subject to the provisions of this chapter, to determine if this chapter has been complied with and to enforce the provisions of this chapter against any person found to be violating same.

(P) RELATIONSHIP TO OTHER ORDINANCES. The terms of this chapter shall in no manner alter the interpretation or requirements of any other chapter of the Village Code, whether the person is licensed or exempt under this ordinance shall comply with all applicable provisions of the Village's Zoning, Sign and Building Codes. The Village Clerk may require evidence of compliance with the codes prior to issuing a license.

Penalty, see §110.99 & 130.99

(Ord. 5, passed 1-6-1970), Revised 6-11-2013.

LICENSE # \_\_\_\_\_

# **PEDDLING, SOLICITING & TEMPORARY BUSINESS** **APPLICATION AND LICENSE**

\*\*\*Solicitors, transient merchants, door-to-door salespersons, roadside stands, temporary businesses shall not operate within the Village without first obtaining a license\*\*\*

APPLICANT FULL NAME: \_\_\_\_\_  
(VALID STATE IDENTIFICATION REQUIRED)

APPLICANT ADDRESS: \_\_\_\_\_  
(OR AFFILIATED ORGANIZATION)

DATES & HOURS OF OPERATION \_\_\_\_\_ TO \_\_\_\_\_

LOCATION OF PROPOSED ACTIVITY \_\_\_\_\_  
(Indicate if Door to Door or Fixed Site)

VEHICLE DESCRIPTION & LICENSE PLATE NO. \_\_\_\_\_  
(If Applicable) (Year) (Make) (Model)

STATE SALES TAX LICENSE # (Applicable for all sales) \_\_\_\_\_

HEALTH DEPARTMENT FOOD SERVICE LICENSE (Current Year exp. \_\_\_\_\_) Copy required

TELEPHONE NO. \_\_\_\_\_

Date of Application: \_\_\_\_\_ Signature of Applicant: \_\_\_\_\_

.....  
APPROVED: Date: \_\_\_\_\_, \_\_\_\_\_ Lawton Clerk or designee

FEE: \$ 50.00/MO. COLLECTED: \$ \_\_\_\_\_ EXEMPT \_\_\_\_\_ (06/13)

## **§110.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the Chapter or orders, rules, regulations and permits issued thereunder.

**§110.05 HANDBILLS; ADVERTISING.**

(A) No person shall scatter any hand bills, cards or other advertising matter in the public streets, alleys, parking areas or public places of the Village.

(B) No person shall paste, nail or, in any way, attach any poster, showbill, handbill, placard or other advertising matter upon any post, pole, fence, wall, tree, sidewalk, pavement or any other structure or place within the public streets, alleys, parking areas or public places of the Village.

(C) This section shall not apply to advertisements required by law or necessary to judicial proceedings.  
(Ord. 4, passed 1-6-1970). Penalty, see §110.99.

**§110.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the Chapter or orders, rules, regulations and permits issued thereunder.

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL OFFENSES**

## CHAPTER 130: GENERAL OFFENSES

### Section

- 130.01 Curfew
- 130.02 Alcoholic beverages on village property
- 130.03 Meetings; unlawful disturbance
- 130.04 Property; damaging or tampering
- 130.05 Hunting prohibited; firearms
- 130.06 Loitering
- 130.07 Noise
  
- 130.99 Penalty

### §130.01 CURFEW.

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

#### ***CURFEW HOURS.***

- (a) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. local time the following day; and
- (b) 12:01 a.m. until 6:00 a.m. local time on any Saturday or Sunday.

***EMERGENCY.*** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

***ESTABLISHMENT.*** Any privately-owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

***GUARDIAN.*** A person who, under court order, is the guardian of the person of a minor, or a public or private agency with whom a minor has been placed by a court.

***JUVENILE.*** Any person under 17 years of age.

***MINOR.*** Any person under 18 years of age.

***OPERATOR.*** Any individual, firm, association, partnership, limited liability company or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association, partnership or limited liability company and the officers of a corporation.



***PARENT.***

- (a) A natural parent, adoptive parent or step-parent of another person; or
- (b) A person at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

***PUBLIC PLACE.*** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, nursing homes, apartment houses, office buildings, shops and similar operations.

***REMAIN.*** To linger or stay, or to fail to leave premises when requested to do so by a police officer, or the owner, operator or other person in control of the premises.

***SERIOUS BODILY INJURY.*** Injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B) *Offenses.*

(1) A minor commits an offense if he or she remains in any public place or on the premises or any establishment within the village during curfew hours.

(2) A parent or guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the village during curfew hours.

(3) The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) *Defenses.*

(1) It is a defense to prosecution under division (B) above that the minor was:

(a) Accompanied by the minor's parent or guardian or an adult specifically authorized by the parent or guardian;

(b) On an errand at the direction of the minor's parent or guardian, without a detour or stop;

(c) Was in a motor vehicle involved in interstate travel;

(d) Was engaged in an employment activity, or going to and returning from home from an employment activity, without any detour or stop;

(e) Was involved in an emergency;

(f) Was on the sidewalk abutting the minor's residence or abutting the residence next door, if the neighbor did not complain to the Police Department about the minor's presence;

(g) Was attending an official school, religious or other recreational activity supervised by adults and sponsored by the Village, the school, a civic organization, church or similar entity that takes responsibility for the minor or going to and returning home from same without detour or stop;

(h) Exercising the First Amendment rights protected by the U.S. Constitution, such as free exercise of religion, freedom of speech and right of assembly; and

(i) Is married, has been married or is otherwise an emancipated minor under state law.

(2) It is a defense to prosecution under division (B)(3) above that the owner, operator or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation or make an arrest unless the officer reasonably believes that an offense has occurred and that, based on any response or other circumstances, no defense as heretofore set is present.

(Ord. 135, passed 10-11-1994) Penalty, see §130.99

### **§130.02 ALCOHOLIC BEVERAGES ON VILLAGE PROPERTY.**

It shall be unlawful to possess or control any unsealed alcoholic beverage or to consume any alcoholic beverage on any property within the Village owned or controlled by the Village, unless specific authority has been given by the Village Council.

(Ord. 106, passed 12-8-1987) Penalty, see §130.99

### **§130.03 MEETINGS; UNLAWFUL DISTURBANCE.**

No person shall make or excite any disturbance or contention in any tavern, store or grocery, manufacturing establishment or any other business place, or in any street, alley, highway, public building, grounds or park, or at any election or other public meeting where citizens are peaceably and lawfully assembled.

(Ord. 42, passed 3-3-1970) Penalty, see §130.99

### **§130.04 PROPERTY; DAMAGING OR TAMPERING.**

It shall be unlawful for any person to tamper with or, in any way, damage any property, real or personal, owned by the Village.

(Ord. 37, passed 3-3-1964) Penalty, see §130.99

### **§130.05 HUNTING PROHIBITED; FIREARMS.**

(A) It shall be unlawful for any person to hunt or pursue wild game within the village.

(B) It shall be unlawful for any person to carry, draw, handle or flourish a gun or other firearms, unless the gun or other firearm shall be unloaded in both barrel and magazine within the village.

(C) It shall be unlawful for any person to intentionally fire or discharge a gun or other firearm within the village.

(D) The provision herein contained shall not apply to any peace officer of the state or any subdivision thereof who is regularly employed and paid by the state or the subdivision, or to any member of the Army, Navy or Marine Corps of the United States or of organizations authorized by law to purchase or receive weapons from the United States or from the state, nor to the National Guard or other duly authorized military organizations when on duty or drill, nor to the members thereof in going to or returning from their customary place of assembly or practice, nor to a person licensed by the state or other state to carry a pistol concealed upon his or her person when the pistol shall be employed for the purpose for which the license was granted, nor to the regular and ordinary transportation.

(Ord. 35, passed 9-4-1945) Penalty, see §130.99

### **§130.06 LOITERING.**

(A) A person commits a violation if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impractical, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspect's escape.

(B) It shall be unlawful for any person, after first being warned by a police officer, or where a "no loitering" sign or signs have been posted, to loiter, stand, sit, or lie in or upon any public or quasi-public sidewalk, street, curb, cross-walk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct, or prevent free access to the entrance to any building open to the public.

(C) For the purpose of this section, **PUBLIC PLACE** has the following definition unless the context clearly indicates or requires a different meaning: an area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Penalty, see §130.99

### **§130.07 NOISE**

(A) No person shall cause, create or continue any loud, unnecessary, unreasonable or improper noise or disturbance which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the Village.

(B) Except as otherwise permitted by the Village Council, the following noises and disturbances are hereby declared to be a violation of this section, but this enumeration is not exclusive:

(1) The sounding of any horn, whistle or signal device by any person or on any automobile, motorcycle, bus, or other vehicle for any purpose, except as a danger warning.

(2) The playing of any radio, phonograph, musical instrument or other machine or device for producing or reproducing sound in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of other persons.

(3) Yelling, shouting, hooting, whistling or singing on the public streets or any other public place between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity.

(4) The keeping of any animal, bird or fowl which emanates frequent or extended noise which shall disturb the quiet, comfort and repose of any person in the vicinity.

(5) The erection, excavation, demolition, alteration, or reconstruction of any building or premises in any residential district in such a manner as to create noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 a.m. and sundown, except in the case of urgent necessity in the interest of public health and safety, upon receipt of a permit thereof from the building inspector of the Village, which permit shall limit the times and period that the activity may continue.

(6) The emission or creation of any excessive noise on any street or adjacent property which unreasonably interferes with the operation of any school, court, church, nursing home or assisted living facility.

(7) The creation of any loud or excessive noise unreasonably disturbing to other persons in the vicinity in connection with the loading or unloading of any vehicle, trailer, or other carrier, or in connection with the opening or destruction of bales, boxes, crates, or other containers.

(8) The use of any instrument or device for the purpose of attracting attention to any performance, show, sale or display of merchandise which, by the creation of such noise, shall be unreasonably disturbing to other persons in the vicinity.

(9) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, electric or turbine motor or fan, except through a muffler or other device which effectively prevents loud or explosive noises.

(C) None of the prohibitions enumerated in subsection B of this section shall apply to any of the following:

(1) Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.

(2) Excavation or repair of bridges, streets or highway by or on behalf of the Village, state or county at any time when the public welfare, safety and convenience render it impossible to perform such work during other hours.

(D) It shall be *prima facie* evidence of a violation of this section if the noise or disturbance is plainly audible from a distance of 50 feet or more.

(E) The provisions of this section are deemed to be in addition to any other noise regulations set out in the Code.  
(Ord, amend passed 5-15-2012) Penalty, see §130.99

### **§130.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by

appropriate Court action against the person found to have violated the Chapter or orders, rules, regulations and permits issued thereunder.

## **TITLE XV: LAND USAGE**

### Chapter

- 150. BUILDING REGULATIONS; CONSTRUCTION**
- 151. GROUND WATER PROTECTION**
- 152. SITE CONDOMINIUM DEVELOPMENT**
- 153. ZONING**

## CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

### Section

#### *Adopted Codes*

150.01 Building Code; adoption  
150.02 Construction Board of Appeals

#### *General Regulations*

150.15 Dividing lots  
150.16 House trailers and recreational vehicles  
  
150.99 Penalty

#### **ADOPTED CODES**

### **§150.01 BUILDING CODE; ADOPTION.**

(A) *Generally.* There is hereby adopted by reference by the village the Michigan State Building Code for the purpose of establishing rules and regulations for the construction, alteration, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties.

(B) *Establishment of Office of Building Inspector.*

(1) The Office of Building Inspector is hereby created and the executive official in charge shall be known as the Building Inspector.

(2) The Building Inspector shall be appointed by the Village President by and with the consent of the Village Council.

(3) During the temporary absence or disability of the Building Inspector, the Village President shall designate an Acting Building Inspector, who will have the same authority and responsibilities as the Building Inspector and who will be entitled to the same compensation which would have been paid to the Building Inspector.

(4) The Building Inspector may recommend assistants of various specialties to the Village President, who may appoint same with the consent of the Council.



(5) The term of the Building Inspector and Assistant Building Inspector shall be indefinite and until their positions are vacated by resignation or termination by the President with the approval of the Council.

(C) *Qualifications of Building Inspector.* To be eligible for appointment as Building Inspector, it is desirable that the candidate have experience as an architect, structural engineer, building inspector or superintendent of building construction. He or she shall be in good health, physically capable of making the necessary examination and inspections. He or she shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material process or device used in or in connection with building construction, alteration, removal and demolition.

(D) *Duties of Building Inspector.*

(1) The Building Inspector shall receive applications required by this section, issue permits and furnish the prescribed certificates. He or she shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction may proceed safely. He or she shall, when requested by proper authority or when the public interest requires, make investigations in connection with matters referred to in the State Building Code and render written reports on the same. He or she shall issue notices or orders as may be necessary to enforce compliance with law to remove illegal or unsafe conditions, to secure the necessary safeguards during construction or to require adequate exit facilities in buildings and structures.

(2) Inspections required under the provisions of the State Building Code shall be made by the Building Inspector or his or her duly appointed assistant. The Building Inspector may accept reports of inspectors of recognized inspection services, after investigations of their qualifications and reliability. No certificate called for by any provision of the State Building Code shall be used on the reports unless the same are in writing and certified to by a responsible officer of the service.

(3) The Building Inspector shall keep comprehensive records of applications of permits issued, certificates issued, inspections made, reports rendered and of notices of orders issued. He or she shall retain, on file, copies of required plans and all documents related to building work for ten years.

(4) All such records shall be open for reasonable inspection at the stated office hours with the consent of the Building Inspector, but shall not be removed from the office.

(5) The Building Inspector shall make a written report for the Village Council quarterly and in person at its first regular meeting each fiscal year, or more frequently as requested by the Village Council.

(6) Pursuant to the provisions of Public Act 230 of 1972, as amended, being MCL §125.1501 *et seq.*, as amended, the Building Inspector is hereby designated as the enforcing office of the State Building Code within the Village.

(7) The Village does hereby assume responsibility for the administration and enforcement of the State Building Code within the Village limits.

(E) *Liability of Building Inspector.* The Building Inspector, or any employee charged with the enforcement of this section, acting in good faith and without malice in the discharge of his or her duties for the Village, shall not be liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required, or by a reason of any act or omission in the discharge of the inspector's duties. Any suit brought against the Building Inspector or employee, because of an act or omission performed in the enforcement of any of the provisions of this section, shall be defended by the Corporation counsel for the Village until final termination of the proceedings.

(F) *Applications.*

(1) The applicant for a building permit shall secure the signature of the Superintendent of Public Works on the application for the building permit form signifying that water and/or sewer connections are or will be available to the property.

(2) If sewer connections will not be available to the property, the applicant will secure the signature of the County Health Department officer signifying that a septic tank and dry well will be approved for that property.

(G) *Inspections.* The Building Inspector, in the discharge of official duties and upon proper identification and with authorization from the owner or building, shall have authority to enter any building, structure or premises at any reasonable hour. If the owner or builder should refuse reasonable authorization to the Building Inspector to enter any building, structure or premises, the building permit may be revoked by the Building Inspector.

(H) *Definitions.* For the purpose of this section and for use in the State Building Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CORPORATION COUNSEL.** The Attorney for the Village of Lawton.

**MUNICIPALITY.** The Village of Lawton.

(I) *Fire limits established.* The fire limits of the Village are as established in §93.04 of this code of ordinances.

(J) *Fees.*

(1) No permit, as required by the State Building Code, shall be issued until the fee prescribed in this section shall have been paid, nor shall an amendment to a permit be approved until the additional fee, if any, due to an increase in the estimated cost of the building or structure shall have been paid.

(2) All fees shall be collected by the involved Building Inspector, Electrical Inspector or Plumbing Inspector. All fees collected by the Building Inspector shall be turned over to the Village Clerk. All fees for certain electrical inspection and plumbing inspection shall be handled according to existing contracts between the individual inspector and the village, as they may from time to time exist.

(3) The Village Council shall, from time to time, establish a schedule of fees, a copy of which shall be on file at the office of the Village Clerk and available from the Building Inspector.

(K) *Compensation.* The Building Inspector and authorized assistants shall receive compensation as established from time to time by the Village Council.  
(Ord. 84, passed 7-19-1983; Ord. 112, passed 4-11-1989; Ord. 152, passed 11-9-1999)

### **§150.02 CONSTRUCTION BOARD OF APPEALS.**

(A) The Village establishes a Construction Board of Appeals consisting of three members, to be appointed by the Village President and Chairperson of the County Board of Commissioners.

(B) (1) Members shall be appointed for two-year terms.

(2) In the case of a vacancy, a replacement shall be appointed to fill out the balance of the term. Qualification of a member shall be as provided in the Act.

(C) The Act and the State Department of Labor and Economic Growth, Bureau of Construction Codes, Requirements for a Construction Board of Appeals Technical Bulletin shall hereby be adopted to provide administrative recourse for matters pertaining to construction code administration, enforcement and compliance.

(D) The Construction Board of Appeals shall hear any appeals from the decision of the Enforcement Officer of the State Construction Code.

(E) (1) Appeals shall be in writing stating the reasons and/or basis for the appeal, addressed to the Construction Board of Appeals and filed with the Village Clerk within 15 days from the determination of the Building Inspector, together with a non-refundable fee as established by the Village Council from time to time and on file with the Village Clerk and available from the Building Inspector.

(2) The Construction Board of Appeals shall set a public hearing not later than 20 days from the date the appeal is filed with the Village Clerk and notify the applicant, the Enforcing Officer and other interested parties as provided by the Act and Technical Bulletins of the Department of Labor and Economic Growth and post a copy of the notice on the public notice board at the Village Hall.

(3) The Construction Board of Appeals shall render its decision in writing within ten days from the date of the hearing.

(F) The Construction Board of Appeals shall maintain an official record of its proceedings, including those matters as provided by the Act, which shall be open to the public for inspection.

(G) The Construction Board of Appeals may:

(1) Grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant and if both of the following requirements are satisfied:

(a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of the state; and

(b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

(2) Attach in writing any condition in connection with the granting of a variance that, in its judgment, is necessary to protect the health, safety and welfare of the people of the state. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

(H) Any decision of the Construction Board of Appeals may be appealed to the State Construction Code Commission within ten business days after the decision or as otherwise provided by the Act.

(I) No appeal alters the effect of a stop construction order issued by the Enforcement Office, nor prevents the Enforcing Officer from seeking a court order enjoining any particular alleged violation.

(Ord. 178, passed 3-11-2008)

## ***GENERAL REGULATIONS***

### **§150.15 DIVIDING LOTS.**

(A) A division of a lot in a recorded plat is prohibited unless approved following application to the Village Council.

(B) (1) The application shall be filed with the Village Clerk and shall state the reasons for the proposed division.

(2) No lot in a recorded plat shall be divided into more than four parts and the resulting lots shall be not less in area than permitted by the Village Zoning Ordinance.

(C) No building permit shall be issued or any building construction commenced) unless the division has been approved by the Village Council and the suitability of the land for building sites has been approved by the County Health Department where no public utilities are available.

(D) (1) The division of a lot resulting in a smaller area than prescribed herein may be permitted, but only for the purpose of addition to the existing building site or sites.

(2) The application shall so state and shall be in affidavit form, together with a diagram or map showing the parcel or parcels and desired changes and resulting parcel or parcels. (Ord. 77, passed 9-16-1980) Penalty, see §150.99

#### **§150.16 RECREATIONAL VEHICLES AND HOUSE TRAILERS.**

(A) A house trailer or recreational vehicle (RV) is hereby defined and declared to be any vehicle used or so constructed as to permit its being conveyed upon the public streets or highways and duly licensed as such, and so constructed as to permit the occupancy thereof as a dwelling or sleeping place for one or more persons, and having no foundation other than wheels, jacks or skirting.

(B) No person shall park or place any house trailer or any premises the intent to live in or use the house trailer for a dwelling for a period of more than 72 hours, without first having obtained a permit thereof from the Police Department or Village Clerk; provided, however, that the provisions of this section shall not apply where the house trailer is parked or placed on a camping ground established by the Village on for the parking or placing of house trailers or RVs. No person shall live in or use for dwelling purposes any house trailer or RV subject to the provisions of this section, for which a permit has not been obtained in conformity with the provisions of this section. No permit shall be granted for greater than 14 days.

(C) Permits for the parking or placing of any house trailer subject to the provisions of this section, upon any premises within the Village shall be granted only upon written application. The application shall specify the location of the premises upon which the appellant proposes to park or place the house trailer, the number and sex of the persons expected to occupy it, and the facilities available for adequate sanitary garbage, waste and sewage disposal.

(D) Permits shall be granted only upon personal inspection of the premises that facilities are available for adequate sanitary garbage, waste and sewage disposal. The permits shall not be transferable, and may be revoked at any time by the Village Council. Upon expiration or revocation of the permit, the holder thereof shall immediately remove the house trailer or RV from the premises for which such permit was granted after service by an officer, agent or employee of the Village of

notice of the expiration or revocation of the permit. The permit shall be displayed by the holder thereof, upon request, to any official, officer, agent or employee of the village.  
(Ord. 31, passed 1-5-1943) Penalty, see § 150.99

**§150.99 PENALTY.**

(A) Any person violating the provisions of this Chapter shall, upon being determined responsible, be guilty of a municipal infraction.

(B) The Village may also enforce the provisions of this Chapter in an appropriate Court by injunctive relief or other available equitable or legal remedy.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated the Chapter or orders, rules, regulations and permits issued thereunder.

(Ord. 31, passed 1-5-1943; Ord. 77, passed 9-16-1980)

## CHAPTER 151: GROUND WATER PROTECTION

### Section

#### *General Provisions*

- 151.01 Purpose
- 151.02 Definitions
- 151.03 Scope

#### *Protection Standards*

- 151.15 General standards
- 151.16 Aboveground storage and use areas for hazardous substances and polluting material
- 151.17 Underground storage tanks
- 151.18 Well abandonment
- 151.19 Site with contaminated soils and/or ground water
- 151.20 Construction standards
- 151.21 Maintenance

#### *Review; Site Plans*

- 151.35 Review requirements
- 151.36 Conditions for approval or denial
- 151.37 Exemptions and waivers
- 151.38 Appeals
  
- 151.99 Penalty

### **GENERAL PROVISIONS**

#### **§151.01 PURPOSE.**

The Village has determined that:

- (A) The ground water underlying the Village is the sole source of the Village's drinking water;
- (B) Ground water aquifers are integrally connected with, and flow into, the surface waters, lakes and streams which constitute significant public health, recreational and economic resources of the Village; and

(C) Spills and discharges of petroleum products, sewage and other hazardous substances threaten the quality of the ground water supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses. Therefore, the Village has enacted an ordinance to:

(1) Preserve and maintain existing and potential ground water supplies, aquifers and ground water recharge areas of the Village, and protect them from adverse development or land use practices;

(2) Preserve and protect present and potential sources of drinking water supply for public health and safety;

(3) Conserve the natural resources of the Village;

(4) Protect the financial investment of the Village in its drinking water supply system and to meet state requirements for wellhead protection; and

(5) Assure that state regulations which help protect ground water are implemented consistently when new or expanded development proposals are reviewed.  
(Ord. 155, passed 9-12-2000)

## **§151.02 DEFINITIONS.**

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

***AQUIFER.*** A geologic formation, group of formations or part of formation capable of storing and yielding a significant amount of ground water to wells or springs.

***BEST MANAGEMENT PRACTICES.*** Measures, either managerial or structural, to prevent or reduce pollution inputs to soil, surface water or ground water.

***DEVELOPMENT.*** The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

***ENVIRONMENTAL CONTAMINATION.*** The release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity which is or may become injurious to the environment, or to the public health, safety or welfare.

***FACILITY.*** Any building, structure or installation from which there may be a discharge of pollutants.

***HAZARDOUS SUBSTANCE.*** A chemical or other material which is or may become injurious to the public health, safety or welfare, or to the environment. The term ***HAZARDOUS SUBSTANCE*** includes, but is not limited to, hazardous substances, as defined in the Comprehensive



Environmental Response, Compensation and Liability Act of 1980, Pub. Law No. 96-510, 94 Stat. 2767; **HAZARDOUS WASTE**, as defined in the Hazardous Waste Management Act, Public Act 451 of 1994, being MCL §324.11101 *et seq.*, as amended; **PETROLEUM**, as defined in the Leaking Underground Storage Tank Act, Public Act 451 of 1994, being MCL §324.21101 *et seq.*, as amended.

**PRIMARY CONTAINMENT FACILITY.** A tank, pit, container, pipe or vessel of first containment of a hazardous substance.

**SECONDARY CONTAINMENT FACILITY.** A second tank, catchment pit, pipe or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent the discharge to land, ground water or surface waters, of any pollutant which may emanate from the storage container or containers.  
(Ord. 155, passed 9-12-2000)

### **§151.03 SCOPE.**

These provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds) and which require site plan review under the provisions of this chapter.  
(Ord. 155, passed 9-12-2000)

## **PROTECTION STANDARDS**

### **§151.15 GENERAL STANDARDS.**

(A) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, flood plains and ground water, and to ensure the absence of an impairment, pollution and/or destruction of water, natural resources and the public trust therein.

(B) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland; water body, or watercourse, and shall not increase flooding, or the potential for environment contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.

(C) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank or a system authorized through a state surface or ground water discharge permit. If connected to the public sewer system, then the volumes and concentrations of waste discharged to the floor drain may require compliance with the village's "Industrial Pretreatment Ordinance."

(D) Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, ground water, lakes, streams, rivers or wetlands.

(E) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without applicable permits and approvals.

(F) In determining a conformance with the standards in this chapter, the Village shall take into consideration the publication entitled *Small Business Guide to Secondary Containment*, Clinton River Watershed Council, 1991, and other applicable references.

(G) Bulk storage of pesticides shall be in accordance with applicable state laws and regulations.

(Ord. 155, passed 9-12-2000)

#### **§151.16 ABOVEGROUND STORAGE AND USE AREAS FOR HAZARDOUS SUBSTANCES AND POLLUTING MATERIAL.**

(A) Primary containment of hazardous substances shall be product tight.

(B) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of ten gallons or less packaged for retail use shall be exempt from this item.

(C) Outdoor storage of hazardous substances be prohibited except in product-tight containers which are protected from weather, lease, accidental damage and vandalism, including an allowance for the expected accumulation of precipitation.

(D) Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system, ground water or nearby drains or natural water bodies unless a surface or ground water discharge permit has been obtained pursuant to applicable requirements of Public Act 451.

(E) Areas and facilities for loading and unloading of hazardous substances as well as areas where the materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetland, ground water or soils.

(Ord. 155, passed 9-12-2000)

#### **§151.17 UNDERGROUND STORAGE TANKS.**

(A) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with applicable requirements of the U.S. Environmental Protection Agency and the State Department of Environmental Quality, Storage Tank Division, or its successor.

(B) Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with applicable requirements of the State Department of Environmental Quality Storage Tank Division. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by Village officials for five years.

(C) Underground storage tanks taken out of service permanently shall be emptied and permanently closed in accordance with the requirements of the State Department of Environmental Quality, or its successor.  
(Ord. 155, passed 9-12-2000)

#### **§151.18 WELL ABANDONMENT.**

Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the State Department of Environmental Quality.  
(Ord. 155, passed 9-12-2000)

#### **§151.19 SITE WITH CONTAMINATED SOILS AND/OR GROUND WATER.**

(A) Site plans shall take into consideration the location and extent of any contaminated soils and/or ground water on the site and the need to protect public health and the environment.

(B) Development shall not be allowed on or near contaminated areas of a site unless information from the State Department of Environmental Quality is available indicating that cleanup will proceed in a timely fashion.  
(Ord. 155, passed 9-12-2000)

#### **§151.20 CONSTRUCTION STANDARDS.**

(A) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontract evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetlands may be improper.

(B) Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, ground water, lakes, streams rivers or wetlands. Any storage container of over 25 gallons or 220 pounds containing hazardous substances shall have secondary containment.

(C) If the contractor will be storing or handling hazard substances that require a manufacturer's material safety data sheet, the contractor shall familiarize himself or herself with the

sheet and shall be familiar with procedures required to contain and cleanup any release of the hazardous substance.

(D) Upon completion of construction, all hazardous substances and containment systems no longer used, or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled or reused in a property manner as prescribed by applicable state and federal regulations.  
(Ord. 155, passed 9-12-2000)

#### **§151.21 MAINTENANCE.**

In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and ground water. Cracks and holes in floors, foundations and walls must be repaired in areas where chemicals are handled or stored.  
(Ord. 155, passed 9-12-2000)

### ***REVIEW; SITE PLANS***

#### **§151.35 REVIEW REQUIREMENTS.**

All site plans shall:

(A) Specify location and size of interior and exterior areas(s) and structure(s) to be used for on-site storage, use, loading/unloading, recycling or disposal of hazardous materials;

(B) Specify location of all underground and aboveground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous materials storage, collection of contaminated storm water or wash water, and all similar uses;

(C) Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water or waste water. The point of discharge for all drains and pipes shall be specified on the site plan;

(D) Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable;

(E) Submit "Hazardous Materials Reporting Form for Site Plan Review;" and

(F) Submit "State/County Environmental Permits Checklists."  
(Ord. 155, passed 9-12-2000)

### **§151.36 CONDITIONS FOR APPROVAL OR DENIAL.**

The Planning Commission, upon reviewing a site plan, shall take one of the following actions.

(A) *Approval.* If the site plan meets all the Zoning Ordinance and related development requirements and standards, the Planning Commission shall record the approval and the Chairperson shall sign three copies of the site plan, filing one in the official site plan file, forwarding one to the Building Inspector and returning one to the applicant.

(B) *Disapproval.* If the site plan does not meet Zoning Ordinance and related development requirements and standards, the Planning Commission shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.

(C) *Conditional approval.* Conditions on approval of the site plan may be imposed meeting the requirements specified in the Village Zoning Enabling Act. Conditions must be:

(1) Designed to protect natural resources and the health, safety and welfare and the social and economic well-being of residents, neighbors and the community as a whole.

(2) Related to the valid exercise of the police power; and

(3) Necessary to meet the purposes of the Zoning Ordinance and related to the standards established in the Zoning Ordinance for the land use or activity under consideration.

(D) *Table.* If the site plan is found to be in violation of requirements, incomplete with respect to necessary information or presents a unique situation, the Planning Commission may table the site plan until a public hearing can be scheduled to determine specific improvement requirements the Planning Commission feels are necessary, but with which the applicant is not in agreement. (Ord. 155, passed 9-12-2000)

### **§151.37 EXEMPTIONS AND WAIVERS.**

The transportation of any hazardous substance shall be exempt from the provisions of this chapter provided the transporting motor vehicle or rail is in continuous transit or that it is transporting substances to or from a state-licensed hazardous waste treatments, storage or disposal facility.

(Ord. 155, passed 9-12-2000)

### **§151.38 APPEALS.**

(A) The Village Council may grant a special permit if it finds, by written decision, that the proposed use:

(1) Meets the intent of this chapter as well as its specific criteria;

(2) Will not, during construction or thereafter, have an adverse impact on any aquifer or recharge area in the district; and

(3) Will not adversely affect an existing or potential domestic or municipal water supply and is consistent with existing and probable future development of surrounding areas.

(B) In addition to the finds described above, the decision shall include an explanation of the reason for any variation of the requirements.

(Ord. 155, passed 9-12-2000)

### **§151.39 PENALTY.**

(A) *Falsifying information.* Any person who is found to have willfully or negligently falsified information to the Village or fails to comply with any provision of this chapter and the orders, rules and regulations and permits issued thereunder shall be subject to the penalties provided in §10.99 herein.

(B) *Violations.*

(1) Any person who is found to have violated an order of the Village or who fails to comply with any provision of this chapter and the orders, rules and regulations and permits issued thereunder shall, upon being determined responsible, be guilty of a municipal civil infraction.

(2) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate Court action against the person found to have violated this chapter or the orders, rules, regulations and permits issued thereunder.

## CHAPTER 152: SITE CONDOMINIUM DEVELOPMENT

### Section

- 152.01 Purpose
- 152.02 Definitions
- 152.03 Plan preparation
- 152.04 Design layout standards and improvements
- 152.05 Review procedure
- 152.06 Interpretation

### §152.01 PURPOSE.

It is the purpose of this chapter to ensure that plans for development within the Village proposed under the provisions of the Condominium Act, Public Act 59 of 1978, as amended, being MCL §559.101 *et seq*, shall be reviewed with the objective interest of achieving the site characteristics and land use results as if the development and improvements were being proposed in accordance with the Land Division Act, Public Act 87 of 1997, as amended, being MCL §560.101 *et seq*, including all requirements of the Village's Subdivision Ordinance. It is the intent of the Village to ensure that the appearance of the project and size of the building site or condominium lot are equivalent to the appearance of a subdivision and to the minimum lot size of the zoning district in which the project is located.

(Ord. 146, passed 1-13-1998)

### §152.02 DEFINITIONS.

For the purpose of this chapter, all definitions used in the Condominium Act, as amended, and all applicable administrative regulations shall have the same meaning here. In addition, the following words, as defined, will also apply to this chapter, unless the context clearly indicates a different meaning.

***BUILDING SITE.*** A lot or two-dimensional condominium unit of land (i.e., envelope, foot print) with or without limited common elements designed for construction of a principal structure or a series of principal structures, plus accessory buildings. All ***BUILDING SITES*** shall have frontage on public or private roads.

***COMMON ELEMENTS.*** Portions of the condominium project other than the condominium units.

***CONDOMINIUM PROJECT.*** A plan or a project consisting of not less than two condominium units established in conformance with the Condominium Act.

***CONDOMINIUM SUBDIVISION PLAN.*** The plan, as required in this chapter, including, but not limited to, the survey and utility plans, building site, the existing and proposed structures and improvements, including their location on the land.

**CONDOMINIUM UNIT.** The portion of the condominium project designed and intended for separate ownership and use, as described in the mater deed, regardless of whether it is intended for residential, office, industrial or recreational use.

**CONSOLIDATING MASTER DEED.** The final amended master deed for a contractible condominium project, an expandable condominium project or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

**CONTRACTIBLE CONDOMINIUM.** A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this chapter and the Condominium Act.

**LIMITED COMMON ELEMENTS.** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

**LOT.** A measured portion of a parcel or tract of land which is described and fixed in a recorded plat or recorded in the master deed of a site condominium development.

**MASTER DEED.** The legal document prepared and recorded pursuant to Public Act 59 or 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

**PARCEL.** A tract or continuous area or acreage of land which is occupied or intended to be occupied by a building, series of buildings, accessory buildings, condominium units or by any other use or activity permitted thereon including open spaces and setbacks required under this chapter, and having its frontage on a public street.

**SETBACK - FRONT, SIDE AND REAR YARD.** The distance measured from the respective front, side and rear yard area lines associated with the last as described in the master deed. (Ord. 146, passed 1-13-1998)

### **§153.03 PLAN PREPARATION.**

(A) *Existing conditions.* The Preliminary Plan shall be designed and drawn by a registered civil engineer, a registered land surveyor, a registered architect or a registered landscape architect containing the following information:

- (1) Proposed name of the project;
- (2) Full legal description to adequately describe the parcel or parcels comprising the project;



the project;

- (3) Names and addresses of the applicant, owners and professionals who designed

- (4) Scale of the plan (maximum scale shall be 100 feet to an inch);

- (5) Date of preparation;

- (6) North arrow;

- (7) Boundary lines of the proposed project;

- (8) Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for site condominium subdivision including those areas across abutting roads;

- (9) Location, widths and names of existing or prior easements of record; public and/or private;

- (10) Location of existing sewers, water mains, storm drains, telephone, electric, cable TV and other underground utilities within or adjacent to the tract being proposed for a site condominium subdivision;

- (11) Existing topographical information drawn at contours with a maximum of two-foot intervals; and

- (12) The location of significant natural features such as natural water courses, bodies of water, stands of trees and individual trees within the project area having a diameter of 12 inches or greater at a height of two feet above existing grade.

(B) *Proposed Condominium Subdivision Plan.*

- (1) Layout of streets indicating proposed street names, right-of-way widths and connections and adjoining streets and also the widths of and locations of alleys, easements, public walkways, bike paths and other transportation related elements;

- (2) Layouts, numbers and dimension of lots, including building setback lines showing dimensions and finished grade elevations of building's first floor elevation;

- (3) Proposed topography, including contour lines at the same interval as shown for existing topography;

- (4) Indication of the parcels of land and/or easements intended to be dedicated or set aside for public use and a description of the common elements of the project and the use and occupancy restrictions as will be contained in the master deed;

(5) An indication of the ownership and existing and proposed use of any parcels identified as “excepted” on the Preliminary Plan. If the applicant has an interest or owns any parcel so identified as “excepted,” the Preliminary Plan shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed Preliminary Plan;

(6) Statement describing the sewage system and method to be approved by the Village;

(7) Statement describing water supply system;

(8) Schematic indication and description of storm drainage acceptable to the Village;

(9) In the case where the applicant wishes to develop a given area, but wishes to begin with only a portion of the total area, the Preliminary Plan shall include the proposed general layout for the entire area. The part which is proposed to be developed first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the applicant intends to follow. Each subsequent development shall follow the same procedure until the entire area controlled by the applicant is subdivided. Each phase of the development shall not exceed, on a cumulative basis, the average density allowed for the entire development.

(10) An indication of the means by which and extent that significant natural features such as water courses, bodies of water, stands of trees and individual trees (apart from stands of trees) having a diameter of 12 inches or greater at a height of two feet above existing grade, are to be preserved in conjunction with the development of the proposed project;

(11) Indication of the approximate area for all site improvements including roads, utilities, drains and all building activity that will have to be cleared and graded in order to develop the proposed project; and

(12) The Preliminary Site Condominium Subdivision Plan will also indicate the significant ecological areas that are to be preserved in their natural state. The intent is not to require a detailed grading plan at this time but to ensure that the developer’s consultant has given sufficient thought to the clearing and grading requirements in preparing the Preliminary Plan.  
(Ord. 146, passed 1-12-1998)

#### **§152.04 DESIGN LAYOUT STANDARDS AND IMPROVEMENTS.**

(A) *Requirements and standards.* The requirements and standards for the design and layout of the site condominium project shall be in accordance with those of the Village and subject to its review.

(B) *Construction of development in phases.* For developments where construction is to occur in phases, that portion which is constructed shall conform with all laws, ordinances and regulations

of all governmental bodies having jurisdiction, and be capable of functioning independently without further improvements, including additional roads, drainage or utilities.  
(Ord. 146, passed 1-12-1998)

### **§152.05 REVIEW PROCEDURE.**

(A) *Generally.* The procedure for review and approval of a site plan for a condominium project shall consist of two stages:

(1) Review and approval of the Preliminary Site Plan by the Village Planning Commission and Village Council; and

(2) Review and approval of the final site plan by the Village Planning Commission and the Village Council.

(B) *Planning Commission review of Preliminary Site Plan.*

(1) *Generally.*

(a) The applicant shall submit ten copies of the Preliminary Site Plan to the Village at least ten days prior to a regularly scheduled Planning Commission meeting so the site plan can be placed on the agenda and given time for technical review.

(b) The Planning Commission shall review the plan pursuant to §4.6, Criteria for Site Plan Review, of the Village Zoning Ordinance.

(c) Upon review, the Planning Commission shall make a recommendation to the Village Council to grant or deny approval of the proposed site condominium project or to grant conditional approval based on the following:

1. The standards for approval contained in §4.6 of the Village Zoning Ordinance;
2. Conformity of the proposed site condominium and its related by-laws with the objectives of the Village's Land Use Plan; and
3. Project developer's financial and technical capacity to meet the design and improvement standards of this chapter.

(2) *Recommendations.* The Planning Commission is authorized to make a recommendation to the Village Council to grant approval, grant approval subject to conditions or reject the site plan, as follows:

(a) *Recommended approval.* Upon determination that the site plan is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, the Planning Commission recommends approval.

(b) *Recommended approval subject to conditions.*

1. Upon determination that a site plan is in compliance, except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain approvals from other agencies.

2. The applicant may re-submit the site plan to the Planning Commission for final review after conditions have been met. The Planning Commission may waive its right to review the revised plan and instead authorize the Village Clerk (with the assistance of technical consultants) to review and recommend approval of the re-submitted plan if all required conditions have been addressed.

(c) *Recommend rejection.* Upon determination that a site plan does not comply with the standards and regulations set forth in this chapter or requires extensive revision in order to comply with the standards and regulations, the Planning Commission shall recommend that site plan approval be denied.

(C) *Submission of Preliminary Site Plans for Village Council review.* After the Planning Commission makes a recommendation on the Preliminary Site Plan, the applicant shall make any required modifications and submit sufficient copies of the revised Preliminary Site Plan (as specified on the application form) for Village Council review. The Preliminary Site Plan and supporting materials shall be submitted at least ten days prior to a scheduled meeting at which Village Council review is desired.

(D) *Village Council determination.* The Village Council shall make a relevant determination based on the requirements and standards of this chapter, taking into consideration the comments and recommendations of the Planning Commission, Village departments and other reviewing agencies. The Village Council is authorized to grant approval, grant approval subject to conditions or reject a site plan.

(E) *Recording of the site plan review action.* Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning Commission or Village Council as appropriate. The grounds for action taken upon each site plan shall also be recorded in the minutes.

(F) *Approval.* Approval shall confer on the proprietor for a period of one year from the date of approval.

(G) *Submission.* Upon receipt of Preliminary Plan approval, the proprietor shall submit the Preliminary Plan to all authorities as required by local and state regulations such as MDOT, MDEQ, MDOC and shall deliver two copies of the Preliminary Plan to the superintendent of the school district in which the condominium project is to be located.

(H) *Construction.* No installation or construction of any improvements or land balancing or grading shall be made or begun until the Final Plan has been approved. No removal of trees

and/or other vegetation shall be started at this time, except for minor clearing required for surveying and staking purposes.

(I) *Final Plan approval.* The Final Plan shall conform substantially to the approved Preliminary Plan and shall be prepared by a registered land surveyor or registered engineer. The Final Plan shall also constitute only that portion of the approved Preliminary Plan which the proprietor proposes to record and develop at that time and conform in all respects with the requirements of the Condominium Act. The procedure for the preparation and submission of a plan for final approval shall be as follows:

(1) *Conditions of approval.* In addition to all other requirements of this chapter and of the Condominium Act, application for Final Plan approval shall be made only if the proprietor has complied with the following:

- (a) Received approval of the Preliminary Plan;
- (b) Received approval of the engineering construction plans for all improvements to be built in accordance with the standards and specifications adopted by the Village Council and received notification of the issuance of the appropriate county and state construction permits for utilities;
- (c) Received certification from the Village that all fees required by this chapter have been paid and that engineering review fees and other charges and deposits specified in this chapter have been paid;
- (d) Received approval of the lot drainage and the Soil Erosion and Sedimentation Plan;
- (e) Provided a policy of title insurance currently in force covering all the land within the boundaries of the proposed development, establishing ownership interest of record and other information deemed necessary by the Village;
- (f) Deposited with the Village the financial guarantees as may be required by this chapter;
- (g) If the installation of landscaping, street trees and street lights have been required by the Village Council, the proprietor and the Village Council may enter into a special agreement to ensure installation;
- (h) The Village Council and the proprietor shall have entered into an agreement for the review and inspection of the installation of public improvements and their conformance with the construction plan and the plan; and
- (i) The proprietor shall have delivered two copies of the master deed and condominium by-laws in final recordable form.

(2) *Review and approval procedures.*

(a) At their next scheduled meeting, the Planning Commission shall recommend to the Village Council:

1. Approval of the Final Plan if it meets the requirements of this chapter and the Condominium Act; or
2. Rejection of the Final Plan, if it does not meeting the requirements.

(b) At their next scheduled meeting following the Planning Commission review of the plan, the Village Council shall:

1. Approve the plan if it conforms to all provisions of this chapter and instruct the Village Clerk to certify on the plan the Village Council approval and date thereof;
2. Reject the plan and instruct the Village Clerk to advised the proprietor, explain the reasons for the rejection and return the plan to the proprietor;
3. Approval of the Final Plan shall confer upon the proprietor for a period of two years from the date of Village Council approval, the conditional right that the general terms and conditions under which the final approval of the plan was granted will not be changed; and/or
4. Upon approval of the Final Plan by the Village Council the subsequent approvals required by the Condominium Act shall follow the procedure set forth therein, including the registration of the master deed with the County Register of Deeds.  
(Ord. 146, passed 1-13-1998)

**§152.06 INTERPRETATION.**

(A) *Application of traditional definitions.*

(1) In the review of Preliminary and Final Plans, as well as engineering plans, it is recognized that it may not be feasible to precisely apply traditional definitions and measures which have been provided for and which would be made for developments proposed under the Land Division Act.

(2) However, the review of plans submitted under this chapter shall be accomplished with the objective and intent of achieving the same results as if the improvements were being proposed pursuant to the Land Division Act, including, without limitation, conformance with all requirements of the Village Zoning Ordinance, as amended.

(B) *Conflict with existing regulations.*

(1) These regulations are not intended to repeal, abrogate, annul or, in any manner, interfere with existing regulations or laws of the village nor conflict with any statutes of the state or county, except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations.

(2) Nothing in this chapter shall be construed as requiring a site condominium subdivision to obtain plat approval under the Land Division Act.  
(Ord. 146, passed 1-13-1998)

## **CHAPTER 153: ZONING**

### **Section**

153.01 Regulations adopted by reference

### **§153.01 REGULATIONS ADOPTED BY REFERENCE.**

The Village's zoning regulations are hereby adopted by reference and incorporated herein as if set out in full.



**PARALLEL REFERENCES**

References to Michigan Compiled Laws Annotated  
References to Ordinances

## REFERENCES TO MICHIGAN COMPILED LAWS ANNOTATED

<i>MCL Section</i>	<i>Code Section</i>
15.231 to 15.246	31.04, 110.01
24.201 to 24.328	70.02
24.201 et seq.	52.37
37.2503(1) (c)	31.02
61.1 et seq.	10.02
66.3a	10.01
125.71 through 125.80	93.01
125.1401 et seq.	31.01
125.1415a(1)	31.02
125.1415a(5)	31.02
125.1415a(6)	31.02
125.1501 through 125.1531	150.01
125.1603	32.02
125.1651 through 125.1680	30.04, 32.01, 32.02
125.1664(2)	32.02
125.1667(2)	2.02
125.1669(1)	32.02
125.1671	32.02
141.10 through 141.138	50.01
141.121	50.06
247.651 through 247.675	110.01
257.1 et seq.	70.01
257.605	70.01
257.610	70.01
257.961	70.01
299.501 to 299.551	151.02
299.831 to 2999.850	151.02
324.11101 through 324.11153	151.02
324.21101 et seq.	151.01
333.26421 et seq.	95.01, 95.99
484.2102	110.01
484.2251	110.01
484.3101 et seq.	110.01
559.101 through 559.276	152.01, 152.02
600.8701 et seq.	10.02
764.9c	10.10

## REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
31	01-05-1943	150.16, 150.99
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