

Chapter 8

BUILDINGS AND BUILDING REGULATIONS

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ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. STATE CONSTRUCTION CODE

Sec. 8-19. Adopted.

In accordance with and pursuant to the Stille-DeRossett-Hale Single State Construction Code Act (hereinafter referred to as "the act"), Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the Township of Climax and the village hereby respectively assume responsibility for the administration and enforcement of said Act within their respective political boundaries, and hereby adopt by reference the state construction code currently in effect and as same may from time to time be modified or amended. (Code 1988, § 3.101)

Sec. 8-20. Designation of enforcing agency.

In accordance with the act and pursuant to the provisions of the state construction code, the Climax Township Board and the village council are hereby authorized to designate by resolution an enforcing agency that shall discharge the respective responsibilities of said municipalities under the Act and the state construction code, which shall be any officials or agents of said municipalities qualified by experience or training to perform the duties associated with construction code administration and enforcement, and otherwise in accordance with the Building Officials and Inspectors Registration Act, Public Act No. 54 of 1986 (MCL 338.2301 et seq.). The Township of Climax and the village specifically reserve the right to provide by agreement or contract with any other township, village, city or county in the state for joint enforcement and administration of this article and the state construction code adopted herein. (Code 1988, § 3.102)

Sec. 8-21. Establishment of fee schedule.

The Climax Township Board and the village council are hereby given the authority, respectively, to establish by resolution at any regular public meeting a schedule of fees, rates and charges for the administration and enforcement of this article and the state construction code adopted hereunder, and for the conducting of various activities authorized by the state construction code and this article; provided that the same shall be reasonable and bear a reasonable relationship to the cost and expense of such administration, enforcement and activity. The Climax Township Board and the village council, respectively, shall further have the right to amend the aforesaid mentioned resolutions from time to time within the foregoing limit of reasonableness. (Code 1988, § 3.103)

Sec. 8-22. Violation as a municipal civil infraction.

Any person violating this article, including the state construction code, shall be responsible for a municipal civil infraction.

(Code 1988, § 3.104)

Secs. 8-23—8-47. Reserved.**ARTICLE III. DRIVEWAY CONSTRUCTION****Sec. 8-48. Definitions.**

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

Driveway construction means construction of new driveway approaches with or without installation of drainage culverts, any change or reconstruction of existing driveway grades or surface, or any other modification of an existing driveway, whenever the same shall occur with any village road right-of-way.

(Code 1988, § 3.402)

Sec. 8-49. Submission of plan.

No person shall commence driveway construction within the village without having previously submitted to the village council a detailed plan, on a form provided by the village, showing the proposed location of such driveway, the width of such proposed driveway, all provisions for the drainage of surface waters, the location and type of any proposed drains or culverts, the proposed materials and the amounts of each to be used in the construction of such driveway and the length of the proposed driveway within any village road right-of-way. The village council may, at its own option, refer the plan to the village engineer for a report on the compliance of such proposed driveway construction with the provisions of this article.

(Code 1988, § 3.403)

Sec. 8-50. Permit application and issuance thereof.

No person shall commence driveway construction within the village without first having submitted an application for a permit for the construction of such driveway on a form provided by the village. Such application for a permit shall be included with the plan required by section 3-49. A fee as currently established or as hereafter adopted by resolution of the village council from time to time shall be required with the application for a permit. After reviewing the plans submitted by the applicant and upon a finding by the village council that the proposed driveway construction complies with all provisions of this article, the council shall issue a permit to the applicant to authorize the commencement of driveway construction as the council may deem

necessary so long as said terms and conditions are consistent with the provisions of this article or any authority granted the council by any applicable statute or law of the state.

(Code 1988, § 3.404)

Sec. 8-51. Conditions of driveway construction.

No person shall commence driveway construction within the village except under the following conditions:

- (1) Driveway openings shall not be located closer than 25 feet from a road intersection, as measured from the right-of-way line; provided, however, that driveways servicing industrial or commercial districts shall not be located closer than 50 feet from a road intersection, as measured from the right-of-way line.
- (2) Driveways within any village road right-of-way shall only be constructed of bituminous material or gravel, except that concrete driveways may be constructed where curbs and gutters have been previously installed.
- (3) Only one residential driveway within any village road right-of-way shall be allowed for each platted lot or for each unplatted residential lot.
- (4) Only one driveway within the village road right-of-way shall be allowed for each 100 feet of frontage along any village right-of-way; provided, however, that only one servicing any cultivated or undeveloped land shall be allowed for each 1,000 feet of frontage along any village right-of-way.
- (5) Where curbs and gutters have not been previously installed, a drain culvert must be placed beneath the driveway approach to match the flow line of any existing drain section.
- (6) Where drain culverts are required under the provisions of this article, the size of the same shall be at least 15 inches in diameter and 20 feet in length.
- (7) Where necessary as designated by the village council, trenches or excavations under or adjacent to the surface shall be sheeted, shored and/or braced in such a manner as to prevent caving or loss of settlement of foundation material supporting the pavement.
- (8) Excavation material shall be stocked in such locations that it does not obstruct vision on the travel portion of the road and in such a manner that it will interfere as little as possible with the flow of traffic. Sod and topsoil shall be stacked separately from other excavated material. Surplus or otherwise unsuitable material so excavated shall be disposed of outside of the road right-of-way unless the permit so granted provides otherwise.
- (9) All trenches, holes and pits shall be filled with sound earth or with sand-gravel if so required by the village, placed in successive layers not more than six inches in depth, and each layer shall be thoroughly compacted by tamping, provided that all back fill is subject to check by the controlled density method. Sod and topsoil shall be replaced and necessary seeding shall be required as

directed by the village council. Sand-gravel backfill material shall consist of approved bank-run sand or gravel or a mixture of approved sand or stone screenings with gravel or crushed stone, provided that there shall be a substantial excess of sand or stone screenings in the mixture. All of the material in the sand-gravel backfill material shall be of such size that it will pass through a screen having 2½ inch square openings, unless otherwise authorized.

- (10) Pipes shall be placed to a depth that will provide not less than four feet of cover between the top of the roadway surface and the pipe, and not less than three feet below the bottom of ditches.
- (11) In all cases, the applicant shall notify the village council when the work will commence so that, if necessary, arrangements may be made by the village to have an inspector present while the work is in progress.
- (12) Any person shall, before commencement of driveway construction, save the village harmless against any and all claims for damages arising from such driveway construction and furnish, upon request of the village, certificates of insurance to insure that claims for property damage or personal injury can be met.

(Code 1988, § 3.405)

Sec. 8-52. Waiver provisions.

Upon application of any person, the village council may waive any of the requirements or conditions contained in this article if the council is satisfied that the spirit and intent of this article is accomplished notwithstanding such waiver.

(Code 1988, § 3.406)

Sec. 8-53. Violation as a municipal civil infraction.

Any person violating this article shall be responsible for a municipal civil infraction.

(Code 1988, § 3.407)

Secs. 8-54—8-79. Reserved.

ARTICLE IV. DANGEROUS BUILDINGS*

Sec. 8-80. Prohibited.

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in section 8-81.

(Code 1988, § 3.501)

*State law reference—Similar provisions, MCL 125.538 et seq.

Sec. 8-81. Definitions.

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

Dangerous building means any building or structure, whether residential, commercial or industrial, which has any of the following defects or is in any of the following conditions:

- (1) A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the village.
- (2) A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the damage and does not meet the minimum requirements of this article or the state construction code for a new building or structure, purpose, or location.
- (3) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (4) A portion of the building or structure has settled to an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by this article or the state construction code.
- (5) The building or structure or a part thereof, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (6) The building or structure or a part thereof is manifestly unsafe for the purpose for which it is used.
- (7) The building or structure is damaged by fire, wind, or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
- (8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.
- (9) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

- (10) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease, or rent with a real estate broker licensed under article 25 of the Occupational Code, Public Act No. 299 of 1980 (MCL 339.2401 et seq.). For purposes of this subsection, "building or structure" includes, but is not limited to, a commercial building or structure. This subsection does not apply to either of the following:
- a. A building or structure whose owner or agent does both of the following:
 1. Notifies a local law enforcement agency in whose jurisdiction the building or structure is located that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the local law enforcement agency by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
 2. Maintains the exterior of the building or structure and adjoining grounds in accordance with this article or the state construction code.
 - b. A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies a local law enforcement agency in whose jurisdiction the dwelling is located that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subsection shall notify the law enforcement agency not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subsection, "secondary dwelling" means a dwelling, including, but not limited to, a vacation home, hunting cabin, or summer home, that is occupied by the owner or a member of the owner's family during part of a year.

(Code 1988, § 3.502)

Sec. 8-82. Notice of dangerous or unsafe conditions; contents; hearing officer; service.

(a) Notwithstanding any other provision of this article, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the building inspector shall issue a notice of the dangerous and unsafe condition.

(b) Such notice shall be directed to the owner, agent or lessee in whose name the property or building appears on the last local tax assessment records.

(c) The notice shall specify the time and place of a hearing on the condition of the building or structure, at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished, otherwise made safe, or properly maintained.

(d) The hearing officer shall be appointed by the village council to serve at its pleasure. The building inspector shall file a copy of the notice of the dangerous and unsafe condition with the hearing officer.

(e) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or, in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records at least ten days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the unsafe building or structure.

(Code 1988, § 3.503)

Sec. 8-83. Hearing; testimony; determination; compliance; cost; collection.

(a) At a hearing prescribed by section 8-82, the hearing officer shall take testimony of the building inspector, the owner of the property, and any interested party. Not more than five days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.

(b) If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall enter an order that specifies what action the owner, agent, or lessee shall take and sets a date by which the owner, agent, or lessee shall comply with the order. If the building is a dangerous building under subsection (10) of the definition of "dangerous building" in section 8-81, the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building, including, but not limited to, the maintenance of lawns, trees, and shrubs.

(c) If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order issued under subsection (b) of this section, the hearing officer shall file a report of the findings and a copy of the order with the village council not more than five days after the date for compliance set in the order and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent, or lessee in the manner prescribed in section 8-82.

(d) The village council shall set a date not less than 30 days after the hearing prescribed in section 8-82 for a hearing on the findings and order of the hearing officer. The village council shall give notice to the owner, agent, or lessee in the manner prescribed in section 8-82 of the time and place of the hearing. At the hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The village council shall either approve, disapprove, or modify the order. If the village council approves or modifies the order, the village council shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within 60 days after the date of the hearing under this subsection. For an order of demolition, if the village council determines that the building or structure has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent, or lessee shall comply with the order of

demolition within 21 days after the date of the hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires immediate demolition exists.

(e) The cost of demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this article. The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure incurred by the village to bring the property into conformance with this article shall be reimbursed to the village by the owner or party in interest in whose name the property appears.

(f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice of the amount of the cost, the village shall have a lien for the cost incurred by the village to bring the property into conformance with this article. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Public Act No. 206 of 1893 (MCL 211.1 et seq.).

(g) In addition to other remedies under this article, the village may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The village shall have a lien on the property for the amount of a judgment obtained under this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

(Code 1988, § 3.504)

Sec. 8-84. Enforcement of judgment against other assets; lien; effectiveness; priority.

(a) A judgment in an action brought pursuant to section 8-83(g) may be enforced against assets of the owner other than the building or structure.

(b) The village shall have a lien for the amount of a judgment obtained pursuant to section 8-83(g) against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against

whom the judgment is obtained. A lien provided for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

Sec. 8-85. Appeals.

An owner aggrieved by any final decision or order of the village council under section 8-83 may appeal the decision or order to the circuit court by filing a petition for an order of superintendent control within 20 days from the date of the decision. (Code 1988, § 3.506)

Sec. 8-86. Administration; joint administration and enforcement agreement

The village council hereby designates the building inspector as the officer who shall administer the provisions of this article. The village council shall also appoint a hearing officer, who shall serve at the pleasure of the council. The village council may provide by agreement for the joint administration and enforcement of this article when joint enforcement is practicable. (Code 1988, § 3.507)

Sec. 8-87. Violation as a municipal civil infraction.

Any person violating this article shall be responsible for a municipal civil infraction. (Code 1988, § 3.510)

Secs. 8-88—8-117. Reserved.

ARTICLE V. MOVING OF BUILDINGS

Sec. 8-118. Permit required.

No person shall move any building through the streets of the village without having first obtained a permit from the village council so to do. (Code 1988, § 2.301)

Sec. 8-119. Action of council.

Before granting a permit under this article, the council shall investigate the route to be followed and where walks or other public property or property of a utility will be in danger of damage from the passing of such building, the council shall require a cash damage deposit to be placed in its hands prior to issuance of the permit. The damage deposit shall not be construed as a limitation of liability of the licensees either to the village or to any utility. Such damage deposit shall be repaid to the owner as soon as the building has been moved to its destination and all damages caused thereby to public and utility property have been cured. In the event that such damages have not been cured within 90 days, the village council may declare such deposit forfeited and proceed to cure such damages to public property itself and pay to any utility for damage done it a fair and equitable share of such damage deposit. (Code 1988, § 2.302)

Sec. 8-120. Permit.

The permit granted under this article shall specify the route to be taken through the village streets as well as the time at which the building shall be moved.
(Code 1988, § 2.303)

Sec. 8-121. Violation as a municipal civil infraction.

Any person violating this article shall be responsible for a municipal civil infraction.
(Code 1988, § 2.304)

Secs. 8-122—8-140. Reserved.**ARTICLE VI. FENCES*****Sec. 8-141. Permitted fences; height regulations.**

(a) No fence or wall shall be erected, maintained or permitted in the village except the following:

- (1) Fences and walls not exceeding four feet in height.
- (2) Fences and walls exceeding four feet in height but not exceeding six feet in height, in the rear of the building line, as established under chapter 36, with the consent of the owner of the adjoining property nearest the fence or wall. Such consent shall be in writing, shall be filed with the village, and shall be irrevocable and binding on succeeding owners of the property with respect to the fence or wall for which it is given. The limitation of such fences to the rear of building lines applies to every street on which the property may abut and refers to the side of such line away from such street. If the adjoining property nearest the fence or wall has a building line farther from the street than the building line of the property on which the fence or wall is built, the fence or wall exceeding four feet in height shall be built only to the rear of the building line of such adjoining property.
- (3) Fences and walls not exceeding eight feet in height in industrial districts, as described in chapter 36, and fences and walls not exceeding eight feet in height adjacent and parallel to the boundaries of industrial districts.
- (4) Barriers for parking areas, as required or permitted by chapter 36.
- (5) Retaining walls, to the extent actually used as a retaining barrier for earth at the normal grade line.
- (6) Fences or walls not exceeding eight feet in height protecting or enclosing any village park or other municipal property.
- (7) Fences or walls not exceeding six feet in height protecting or enclosing any church, school, library, memorial center, hospital or other public or private institution, with the consent of the village council.

*State law reference—Fences near junkyards, MCL 252.204 et seq.

(b) Height shall be determined from the normal grade line at the base of the fence or wall. General alterations of the grade of the property shall not be considered deviations from the normal grade line for the purpose of this article.

Sec. 8-142. Barbed wire, dangerous materials.

No barbed wire, exposed spikes, broken glass or other dangerous devices or materials shall be used on or in connection with any fence or wall or in connection with any barrier or enclosure in the village. However, on fences erected or maintained in industrial districts, as established under chapter 36, no barbed wire may be used unless such barbed wire shall be placed at a height not less than six feet above the normal grade line at the base of the fence.

Sec. 8-143. Obstruction of view.

No fences, walls, hedges, bushes, shrubs, trees or planting shall be erected, planted, maintained or permitted near any street intersection or at the entrance to any public or private driveway so as to obstruct the view of operators of vehicles and pedestrians approaching such intersection or entrance, to the impairment of the safe operation of such vehicles and the safety of the general public.

Sec. 8-144. Distance from sidewalk.

No fences, walls, retaining walls, hedges, bushes, shrubs, trees or planting shall be erected, planted, maintained or permitted within one foot of the inner edge of any existing sidewalk.

Sec. 8-145. Nuisance.

Any violation of the provisions of this article shall constitute a public hazard and nuisance.

Sec. 8-146. Permit required.

Before any fence or wall shall be erected on any property in the village other than property of the village, a written permit therefor shall be obtained from the village upon application in writing. The application shall be submitted to the village clerk for approval by the building inspector and shall set forth a description of the fence or wall, its proposed location, and such other information as the building inspector may reasonably require. A permit shall be issued upon determination by the building inspector that the proposed fence or wall complies with the provisions of this article; otherwise, the permit shall not be issued. A fee as set by resolution of the village council from time to time shall be paid to the village upon the issuance of each such permit.

Sec. 8-147. Appeals.

An appeal to the village council may be taken from any action of the building committee denying a permit for a fence or wall or from any action with respect to fences, walls, hedges, bushes, shrubs, trees or planting under this article. Appeals

must be in writing and must be filed within ten days after the decision appealed is mailed or otherwise communicated to the appellant. The village council may, upon such appeal, reverse, modify or affirm the action of the building committee. The village council may also, upon any such appeal and at its discretion, reduce or modify the requirements of this article in individual cases where it determines that such action will not impair the general effect and intent of this article, including, but not limited to, the following:

- (1) In any situation of unusual practical difficulty or unnecessary hardship; or
- (2) In the general interest of the public safety, comfort, convenience, or the protection of property values.

Sec. 8-148. Violation as a municipal civil infraction.

Any person violating this article shall be responsible for a municipal civil infraction.

Secs. 8-149—8-179. Reserved.

ARTICLE VII. PROPERTY MAINTENANCE CODE

Sec. 8-180. Adopted.

A certain document, a copy of which is on file in the office of the village clerk, being marked and designated as the International Property Maintenance Code, 2006 edition, as published by the International Code Council, Inc., be and is hereby adopted as the property maintenance code of the village for regulating and governing the conditions and maintenance of all property, buildings and structures by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; for the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such existing structures; and for the issuance of permits and collection of fees therefor. Each and all of the regulations, provisions, penalties, conditions and terms of the property maintenance code on file in the office of the village clerk are hereby referred to, adopted, and made a part of this article as if fully set out in this article, with the additions, insertions, deletions and changes as prescribed in section 8-181.

State law reference—Authority to adopt technical codes by reference, MCL 66.4.

Sec. 8-181. Amendments.

The following sections of the property maintenance code adopted in section 8-180 are hereby amended or deleted or additional sections or subsections are added as follows:

Section 101.1 (page 1, second line) is amended by inserting "Village of Climax."

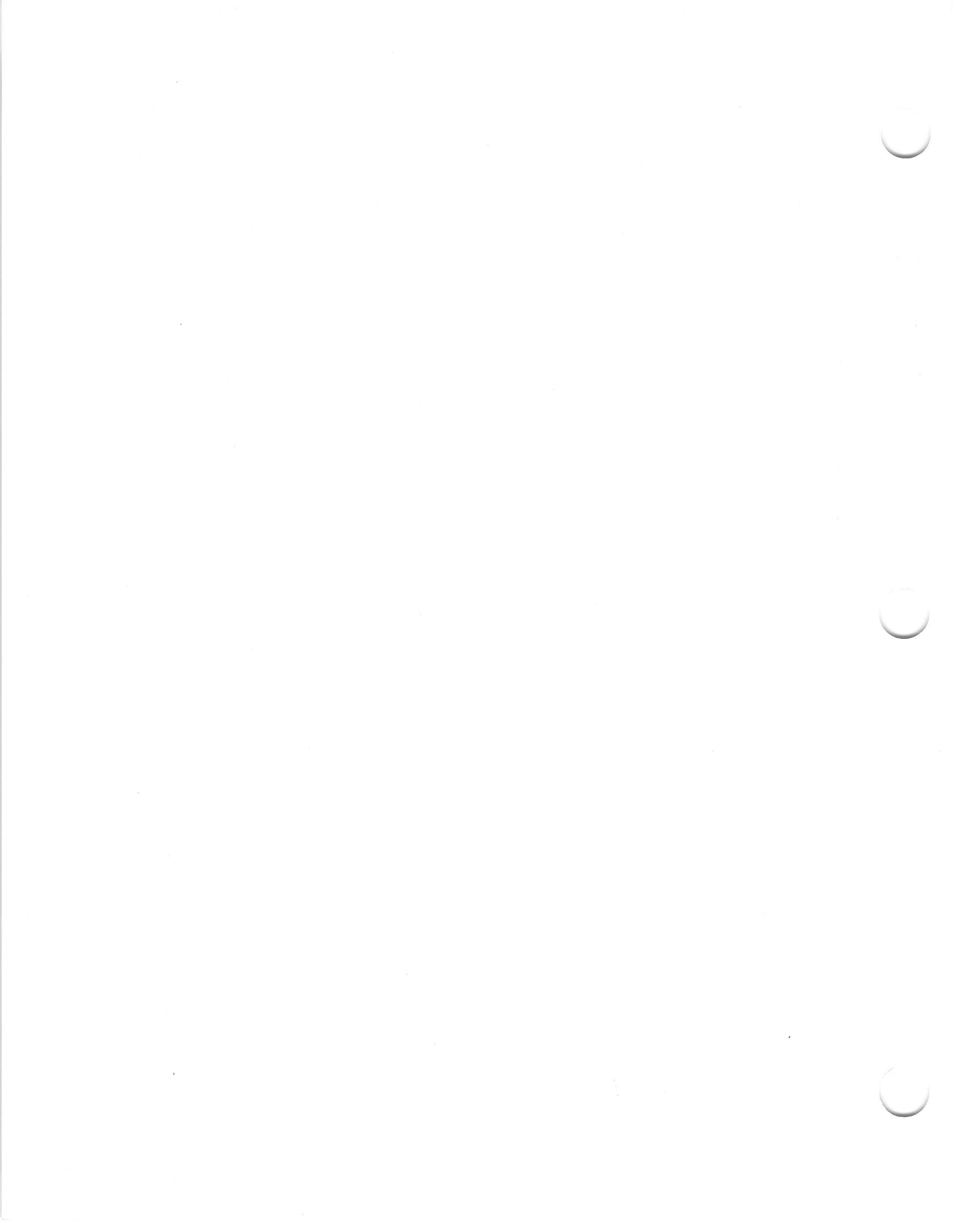
Section 304.14 (page 10, first line) is amended by inserting "March 1 to December 1."

Section 602.3 (page 17, fifth line) is amended by inserting "October 1 to May 15."

Section 602.4 (page 17, third line) is amended by inserting "October 1 to May 15."

Sec. 8-182. Violation as a municipal civil infraction.

Any person violating this article shall be responsible for a municipal civil infraction.



Chapter 9

RESERVED

