

CODE OF ORDINANCES

VILLAGE OF

CLIMAX, MICHIGAN

Published by Order of the Village Council



MUNICIPAL CODE CORPORATION

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2008

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of the
VILLAGE OF
CLIMAX, MICHIGAN
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PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Village of Climax, Michigan.

Source materials used in the preparation of the Code were the 1988 Code, as supplemented, and ordinances subsequently adopted by the Village Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1988 Code, as supplemented, and any ordinance included herein.

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

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a

chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CODE	CDi:l
CODE APPENDIX	CDA:l
CODE COMPARATIVE TABLES	CCT:l
STATE LAW REFERENCE TABLE	SLT:l
CODE INDEX	CDi:l

Index

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

Looseleaf Supplements

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

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

Acknowledgments

This publication was under the direct supervision of Bill Carroll, Senior Code Attorney, and Kyle S. Meyer, Editor, of the Municipal Code

Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Scott Torrance, Clerk, Bill Rogers, President, and Bob Soltis, Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the Village readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the Village's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the Village of Climax, Michigan. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the Village of Climax, Michigan.

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TABLE OF CONTENTS

	Page
Officials of the Village at the Time of this Recodification ..	m
Current Officials (Reserved)	v
Preface	vn
Adopting Ordinance (Reserved)	

CODE OF ORDINANCES

Chapter

1. General Provisions	CD1:1
2. Administration	CD2:1
Art. I. In General	CD2:3
Art. II. Village Council	CD2:3
Art. III. Officers and Employees	CD2:6
Div. 1. Generally	CD2:6
Div. 2. Village Manager	CD2:7
Art. IV. Boards and Commissions (Reserved)	CD2:10
Art. V. Finances	CD2:10
Div. 1. Generally	CD2:10
Div. 2. Private Sale of Village Property	CD2:11
Art. VI. Municipal Civil Infractions	CD2:12
3. Reserved	CD3:1
4. Amusements and Entertainments (Reserved)	CD4:1
5. Reserved	CD5:1
6. Animals	CD6:1
7. Reserved	CD7:1
8. Buildings and Building Regulations	CD8:1
Art. I. In General	CD8:3
Art. II. State Construction Code	CD8:2
Art. III. Driveway Construction	CD8:4
Art. IV. Dangerous Buildings	CD8:6
Art. V. Moving of Buildings	CD8:11
Art. VI. Fences	CD8:12
Art. VII. Property Maintenance Code	CD8:14
9. Reserved	CD9:1
10. Cemeteries	CD10:1
11. Reserved	CD11:1

CLIMAX CODE

Chapter	Page
12. Elections	CD12:1
13. Reserved	CD13:1
14. Environment	CD14:1
Art. I. In General	CD14:3
Art. II. Public Nuisances	CD14:3
Art. III. Sanitation	CD14:5
Art. IV. Noise Control	CD14:5
Art. V. Blight	CD14:8
15. Reserved	CD15:1
16. Fire Prevention and Protection	CD16:1
Art. I. In General	CD16:3
Art. II. Prevention of Fires	CD16:3
Art. III. Burning	CD16:3
17. Reserved	CD17:1
18. Land Divisions and Subdivisions	CD18:1
Art. I. In General	CD18:3
Art. II. Subdivision Control	CD18:3
19. Reserved	CD19:1
20. Offenses	CD20:1
Art. I. In General	CD20:3
Art. II. Offenses Against Public Safety	CD20:3
Art. III. Loitering	CD20:3
21. Reserved	CD21:1
22. Parks and Recreation	CD22:1
Art. I. In General	CD22:3
Art. II. Park Regulations	CD22:3
23. Reserved	CD23:1
24. Secondhand Goods	CD24:1
Art. I. In General	CD24:3
Art. II. Junkyards	CD24:3
Div. 1. Generally	CD24:3
Div. 2. License	CD24:4
25. Reserved	CD25:1
26. Solid Waste	CD26:1
Art. I. In General	CD26:3
Art. II. Refuse Management	CD26:3
27. Reserved	CD27:1
28. Special Assessments	CD28:1

TABLE OF CONTENTS-Cont'd.

Chapter	Page
29. Reserved	CD29:1
30. Streets, Sidewalks and Other Public Places	CD30:1
Art. I. In General	CD30:3
Art. II. Sidewalks	CD30:3
Art. III. Shade Trees	CD30:5
31. Reserved	CD31:1
32. Traffic and Vehicles	CD32:1
Art. I. In General	CD32:3
Art. II. Bicycle Path and Sidewalk Safety	CD32:4
33. Reserved	CD33:1
34. Utilities	CD34:1
Art. I. In General	CD34:3
Art. II. Water	CD34:3
Div. 1. Generally	CD34:3
Div. 2. Cross Connections	CD34:11
35. Reserved	CD35:1
36. Zoning	CD36:1
Art. I. In General	CD36:3
Art. II. Administration and Enforcement	CD36:9
Div. 1. Generally	CD36:9
Div. 2. Board of Appeals	CD36:13
Div. 3. Special Exceptions	CD36:14
Div. 4. Amendment Procedures	CD36:16
Art. III. District Regulations	CD36:17
Art. IV. Supplemental Regulations	CD36:26
Appendix	
A. Franchises	CDA:1
Code Comparative Table-1988 Code	CCT:1
Code Comparative Table-Ordinances	CCT:3
State Law Reference Table	SLT:1
Code Index	CDi:1

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. Designation and citation of Code.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Interpretation per state acts.
- Sec. 1-4. Catchlines.
- Sec. 1-5. References and notes.
- Sec. 1-6. Application to future legislation.
- Sec. 1-7. Reference to other sections.
- Sec. 1-8. Reference to offices.
- Sec. 1-9. History notes.
- Sec. 1-10. Continuation of existing ordinances.
- Sec. 1-11. Effect of repeal of ordinances.
- Sec. 1-12. Prior offenses or rights not affected by Code.
- Sec. 1-13. Certain provisions saved from repeal.
- Sec. 1-14. Amendment procedure.
- Sec. 1-15. Supplementation of Code.
- Sec. 1-16. Severability.
- Sec. 1-17. General penalty.

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

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

State law reference-Codification authority, MCL 66.3a.

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

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

Code. The terms "this Code" and "Code" mean the Code of Ordinances, Village of Climax, Michigan, as designated in section 1-1.

Computation of time. The time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code, when expressed in days, shall be computed by excluding the first day and including the last, provided that if the last day is Sunday or a legal holiday it shall be excluded. When the time is expressed in hours, the whole of Sunday or a legal holiday, from 12:00 midnight to 12:00 midnight, shall be excluded.

Council, village council. The terms "council" and "village council" mean the village council of the Village of Climax, Michigan.

County. The terms "the county" and "this county" mean the County of Kalamazoo in the State of Michigan.

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

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

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

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

Person. The term "person" and its derivatives and the term "whoever" include a natural person, partnership, association, legal entity or a corporate body or any body of persons corporate or incorporate. Whenever used in any clause prescribing and imposing a penalty, the terms "person" and "whoever," as applied to any unincorporated entity, mean the partners or members thereof and, as applied to corporations, the officers thereof.

Public Act. The term "Public Act" means Public Acts of Michigan, as amended.

Shall, may. The term "shall" is always mandatory and not discretionary. The term "may" is permissive.

State. The terms "the state" and "this state" shall be construed to mean the State of Michigan.

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

Village. The term "village" means the Village of Climax, Michigan.
(Code 1988, § 1.040)

State law reference-Rules of construction, MCL 8.3 et seq.

Sec. 1-3. Interpretation per state acts.

Unless otherwise provided in this Code or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this Code as those governing the interpretation of the Public Acts of Michigan.

Sec. 1-4. Catchlines.

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

Sec. 1-5. References and notes.

State law references and editor's notes are by way of explanation only and should not be deemed a part of the text of any section.

Sec. 1-6. Application to future legislation.

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

Sec. 1-7. Reference to other sections.

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

Sec. 1-8. Reference to offices.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the village exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

Sec. 1-9. History notes.

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

Sec. 1-10. Continuation of existing ordinances.

The provisions appearing in this and the following chapters and sections, so far as they are the same as ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-11. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

(Code 1988, § 1.037)

Sec. 1-12. Prior offenses or rights not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the village in effect on the date of adoption of this Code.

Sec. 1-13. Certain provisions saved from repeal.

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

- (1) Any ordinance levying annual taxes.
- (2) Any ordinance appropriating money.
- (3) Any ordinance authorizing the issuance of bonds or the borrowing of money.
- (4) Any ordinance establishing utility rates.
- (5) Any ordinance establishing franchises or granting special rights to certain persons.

- (6) Any ordinance authorizing public improvements.
- (7) Any ordinance authorizing the purchase or sale of real or personal property.
- (8) Any ordinance annexing or detaching territory.
- (9) Any ordinance granting or accepting easements, plats or dedications of land to public use.
- (10) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the village.
- (11) Any ordinance establishing or prescribing grades in the village.
- (12) Any ordinance prescribing the number, classification or compensation of any village officers or employees.
- (13) Any ordinance prescribing traffic and parking restrictions pertaining to specific streets.
- (14) Any ordinance pertaining to rezoning.
- (15) Any ordinance relating to sewage treatment or industrial waste control.
- (16) Any other ordinance or part thereof which is not of a general and permanent nature.

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

Sec. 1-14. Amendment procedure.

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

- (1) To amend any section:

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

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

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

- (3) To repeal a section or chapter:

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

Sec. 1-15. 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 such changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ___ to ___" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-16. Severability.

(a) It is the legislative intent of the village council in adopting this Code that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the village. Should any provision or section of this Code be held unconstitutional or invalid, such holding shall

not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that this Code shall stand, notwithstanding the invalidity of any provision or section thereof.

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

(Code 1988, § 1.090)

Sec. 1-17. General penalty.

(a) Except as specifically provided otherwise by state law or village ordinance, all violations of this Code are misdemeanors. Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed \$500.00 and costs of prosecution, by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment. However, unless otherwise provided by law, a person convicted of a violation of this Code which substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine not to exceed \$500.00 and costs of prosecution, by imprisonment for a period of not more than 93 days, or by both such fine and imprisonment. Municipal civil infraction fines are established in chapter 2, article VI.

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

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

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

(Code 1988, §§ 1.038, 1.039)

State law reference-Limitation on penalties, MCL 66.2.

Chapter 2

ADMINISTRATION*

Article I. In General

Secs. 2-1-2-18. Reserved.

Article II. Village Council

Sec. 2-19. Regular meetings.
Sec. 2-20. Special meetings.
Sec. 2-21. Quorum.
Sec. 2-22. Order of business.
Sec. 2-23. Publications and reading of minutes.
Sec. 2-24. Rules of order.
Sec. 2-25. Standing committees.
Sec. 2-26. Special committees.
Sec. 2-27. Reports of committees.
Sec. 2-28. Compensation of village president and trustees.
Sec. 2-29. Ordinances-Preparation by attorney; majority vote required.
Sec. 2-30. Same-Adoption.
Sec. 2-31. Same-Effective date.
Secs. 2-32-2-50. Reserved.

Article III. Officers and Employees

Division 1. Generally

Sec. 2-51. Officers.

Sec. 2-52. Special police officers.
Sec. 2-53. Street commissioner.
Sec. 2-54. Compensation of officers.
Secs. 2-55-2-81. Reserved.

Division 2. Village Manager

Sec. 2-82. Establishment of office.
Sec. 2-83. Appointment of village manager.
Sec. 2-84. Acting village manager.
Sec. 2-85. Compensation.
Sec. 2-86. Duties.
Sec. 2-87. Purchasing responsibilities.
Sec. 2-88. Dealing with employees.
Secs. 2-89-2-119. Reserved.

***State law** references-Incorporation of villages, MCL 61.1 et seq.; open meetings act,

MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

CLIMAX CODE

Article IV. Boards and Commissions (Reserved)

Secs. 2-120-2-136. Reserved.

Article V. Finances

Division 1. Generally

Sec. 2-137. Finances.
Sec. 2-138. Work contracted by the village council.
Secs. 2-139-2-159. Reserved.

Division 2. Private Sale of Village Property

Sec. 2-160. Authorization.
Sec. 2-161. Price.
Sec. 2-162. Notice requirements.
Sec. 2-163. Confirmation.
Secs. 2-164-2-194. Reserved.

Article VI. Municipal Civil Infractions

Sec. 2-195. Bureau established and empowered.
Sec. 2-196. Location, supervision, rules and regulations of bureau.
Sec. 2-197. Municipal ordinance violation notice.
Sec. 2-198. Citations.
Sec. 2-199. Retention of municipal ordinance violation notices; accounting of admissions and denials of responsibility and civil fines.
Sec. 2-200. Availability of other enforcement remedies.
Sec. 2-201. Municipal civil infractions designated and Code sections affected.
Sec. 2-202. Schedule of civil fines.

ARTICLE I. IN GENERAL

Secs. 2-1-2-18. Reserved.

ARTICLE II. VILLAGE COUNCIL***Sec. 2-19. Regular meetings.**

(a) The village council shall hold regular meetings on the first and third Tuesday of each month at 7:30 p.m. In the event, however, that the regular meeting of the council falls upon a date designated by law as a legal or national holiday, the meeting shall be rescheduled for the following Tuesday at the same time.

(b) The meeting shall follow the order as specified in section 2-22. Individuals and/or members of the council who desire the floor at a meeting for a period in excess of five minutes shall be added to the published agenda for the meeting by contacting the president no later than 48 hours prior to the scheduled meeting.

(c) The president shall provide the agenda information to the clerk no later than 24 hours prior to the scheduled meeting. Prior to convening a regular or special meeting, the clerk shall provide a printed copy of said agenda to all councilmembers and citizens or visitors in attendance.

(Code 1988, § 1.001)

State law reference-Meetings, MCL 65.4.

Sec. 2-20. Special meetings.

(a) The president shall call special meetings of the council whenever, in his opinion, the public business may require it, or at the express written request of any three members of the council. A written notice shall be served upon each member of the council either in person or by notice left at his place of residence at least six hours before the meeting, stating the date and hour of the _ meeting and the purpose for which such meeting is called, and no business shall be transacted thereat, except such as is stated in the notice; provided, however, that if all the members of the council shall be present at any special meeting, such notice shall be deemed to have been waived.

(b) No compensation for special meetings shall be provided to any officer, unless specifically approved by not less than a two-thirds majority of the members present for such meeting.

(Code 1988, § 1.002)

State law reference-Meetings, MCL 65.4.

***State law** references-Village council, MCL 65.1 et seq.; ordinances, MCL 66.1 et seq.; standards of conduct and ethics, MCL 15.341 et seq.; open meetings act, MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

Sec. 2-21. Quorum.

(a) A majority of all the members elected to the council shall constitute a quorum at any regular or special meeting of the council. In the absence of a quorum, the presiding officer shall, at the instance of any three members present, compel the attendance of absent members.

(b) It shall be the responsibility of each councilmember to notify the president or clerk if absence from a regularly scheduled meeting is anticipated. Said notice must be given no later than three hours prior to the beginning of said meeting.

(c) If, due to notification of councilmembers who will be absent, the president believes that a quorum will not be available for said meeting, he shall notify all councilmembers that the meeting is cancelled and will be rescheduled for the following Tuesday at the same time and place. Additionally, a notice of such postponement must be posted on the door of the meeting place prior to the normal meeting time.

(Code 1988, § 1.003)

State law reference-Quorum, MCL 65.5.

Sec. 2-22. Order of business.

All meetings of the council shall be open to the public; provided, however, the council may recess into executive session. The order of business shall be as follows:

- (1) Roll call.
 - (2) Approval of minutes of previous meeting and treasurer reports.
 - (3) Petitions and communications.
 - (4) Introduction and adoption of resolutions and ordinances.
 - (5) Reports of officers, boards and committees.
 - (6) Unfinished business.
 - (7) New business.
 - (8) Miscellaneous.
 - (9) Appropriations.
 - (10) Adjournment.
- (Code 1988, § 1.004)

Sec. 2-23. Publications and reading of minutes.

Within 15 days after any meeting of the council, all the proceedings had or taken at such meeting, together with the vote of the various members of the board of trustees, shall be published in a newspaper published in the village, if there is one therein. Unless a reading of the minutes of a council meeting is requested by a member of the

council, such minutes may be approved without reading if they have been published prior to the meeting or the clerk has previously furnished each member with a copy thereof.

(Code 1988, § 1.005)

Sec. 2-24. Rules of order.

Except as otherwise required by statute or ordinance, Robert's Rules of Order shall govern the deliberations of the council.

(Code 1988, § 1.007)

Sec. 2-25. Standing committees.

The president, with the advice and consent of the council, shall appoint the following standing committees:

- (1) Finance, insurance and administration.
- (2) Streets, sidewalks and census.
- (3) Public safety, fire, law enforcement, and disaster planning.
- (4) Cemetery, parks and library.
- (5) Water, recycling and spring cleanup.
- (6) Ordinance, zoning, planning and development.

(Code 1988, § 1.008)

Sec. 2-26. Special committees.

The president shall appoint such special committees from time to time as he may deem necessary or as may be directed by the council.

(Code 1988, § 1.009)

Sec. 2-27. Reports of committees.

All committee reports shall be in writing and filed with the clerk.

(Code 1988, § 1.010)

Sec. 2-28. Compensation of village president and trustees.

(a) Village officers shall be compensated as follows; provided that no compensation shall be extended for any meeting not attended, and that the clerk and treasurer shall not be compensated for any time missed due to voluntary absence.

- (1) President: \$100.00 per regular meeting.
- (2) Trustees: \$75.00 per regular meeting.
- (3) Clerk: \$550.00 per month.
- (4) Treasurer: \$550.00 per month.

(b) The clerk and treasurer will be issued payment on a monthly basis. The president and trustees will be paid by the treasurer on a quarterly basis. Payments to the president or to the trustees which deviate from this schedule may be made upon a written request by either, and will be paid by the treasurer upon a majority vote by the council.

(Code 1988, § 1.011; Ord. No. 36, 3-16-1999)

Sec. 2-29. Ordinances-Preparation by attorney; majority vote required.

All ordinances shall be prepared by the village attorney. No ordinance shall be prepared for presentation to the council unless ordered by a majority vote of the council.

(Code 1988, § 1.034)

Sec. 2-30. Same-Adoption.

Except by unanimous consent, all ordinances shall have not less than two separate readings and shall not be passed on the same date introduced.

(Code 1988, § 1.035)

Sec. 2-31. Same-Effective date.

All ordinances passed by the village council, except when otherwise required by statute or specifically provided therein, shall take effect and be in force from and after their publication. All publications shall be within seven days of adoption.

(Code 1988, § 1.036)

State law reference-Effective date, MCL 66.1.

Secs. 2-32-2-50. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

DIVISION 1. GENERALLY

Sec. 2-51. Officers.

The president shall, with the advice and consent of the council, appoint the village street commissioner and such other officers as from time to time may be required by statute or become necessary under the circumstances.

(Code 1988, § 1.012)

***State law** references-Village officers, MCL 62.1 et seq.; standards of conduct and ethics, MCL 15.341 et seq.

Sec. 2-52. Special police officers.

The president shall have the power to appoint such special police as emergencies may require and shall certify such appointment, together with the services rendered, to the council, which shall fix the compensation for such special services.
(Code 1988, § 1.013)

Sec. 2-53. Street commissioner.

It shall be the duty of the street commissioner, whenever any labor has been performed or work has been done, by the direction of the council and under his supervision, upon any of the streets, highways or sidewalks of this village to submit a written report of the same to the village council at the first subsequent regular meeting. Such written report shall embody the names of all men who have been employed, the character of the work performed, and the number of hours such employees have been engaged in the performance of such services. The street commissioner shall have such duties as are imposed by the ordinances of the village and the statutes of the state and as the council may direct.
(Code 1988, § 1.014)

Sec. 2-54. Compensation of officers.

All officers, except where other provision is made herein or fixed by statute, shall receive such compensation as the council shall prescribe.
(Code 1988, § 1.015)

Secs. 2-55-2-81. Reserved.**DIVISION 2. VILLAGE MANAGER*****Sec. 2-82. Establishment of office.**

In accordance with the authority for the appointment of such village officers as the council shall deem necessary for the execution of the powers granted to the village contained in section 2 of chapter II and section 8 of chapter V of Public Act No. 3 of 1895 (MCL 62.2, 65.8), which is the charter of the village, there is hereby established the office of village manager.
(Ord. No. 35, § 1, 8-18-1998)

Sec. 2-83. Appointment of village manager.

(a) The president shall, with the concurrence of four or more trustees, appoint a village manager for a indefinite term, and the council may, by contract, enter into such other terms and conditions as the manager and council deem appropriate. The manager shall serve at the pleasure of the council and may be removed by the

*State law reference-Employment of manager, MCL 65.8.

affirmative vote of four or more trustees, but only after a hearing before the council. The president may, for cause, suspend the manager with full pay until the hearing. The action of the council in removing the manager shall be final.

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

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

(Ord. No. 35, § 2, 8-18-1998)

Sec. 2-84. Acting village manager.

The president, with the concurrence of four or more trustees, shall appoint or designate an acting manager during a vacancy in the office of village manager and shall make a permanent appointment within 180 days from the effective date of the vacancy. A village manager appointment in accordance with section 2-83 shall be deemed to be the acting manager from the date of the appointment until the appointee becomes a resident, if residency is deemed to be a qualification for the appointment. (Ord. No. 35, § 3, 8-18-1998)

Sec. 2-85. Compensation.

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

(Ord. No. 35, § 4, 8-18-1998)

Sec. 2-86. Duties.

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

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

- (1) Attend all meetings of the village council and committees thereof and take part therein but without a vote;
- (2) Be responsible for personnel management and issue, subject to council approval, personnel rules applicable to all village employees. The manager shall have the following responsibilities:
 - a. To appoint, suspend or remove all appointed administrative officers and department heads, subject to council approval. The manager shall recommend to the council the salary or wages to be paid each such official;

- b. To appoint, suspend or remove all other employees of the village. All such actions shall be based on merit and taken pursuant to personnel rules approved by the council. The manager shall fix the salaries or wages of all such employees;
 - (3) Exercise supervisory control over all departments, including the police department, the department of public works, and the fire department. The chief of police, street commissioner and chief of the fire department shall be subject to the direction of the manager;
 - (4) Exercise supervisory responsibility over the accounting, budgeting, personnel, purchasing and related management functions of the village clerk and village treasurer;
 - (5) Be authorized to attend all meetings of village boards and commissions including the village planning commission with the right to take part therein but without a vote;
 - (6) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, Public Act No. 2 of 1968 (MCL 141.421 et seq.);
 - (7) Be the purchasing agent of the village;
 - (8) Prepare and maintain an administrative code defining the duties and functions of the several officers and departments of the village, subject to approval by the council;
 - (9) Investigate all complaints concerning the administration of the village, for the purposes of which he shall have authority at all times to inspect the books, records and papers of any agent, employee or officer of the village;
 - (10) Make recommendations to the council for the adoption of such measures as may be deemed necessary or expedient for the improvement or betterment of the village; and
 - (11) Perform other duties required from time to time by the village council.
- (Ord. No. 35, § 5, 8-18-1998)

Sec. 2-87. Purchasing responsibilities.

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

(b) The village manager shall have the authority to purchase any product or service the cost of which does not exceed \$250.00, provided that funds have been appropriated. The cost of the product or service shall not exceed the unencumbered balance of the appropriation for that account. Except as hereinafter provided, the village manager shall not purchase any product or service the cost of which exceeds \$250.00 without prior approval of the village council. The village manager may promulgate rules governing the purchase of products or services.

(c) The village manager shall have the authority to purchase any product or service regardless of its cost when such purchase is necessitated by an emergency condition. The term "emergency condition," when used in this subsection, means any event which presents an imminent threat to the public health or safety or any event which would result in the disruption of a village service which is essential to the public health or safety.

(Ord. No. 35, § 6, 8-18-1998)

Sec. 2-88. Dealing with employees.

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

(Ord. No. 35, § 7, 8-18-1998)

Secs. 2-89-2-119. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS (RESERVED)

Secs. 2-120-2-136. Reserved.

ARTICLE V. FINANCES*

DIVISION 1. GENERALLY

Sec. 2-137. Finances.

All monies which may become due the village shall be paid to the treasurer, who shall immediately give a statement of receipt to the clerk therefor. In the event that the treasurer is absent, the clerk may receive monies due the village. The clerk shall give a statement of receipt to the treasurer for such monies received and retain a copy thereof for his files.

(Code 1988, § 1.016)

Sec. 2-138. Work contracted by the village council.

All work contracted by the village council costing more than \$100.00 must be done under written contract. Such a contract shall clearly state either the total estimated cost or the hourly wage and number of workers employed, and whether workers are covered by worker's compensation. Any special consideration on behalf of either the village council or the contractor must be stated in the contract and witnessed by at

***State law** references-Revised municipal finance act, MCL 141.2101 et seq.; local government fiscal responsibility act, MCL 141.1201 et seq.; uniform budgeting and accounting act, MCL 141.421 et seq.

least three members of the council. On completion of work, the contractor shall present a complete bill of material and a total bill for work done. Any officer of the village who orders work in violation of this section shall, upon conviction, be punished as provided in section 1-17.

(Code 1988, § 1.033)

Secs. 2-139-2-159. Reserved.

DIVISION 2. PRIVATE SALE OF VILLAGE PROPERTY

Sec. 2-160. Authorization.

The council of the village may, by ordinance, sell property of the village by private sale. The village council may negotiate in private for the sale of property. The terms of sale, however, must be contingent upon confirmation under this division.

(Code 1988, § 1.301)

Sec. 2-161. Price.

Prior to the private sale of any property owned by the village, the village council shall obtain two appraisals from qualified appraisers in the county. The property shall not be sold for less than the lowest appraised price unless specific reasons for such sale are given by the village council at the regular meeting wherein confirmation of the sale takes place.

(Code 1988, § 1.302)

Sec. 2-162. Notice requirements.

Prior to the sale of property owned by the village, notice of the intended sale shall be published in a newspaper of general circulation in the county for three successive weeks. Such notice shall include a description of the property to be sold, as well as a statement that the village council is considering the sale of the property. Such notice shall also be mailed by certified mail to all property owners listed on the village tax records as owning property which is adjacent to the property to be sold. The notice shall state that a special meeting of the village council for the purpose of obtaining input on the proposed sale will be held, and give the date and time of such meeting. It shall further state that any person wishing to comment on the sale of the subject property should attend the special meeting. At the special meeting, the village council shall listen to all comments of the village citizens and place the matter on the agenda for the next regularly scheduled village council meeting.

(Code 1988, § 1.303)

Sec. 2-163. Confirmation.

At the regular meeting, the council shall confirm or reject any offers to purchase the property, and sell the property upon the terms and for the price as the village council shall deem in the best interests of the village.

(Code 1988, § 1.304)

Secs. 2-164-2-194. Reserved.**ARTICLE VI. MUNICIPAL CIVIL INFRACTIONS****Sec. 2-195. Bureau established and empowered.**

The village hereby establishes a municipal ordinance violations bureau pursuant to Public Act No. 12 of 1994 (MCL 600.8396). The municipal ordinance violations bureau is empowered to accept admissions of responsibility for municipal civil infractions for which municipal ordinance violation notices have been issued and served by authorized officials, and to collect and retain civil fines for such admissions as prescribed in this article.

Sec. 2-196. Location, supervision, rules and regulations of bureau.

The municipal ordinance violations bureau is located at the village hall and shall be under the supervision and control of the village clerk. The village clerk, subject to the approval of the village council, shall make such rules and regulations as are advisable and necessary to govern the operations of the bureau and appoint any necessary employees to administer the bureau.

Sec. 2-197. Municipal ordinance violation notice.

(a) An action for a violation of a municipal ordinance may be commenced by issuance of a municipal ordinance violation notice. Any person receiving any municipal ordinance violation notice shall be advised on the notice as to all matters required by law, including, at a minimum, the:

- (1) Offense;
- (2) Time within which the person must contact the municipal ordinance violations bureau for purposes of admitting or denying responsibility;
- (3) Consequences for failure to pay the required fine or to contact the bureau within the required time.

(b) A person receiving a municipal ordinance violation notice may admit responsibility for such violation before the municipal ordinance violation bureau clerk or the clerk's designee. Upon accepting an admission of responsibility, the clerk shall collect from the person the civil fine for such violation as provided in this article. The clerk and employees of the bureau, if any, shall be city employees and shall be appointed to the bureau by resolution of the village council.

Sec. 2-198. Citations.

(a) An action for a violation of a municipal ordinance may be commenced by issuance of a citation.

(b) If commenced by a municipal ordinance violation notice, an action for violation of a municipal ordinance may be removed from the municipal ordinance violations bureau to the district court by issuance of a citation. With respect to any person who

fails to admit responsibility and pay the required civil fine within the designated time period, the clerk shall advise the complainant to issue and file a municipal civil infraction citation for the violation with the applicable district. The citation need not comply in all particulars with the requirements of citations as provided by Public Act No. 12 of 1994 (MCL 600.8705-600.8709), but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. A copy of the citation shall be served by first class mail on the alleged violator at the alleged violator's last known address. The violation shall thereafter be processed as a municipal civil infraction as provided by law.

(c) Municipal civil infraction citations shall be issued and served in conformity with applicable sections of Public Act No. 12 of 1994 (MCL 600.8705, 600.8707 and 600.8709).

Sec. 2-199. Retention of municipal ordinance violation notices; accounting of admissions and denials of responsibility and civil fines.

(a) The municipal ordinance violations bureau clerk shall retain all municipal ordinance violation notices.

(b) The clerk shall account to the village council on a quarterly basis concerning the number of admissions and denials of responsibility made concerning municipal civil infractions and the sum of fines collected. The amounts collected in civil fines shall be turned over to the treasurer to be credited to the general fund of the village.

Sec. 2-200. Availability of other enforcement remedies.

Nothing in this article shall be deemed to obligate the village to initiate its ordinance enforcement activity through the issuance of a municipal ordinance violation notice. The village shall have the right to proceed directly with the issuance of a municipal civil infraction citation for any municipal civil infraction or to take such other enforcement action as is authorized by law.

Sec. 2-201. Municipal civil infractions designated and Code sections affected.

Violations of those chapters and sections of this Code designated as municipal civil infractions shall be punishable as municipal civil infractions.

Sec. 2-202. Schedule of civil fines.

(a) Unless a different schedule of fines or penalty is provided for by any ordinance, the following schedule of civil fines payable to the municipal ordinance violations bureau for admissions of responsibility by persons served with municipal ordinance violation notices shall apply:

- (1) First offense within a three-year period: \$75.00.
- (2) Second offense within a three-year period: \$150.00.

(3) Third offense within a three-year period: \$325.00.

(4) Fourth or more offense within a three-year period: \$500.00.

(b) Whether a subsequent offense occurs within a three-year period shall be determined based on the date of the commission of the offense.

Chapter 3

RESERVED

Chapter 4

AMUSEMENTS AND ENTERTAINMENTS (RESERVED)

Chapter 5

RESERVED

Chapter 6

ANIMALS*

- Sec. 6-1. Posting of signs for invisible fencing.
- Sec. 6-2. Running at large, creating disturbance or committing damage prohibited; domesticated animals and fowl.
- Sec. 6-3. Violations; penalty.
- Sec. 6-4. Impounded animals.
- Sec. 6-5. Care of animals.
- Sec. 6-6. Hunting prohibited.
- Sec. 6-7. Violation as a municipal civil infraction.

***State law** references-Authority to adopt animal control ordinance, MCL 287.290; crimes related to animals and birds, MCL 750.49 et seq.; wildlife conservation, MCL 324.40101 et seq.

Sec. 6-1. Posting of signs for invisible fencing.

Any property owner or lessee who installs an invisible fence near a public street or property shall post a sign visible to any passersby alerting them to the presence of the invisible fence.

Sec. 6-2. Running at large, creating disturbance or committing damage prohibited; domesticated animals and fowl.

All cows, hogs, sheep, horses, goats, or other such domesticated animals and all fowl found running at large within the limits of the village or on the premises of any person within said village, other than the premises of the owner of such domesticated animals or fowl, at any time in the year, may be impounded by the county animal control officer.

(Code 1988, § 2.407)

State law reference-Livestock running at large, MCL 433.51 et seq.

Sec. 6-3. Violations; penalty.

(a) Any dog running at large and committing personal or property damage other than damage to its owner's premises or creating a disturbance shall be ordered to be kept properly confined to the owner's premises. Upon failure of the owner to confine such dog after having been ordered so to do, such dog may be impounded by the county animal control officer.

(b) Any person found guilty of harboring any animal or fowl which shall be found a nuisance because of creating disturbance or committing personal or property damage other than damage to its owner's premises shall be punished as provided in section 1-17.

(Code 1988, §§ 2.408, 2.410)

State law reference-Common law liability, MCL 287.288.

Sec. 6-4. Impounded animals.

Any animal impounded under this chapter shall be delivered to the county animal control for disposition.

(Code 1988, § 2.411)

Sec. 6-5. Care of animals.

All animals or fowl, farm, domestic, or any other, kept within the village limits, whether confined or not, must be properly cared for in regard to food, water and shelter, and must be otherwise treated in a humane manner.

(Code 1988, § 2.601)

State law reference-Cruelty to animals, MCL 750.50.

Sec. 6-6. Hunting prohibited.

No person shall hunt or pursue, trap, capture, kill or destroy by any means whatsoever any animal within the corporate limits of the village, except in extreme cases of actual property damage or defacement, in which case permission may be granted by the village council.

(Code 1988, §§ 2.604, 2.605)

Sec. 6-7. Violation as a municipal civil infraction.

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

(Code 1988, § 2.606)

Chapter 7

RESERVED

Chapter 8

BUILDINGS AND BUILDING REGULATIONS

Article I. In General

Secs. 8-1-8-18. Reserved.

Article II. State Construction Code

Sec. 8-19. Adopted.

Sec. 8-20. Designation of enforcing agency.

Sec. 8-21. Establishment of fee schedule.

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

Secs. 8-23-8-47. Reserved.

Article III. Driveway Construction

Sec. 8-48. Definitions.

Sec. 8-49. Submission of plan.

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

Sec. 8-51. Conditions of driveway construction.

Sec. 8-52. Waiver provisions.

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

Secs. 8-54-8-79. Reserved.

Article IV. Dangerous Buildings

Sec. 8-80. Prohibited.

Sec. 8-81. Definitions.

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

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

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

Sec. 8-85. Appeals.

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

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

Secs. 8-88-8-117. Reserved.

Article V. Moving of Buildings

Sec. 8-118. Permit required.

Sec. 8-119. Action of council.

Sec. 8-120. Permit.

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

Secs. 8-122-8-140. Reserved.

Sec. 8-141.

Sec. 8-142.

Article VI. Fences

Permitted fences; height regulations.

Barbed wire, dangerous materials.

CLIMAX CODE

- Sec. 8-143. Obstruction of view.
- Sec. 8-144. Distance from sidewalk.
- Sec. 8-145. Nuisance.
- Sec. 8-146. Permit required.
- Sec. 8-147. Appeals.
- Sec. 8-148. Violation as a municipal civil infraction.
- Secs. 8-149-8-179. Reserved.

Article VII. Property Maintenance Code

- Sec. 8-180. Adopted.
- Sec. 8-181. Amendments.
- Sec. 8-182. Violation as a municipal civil infraction.

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 2 1/2 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

Chapter 10

CEMETERIES*

- Sec. 10-1. Village council responsible for regulation .
- Sec. 10-2. Securing of additional grounds .
- Sec. 10-3. Care of grounds; annual assessment; price of lots.
- Sec. 10-4. General fund.
- Sec. 10-5. Perpetual care fund.
- Sec. 10-6. Sexton; duties, responsibilities and compensation .
- Sec. 10-7. Monuments, markers and other improvements.

***State law** references-Cemeteries, MCL 67.55 et seq.; authority to acquire and maintain cemeteries, MCL 128.1 et seq.; permit for disposition of body, MCL 333.2850; cemetery regulations act, MCL 456.521 et seq.

Sec. 10-1. Village council responsible for regulation.

The village council shall have and is hereby invested with all the rights and powers provided for and authorized by MCL 67.58 and 67.59. It shall be the duty of the council to see that the village cemetery grounds are kept in good order, free from brush, rubbish, weeds, and other unsightly things, to see that the monuments are properly cared for and where fences are maintained about the cemetery to see that they are kept in good condition. They shall see that the boundary lines of all lots and alleys or driveways are permanently marked, and shall see that no burials or monuments are permitted in the alleys or driveways. In the case or encroachments already made in any of the alleys or driveways, the council shall notify the interested parties, if any are known, to remove such encroachment, and if such encroachment is not removed within 30 days, the council shall cause such encroachment, body or monument to be removed to the lot, if any, where it properly belongs. The expense of such removal shall be charged upon the lot, in which no further burials shall be made until such charges are fully paid or remitted to the council. In case there are no known interested parties, the notice for such removal shall be published in a newspaper of the village at least three consecutive weeks before the council shall cause such removal to be made. The council shall perform such other duties as are provided by MCL 67.59, 67.60 and 67.61.

(Code 1988, § 6.201)

Sec. 10-2. Securing of additional grounds.

Whenever it shall become necessary to secure additional cemetery grounds, the village council shall negotiate for such grounds, and when the location and terms of purchase are approved by the village council, the council shall purchase such grounds for the village.

(Code 1988, § 6.202)

Sec. 10-3. Care of grounds; annual assessment; price of lots.

(a) All lots heretofore sold which are not provided with perpetual care shall be subject to an annual assessment as currently established or as hereafter adopted by resolution of the village council from time to time on each lot in the village cemetery upon which burial rights have been granted by the village or its predecessors, and upon all lots, if any, which have been deeded or conveyed outright to any person. Said tax shall be paid into the village treasury on or before January 1 of each year and shall be used solely for the care and embellishment of the cemetery. Delinquent assessments shall be cumulated, and no lot shall be opened for the purpose of burial or removal therefrom, or marker or monument set, until the delinquent assessments have been paid. A failure for five years to pay said tax shall forfeit all rights of burial in any lot on which said assessment is levied.

(b) All lots in the village cemetery shall be kept and maintained in good condition, properly seeded and mowed, but not sprinkled.

(c) The price of lots in the village cemetery shall be set by the village council. The council shall take into consideration that the entire purchase price of all lots shall go into the general fund and no part thereof shall be segregated and placed in the existing perpetual care fund.
(Code 1988, § 6.203)

Sec. 10-4. General fund.

All sums paid under the provisions of this chapter, with the exception of those paid into the perpetual care fund, shall be paid to the village treasurer, who shall immediately give to the village clerk a statement of receipt therefor. Such sums shall be placed in the general fund.
(Code 1988, § 6.204)

Sec. 10-5. Perpetual care fund.

The treasurer shall keep all monies which have been paid for perpetual care in a separate fund known as the perpetual care fund and shall be authorized, but only at the proper resolution of the village council, to invest the same in undoubted first real estate mortgages, United States Bonds, state bonds or municipal bonds, and the income from said investments shall be used in the perpetual care of said cemetery. If the income therefrom is insufficient, the deficit shall be met by the village out of other funds available for that purpose, and any surplus earnings of interest on said fund may be used for the general betterment and ornamenting of the cemetery.
(Code 1988, § 6.205)

Sec. 10-6. Sexton; duties, responsibilities and compensation.

(a) *Position established.* The immediate care of the village cemetery shall be taken by a superintendent or sexton, who shall be appointed by the village council and shall hold that position at its pleasure.

(b) *Duties.* It shall be the duty of the sexton to perform the following:

- (1) Carry out the orders of the council in keeping the cemetery grounds neat and in good order.
- (2) Dig or supervise the digging of all graves in the village cemetery. Before digging or permitting the digging of a grave in any lot in the cemetery, the sexton must receive permission from the village treasurer or village clerk.
- (3) See that no grave is dug so as to encroach upon any alley or driveway and that all earth or other matter from the grave is properly cared for and disposed of as he directs.

(c) *Compensation.* Payment of the sexton for his services shall be determined by the village council in accordance with the prevailing wage level.
(Code 1988, § 6.206)

Sec. 10-7. Monuments, markers and other improvements.

(a) The erection of all monuments and markers in the cemetery shall be under the supervision of the sexton and village council, both of which shall see that such monuments and markers are kept within the limits of the lots where they belong and that all surplus matter from the setting of such monuments is taken care of and disposed of as they may direct.

(b) Foundations of all markers and monuments shall be constructed of five parts good gravel and one part high quality cement and not more than 50 percent stone, if available. Foundations shall be constructed eight inches longer and wider than the base of the marker or monument to be erected, making a four-inch cement surface or ledge for mower wheel clearance on all sides of the marker or monument after it is erected. Such ledge shall be trowel finished with a slight slope from the base of the stone to the ground level for water drainage. Foundations shall be 24 inches deep for markers and 36 to 48 inches deep for monuments.

(c) All markers and monuments shall be located at the head of the grave in a straight line, if possible.

(d) The following acts are forbidden:

- (1) Building up lots above the general grade level of the cemetery;
 - (2) Covering lots with gravel; and
 - (3) Putting curbs, fences or enclosing shrubbery around lots.
- (Code 1988, § 6.207)

Chapter 11

RESERVED

Chapter 12

ELECTIONS*

- Sec. 12-1. Date of election of village officers.
- Sec. 12-2. Elected officers; term of office; duties.
- Sec. 12-3. Term of office for village trustees.
- Sec. 12-4. Extension of present terms of village officers.
- Sec. 12-5. Nonpartisan election.
- Sec. 12-6. Library board members; term of office.
- Sec. 12-7. Extension of present terms of present village library board members.

***State law** reference-Michigan election law, MCL 168.1 et seq.

Sec. 12-1. Date of election of village officers.

Election of village officers shall be held at the November general election date in even-numbered years.

(Ord. No. 40, § 1, 1-4-2005)

Sec. 12-2. Elected officers; term of office; duties.

(a) There shall be elected the following village officers:

- (1) President.
- (2) Six trustees.
- (3) Clerk.
- (4) Treasurer.

(b) The president and trustees shall constitute the village council. These officers shall serve the term of office as provided by state law and village ordinance. They shall have such powers and duties as are provided by law and ordinance.

(Ord. No. 40, § 2, 1-4-2005)

Sec. 12-3. Term of office for village trustees.

Three village trustees shall be elected at each biennial village election for a term of four years and until their successors are qualified.

(Ord. No. 40, § 3, 1-4-2005)

Sec. 12-4. Extension of present terms of village officers.

(a) The terms of the president, clerk and treasurer shall be extended until the November 2008 general election and until their successors are qualified.

(b) The terms of offices of three trustees shall be extended until the November 2008 general election and until their successors are qualified.

(c) The terms of offices of the three other trustees shall be extended until the November 2006 general election and until their successors are qualified.

(Ord. No. 40, § 4, 1-4-2005)

Sec. 12-5. Nonpartisan election.

All village officers shall be elected by nonpartisan ballot.

(Ord. No. 40, § 5, 1-4-2005)

Sec. 12-6. Library board members; term of office.

Three library board members from the village shall be elected at each biennial village election for a term of four years and until their successors are qualified.

(Ord. No. 40, § 6, 1-4-2005)

Sec. 12-7. Extension of present terms of present village library board members.

(a) The terms of office of three village library board members shall be extended until the November 2006 election and until their successors are qualified.

(b) The terms of office of the three other village library board members shall be extended until the November 2008 election and until their successors are qualified.
(Ord. No. 40, § 7, 1-4-2005)

Chapter 13

RESERVED

Chapter 14

ENVIRONMENT*

Article I. In General

Sec. 14-1. Deposit of ashes, garbage or other matter in streets and gutters.
Secs. 14-2-14-20. Reserved.

Article II. Public Nuisances

Sec. 14-21. Prohibited.

Sec. 14-22. Enumeration of nuisances.
Sec. 14-23. Investigations .
Sec. 14-24. Notice.
Sec. 14-25. Failure to abate; action by village.
Sec. 14-26. Lien on property.
Sec. 14-27. Additional remedies.
Sec. 14-28. Exceptions
Sec. 14-29. Violation as a municipal civil infraction.
Secs. 14-30-14-46. Reserved .

Article III. Sanitation

Sec. 14-47. Buildings to be used as dwellings.
Sec. 14-48. Violation as a municipal civil infraction.
Secs. 14-49-14-69. Reserved.

Article IV. Noise Control

Sec. 14-70. Excessive noise prohibited.
Sec. 14-71. Specific violations; exceptions.
Sec. 14-72. Violation as a municipal civil infraction.
Secs. 14-73-14-102. Reserved .

Article V. Blight

Sec. 14-103. Purpose.
Sec. 14-104. Definitions .
Sec. 14-105. Regulations.
Sec. 14-106. Nuisance declared.
Sec. 14-107. Operation of certain licensed businesses.
Sec. 14-108. Violation as a municipal civil infraction.

*State law reference-Natural resources and environmental protection act, MCL 324.101 et seq.

ARTICLE I. IN GENERAL**Sec. 14-1. Deposit of ashes, garbage or other matter in streets and gutters.**

(a) It shall be unlawful for any person to deposit refuse or garbage in the public rights-of-way in the village.

(b) It shall be unlawful for any person to deposit ashes, leaves, sticks or twigs or other like matter in the gutters of village streets or alleys in such a manner as to cause an obstruction to the free passage of water therein. It shall also be unlawful for any person to deposit such ashes or other matter in any other part of the streets of the village except by permission of the street commissioner and then only as he may designate.

(c) Any person violating this section shall be responsible for a municipal civil infraction.

(Code 1988, §§ 1.029, 1.030)

Secs. 14-2-14-20. Reserved.**ARTICLE II. PUBLIC NUISANCES *****Sec. 14-21. Prohibited.**

No person owning, occupying or in control of any real property, public or private, within the village shall allow or permit a public nuisance to remain on a lot or parcel of land.

(Code 1988, § 2.101)

Sec. 14-22. Enumeration of nuisances.

The following are declared to be public nuisances:

- (1) Weeds which have obtained the height of 12 inches or that are in the seed-bearing state. For purposes of this subsection, the term "weed" includes, but is not limited to, vegetation which emits unpleasant, unhealthy or noxious odors or pollen, or any high growth of vegetation, including grasses, which might conceal rubbish, waste materials or trash or constitute a fire hazard. The term "weed" specifically includes, but is not limited to, Canada thistle, dodders (any species of cuscuta), mustards, wild carrot, bind weed, perennial sow thistle, hoary alyssum, ragweed, poison ivy, and poison sumac.
- (2) Any junk, garbage, debris, waste or other similar offensive or unsightly material.
- (3) Any dead trees or shrubbery.
- (4) Any materials which might constitute a nesting place for rats.

*State law reference-Public nuisances and abatement, MCL 600.3801 et seq.

- (5) Unused, inoperable or abandoned motor vehicles, or parts thereof, machinery or appliances.
 - (6) Any unfilled basements, excavations or holes that might be dangerous to children coming upon the property, unless fenced or protected in a manner approved by the village president or his duly authorized representative.
- (Code 1988, § 2.102)

Sec. 14-23. Investigations.

It shall be the duty of the village president or his duly authorized representative to enforce the provisions of this article and to make investigation of all complaints. For such purpose, the village president or his duly authorized representative shall have authority to enter upon the premises of any public or private land within the village at reasonable times and under reasonable conditions.

(Code 1988, § 2.103)

Sec. 14-24. Notice.

In the event the village president or his duly authorized representative shall determine that the owner, occupant or person in control of the real property is in violation of this article, the village president or his duly authorized representative shall notify, by certified mail, return receipt, the person listed as owner of the real property as shown in the office of the village treasurer or give personal notice to the owner, agent or occupant of the property to eradicate, abate or remove, by any appropriate method, the public nuisance. The failure to give such notice shall not constitute a defense in any action to enforce payment of any fine or debt created under this article.

(Code 1988, § 2.104)

Sec. 14-25. Failure to abate; action by village.

If, within ten days following receipt of the notice from the village, the owner or occupant of the property fails to abate the public nuisance, the village or its agent may enter upon the land and abate the public nuisance and all expenses incurred shall be paid by the owner of the property.

(Code 1988, § 2.105)

Sec. 14-26. Lien on property.

The village shall have a lien on the real property from which the public nuisance was removed until paid by the owner. If such amount has not been paid prior to the preparation of the next tax assessment roll, then such amount shall be assessed as a special tax against the property on the assessment roll and collected in all respects as other taxes under the general tax laws of the state.

(Code 1988, § 2.106)

Sec. 14-27. Additional remedies.

In addition to the right to a lien for any sums expended to abate the nuisance, the village shall have the right to sue the owner in a court of competent jurisdiction for the collection of the amount owed.

(Code 1988, § 2.107)

Sec. 14-28. Exceptions

(a) The provisions of section 14-22(1) and (3) shall not apply to any parcel larger than one acre if, for the first 25 feet from any adjacent property or roadway, the parcel complies with section 14-22(1) and (3).

(b) The provisions of section 14-22(1) and (3) shall not apply to any place designated as a park, preserve, or open space.

(Code 1988, § 2.108)

Sec. 14-29. Violation as a municipal civil infraction.

Any person violating this article shall be responsible for a municipal civil infraction.
(Code 1988, § 2.112)

Secs. 14-30-14-46. Reserved.**ARTICLE III. SANITATION****Sec. 14-47. Buildings to be used as dwellings.**

Tents, house trailers, automobile trailers and other mobile vehicles, whether on wheels or not, shall not be used for dwelling purposes within the village. Mobile house trailers or automobile trailers may be used for temporary occupancy for a period of not more than 14 days in any one year when there are located upon the premises where such structure is located running water and sewer facilities. The village council may, upon application, extend the period of occupancy for not more than one year when such occupancy is in connection with construction or remodeling of a dwelling.

(Code 1988, § 2.203)

Sec. 14-48. Violation as a municipal civil infraction.

Any person violating this article shall be responsible for a municipal civil infraction.
(Code 1988, § 2.204)

Secs. 14-49-14-69. Reserved.**ARTICLE IV. NOISE CONTROL*****Sec. 14-70. Excessive noise prohibited.**

No person shall cause or create any unreasonable or unnecessarily loud noise or disturbance, injurious to the health, peace or quiet of the residents and property owners of the village.

*State law reference-Motor vehicle mufflers, MCL 257.707 et seq.

Sec. 14-71. Specific violations; exceptions.

(a) *Specific violations.* The following noises and disturbances are hereby declared to be a violation of this article; provided, however, that the specification of the violation is not thereby to be construed to exclude other violations of this article not specifically enumerated:

- (1) The playing of any radio, phonograph, television or other electronic or mechanical sound-producing device, including any musical instrument, in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons.
- (2) Yelling, shouting, hooting or singing on the public streets between the hours of 10:00 p.m. and 7:00 a.m., or at any time or other place so as to unreasonably upset or disturb the quiet, comfort or repose of any person in the vicinity.
- (3) The emission or creation of any excessive noise that unreasonably interferes with the operation of any school, church, hospital or court.
- (4) The keeping of any animal or bird which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity, such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
- (5) The operation of any automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling or other unreasonable noise, including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort or repose of other persons. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain the motor vehicle or engine so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured, shall be a violation of this section.
- (6) The sounding of any horn or other device on any motor vehicle, unless necessary to operate such vehicle safely or as required by the state vehicle code, Public Act No. 300 of 1949 (MCL 257.1 et seq.).
- (7) While operating or in control of a parked or moving vehicle, including motorcycles and mopeds, the operation or permitting the operation of an electronically amplified sound system in or on the vehicle so as to produce sound that is plainly audible more than 50 feet from the vehicle, except when a specific permit is first granted by the village council. For the purposes of this subsection, the term "plainly audible" shall mean any sound that can be detected by a person using unaided hearing faculties.
- (8) The discharging, outside of any enclosed building, of the exhaust of any steam engine, internal combustion engine, motor vehicle or motor boat engine, except through a muffler or other similar device which will effectively prevent loud or explosive noises.

- (9) The erection, excavation, demolition, alteration or repair of any building or premises in any part of the city, including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 a.m. and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such case, a permit shall be obtained from the building inspector, and such permit shall limit the periods that the activity may continue.
 - (10) The creation of loud or excessive noise, unreasonably disturbing to other persons in the vicinity, in connection with the operation, loading or unloading of any vehicle, trailer or other carrier, excluding railroad cars, or in connection with the repairing of any such vehicle in residential areas between the hours of 10:00 p.m. and 7:00 a.m.
 - (11) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose which, by the creation of such noise, shall be unreasonably disturbing to other persons in the vicinity.
 - (12) The operation of any loudspeaker or other sound-amplifying device upon any vehicle on the streets of the village with the purpose of advertising, where such vehicle, speaker or sound-amplifying device emits loud, raucous noises easily heard from nearby adjoining residential property.
 - (13) The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort or repose of any person between the hours of 10:00 p.m. and 7:00 a.m.
 - (14) The operation of any racetrack, proving ground, testing area or obstacle course for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind or nature in any area of the village where the noise emanating therefrom would be unreasonably disturbing and upsetting to other persons in the vicinity. Under no circumstances shall any racetrack, proving ground, testing area or obstacle course operate after 11:00 p.m. on any evening.
- (b) *Exceptions.* None of the prohibitions enumerated in subsection (a) of this section shall apply to 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, highways or other property by or on behalf of the village between sundown and 7:00 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours.
 - (3) Warning devices emitting sound for warning purposes, as authorized by law.

Sec. 14-72. Violation as a municipal civil infraction.

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

Secs. 14-73-14-102. Reserved.

ARTICLE V. BLIGHT

Sec. 14-103. Purpose.

The purpose of this article is to:

- (1) Provide for the regulation and control of the storage, accumulation and disposition of junk, trash, rubbish, abandoned vehicles, wrecked, dismantled or unusable vehicles and building materials;
- (2) Provide for the maintenance of blighted structures and other blighting factors or causes of blight and deterioration thereof;
- (3) Secure the public health, safety and welfare of the residents and property owners of the village, by the regulation of the outdoor parking and storage of motor vehicles, tractor trailer, mobile homes and new or used parts or junk therefrom, junk, trash, rubbish, building materials, blighted structures and other blighting factors within the village.

Sec. 14-104. 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:

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

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

Building material means and includes, without limitation, lumber, brick, 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.

Junk means and includes, without limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not such cast-off material could be put to any reasonable use.

Person includes all natural persons, firms, copartnerships, corporations and all associations of natural persons, incorporated or unincorporated, whether acting by themselves or by a servant, agent or employee. All persons who violate any of the

provisions of this article, whether as owner, occupant, lessee, agent, servant or employee, shall, except as otherwise provided in this article, be equally liable as principals.

Trash and *rubbish* mean any and all forms of debris not otherwise classified in this section.

Sec. 14-105. Regulations.

(a) No person shall park, store or place upon any public roadway, public property or upon any premises within the village any junk, junk motor vehicle, abandoned vehicle, used parts or junk therefrom, blighted structure, building materials or trash and rubbish unless it is wholly contained within a fully enclosed building and does not violate any zoning or building laws of the village, except for the following:

- (1) Operable vehicles or trailers with substantially all main component parts attached, whether licensed or not.
- (2) Vehicles or trailers that are temporarily inoperable because of minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached, which may remain upon such private property for not to exceed 14 days.
- (3) Not more than one automobile, in full operating condition, which has been redesigned or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the automobile could be parked or stored.

(b) No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way, public property or any property, except such as may be accomplished within a fully enclosed building; provided, however, that if no fully enclosed building is located on the premises, the repairing, redesigning, modifying or dismantling work or operations may be conducted on the premises for a period of time not to exceed one week. Repairing, redesigning, modifying or dismantling work or operations will not be permitted on any premises where the conduct of such work or operations would constitute a nuisance or annoyance to adjacent property owners or occupants and/or is in violation of any provision of chapter 36. Nothing contained in this subsection shall prohibit such occasional minor repair work as may infrequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition, provided such minor work can be completed within a 24-hour period.

(c) No unlicensed vehicle shall be parked or stored in the front yard area, except in the driveway.

(d) No recreational vehicle shall be parked or stored in the front yard area, including the driveway.

Chapter 15

RESERVED

Chapter 16

FIRE PREVENTION AND PROTECTION*

Article I. In General

Secs. 16-1-16-18. Reserved.

Article II. Prevention of Fires

Sec. 16-19. Building, maintaining hazardous fires prohibited.
Sec. 16-20. Safe condition.
Sec. 16-21. Improper storage.
Sec. 16-22. Violation as a municipal civil infraction.
Secs. 16-23-16-47. Reserved.

Article III. Burning

Sec. 16-48. Burning without permit prohibited.
Sec. 16-49. Certain burning activities permitted with burning permit.
Sec. 16-50. Conditions on permits.
Sec. 16-51. Permit requirements for campfires or burning pits.
Sec. 16-52. Length of time of permit.
Sec. 16-53. Form of permit.
Sec. 16-54. Permit fee.
Sec. 16-55. Violation as a municipal civil infraction.
Sec. 16-56. Civil enforcement procedure.
Sec. 16-57. Enforcement authority.

***State law** references-State fire prevention code, MCL 29.1 et seq.; local codes to be consistent with state code, MCL 29.31; explosives act, MCL 29.41 et seq.; crimes related to

explosives and bombs, MCL 750.200 et seq.; crimes related to fires, MCL 750.240 et seq.

ARTICLE I. IN GENERAL

Secs. 16-1-16-18. Reserved.

ARTICLE II. PREVENTION OF FIRES

Sec. 16-19. Building, maintaining hazardous fires prohibited.

It shall be unlawful for any person to build or maintain any fire within the limits of the village at any time or under any circumstances which shall render such fire hazardous or in danger of communicating and setting fire to adjacent property.
(Code 1988, § 2.401)

Sec. 16-20. Safe condition.

It shall be the duty of the owners, or, in absence of the owners, of the occupants of buildings, to see that all stoves, furnaces, heating devices, and all pipes, flues, ducts and chimneys and their connections, and all electrical wiring, electrical appliances and equipment are kept in safe condition.
(Code 1988, § 2.402)

Sec. 16-21. Improper storage.

It shall be unlawful for any person to improperly store papers, trash, rubbish or other materials in such manner as to cause a hazardous fire condition to exist in any building or on any premises within the village.
(Code 1988, § 2.403)

Sec. 16-22. Violation as a municipal civil infraction.

Any person violating this article shall be responsible for a municipal civil infraction.
(Code 1988, § 2.404)

Secs. 16-23-16-47. Reserved.

ARTICLE III. BURNING*

Sec. 16-48. Burning without permit prohibited.

It shall be unlawful for any person to engage in any burning outside a fully enclosed building without a permit.
(Ord. No. 32, § 2, 3-12-1995)

*State law reference-Open burning ofleaves and grass clippings, MCL 324.11522.

Sec. 16-49. Certain burning activities permitted with burning permit.

A permit may be issued to engage in the following outdoor burning activities:

- (1) Burning leaves, branches, brush or other yard waste (but not grass clippings) on any private property;
 - (2) Campfires or burning pits.
- (Ord. No. 32, § 3, 3-12-1995)

Sec. 16-50. Conditions on permits.

The fire chief or his designee may place conditions upon the permittee as a requirement for the issuance of a permit. Conditions may include, but are not limited to, any requirements or prohibitions which the fire chief or his designee, in his sole discretion, feels are necessary or appropriate to protect the health, safety and welfare of the permittee, his property, and residents of or property within the village.

(Ord. No. 32, § 4, 3-12-1995)

Sec. 16-51. Permit requirements for campfires or burning pits.

In addition to any condition imposed pursuant to section 16-50, a campfire or burning pit shall not be larger than five feet in diameter and must be contained by rocks, bricks or other nonflammable material.

(Ord. No. 32, § 5, 3-12-1995)

Sec. 16-52. Length of time of permit.

With the exception of campfires or burning pits, the permit shall designate the length of time for which the permit is given. Permits for campfires and burning pits shall not exceed one year in duration and shall be issued on an annual basis.

(Ord. No. 32, § 6, 3-12-1995)

Sec. 16-53. Form of permit.

A permit for a burning activity which does not exceed one calendar day, except campfires or burning pits, may be issued verbally. All other permits shall be issued in writing containing the conditions placed thereon by the fire chief or his designee.

(Ord. No. 32, § 7, 3-12-1995)

Sec. 16-54. Permit fee.

The village council shall establish, by resolution from time to time, a permit fee cost schedule.

(Ord. No. 32, § 8, 3-12-1995)

Sec. 16-55. Violation as a municipal civil infraction.

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

(b) In addition to the penalties for a municipal civil infraction, a person who violates this article or any term, provision or condition of a permit shall be civilly responsible to the village for the actual costs incurred by the Climax Township Fire Department as a result of the violation of this article or any term, provision or condition of a permit. (Ord. No. 32, § 9, 3-12-1995)

Sec. 16-56. Civil enforcement procedure.

(a) After the Climax Township Fire Department has determined that it responded to a call as the result of violation of this article or violation of any term, provision or condition of a permit, the actual costs incurred shall be billed by first class mail to the last known address of the violator. If the charges are not paid or arrangements satisfactory to the township fire department are not made within 30 days thereafter, the village may seek civil collection of the amount owed in any manner permitted by law.

(b) In addition, the village may place a lien upon the property upon which the violation may occur for the amount of the actual costs incurred. Such lien may be collected in the same manner as real property taxes. In the event that the village is required to institute suit to collect the costs incurred, the violator shall be liable for statutory interest, costs of litigation and actual attorney's fees incurred by the village. (Ord. No. 32, § 10, 3-12-1995)

Sec. 16-57. Enforcement authority.

The chief of the Climax Township Fire Department or his designee is hereby designated as permit enforcement officer, and is authorized to enforce all provisions of this article.

(Ord. No. 32, § 11, 3-12-1995)

Chapter 17

RESERVED

Chapter 18

LAND DIVISIONS AND SUBDIVISIONS*

Article I. In General

Secs. 18-1-18-18. Reserved.

Article II. Subdivision Control

- Sec. 18-19. Purpose.
- Sec. 18-20. Authority.

- Sec. 18-21. Submission of preliminary plat for tentative approval.
- Sec. 18-22. Village council review of preliminary plat for tentative approval.
- Sec. 18-23. Submission of preliminary plat for final approval.
- Sec. 18-24. Village council review of preliminary plat for final approval.
- Sec. 18-25. Submission of final plat for final approval.
- Sec. 18-26. Review by village council of final plat for final approval.
- Sec. 18-27. Penalty in case of failure to complete construction of public improvement .
- Sec. 18-28. Lot division.
- Sec. 18-29. Procedure .
- Sec. 18-30. Violation as a municipal civil infraction.

*State law reference-Land division act, MCL 560.101 et seq.

ARTICLE I. IN GENERAL

Secs. 18-1-18-18. Reserved.

ARTICLE II. SUBDIVISION CONTROL

Sec. 18-19. Purpose.

The purpose of this article is to regulate and control the subdivision of land within the village in order to promote the public safety, health and general welfare.
(Code 1988, § 5.202)

Sec. 18-20. Authority.

This article is enacted pursuant to the authority granted by the Land Division Act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), and Public Act No. 3 of 1895 (MCL 61.1 et seq.), which authorize village councils to adopt ordinances, to secure the public health, safety and general welfare.
(Code 1988, § 5.203)

Sec. 18-21. Submission of preliminary plat for tentative approval.

(a) Every person who submits a proposed preliminary plat to the village council for tentative approval shall submit not less than four or more than ten legible copies of said proposed preliminary plat. Such copies must contain, at a minimum, the following information and fees:

- (1) Relief area proposed to be platted with not more than four-foot contour intervals.
- (2) Road layout.
- (3) Lot layout, showing size and shape of proposed lots.
- (4) Whether proposed plat will be served by sanitary sewer and/or water.
- (5) The general location and size of any floodplain possibly located within the area to be platted.
- (6) In general, the methods proposed for stormwater disposal.
- (7) A fee equal to the sum of \$1.00 multiplied by the number of lots contained in the proposed subdivision, but not less than \$50.00.

(b) When the proprietor owns or plans to acquire and anticipates platting adjoining land, he shall submit, with the preliminary plat for tentative approval, a tentative plan showing the feasibility of the development of such adjoining land.
(Code 1988, § 5.204)

State law reference-Preliminary plat tentative approval, MCL 560.112.

Sec. 18-22. Village council review of preliminary plat for tentative approval.

(a) *Standards for review.* Upon receipt of copies of said proposed plat for tentative approval, the village council shall forward one copy each to the county planning commission, local soil conservation district and the county road commission and/or state highway department, where applicable, for recommendation and shall examine said proposed preliminary plat with such assistance and review by the village engineer and village attorney as the village council shall require. The village council shall determine whether said proposed preliminary plat complies with all village ordinances and state statutes as well as makes adequate provision for the following:

(1) *Streets.*

- a. Compliance with a major street thoroughfare plan adopted by village, if any.
- b. The arrangement of streets shall provide for a continuation of existing streets from adjoining areas into the new subdivision.
- c. Where adjoining areas are not subdivided, the arrangement of the streets in the proposed subdivision shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjoining areas; provided, however, that minor streets within the subdivision shall be so laid out that their use by through traffic will be discouraged.
- d. Where the proposed subdivision abuts or contains a county primary road or major thoroughfare, as defined in the village major thoroughfare plan, the village council may require marginal access streets approximately parallel to the right-of-way of the primary road or major thoroughfare and may require such other treatment as is deemed necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
- e. Private streets may be permitted by the village council if the village council finds that private streets within the plat will not adversely affect public health, safety or welfare.
- f. All new streets shall be named as follows: Streets with predominant north-south directions shall be named "Street," streets with predominant east-west direction shall be named "Avenue," meandering streets shall be named "Drive," "Lane," "Path," "Road" or "Trail," etc., and culs-de-sac shall be named "Circle," "Court," "Way" or "Place," etc.
- g. Streets should intersect at 90 degrees or closely thereto and in no case less than 80 degrees.
- h. Where the proposed continuation of a street at an intersection is not in alignment with the existing street, it must not intersect such cross street closer than 175 feet from such opposite existing street as measured from the centerline of said streets.
- i. The maximum length allowed for residential blocks shall be 1,000 feet.

- J. All primary road rights-of-way, as designated by the village council, within or abutting plats hereafter recorded, shall provide a 50-foot half-width. All other rights-of-way within or abutting such plats shall be not less than 66 feet in width. Permanent dead-end streets in excess of 660 feet in length shall be prohibited except upon primary approval of the village council, to be granted only where the topography of the area, rivers, streams, other natural conditions or the prior development of the area prevents a through street from being constructed.
- k. A subdivision or extension of an existing subdivision creating a total of 50 or more lots must be developed so as to provide two or more access streets.

(2) *Lots.*

- a. Lots served by sewer or water must have a minimum width of 80 feet at the building setback line and a minimum of 10,000 square feet of area. Lots with either sewer or water must have a minimum width of 90 feet at the building setback line and a minimum of 12,000 square feet of area. Lots without either sewer or water must have a minimum width of 100 feet at the building setback line and a minimum of 13,200 square feet of area.
- b. Corner lots generally should have extra width to permit appropriate building setback from both streets.

(3) *General provisions.*

- a. Privately held reserve strips controlling access to streets shall be prohibited.
- b. Existing natural features which add value to residential development and that enhance the attractiveness of the community (such as streams, water courses, historic spots and similar irreplaceable assets) should be preserved insofar as possible in the design of the subdivision.
- c. Lands subject to flooding or otherwise determined by the village council to be uninhabitable should not be platted for residential, commercial or industrial purposes. Such lands within a subdivision may be set aside for other purposes such as parks and/or open space.

(b) *Tentative approval.* If the village council determines that the proposed preliminary plat complies with all applicable ordinances and statutes and the provisions set forth in this section, it shall grant tentative approval of the preliminary plat, and such approval shall confer upon the proprietor, for a period of one year from date of approval, lot size, lot orientation and street layout. Such tentative approval may be extended in the discretion of the village council upon application of the proprietor.

(Code 1988, § 5.205)

Sec. 18-23. Submission of preliminary plat for final approval.

Every person who submits copies of a proposed preliminary plat to the village council for final approval shall submit the following relevant data and fees:

- (1) Evidence that all requirements imposed by the village council at the time of granting tentative approval have been incorporated into the proposed plan.

- (2) Detailed working drawings showing grades, drainage structures, proposed utilities and road construction plans for public and/or private roads within and adjoining said plat. Prior to submitting copies of the preliminary plat to the village council for final approval, the developer shall document consultation with all public utilities which will be servicing the subdivision to resolve any conflicts in location between public utility facilities and other improvements.
- (3) A fee equal to the sum of \$2.00 multiplied by the number of lots contained in the proposed subdivision, but not less than \$100.00.

(Code 1988, § 5.206)

State law reference-Final approval of preliminary plat, MCL 560.120.

Sec. 18-24. Village council review of preliminary plat for final approval.

(a) Upon receipt of all required copies of the preliminary plat for final approval, the village council shall examine the same with such assistance and review by the village engineer and village attorney as said village council shall request. Upon completing its review, the village council shall determine whether said proposed preliminary plat complies with the requirements imposed by the village council at the time of tentative approval; has received the required statutory approval of other governmental agencies and, in addition, meets the following requirements:

- (1) All road grades shall not exceed a seven percent grade or be less than a 0.5 percent grade except upon special approval of the village engineer.
- (2) All grades in excess of three percent shall require installation of a curb and gutter. Such curbs and gutters shall be set apart not less than 35 feet, as measured from back to back, and fully paved between the lips of the gutters.
- (3) All road rights-of-way within or abutting such plat shall be constructed with not less than six-inch compacted gravel base for a width of 22 feet and covered with not less than two inches of bituminous aggregate pavement for a width of 20 feet.
- (4) All rights-of-way shall be graded to the full width thereof for proper drainage and prospective future widening and improving. Road grading shall be accomplished so as to establish a 0.5-foot higher elevation at the boundary of the rights-of-way than at the crown of the traveled roadway. All trees or other obstructions within the right-of-way which interfere with the grading and/or drainage shall be removed. The 0.5-foot elevation and tree and obstruction removal may be varied or adjusted by the village council upon recommendation of the village engineer where valuable trees or obstacles are involved and as long as drainage and safety will not be impaired.
- (5) Permanent dead-end streets shall be provided at the closed end with a turnaround having an outside improved roadway diameter of at least 125 feet as measured from the centerline of the gutter or back of curb and a street property line diameter of at least 150 feet. Temporary dead-end streets shall be provided at the closed end with a turnaround constructed the full width of the right-of-way.

- (6) All surface waters shall be adequately drained within each plat by a separate system of drainage structures or through the connection of such separate system to an adequate adjoining system. Where storm sewers are used, inlet basins must not be spaced farther apart than 300 feet except upon express approval of the village council, upon recommendation of the village engineer, to be granted only where other equivalent and sufficient drainage inlets are provided. Where such outlets are not thus available, such drainage structures may consist of leaching basins so spaced that water shall not be required to run on the surface of the road further than 250 feet to such basin, or so spaced as to afford equivalent and sufficient drainage. The determination of what is equivalent and sufficient drainage shall be left to the village council upon the recommendation of the village engineer.
- (7) Connection to sanitary sewers and/or water mains may be required by the village council when the village council determines that said sewers and/or water mains are reasonably available to the proposed subdivision.
- (8) At the discretion of the village council, the proprietor shall make arrangements for all distribution lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely through the residential subdivided area. Electric distribution lines shall be defined in accordance with the rules and regulations promulgated by the state public service commission. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission. Private easements for underground utilities shall be shown on the preliminary plat.
- (9) Stormwater disposal methods proposed for the subdivision must be adequate to ensure each building site and roadway will not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.
- (10) No land within the subdivision may be isolated from a public highway, and no adjoining land of the proprietor or others may be isolated from a public thoroughfare thereby creating landlocked parcels.
- (11) Street lighting may be required by the village council when said council determines that street lighting is necessary for public health, safety and welfare.
- (12) Sidewalks may be required by the village council when the village council determines that sidewalks are necessary for pedestrian safety, public health, and welfare. When required, sidewalks shall be constructed of concrete, four feet in width, four inches in depth, upon a two-inch minimum of 50 feet; sidewalks built across driveways shall be constructed of concrete and six inches in depth.

(b) If the village council determines that the preliminary plat has obtained the required statutory approval of other governmental agencies and complies with the requirements of this article, the village council shall grant final approval of the preliminary plat, which shall confer upon the proprietor, for a period of two years from date of approval, the conditional right that the general terms and conditions under which said approval was granted will not be changed. The two-year period may be extended at the discretion of the village council upon application by the proprietor. (Code 1988, § 5.207)

Sec. 18-25. Submission of final plat for final approval.

Every person who submits a proposed final plat to the village council for final approval shall also submit the following relevant data and fees:

- (1) An abstract of title or title insurance policy showing merchantable title in the proprietor of the subdivision.
 - (2) A fee equal to the sum of \$2.00 multiplied by the number of lots contained in the proposed subdivision, but not less than \$100.00.
- (Code 1988, § 5.208)

State law reference-Final plats, MCL 560.131 et seq.

Sec. 18-26. Review by village council of final plat for final approval.

The village council shall review the proposed final plat and determine that:

- (1) All monuments required to be placed in the subdivision have either been placed or a cash or equivalent deposit has been made with the village and a deposit agreement executed by the proprietors.
- (2) All roads, streets, bridges and culverts have been completed and installed, or that a cash or equivalent deposit has been made with the village and a deposit agreement has been executed by the proprietors.
- (3) If the subdivision has any waterways or lagoons, etc., as set forth in section 188 of the state land division act, that all such waterways, etc., shall be installed or that a cash or an equivalent deposit has been made to the village and a deposit agreement has been executed by the proprietors.
- (4) If any floodplains are involved in the proposed subdivision then such floodplains shall be restricted as provided by the state land division act and such restrictions shall be submitted to the village council for review and approval prior to recording and thereafter shall be recorded in the office of the register of deeds contemporaneously with the recording of the plat.
- (5) All utilities servicing the plat have been installed and water and sanitary sewer mains have been stubbed to the lot line, or that a cash or equivalent deposit has been made with the village council sufficient in amount to ensure completion thereof within the time specified and a deposit agreement has been executed by the proprietors.

- (6) All underground utility installations, including lines for street lighting systems, which traverse privately owned property shall be protected by easements granted by the proprietor and approved by the public utility. These easements shall be recorded on the final plat as private easements for public utilities or easements provided by separate instrument. Easements across lots or centered on rear or side or lanes provided for utilities shall be at least 12 feet wide, usually six feet dedicated from each lot or parcel, except side lot easements three feet wide granted for street lighting dropouts. These easements should be direct and continuous from block to block.
- (7) All public improvements, such as streetlights, fire hydrants, sidewalks, parks, etc., which have been required by the village council have been completed and installed, or a cash or equivalent deposit has been made with the village sufficient in amount to ensure completion within the time specified and a deposit agreement has been executed by the proprietors.
- (8) The proposed final plat complies with all applicable state statutes and village ordinances and has received the requisite statutory approval of other governmental agencies.
- (9) The dedication is executed by all required owners.
(Code 1988, § 5.209)

Sec. 18-27. Penalty in case of failure to complete construction of public improvement.

In the event the subdivider, in any case, fails to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the village council to proceed to have such work completed. In order to accomplish this, the village council shall reimburse itself for the cost and expense thereof by appropriating the security deposit which the subdivider had deposited with the village, or it may take such steps as may be necessary to require performance in accordance with the deposit agreement executed by the proprietors.

(Code 1988, § 5.210)

Sec. 18-28. Lot division.

After a subdivision has been recorded, platted lots may thereafter be partitioned or divided, with the approval of the village council, into not more than four parts, provided that the resulting lots or parcels or combinations or portions of two or more divided lots shall not be less in width or size than the more restrictive of this article, chapter 36, or the land division act, and provided further that such resulting lots shall each have direct access to a public roadway or private roadway constructed to the standards of this article, and also to public utilities necessary or required to service such lot, and provided further that all such resulting lots shall conform in all particulars to the requirements of the land division act and all village ordinances.

(Code 1988, § 5.211)

State law reference-Further partition or division of property, MCL 560.263.

Sec. 18-29. Procedure.

Where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this article, the village council shall have power in passing upon proposed subdivisions to vary or modify any of the terms and provisions of this article so that the spirit of the article shall be observed and public health, safety and welfare shall be secured.

(Code 1988, § 5.212)

Sec. 18-30. Violation as a municipal civil infraction.

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

(Code 1988, § 5.213)

Chapter 19

RESERVED

Chapter 20

OFFENSES*

Article I. In General

Secs. 20-1-20-18. Reserved .

Article II. Offenses Against Public Safety

Sec. 20-19. Explosive articles.

Sec. 20-20. Fireworks.

Sec. 20-21. Discharge of firearms. Sec.

20-22. BB guns and air guns. Secs. 20-

23-20-47. Reserved.

Article III. Loitering

Sec. 20-48. Purpose.

Sec. 20-49. Prohibited actions.

***State law** reference-Michigan penal code, MCL 750.1et seq.

ARTICLE I. IN GENERAL

Secs. 20-1-20-18. Reserved.

ARTICLE II. OFFENSES AGAINST PUBLIC SAFETY

Sec. 20-19. Explosive articles.

No gunpowder, nitroglycerine, dynamite or other explosive substance shall be introduced into the village except for the purpose of being transported through the village in accordance with the requirements of law, and no person shall keep such substances within the village for any purpose or under any pretense, except by special permission of the village council.

(Code 1988, § 2.412)

State law reference-Explosives act, MCL 29.41 et seq.

Sec. 20-20. Fireworks.

No fireworks, firecrackers, torpedoes, or other explosives of a like nature shall be kept or used within the limits of the village except in such quantities and in such place as shall be approved by the village council.

(Code 1988, § 2.413)

State law reference-Fireworks, MCL 750.243a et seq.

Sec. 20-21. Discharge of firearms.

No firearms shall be discharged within the limits of the village except by an authorized police officer.

(Code 1988, § 2.415)

State law reference-Firearms and weapons, MCL 750.222 et seq.

Sec. 20-22. BB guns and air guns.

It shall be unlawful for anyone to use in a careless manner a BB gun or air gun of any type within the corporate limits of the village.

(Code 1988, § 2.416)

State law reference-Use or possession of BB handgun by minor, MCL 752.891.

Secs. 20-23-20-47. Reserved.

ARTICLE III. LOITERING

Sec. 20-48. Purpose.

The purposes of this article shall be to prohibit the gathering of people in public places for unlawful or mischievous purposes, to prohibit persons from loitering or standing in, near or upon public or private places, unless for a valid, proper, peaceful and lawful purpose.

(Ord. No. 37, § 2, 1-4-2000)

Sec. 20-49. Prohibited actions.

(a) No person shall collect or congregate in crowds, nor arrange, encourage or abet the collection of persons or crowds for illegal, violent, destructive or mischievous purposes on any street, alley, sidewalk, park, ground or other place open to public use.

(b) No person shall incite any disturbance, violence or damage to persons or property or aid or abet the assemblage of persons where such gathering is likely to cause such public or private disturbance, violence, damage or riot.

(c) No person shall, either individually or with others, stand, loiter, stroll or collect in groups for any unlawful, violent, destructive or mischievous purpose or without reasonable lawful cause, or in any manner which would intentionally inconvenience or interfere with others lawfully, peacefully and properly occupying any place, either public or private, in the village; no such person shall refuse to leave any such place upon the request of any person having lawful supervision or control of said place. Such places shall include, among others, any and all schools, hospitals and governmental or municipal properties.

(Ord. No. 37, § 3, 1-4-2000)

Chapter 21

RESERVED

Chapter 22

PARKS AND RECREATION*

Article I. In General

Secs. 22-1-22-18. Reserved.

Article II. Park Regulations

Sec. 22-19. Definitions .
Sec. 22-20. Intent.
Sec. 22-21. Hours.

Sec. 22-22. Uses and prohibited acts.
Sec. 22-23. Police and park employees.
Sec. 22-24. Violation as a municipal civil infraction.

***State law** references-Authority to operate recreation and playgrounds, MCL 123.51 et
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seq.; playground equipment safety act, MCL 408.681 et seq.

ARTICLE I. IN GENERAL

Secs. 22-1-22-18. Reserved.

ARTICLE II. PARK REGULATIONS

Sec. 22-19. 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:

Park means any property owned by the village which is used for recreational purposes, or public property used by the village for recreational purposes.
(Code 1988, § 6.101)

Sec. 22-20. Intent.

It is the intent of the village to provide parks and well fields for the reasonable and orderly use by the public. To protect the parks and well fields and members of the public that utilize them, it shall be unlawful for any person to perform any act prohibited by this article or to fail to perform any act required by this article.
(Code 1988, § 6.102)

Sec. 22-21. Hours.

(a) The parks and well fields shall be open each day, including Sundays and holidays, from sunrise to sunset only, or as otherwise posted. The parks and well fields shall be closed at all other times. No person shall enter, loiter, idle, wander, stroll, park, play or remain in or upon the parks or well fields when the parks or well fields are closed.

(b) Any person wishing to utilize the parks or well fields at a time at variance with the provisions of subsection (a) of this section shall file an application with and receive the approval of the village council. The granting of such approval shall be at the discretion of the council.
(Code 1988, § 6.103)

State law reference-Trespassing generally, MCL 750.546 et seq.

Sec. 22-22. Uses and prohibited acts.

The following acts shall be prohibited within the village park or well field:

- (1) Sponsoring, engaging in, participating in or attending any parade, procession, exercise, event or activity of a nonrecreational nature calculated to attract or which does, in fact, attract more than 20 persons within the parks or well fields, unless sponsored or scheduled by the council or unless prior written approval therefor is received from the council.

- (2) Willfully marking, defacing, disfiguring, injuring, tampering with, breaking, misplacing or removing any buildings, cables, benches, tables, fireplaces, grills, light poles, fountains, trees, playground equipment, public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, flagpoles, stakes, posts, fences or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
 - (3) Molesting, destroying or killing any tree, plant, birds or wildlife.
 - (4) Climbing into or upon any tree, table or structure in the parks or well fields.
 - (5) Driving, parking, or allowing to be driven or parked any motor vehicles except village-owned vehicles.
 - (6) Carrying or discharging firearms of any description, arrows, fireworks, fire-crackers, rockets or any other types of fireworks, or anything containing a substance of any explosive or inflammatory nature.
 - (7) Doing or performing any unlawful act or making or exciting any disturbance or contention in the park or well field.
 - (8) Camping, whether in a vehicle, trailer or tent, or in other manner, in the park or well field at any time, except with the written approval of the village council.
 - (9) Throwing or casting any stones or other missiles within the park or well field.
 - (10) Depositing any rubbish, garbage or refuse matter or breaking glass or bottles in or upon any part of the park or well field. Any refuse must be deposited in the receptacles provided for that purpose.
 - (11) Possessing, using, consuming or selling alcoholic liquors or controlled substances.
 - (12) Entering or remaining in the park or well field while intoxicated or under the influence of a controlled substance. Any person so found may be ejected.
- (Code 1988, § 6.104)

Sec. 22-23. Police and park employees.

No person shall resist any police officer or village employee exercising his duty within the park, fail or refuse to obey any lawful command of any such police officer or park employee, interfere in any way with or hinder or prevent any such police officer or park employee from discharging his duty, in any manner assist or give aid to any person in custody in escaping or in attempting to escape from custody, or rescue or attempt to rescue any person when in such custody.

(Code 1988, § 6.105)

State law reference-Obstruction of a police or government officer, MCL 750.479.

Sec. 22-24. Violation as a municipal civil infraction.

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

(Code 1988, § 6.106)

Chapter 23

RESERVED

Chapter 24

SECONDHAND GOODS*

Article I. In General

Secs. 24-1-24-18. Reserved.

Article II. Junkyards

Division 1. Generally

- Sec. 24-19. Purpose and contents.
- Sec. 24-20. Definitions.
- Sec. 24-21. Identity of sellers of junk and records of purchases.
- Sec. 24-22. Cleanup of vacated premises.
- Sec. 24-23. Violation as a municipal civil infraction.
- Secs. 24-24-24-49. Reserved.

Division 2. License

- Sec. 24-50. Required.
- Sec. 24-51. Form of application.
- Sec. 24-52. Fee.
- Sec. 24-53. Denial.
- Sec. 24-54. Revocation.

***State law** references-Licensing of secondhand and junk dealers, MCL 445.401 et seq.;

junkyards near highways, MCL 252.201 et seq.; licensing of pawnbrokers, MCL 446.201 et seq.

ARTICLE I. IN GENERAL

Secs. 24-1-24-18. Reserved.

ARTICLE II. JUNKYARDS***DIVISION 1. GENERALLY**

Sec. 24-19. Purpose and contents.

The fundamental purpose of this article is to best protect the public health, interest, and general welfare of this village insofar as junkyards and places for the dismantling of motor vehicles are concerned. In accordance with this purpose, this article provides for the following:

- (1) The licensing and regulation of junkyards and places for the dismantling of motor vehicles;
- (2) The prescribing of rules, regulations and conditions for the operation of junkyards and places for the dismantling of motor vehicles;
- (3) Enforcement.

Sec. 24-20. 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:

Junkyard means any parcel or tract of land where worn, deteriorated, obsolete, discarded, scrapped, junk or waste materials are bought, sold, exchanged, stored, disassembled or handled, including motor vehicles, used building materials, structural steel materials, and appliances.

Sec. 24-21. Identity of sellers of junk and records of purchases.

(a) No junkyard operator shall receive, buy, and/or take delivery from any minor of any property, junk, or used motor vehicles without the written consent of one of the parents of such minor or the minor's legal guardian.

(b) No junkyard operator shall purchase any junk and/or used motor vehicles from any person without positively determining the seller's identity.

(c) Every junkyard operator shall make a record of all purchases of junk and/or used motor vehicles, and such record shall be kept in a bound book maintained especially for such purpose. This record shall contain the name of the seller, the seller's address, the means used by the junkyard operator to determine the seller's identity, the description of the property and/or used motor vehicle purchased, the date

*State law reference-Licensing and regulation of secondhand and junk dealers, MCL 445.401 et seq.

on which the purchase was made, the price paid for the property and/or used motor vehicle, and the license number of any vehicle used by the seller of the junk in delivering the junk to the junkyard. This book shall be open to inspection by village law enforcement officers.

Sec. 24-22. Cleanup of vacated premises.

Any person who shall decide to vacate the person's place of business of a junkyard or who shall have the person's junkyard license revoked shall have 30 days to clean up the premises where such business was established. If the person fails to comply with this section, the village council shall cause such premises to be cleaned up and shall collect the cost of such from such person.

Sec. 24-23. Violation as a municipal civil infraction.

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

Secs. 24-24--24-49. Reserved.

DIVISION 2. LICENSE

Sec. 24-50. Required.

(a) No person shall operate a junkyard in the village without a junkyard license issued by the village council.

(b) The village council is empowered to issue licenses to persons for the conduct of junkyards within the village, and such licenses shall be for one year unless sooner revoked by the village council.

Sec. 24-51. Form of application.

(a) Any person desiring a junkyard license shall submit to the village council an application containing the following information:

- (1) The name of the owner of the proposed junkyard.
- (2) The mailing address of the owner of the proposed junkyard and the mailing address of the proposed junkyard.
- (3) The legal description of the premises proposed to be used as a junkyard, together with full information as to whether the land is owned in fee or is leased, and if it is leased, the name and address of the lessor and the terms of the lease.
- (4) The arrest record of the owner, if the applicant is a sole proprietorship, the arrest record of the members of a firm, if the applicant is a firm, and the arrest record of the officers of an association or corporation, if the applicant is an association or corporation proposing to operate the junkyard.
- (5) Whether any operations are proposed which will be injurious to the public health or result in unpleasant odors or loud noises.

(b) All applications shall contain true statements of fact. If the applicant is a single individual, it shall be signed by the individual; if the applicant is a partnership, it shall be signed by a partner; and if the applicant is an association or corporation, it shall be signed by an officer thereof.

Sec. 24-52. Fee.

(a) The fee for a junkyard license shall be as established by resolution of the village council from time to time and shall be transmitted to the village council with the license application of any person desiring a junkyard license.

(b) If the person's application is accepted and a license is issued, the fee shall be deposited in the general fund of the village. If the application for a junkyard license shall be refused, the fee shall be returned to the applicant.

(c) The fee shall be due January 1 of each year, and no half-year license shall be granted until July 1 of each year.

Sec. 24-53. Denial.

The village council may, in its discretion, for just cause, refuse to grant the license provided for in this division. The term "just cause," for the purpose of this section, means, but is not limited to, failure to possess suitable premises, failure to have proper fencing upon the premises, and a previous violation of this article by the applicant. However, no application for a license shall be refused until a hearing thereon shall be held by the village council. The applicant shall have ten days' notice of the hearing, and shall be permitted at such hearing to present evidence in his behalf.

Sec. 24-54. Revocation.

The license of any junkyard operator may be revoked by the village council upon a showing that any junkyard operator has violated any section of this article. However, no license shall be revoked until a hearing thereon shall be held by the village council. The licensee shall have ten days' notice of the hearing and shall be permitted at such hearing to present evidence in his behalf.

Chapter 25

RESERVED

Chapter 26

SOLID WASTE*

Article I. In General

Secs. 26-1-26-18. Reserved.

Article II. Refuse Management

Sec. 26-19. Definitions.

Sec. 26-20. Refuse collection.

Sec. 26-21. Collection days.

Sec. 26-22. Producer collection.

Sec. 26-23. Waste not eligible for collection; procedures.

Sec. 26-24. Precollection practices.

Sec. 26-25. Approved receptacles; special markings.

Sec. 26-26. Storage of refuse on premises.

Sec. 26-27. Placement of refuse for collection.

Sec. 26-28. Time for depositing refuse and removing containers.

Sec. 26-29. Unlawful dumping, littering, scattering of refuse.

Sec. 26-30. Vacant lots.

Sec. 26-31. Damaging bags or containers.

Sec. 26-32. Responsibility for payment; billing practice.

Sec. 26-33. Exclusive contracts.

Sec. 26-34. Vehicle requirements.

Sec. 26-35. Outside collectors.

Sec. 26-36. Nuisance.

Sec. 26-37. Violation as a municipal civil infraction.

***State law** references-Garbage disposal act, MCL 123.361 et seq.; solid waste facilities, MCL 324.4301 et seq.; hazardous waste management act, MCL 324.11101 et seq.; hazardous materials transportation act, MCL 29.417 et seq.; solid waste management act, MCL

324.11501 et seq.; waste reduction assistance act, MCL 324.14501 et seq.; clean Michigan fund act, MCL 324.19101 et seq.; low-level radioactive waste authority act, MCL 333.26201 et seq.

ARTICLE I. IN GENERAL

Secs. 26-1-26-18. Reserved.

ARTICLE II. REFUSE MANAGEMENT

Sec. 26-19. 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:

Ashes means the residue from the burning of wood or coal.

Back door means a prearranged approved area in the side or rear yard that is convenient for the contractor and customer.

Bag means a plastic or paper sack designed to store refuse with sufficient strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 30 pounds.

Bulky waste means stoves, refrigerators, water tanks, washing machines, furniture and other refuse of this nature which may be in excess of 50 pounds and cannot be bundled or bagged.

Commercial refuse means the refuse resulting from the operation of a nonresidential premises, business enterprise, or an industrial, church, school, or institutional premises.

Construction waste means refuse from building construction, alteration, demolition or repair, and dirt from excavation.

Container means a receptacle constructed of plastic, metal or fiberglass designed for the storage of refuse.

Contractor means a person performing refuse collection under contract with the village.

Curbside means that portion of a street right-of-way adjacent to the paved or traveled portion of the street.

Dead animals means the carcasses of small animals, fish and fowl.

Dwelling unit means a building or portion thereof designated for occupancy by one family for residential purposes.

Food processing waste means food waste, discarded rather than consumed, generated while preparing food.

Garbage means all putrescent and nonputrescent animal, fruit or vegetable waste resulting from the handling, preparation, and cooking of food.

Hazardous waste means waste or a combination of waste and other discarded material, including solid, liquid, semisolid or contained gaseous material, which,

because of its quality, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or in irreversible illness or incapacitating but reversible illness, or that may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed, together with any other materials that cannot be lawfully disposed of in a type 2 landfill.

Household hazardous waste means waste containing hazardous materials in products purchased for use or stored at residential premises.

Industrial waste means all such trade waste related to industrial or manufacturing plants and processes.

Nonresidential premises means a commercial or multiresidential building containing more than four dwelling units, or industrial, church or institutional premises.

Pathogenic waste means waste associated with medical facility discards.

Producer means an occupant of a dwelling unit who generates refuse.

Putrescent means any matter able to decay or decompose, including animal, fruit or vegetable matter, or any other that attracts insects, rodents or flies.

Recyclable material or *recyclables* means waste materials that can be converted to a useful product and for which there is a market. The term "recyclable materials" includes corrugated cardboard, papers, clear glass and bottles, and certain plastics and metals.

Recycling container means a receptacle approved by the village for curbside recycling and bearing a special marking.

Refuse means all putrescent and nonputrescent solid waste, except animal or human body wastes and hazardous waste, including garbage, rubbish and yard waste.

Refuse bags means a 30-gallon bag approved and sold by the village or authorized agent and bearing special markings.

Refuse cart means a portable curbside wheeled receptacle owned by the contractor, approved by the village, and bearing the special markings.

Refuse container means a contractor refuse bag or contractor refuse cart.

Refuse sticker means a label approved and sold by the village or authorized agent and bearing special markings.

Refuse tag means a tag approved and sold by the village and bearing special markings.

Resident means any person living inside the village limits.

Residential premises means a parcel of land containing four or fewer dwelling units.

Residential solid waste collection means a solid waste collection service provided to a premises with four or fewer dwelling units.

Rubbish means all nonputrescent solid waste consisting of both combustible and noncombustible wastes, including, but not limited to, paper, cardboard, box board, tin cans, wood, glass, metal, bedding, clothing, and similar materials, excluding hazardous waste and yard waste.

Solid waste means all waste.

Trimming means the pieces cut off in the process of trimming, clipping, or pruning trees, shrubs or brush. The maximum size allowed for trimmings is four inches in diameter and four feet in length.

Yard waste means leaves, grass, plants, garden trimmings and tree and shrub cuttings.

Yard waste recycling bag means a biodegradable bag approved and sold by the village or authorized agent bearing a special marking to be solely used for holding yard waste.

(Ord. No. 42, § 2.702, 4-18-2006)

Sec. 26-20. Refuse collection.

All residential refuse accumulated on any premises in the village shall be collected, conveyed and disposed of as required by this article. Collection service to all village residential premises shall be provided one time each week. All qualified residential refuse described in this article shall be disposed of by the contractor under contract to the village. No person other than the contractor shall collect, convey over the streets and alleys of the village, or dispose of any refuse accumulated in the village except as provided in this article. Collection shall be subscribed to by each owner of a residential premises in the village by means of either refuse bag or refuse container service. A residential premises which is rented, leased, loaned or otherwise placed in the care of a nonowner shall not exempt the owner from responsibilities as prescribed herein. No owner of premises in the village shall allow refuse that has not accumulated on the premises to be placed out for refuse service.

(1) *Refuse bag service.* Refuse bag service may be subscribed to by purchasing refuse bags from the contractor and observing provisions of this article.

(2) *Refuse container service.* A 90-gallon refuse container shall be provided to all residential premises unless an optional 60-gallon container is chosen. In either case, the container, when fully loaded, may not exceed 200 pounds. Container size or type of service may be changed up to twice per calendar year.

(Ord. No. 42, § 2.703, 4-18-2006)

Sec. 26-21. Collection days.

Residential refuse shall be collected every week. When a legal holiday falls on the designated collection day, refuse collection will take place on the following day.

(Ord. No. 42, § 2.704, 4-18-2006)

Sec. 26-22. Producer collection.

This article shall not prohibit the actual producers of refuse from the premises upon which refuse has accumulated from personally collecting, conveying, and disposing of such refuse, provided the provisions of this article are met.
(Ord. No. 42, § 2.705, 4-18-2006)

Sec. 26-23. Waste not eligible for collection; procedures.

(a) *Construction, commercial and industrial waste.* The owner, occupant, contractor or other person responsible for any construction work shall remove from the premises on which such construction work is taking place, within a reasonable time, but in no case longer than 30 days after completion of such construction, all surplus construction materials and construction waste and convey such surplus materials and waste to a disposal area approved by the state. Every owner, occupant or person in possession of a commercial establishment or industrial, manufacturing or processing plant is responsible for the storage, collection and disposal of refuse and shall contract with a solid waste hauler for disposal thereof.

(b) *Pathogenic waste; disposition of medicines, poisons, etc.* All pathogenic materials which may be contagious from residential premises, hospitals, clinics, convalescent homes, nursing homes, care facilities, doctors' offices, dental offices, or any other similar sources shall be disposed of in accordance with applicable local, state and federal laws.

(c) *Hazardous waste cleanup or abatement; liability for costs.*

- (1) Disposal of hazardous waste shall be the responsibility of the person who produced, used or possessed the same. Hazardous waste shall not be disposed of within the village or allowed to be collected, stored or transported within the village except in accordance with all applicable laws and regulations. All hazardous waste shall be handled in accordance with part 111 of Public Act No. 451 of 1994 (MCL 324.11101 et seq.) on hazardous waste management or other state and federal law or regulations.
- (2) Any person who intentionally or unintentionally causes an improper discharge of hazardous waste shall be liable for the payment of all costs incurred by the village as a result of such cleanup or abatement activity. The remedy provided by this section shall be in addition to any other remedies provided by law.
- (3) For the purposes of this section, costs incurred shall include, but not be necessarily limited to, actual labor costs, fringe benefit costs, administrative overhead, costs for the rental of equipment at the prevailing equipment rental rates, cost of materials obtained, and/or any cost incurred by a contracted abatement specialist, as well as any cost of litigation, including actual attorney fees, incurred by the village or on its behalf.
- (4) The provisions of this section shall apply to all costs incurred and not recovered through other sources such as the hazardous waste service fund in section 11143 of part 111 of Public Act No. 451 of 1994 (MCL 324.11143).

(Ord. No. 42, § 2.706, 4-18-2006)

Sec. 26-24. Precollection practices.

All solid waste shall be prepared for disposal in the following manner:

- (1) *Garbage*. All garbage placed out for collection shall be drained and free from liquids and placed in approved closed containers.
- (2) *Rubbish*. All rubbish before being placed out for collection shall be drained and free from liquids and placed in approved closed containers.
- (3) *Yard waste*. All yard waste, before being placed out for collection, shall be placed in a specially marked yard waste recycling bag, except as provided in section 26-27(3).
- (4) *Bulk waste*. All bulk waste shall have affixed to it a bulk waste tag.
(Ord. No. 42, § 2.707, 4-18-2006)

Sec. 26-25. Approved receptacles; special markings.

All refuse prior to pickup shall be placed in one of the following approved receptacles:

- (1) *Recyclable materials*. Items of refuse determined to be eligible, by resolution of the village council from time to time, for any curbside recycling program.
- (2) *Refuse bag*. Garbage, rubbish and ashes may be placed in a refuse bag for collection.
- (3) *Refuse cart*. Garbage, rubbish and ashes may be bagged and then placed in a refuse cart for collection. Bags placed in a refuse container need not be a refuse bag.
- (4) *Bulk refuse tag*. A tag used on refuse such as described in the definition of "bulky waste" in section 26-19.
- (5) *Yard waste recycling bag*. A biodegradable bag available through the contractor used for leaves, grass and small trimmings.
(Ord. No. 42, § 2.708, 4-18-2006)

Sec. 26-26. Storage of refuse on premises.

(a) *Refuse carts or bags required*. Every owner, occupant or person in possession of a residential premises in the village shall provide for his residential unit adequate numbers of refuse carts or refuse bags as provided in this article. Containers and refuse bags must be placed or secured in such a manner as to prevent them from being overturned. Refuse carts shall be kept in a clean and sanitary condition and free from any substance which will attract or lend itself to the breeding of flies, mosquitoes or other insects. No container shall have ragged or sharp edges or any other defect likely to hamper or injure any person depositing refuse in or collecting the contents thereof.

(b) *Container construction*. Each cart shall be constructed of substantial plastic, metal or fiberglass, watertight, verminproof and shall have a tightly fitted lid and handles or balls.

(c) *Bagged refuse.* Refuse which cannot be stored in a refuse cart may be secured in a refuse bag as provided in this section.

(d) *Bulky refuse.* Bulky refuse which cannot fit into an approved container shall have a bulk waste tag attached. Doors from refrigerators and freezers shall be removed, and an additional tag verifying the removal of freon or ammoniated gas shall be attached.

(e) *Bags unprotected.* No refuse bags shall be stored outdoors in an unprotected manner, provided, however, that refuse bags may be set out for collection in accordance with section 26-27. Storage of refuse in refuse bags shall be considered unprotected when such bags are not used as liners for containers or not placed in an enclosure affording reasonable protection from damage.

(Ord. No. 42, § 2.709, 4-18-2006)

Sec. 26-27. Placement of refuse for collection.

It shall be incumbent upon tenants, lessees, occupants, possessors and owners of premises to provide a safe and convenient entrance to and through the premises for the purpose of collecting refuse. Containers shall be placed where collectors may pick up and empty the same without potential interference from animals.

(1) *Back door service.* A person may place refuse for pick up in a prearranged approved area in the side or back yard. In no case shall the contractor be required to enter a garage, porch or dwelling.

(2) *Curbside pick up service.* All containers, bags, and bulky waste shall be placed at the curbside in a manner to prevent scattering. The contractor may decline to collect any container, bag, and bulky waste item not so placed.

(3) *Village brush pick up program.* The village council may declare a village brush pickup program in which persons may place nonbundled brush at curbside without affixing a refuse tag thereto. Upon such declaration, residents shall be notified of dates, times and policies pertaining to the program. See section 26-20.

(Ord. No. 42, § 2.710, 4-18-2006)

Sec. 26-28. Time for depositing refuse and removing containers.

No refuse shall be placed for collection earlier than 6:00 p.m. on the day prior to collection day. After the collection of container contents has been made, containers shall be removed by the producer from the curbside no later than 9:00 p.m. on collection day.

(Ord. No. 42, § 2.711, 4-18-2006)

Sec. 26-29. Unlawful dumping, littering, scattering of refuse.

(a) No person shall deposit, dump, place or scatter any refuse within the village, except at an approved disposal area, without the expressed written acknowledgment by the village council and in compliance with applicable local, state, and federal laws, rules and regulations.

(b) No person shall cast, spill, place, sweep, or deposit anywhere within the village any refuse in such a manner that it may be carried or deposited by the elements or animals upon any street, sidewalk, sewer, parkway or other public place, or onto any other premises within the village.

(c) The owner and/or occupant of any premises shall clean up and remove any scattered refuse resulting from the breakage, opening, or handling of any refuse bag, refuse cart or yard waste recycling bag placed at curbside of the premises for collection.

(Ord. No. 42, § 2.712, 4-18-2006)

State law reference-Littering, MCL 324.8901 et seq.

Sec. 26-30. Vacant lots.

Any person owning or having a possessory interest in any lot or portion of land is responsible for securing, collecting and disposing of refuse which may accumulate, provided that in areas defined in chapter 36 as within the R-1 single-family residence district, such removal shall be either by contracting with a solid waste hauler or by self-removal, subject to and in accordance with all other provisions of this article.

(Ord. No. 42, § 2.713, 4-18-2006)

Sec. 26-31. Damaging bags or containers.

No person shall rifle refuse or damage or destroy bags, containers, refuse, or commercial or industrial dumpsters placed for storage or collection.

(Ord. No. 42, § 2.714, 4-18-2006)

Sec. 26-32. Responsibility for payment; billing practice.

(a) *Responsibility for payment.* The owner or occupant of a residential premises shall be responsible to the contractor directly to pay for refuse collection service provided to such premises.

(b) *Continuation of service; change in occupancy.* Residential premises refuse collection and appropriate charges for service shall continue unless timely payment for services has not been made, so long as the residential unit is deemed occupied. The owner of the premises shall advise the contractor of any change in occupancy of the residential unit for purposes of service and billing.

(c) *Seasonal or temporary premises; notice.*

(1) Owners and/or occupants of residential premises shall notify the contractor if such premises are being vacated between billing periods. An owner and/or occupant taking title to or possession of residential premises in the village shall notify the contractor immediately to avoid delay in billing and collection procedures.

(2) No charge shall be levied on and no refuse collection shall be rendered to the owner and/or occupant of a residential premises when such premises are temporarily vacated by order of the village.

(Ord. No. 42, § 2.716, 4-18-2006)

Sec. 26-33. Exclusive contracts.

The village council may, either by advertising for bids or otherwise, enter into an exclusive contract with a private party or concern, providing the village council deems the party or concern is qualified, to collect and dispose of residential refuse in the village in accordance with the best interests of the village and its residents. The contract documents shall contain provisions that the contractor shall provide liability insurance as required by the village and operate in full compliance with this article and all other applicable local, state and federal laws, rules and regulations. (Ord. No. 42, § 2.717, 4-18-2006)

Sec. 26-34. Vehicle requirements.

(a) *Vehicle identification; inspections.* All vehicles carrying refuse under this article shall have on both sides thereof a sign containing the name of the contractor, with the telephone number and the number of the vehicle, all of which shall be painted thereon in plain and unobscured letters. Vehicles shall pass such annual inspections as may be required by the village.

(b) *Vehicle maintenance.* Vehicles used in the transportation of refuse shall be kept clean and in good repair. The hauling body shall be watertight and completely enclosed on all sides. Vehicles shall be maintained and operated so that no portion of their contents is spilled onto or allowed to remain on any public highway or private property other than that of the contractor. All vehicles shall be cleaned at intervals frequent enough to maintain the unit in a sanitary condition and as free from disagreeable odor as possible to prevent nuisance or vermin attraction. A vehicle that fails to meet the requirements of this chapter shall be removed from service until it complies or its use shall be discontinued.

(c) *Vehicle operation.*

- (1) The openings of each vehicle shall be closed, and doors or covers shall be secured by an adequate latch or restraining mechanism to keep them closed while transporting refuse. The contractor shall see that such covers are in the proper positions.
- (2) It shall be the duty of contractor to transfer the contents of all containers for which it has contracted with the village into vehicles in accordance with this article, using care to avoid spilling any solid waste. It shall be the duty of the contractor to clean up all solid waste spilled during collection and to completely empty the containers and replace the lids thereon.
- (3) Each vehicle shall be loaded in a manner to minimize the spilling of materials.
- (4) Where spilling does occur from a solid waste transporting unit, the material shall be picked up by the contractor as soon as possible and the area suitably cleaned.
- (5) Each vehicle, when transporting refuse, shall be emptied only in approved disposal areas.

- (6) No vehicle shall be parked in a residential area longer than necessary to collect refuse unless it is parked more than 500 feet from a residence. Vehicles shall not be parked, stored or established at any location so as to cause a hazard to health or at any residentially zoned location so as to cause a nuisance.
 - (7) The contractor collecting in early morning hours shall use every precaution to prevent unnecessary noise.
 - (8) The contractor shall not damage any property, real or personal, while making collections and shall return containers to their curbside locations or, when applicable, their designated back door locations.
 - (9) No refuse shall be collected from residential premises in the village except between the hours of 8:00 a.m. and 6:00 p.m.
- (Ord. No. 42, § 2.718, 4-18-2006)

Sec. 26-35. Outside collectors.

This article shall not prohibit collectors who have collected refuse from outside the village from transporting such refuse over village streets, provided such collectors comply with provisions of this article applicable to transporting refuse and with any other governing law or article.

(Ord. No. 42, § 2.719, 4-18-2006)

Sec. 26-36. Nuisance.

(a) *Accumulations or deposits of refuse.* Accumulations or deposits of refuse remaining on premises are hereby declared to be a nuisance. No owner or occupant of a residential premises shall permit accumulation of refuse upon the premises for a period of more than seven days. No person shall permit accumulations or deposits of refuse to remain on his premises, whether owned or occupied, except as permitted by this article.

(b) *Notice to abate.* The village shall give written notice to the owner of record of any premises, as determined by the village president or his designee, where there is a nuisance. The notice shall specify the nature of the nuisance and the time limit in which the nuisance shall be abated, which shall be three days. If, at the expiration of the time limit for abatement, the owner has not complied with said notice, the village may abate the nuisance. The cost of such abatement, plus 15 percent for costs incurred for administrative overhead, shall be a debt owed by the owner of the premises to the village. Any such debt shall be a lien upon the premises and shall be collected in accordance with this article or in any manner available under law.

(Ord. No. 42, § 2.720, 4-18-2006)

Sec. 26-37. Violation as a municipal civil infraction.

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

Chapter 27

RESERVED

Chapter 28

SPECIAL ASSESSMENTS*

- Sec. 28-1. Definitions.
- Sec. 28-2. Authority to assess.
- Sec. 28-3. Initiation of special assessment projects.
- Sec. 28-4. Initiation by petition.
- Sec. 28-5. Survey and report.
- Sec. 28-6. Tentative determination; assessment roll.
- Sec. 28-7. Deviation from plans and specifications.
- Sec. 28-8. Limitations on preliminary expenses.
- Sec. 28-9. Special assessment roll.
- Sec. 28-10. Assessor to file assessment roll.
- Sec. 28-11. Hearing.
- Sec. 28-12. Changes or corrections to assessment roll.
- Sec. 28-13. Objection to assessment.
- Sec. 28-14. Special assessment; when due.
- Sec. 28-15. Partial payments; when due.
- Sec. 28-16. Delinquent special assessments.
- Sec. 28-17. Creation of lien.
- Sec. 28-18. Additional assessments; refunds.
- Sec. 28-19. Additional procedures.
- Sec. 28-20. Collection of special assessments.
- Sec. 28-21. Special assessment accounts.
- Sec. 28-22. Contested assessments.
- Sec. 28-23. Reassessment for benefits.
- Sec. 28-24. Combination of projects.
- Sec. 28-25. Division of parcels.
- Sec. 28-26. Deferred payments of special assessments.
- Sec. 28-27. Reconsideration of petitions.
- Sec. 28-28. Hazards and nuisances.

***State law** references-Special assessments for public improvements, MCL 68.31 et seq.; notices and hearings, MCL 211.741 et seq.; deferment of special assessments on homesteads, MCL 211.761 et seq.

Sec. 28-1. Definitions.

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

Cost means and shall include, when referring to the cost of any local public improvement, the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, legal fees, capitalized interest, and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

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

(Code 1988, § 1.201)

Sec. 28-2. Authority to assess.

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

(Code 1988, § 1.202)

Sec. 28-3. Initiation of special assessment projects.

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

(Code 1988, § 1.203)

Sec. 28-4. Initiation by petition.

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

(Code 1988, § 1.204)

Sec. 28-5. Survey and report.

Before the council shall consider making any local improvement, the council shall cause to be prepared a report, which shall include necessary plans, profiles, specifications and detailed estimates of cost, an estimate of the life of the improvement, a description of the assessment district or districts, and such other pertinent information as will permit the council to decide the cost, extent and necessity of the improvement proposed, what part or proportion thereof should be paid by special assessments upon the property especially benefited, and what part, if any, should be paid by the village at large. The council shall not finally determine to proceed with making any local public improvement until such report has been filed and a public hearing has been held by the council for the purpose of hearing objections to making such improvement.

(Code 1988, § 1.205)

Sec. 28-6. Tentative determination; assessment roll.

Upon receipt of the report required in section 28-5, if the council shall decide to proceed with the improvement, it shall, by resolution, order the report filed with the clerk. In addition, by the same resolution, the council shall tentatively determine the necessity of the improvement, set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, the part or portion of the cost of the public improvement to be paid by the lands specially benefited thereby, and the part or portion, if any, to be paid by the village at large for benefit to the village at large, and direct the assessor to make a special assessment roll of the part or portion of the cost to be borne by the lands specially benefited according to the benefits received and to report the same to the council.

(Code 1988, § 1.206)

Sec. 28-7. Deviation from plans and specifications.

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

(Code 1988, § 1.207)

Sec. 28-8. Limitations on preliminary expenses.

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

(Code 1988, § 1.208)

Sec. 28-9. Special assessment roll.

The assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to

each lot or parcel of land the proportionate amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of the cost approved by the council.

(Code 1988, § 1.209)

Sec. 28-10. Assessor to file assessment roll.

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

(Code 1988, § 1.210)

Sec. 28-11. Hearing.

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

(b) The notice shall be given by publication once at least ten full days prior to the date of the hearing in a newspaper published or circulated within the village and by first class mail, addressed to each owner of or person in interest in property to be assessed, as shown by the last general tax assessment roll of the village, mailed at least ten days prior to the date of the hearing.

(c) The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal and shall describe the manner in which an appearance and protest shall be made. An owner, party in interest, or agent of either may appear in person at the hearing to protest the special assessment or shall be permitted to file his appearance or protest by letter, in which case his personal appearance shall not be required. The village council shall maintain a record of parties who appear to protest at the hearing. If a hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance was recorded is considered to have protested the special assessment in person.

(d) The hearing required by this section may be held at any regular, adjourned or special meeting of the council. The assessor shall be present at every meeting of the council at which a special assessment is to be reviewed.

(Code 1988, § 1.211)

Sec. 28-12. Changes or corrections to assessment roll.

The council shall meet at the time and place designated for the hearing on the improvements and review of such special assessment roll and shall, at such meeting or a proper adjournment thereof, consider all objections thereto submitted in writing. The council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may, by resolution, annul the

assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the council deems justified, the council is satisfied with said special assessment roll, the council may, by resolution, determine to proceed with the public improvement, determine the necessity thereof and set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, and finally determine the part or proportion of the cost of the public improvement to be paid by the lands specially benefited thereby and the part or portion, if any, to be paid by the village at large for benefit to the village at large. If the council determines that it is satisfied with the special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution citing such determinations, confirming such roll, placing it on file in the office of the clerk and directing the clerk to attach his warrant to a certified copy thereof within ten days, therein commanding the assessor to spread and the treasurer to collect the various sums and amounts appearing thereon as directed by the council. The roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies, unless contested in the manner provided in chapter VIII, section 34 of Public Act No. 3 of 1895 (MCL 68.34), and subject to adjustment to conform to the actual cost of the improvement, as provided in section 28-18.

(Code 1988, § 1.212)

Sec. 28-13. Objection to assessment.

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

(Code 1988, § 1.213)

Sec. 28-14. Special assessment; when due.

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

(Code 1988, § 1.214)

Sec. 28-15. Partial payments; when due.

The council may provide for the payment of special assessments in installments. Such installments shall not exceed 30 in number, the first installment being due upon confirmation of the roll or on such date as the council may determine, and the deferred installments shall be due annually thereafter, or, in the discretion of the council, due annually on such other date as the council may fix, or be spread upon and made a part

of each annual village tax roll thereafter until both are paid. Interest shall be charged on all deferred installments at a rate not to exceed ten percent per annum, commencing on such date on or after confirmation as may be fixed by the council and payable with each installment. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have 30 days from the date of confirmation to pay the full amount of said assessment or the full amount of any installments thereof, without interest or penalty. Following said 30-day period, the assessment or first installment thereof shall, if unpaid, be considered as delinquent, and the same penalties shall be collected on such unpaid assessments or first installments thereof as are provided by law to be collected on delinquent general village taxes. Deferred installments shall be collected without penalty until 30 days after the due date thereof, after which time such installments shall be considered as delinquent and such penalties on said installments shall be collected as are provided by law to be collected on delinquent general village taxes. After the council has confirmed the roll, the village treasurer shall notify by mail each property owner on said roll that said roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the village treasurer to give said notice or of such owner to receive said notice shall not invalidate any special assessment roll of the village or any assessment thereon, nor excuse the payment of interest or penalties. (Code 1988, § 1.215)

Sec. 28-16. Delinquent special assessments.

Any assessment or part thereof remaining unpaid on the first Monday of March following the date when the same became delinquent shall be reported as unpaid by the treasurer to the council. Any such delinquent assessment, together with all accrued interest, shall be transferred and reassessed on the next annual village tax roll in a column headed "special assessments," with a penalty of four percent upon such total amount added thereto, and when so transferred and reassessed upon said tax roll, shall be collected in all respects as provided for the collection of village taxes. (Code 1988, § 1.216)

Sec. 28-17. Creation of lien.

Special assessments and all interest, penalties and charges thereon from the date of confirmation of the roll shall become a debt to the village from the persons to whom they are assessed, and, until paid, shall be and remain a lien upon the property assessed, of the same character and effect as the lien created by general law for state, county and village taxes. The lands upon which the same are a lien shall be subject to sale therefor the same as are lands upon which delinquent village taxes constitute a lien. (Code 1988, § 1.217)

Sec. 28-18. Additional assessments; refunds.

The clerk shall, within 60 days after the completion of each local or special public improvement, compile the actual cost thereof and certify the same to the assessor, who

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

(Code 1988, § 1.218)

Sec. 28-19. Additional procedures.

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

(Code 1988, § 1.219)

Sec. 28-20. Collection of special assessments.

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

(Code 1988, § 1.220)

Sec. 28-21. Special assessment accounts.

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

(Code 1988, § 1.221)

Sec. 28-22. Contested assessments.

If a special assessment is made against property, the notice of the special assessment sent to the property owner or person responsible for payment of the ad valorem property taxes under the General Property Tax Act, Public Act No. 206 of 1893 (MCL 211.1 et seq.), shall include, in addition to any other requirements by state

law, a statement that the owner or any person having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.
(Code 1988, § 1.222)

Sec. 28-23. Reassessment for benefits.

Whenever the council shall deem any special assessment invalid or defective for any reason whatsoever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatsoever, in whole or in part, the council shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall, to that extent, be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.
(Code 1988, § 1.223)

Sec. 28-24. Combination of projects.

The council may combine several districts into one project for the purpose of effecting a saving in the costs. There shall be established for each district separate funds and accounts to cover the cost of the same.
(Code 1988, § 1.224)

Sec. 28-25. Division of parcels.

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the assessor shall apportion the uncollected amount upon the several lots and lands so divided and shall enter the several amounts as amendments upon the special assessment roll. The village treasurer shall, within ten days after such apportionment, send notice of such action to the persons concerned at their last known address by first class mail. Said apportionment shall be final and conclusive on all parties unless protest, in writing, is received by the village treasurer within 20 days of the mailing of the aforesaid notice.
(Code 1988, § 1.225)

Sec. 28-26. Deferred payments of special assessments.

The council may provide for the deferred payment of special assessments from persons who, in the opinion of the council and assessor, by reason of poverty are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the village shall require a mortgage security on

the real property of the beneficiary, payable on or before his death, or, in any event, on the sale or transfer of the property. The procedure for granting a deferment shall be as set out in Public Act No. 225 of 1976 (MCL 211.761).

(Code 1988, § 1.226)

Sec. 28-27. Reconsideration of petitions.

In the event the council fails to make any public improvement petitioned for under the provision of section 28-4, during the calendar year during which any petition is filed, such petition shall be reconsidered by the council prior to March 1 of the succeeding calendar year for the purpose of determining whether such improvement should be made during such calendar year.

(Code 1988, § 1.227)

Sec. 28-28. Hazards and nuisances.

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

(Code 1988, § 1.228)

Chapter 29

RESERVED

Chapter 30

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

Article I. In General

Secs. 30-1-30-18. Reserved.

Article II. Sidewalks

- Sec. 30-19. Reservation of land; construction; approval of street commissioner.
- Sec. 30-20. Petition for construction.
- Sec. 30-21. Construction contracts.
- Sec. 30-22. Construction specifications.
- Sec. 30-23. Maintenance.
- Sec. 30-24. Duties of adjoining property owners and occupants.
- Sec. 30-25. Default of property owners and occupants.
- Secs. 30-26-30-53. Reserved.

Article III. Shade Trees

- Sec. 30-54. Prohibited in public rights-of-way.
- Sec. 30-55. Trimming.
- Sec. 30-56. Cutting, etc., prohibited.
- Sec. 30-57. Violation as a municipal civil infraction.

***State law** references-Streets and sidewalks, MCL 67.7 et seq.; paving and improve-

ments, MCL 67.17 et seq.; street regulations, MCL 67.20 et seq.

ARTICLE I. IN GENERAL

Secs. 30-1-30-18. Reserved.

ARTICLE II. SIDEWALKS

Sec. 30-19. Reservation of land; construction; approval of street commissioner.

(a) A strip of land six feet wide within the public right-of-way on each side of all streets shall be reserved for sidewalks.

(b) All artificial sidewalks shall be constructed within said strip. Plans and specifications and the performance of such construction shall be approved by the street commissioner.

(Code 1988, § 1.018)

Sec. 30-20. Petition for construction.

Property owners desiring construction of sidewalks adjoining their premises shall file with the village council a petition therefor signed by the owners of not less than 75 percent of the front footage over which sidewalk construction is petitioned for. Upon the filing of such petition, a date not less than 30 days thereafter shall be set for a hearing on such petition, and each owner of property which would be affected thereby shall be notified of such date of the hearing and that the cost of construction of such sidewalks will be assessed upon the property adjacent thereto as a special assessment on such premises. A majority vote of the village council taken after such hearing shall be required for approval of petitions for the construction of sidewalks and to authorize construction of the same and the assessment of the construction costs upon the property adjacent thereto. The council may, by two-thirds vote of all the trustees, elect to pay such part of the expense of building or rebuilding such walk as they may determine proper from the general fund.

(Code 1988, § 1.019)

Sec. 30-21. Construction contracts.

When there is construction of sidewalks within the village, pursuant to the approval of a petition as provided in section 30-20, or under any other circumstances where the village constructs the sidewalk and enters into a contract for such construction, such contract shall be in writing and must state the price, mixture, materials and thickness of walk of the sidewalk and contain a guarantee for the standup of the work under normal use.

(Code 1988, § 1.020)

Sec. 30-22. Construction specifications.

Specifications for sidewalks located within the corporate limits of the village shall be as follows:

- (1) Materials to be used in all sidewalks, either new or repaired, shall be as follows:
 - a. Clean washed gravel: three parts.
 - b. Clean washed sand: two parts.
 - c. High quality cement: one part.
- (2) The thickness of sidewalks shall be as follows:
 - a. Four inches on common walks.
 - b. Six inches crossing private driveways.
 - c. Eight to ten inches on commercial driveways.

(Code 1988, § 1.021)

Sec. 30-23. Maintenance.

All cement sidewalks within the corporate limits of the village shall be maintained and kept in repair by the village, except in cases of deliberate destruction. In such cases, the total costs of repair shall be assessed against the owner of the adjoining premises as a special assessment on the village taxes on such premises, upon a majority vote of the village council after due notice and hearing.

(Code 1988, § 1.022)

Sec. 30-24. Duties of adjoining property owners and occupants.

It shall be the duty of the owner or occupant to keep the sidewalk adjacent to and abutting upon the premises occupied or owned by him free from obstructions, encroachments, encumbrances, filth and other nuisances and to remove all ice and snow therefrom as often as may be necessary for the safety and convenience of the public, and the street commissioner shall keep all crosswalks and sidewalks adjacent to public property free from dirt, ice and snow.

(Code 1988, § 1.023)

Sec. 30-25. Default of property owners and occupants.

Whenever the sidewalk shall be found encumbered with snow, ice or rubbish, it shall become the duty of the street commissioner to notify such owner or occupant of each lot, if there be one found, to clean the walks, and in the event such owner or occupant cannot be located or refuses or neglects to do such within 24 hours after such notice, the street commissioner shall cause such to be done, and the expense thereon shall be a lien upon such lot or premises in the same manner as special assessments and shall be assessed and collected in the same manner.

(Code 1988, § 1.024)

Secs. 30-26-30-53. Reserved.

ARTICLE III. SHADE TREES**Sec. 30-54. Prohibited in public rights-of-way.**

It shall be unlawful for any person to plant or set out any tree within the public right-of-way of any street in the village, except under the direction and upon the line and grade furnished by the street commissioner. Any tree set out in violation of this section shall be subject to removal by order of village council.

(Code 1988, § 1.025)

Sec. 30-55. Trimming.

Any person desiring to trim or cut any trees in the public right-of-way shall first obtain written permission to do so from the council, specifically from the trustee who is chairman of the street committee or the street commissioner.

(Code 1988, § 1.026)

Sec. 30-56. Cutting, etc., prohibited.

It shall be unlawful for any person to cut, mark, write upon, or in any manner deface, mangle or pull up any tree which has been reserved as a shade tree, or which may have been properly planted for that purpose, which tree is in the public right-of-way, except in accordance with the provisions in section 30-55.

(Code 1988, § 1.027)

State law reference-Malicious mischief generally, MCL 750.377a et seq.

Sec. 30-57. Violation as a municipal civil infraction.

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

Chapter 31

RESERVED

Chapter 32

TRAFFIC AND VEHICLES*

Article I. In General

- Sec. 32-1. Michigan vehicle code.
- Sec. 32-2. Adoption of Uniform Traffic Code; definition; changes in code.
- Secs. 32-3-32-22. Reserved.

Article II. Bicycle Path and Sidewalk Safety

- Sec. 32-23. Definitions .
- Sec. 32-24. Operation of motor vehicle on bicycle path/sidewalk prohibited.

***State law** references-Michigan vehicle code, MCL 257.1 et seq.; regulations by local authorities, MCL 257.605, 257.606, 257.610.

ARTICLE I. IN GENERAL**Sec. 32-1. Michigan vehicle code.**

(a) *Adopted by reference.* The Michigan vehicle code, Public Act No. 300 of 1949 (MCL 257.1 et seq.), and all future amendments and revisions thereto when they are effective in this state, are incorporated and adopted by reference.

(b) *Purpose.* The purpose of the Michigan vehicle code is to regulate the operation of vehicles, to provide for the regulation and use of streets, highways, and alleys, and other public and semi-public places within the village, and to provide penalties for violations thereof.

(c) *Enforcement.* The village shall not enforce any provision of the Michigan vehicle code adopted by reference herein where a violation of the provision constitutes a felony or where a violation of the provision constitutes a misdemeanor with a maximum period of imprisonment greater than 93 days.

State law reference-Authority to adopt the Michigan vehicle code by reference, MCL 66.4.

Sec. 32-2. Adoption of Uniform Traffic Code; definition; changes in code.

(a) *Uniform Traffic Code adopted by reference.* The Uniform Traffic Code for Cities, Townships, and Villages, as promulgated by the director of state police and published in the state administrative code, 2002 MR20, in accordance with Public Act No. 62 of 1956 (MCL 257.951 et seq.), is hereby adopted by reference except as amended hereinafter.

(b) *Definition.* References in the said Uniform Traffic Code to "governmental unit" shall mean "The Village of Climax, Michigan."

(c) *Changes in code.* The following subsections are added to the Uniform Traffic Code:

Section 8.10S. On Main and Maple Streets in the village between the hours of 2:30 a.m. and 6:30 a.m. of any day.

Section 8.25. Parking of Buses Used For Transportation of Children. All buses used for the transportation of children to and from school, church, or other meetings, when loading or unloading such children at such school, church or meeting place, shall be required to be parked on the premises of such school, church or meeting place. (Code 1988, §§ 2.421, 4.101, 4.102)

Secs. 32-3-32-22. Reserved.

ARTICLE II. BICYCLE PATH AND SIDEWALK SAFETY

Sec. 32-23. 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:

Bicycle means a device propelled by human power upon which a person may ride, having either two or three wheels in a tandem or tricycle arrangement.

Bicycle path means a public path set aside for the exclusive use of bicycles.

Motor vehicle means every vehicle or conveyance which is self-propelled, including motorcycles, mopeds, and motorized farm vehicles and equipment.

Sidewalk means that portion of a street between the curb lines (or the lateral lines of the roadway) and the adjacent property lines intended for the use of pedestrians, and also that portion of any other public path set aside for the exclusive use of pedestrians or bicycles.

(Ord. No. 30, § III, 11-19-1991)

Sec. 32-24. Operation of motor vehicle on bicycle path/sidewalk prohibited.

No person shall operate or ride a motor vehicle within the village upon or across a bicycle path or a sidewalk regularly laid out and constructed for the use of pedestrians or persons on bicycles; provided, however, that this restriction shall not apply to the following:

- (1) A motorized wheelchair used by a person who is not ambulatory.
- (2) A motor vehicle being lawfully operated upon a crosswalk or driveway.

(Ord. No. 30, § II, 11-19-1991)

Chapter 33

RESERVED

Chapter 34

UTILITIES*

Article I. In General

Secs. 34-1- 34-18. Reserved.

Article II. Water

Division 1. Generally

- Sec. 34-19. Finding.
- Sec. 34-20. Definitions.
- Sec. 34-21. Administration.
- Sec. 34-22. Rates and charges.
- Sec. 34-23. No free service.
- Sec. 34-24. Fixed rates.
- Sec. 34-25. Operations.
- Sec. 34-26. Receiving funds.
- Sec. 34-27. Insufficient moneys.
- Sec. 34-28. Investments.
- Sec. 34-29. Exceptions.
- Sec. 34-30. Equivalent user table.
- Secs. 34-31- 34-48. Reserved.

Division 2. Cross Connections

- Sec. 34-49. Rules of state department of environmental quality adopted.
- Sec. 34-50. Inspections-Duty of village.
- Sec. 34-51. Same--Right of village representative to enter property; compliance required; noncompliance evidence of cross connection.
- Sec. 34-52. Discontinuation of service.
- Sec. 34-53. Testing of backflow prevention devices.
- Sec. 34-54. Protection of potable water supply; nonpotable water warning label.
- Sec. 34-55. State plumbing code.
- Sec. 34-56. Violation a municipal civil infraction.

*State law references-Local government authority to provide and regulate water and sewer service, MCL 324.4301 et seq.; collection of water or sewer charges, MCL 123.161 et seq.; sewage disposal, water supply and solid waste management system, MCL 124.281 et seq.; rates charged for use of public improvement in order to pay bonds, MCL 141.121.

ARTICLE I. IN GENERAL

Secs. 34-1-34-18. Reserved.

ARTICLE II. WATER**DIVISION 1. GENERALLY**

Sec. 34-19. Finding.

It is hereby determined to be desirable and necessary for the public health, safety and welfare of the village that the county water supply system be operated on a public utility rate basis in accordance with the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq.).

(Code 1988, § 7.101)

Sec. 34-20. 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:

Revenue and *net revenues* mean the same as defined in section 3, Public Act No. 94 of 1933 (MCL 141.103).

System means the complete facilities of the county water supply system, including all wells, wellhouses, pumps, elevated water towers, and transmission lines, including all appurtenances thereto, which may hereafter be acquired.

(Code 1988, § 7.102)

Sec. 34-21. Administration.

The operation and maintenance of the system shall be under the general supervision and control of the village, subject to the terms of the contract dated April 14, 1981, between the county and the village. Pursuant to the terms of such contract, the village has retained the exclusive right to establish, maintain and collect rates and charges for water supply service, and in such capacity, the village council may employ such person in such capacity or capacities as it deems advisable and may make such rules, orders and regulations as it deems advisable and necessary to ensure the efficient establishment, maintenance and collection of such rates and charges.

(Code 1988, § 7.103)

Sec. 34-22. Rates and charges.

Rates to be charged for services furnished by the system shall be as follows:

- (1) *Water rates.* The monthly water rate for users of the system shall be determined by resolution. In addition, each user shall pay a monthly debt service charge as established by resolution.

(2) *Connection charge.*

- a. *Direct connection.* For each direct connection to lines of the system, there shall be charged a fee as established by resolution per single-family residence equivalent; provided, however, that credit against such charge shall be given for each unit of benefit specially assessed, except that the amount of such credit shall not exceed the amount of the connection charge.
 - b. *Indirect connection.* For each indirect connection to the system, there shall be charged a fee as established by resolution for each single-family residence equivalent. The indirect connection should be defined as one made to lines added to the system after its original construction.
 - c. *Equivalent user factor.* Each premises shall pay either a direct or indirect connection charge multiplied by a factor representing a ratio of water use by such class of premises to normal single-family residential use, as reflected in section 34-30.
 - d. *Payment of connection charge.* Connection charges as set forth in this section shall be due and payable in cash upon application for connection to the system; provided, however, that premises existing and occupied or for which a construction permit was issued when service by the system became available shall have the option of paying such charges over a five-year period in six approximately equal installments, the first such installment to be due and payable upon application for connection to the system and the balance at yearly intervals thereafter, with interest on the unpaid balance payable with each installment at the rate of seven percent per annum.
- (3) *Special rates.* For miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by the village council.
- (4) *Additional charges.* There will be imposed a charge as established by resolution whenever the village is requested to turn water services on or off; provided, however, that whenever the village is requested to provide turn-on or turn-off service at times other than during the regular business hours of the village, there will be imposed an additional charge of time and material plus ten percent. There will also be imposed a charge as established by resolution for each change of name and/or address.
- (5) *Billing.* Bills will be rendered quarterly on the first day of the month and payable without penalty within 15 days thereafter. Payments received after such period shall bear a penalty of five percent of the amount of the bill.
- (6) *Hydrant rental.* For water used through fire hydrants and otherwise, the village shall pay a charge of two mils per year, which shall be payable in quarterly installments from the current funds of the village, or from the proceeds of taxes which the village is hereby authorized and required to levy within constitutional and statutory tax limitations in amounts sufficient for that purpose.

(7) *Enforcement.*

- a. The charges for services which are under the provisions of section 21 of Public Act No. 94 of 1933 (MCL 141.121) and made a lien on all premises served thereby are hereby recognized to constitute such lien, and whenever any such charge against any piece of property shall be delinquent for six months, the village official in charge of the collection thereof shall certify annually on April 1 of each year, to the tax-assessing officer of the village, the facts of such delinquency, whereupon such charge shall be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced; provided, however, that where notice is given that a tenant is responsible for such charges and service as provided by section 21 of Public Act No. 94 of 1933, no further service shall be rendered for such premises until a cash deposit in an amount as established by resolution shall have been made as security for payment of such charges and service.
- b. In addition to the provisions of subsection (7)a of this section, the village shall have the right to shut off water service to any premises for which charges for water service are more than three months delinquent, and such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge in an amount as established by resolution have been paid. Such charges and penalties may be recovered by the village by court action.

(Code 1988, § 7.104; Ord. No. 29, 7-17-1990)

Sec. 34-23. No free service.

No free service shall be furnished by the system to any person or to any public agency or instrumentality.

(Code 1988, § 7.105)

Sec. 34-24. Fixed rates.

The rates established by this article, which are hereby fixed, are estimated to be sufficient to provide for the payment of the expenses of administration, operation, and maintenance of the system as are necessary to preserve the system in good repair and working order, to provide for the payment of the debt service obligations of the village to the county pursuant to the contract cited in section 34-21 as the same become due, and to provide for such other expenditures and funds for the system as this article may require. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts.

(Code 1988, § 7.106)

Sec. 34-25. Operations.

The system shall be operated on the basis of an operating year commencing on April 1 and ending on March 31 of the following year.

(Code 1988, § 7.107)

Sec. 34-26. Receiving funds.

The revenues of the system shall be set aside as collected and deposited in a separate depository account in Sturgis Bank and Trust, Climax, Michigan, a bank duly qualified to do business in the state, in an account to be designated as the water supply system receiving fund (hereinafter referred to as the "receiving fund"). Such revenues so deposited shall be transferred from the receiving fund periodically, in the manner and at the times hereafter specified.

- (1) *Operation and maintenance fund*. Out of the revenues in the receiving fund, there shall be first set aside quarterly into a depository account, designated as the operation and maintenance fund, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and good working order.
- (2) *Contract payment fund*. There shall next be established and maintained a depository account, to be designated the contract payment fund, which shall be used solely for the payment of the village's obligations to the county pursuant to the contract cited in section 34-21. There shall be deposited into the contract payment fund quarterly, after requirements of the operation and maintenance fund have been met, such sums as shall be necessary to pay such obligations when due. The proceeds of special assessments, as collected, shall be deposited directly into the contract payment fund. Should the revenues of the system prove insufficient for this purpose, such revenues may be supplemented by any other funds of the village legally available for such purpose.
- (3) *Replacement fund*. There shall next be established and maintained a depository account, designated the replacement fund, which shall be used solely for the purpose of making major repairs and replacements to the system, if needed. There shall be set aside into the replacement fund, after provision has been made for the operation and maintenance fund and the contract payment fund, such revenues as the village council shall deem necessary for this purpose.
- (4) *Improvement fund*. There shall be established and maintained a depository account, designated as the improvement fund, for the purpose of making improvements, extensions and enlargements to the system. There shall be deposited into the improvement fund, after providing for the operation and maintenance, contract payment, and replacement funds, such revenues as the village council shall determine.
- (5) *Surplus moneys*. Moneys remaining in the receiving fund at the end of any operating year after full satisfaction of the requirements of the funds established by this section may, at the option of the village council, be transferred to the improvement fund or used in connection with any other project of the village reasonably related to purposes of the system.
- (6) *Bank accounts*. All moneys belonging to any of the funds established by this section or accounts may be kept in one bank account, in which event the

moneys shall be allocated on the books and records of the village within this single bank account in the manner set forth in this section. Any other public corporation acting as operating agent for the village shall be authorized to act for the village to establish, maintain and fund such accounts. Such public corporation may fix names for the various accounts different from those set out in this section as long as the essential purpose of such system of accounts is preserved.

(Code 1988, § 7.108)

Sec. 34-27. Insufficient moneys.

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 system, except sums in the contract payment fund derived from tax levies or special assessments, shall be transferred to the operation and maintenance fund to the extent of any deficit therein.

(Code 1988, § 7.109)

Sec. 34-28. Investments.

Moneys in any fund or account established by the provisions of this article may be invested in obligations of the United States of America in the manner and subject to the limitations provided in Public Act No. 94 of 1933 (MCL 141.101 et seq.). In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

(Code 1988, § 7.110)

Sec. 34-29. Exceptions.

The owner of a single-family residence in which such owner resides and upon which a connection charge or special assessment has been imposed may submit a hardship application to the village seeking a deferment in the partial or total payment of the connection charge or special assessment provided for in this article based upon a showing of financial hardship, subject to and in accordance with the following:

- (1) The owner of the premises shall, under oath, complete a hardship application provided by the village council and file said application, together with all other information and documentation reasonably required by the village, with the village council not less than 60 days prior to the due date of such charge. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, with the exception of financial institutions having security interests in the premises.
- (2) Hardship applications shall be reviewed by the village council, and after due deliberation thereof, the village council shall determine in each case whether there has been an adequate showing of financial hardship and forthwith notify the applicants of such determination.

- (3) An applicant aggrieved by the determination of the village council may request the opportunity to appear before the village council in person for the purposes of showing hardship and presenting any argument or additional evidence. A denial of hardship following such a personal appearance before the village council shall be final and conclusive.
- (4) In the event that the village council makes a finding of hardship, the village council shall fix the amount of partial or total deferment of the charge so imposed, and in so doing, shall require an annual filing of financial status by each applicant; provided that, upon a material change of financial status of an applicant, such applicant shall immediately notify the clerk of the village so that a further review of the matter may be made by the village council; and provided further that the duration of the deferment granted shall be self-terminating upon the occurrence of any one of the following events:
 - a. A change in the financial status of any applicant which removes the basis for financial hardship.
 - b. A conveyance of any interest in the premises by any of the applicants, including the execution of a new security interest in the premises or extension thereof.
 - c. A death of any of the applicants.
- (5) Upon determination of the village council deferring all or part of the changes imposed, the owner of the premises shall, within one month after such determination, execute and deliver to the village, as the secured party, a recordable security instrument covering the premises guaranteeing payment of the deferred amounts on or before the death of any of the applicants or, in any event, upon the sale or transfer of the premises. Such security interest shall guarantee payment of an amount necessary to cover all fees and charges deferred and all costs of installation and connection, if applicable, the consideration for said security interest being the grant of deferment pursuant to this article.

(Code 1988, § 7.111)

Sec. 34-30. Equivalent user table.

The following table shall be used in determining user equivalences for the purposes of this article:

<i>Occupation or Use</i>	<i>Units</i>	<i>Unit Factor</i>
Single-family residences	1.0	Per residence
Auto dealers, new and/or used	1.0	Per premises, plus 0.25 per 1,000 square feet of building, including service area

UTILITIES

§ 34-30

<i>Occupation or Use</i>	<i>Units</i>	<i>Unit Factor</i>
Auto repair/collision	1.0	Per premises, plus 0.25 per 1,000 square feet of building in excess of 2,000 square feet
Auto wash (coin-operated, do-it-yourself, 10 gallons or less per car)	1.0	Per stall
Auto wash (mechanical, over 10 gallons per car, not recycled)	10.0	Per stall or production line, including approach and drying area
Auto wash (mechanical, over 10 gallons per car, recycled)	5.0	Per stall or production line, including approach and drying area
Barbershop	1.0	Per shop, plus 0.1 per chair after 2
Bar	4.0	Per 1,000 square feet
Beauty shops	1.0	Per shop, plus 0.1 per workstation sink
Bowling alleys (no bar)	1.0	Per premises, plus 0.2 per alley
Churches	0.25	Per 1,000 square feet, minimum of 1 unit
Cleaners (pick up only)	1.0	Per shop
Cleaners (cleaning and pressing facilities)	1.0	Per premises, plus 0.5 per 500 square feet
Clinics (medical or dental)	1.0	Per premises, plus 0.25 per exam room
Convalescent or boarding homes	1.0	Per premises, plus 0.25 per bedroom
Convents	1.0	Per premises, plus 0.25 per bedroom
Country clubs and athletic clubs	1.5	Per 1,000 square feet of clubhouse, plus restaurant and bar

<i>Occupation or Use</i>	<i>Units</i>	<i>Unit Factor</i>
Drugstores	1.0	Per premises, plus snack bar
Factories (office and production), wet process	0.75	Per 1,000 square feet
Funeral home	1.5	Plus residence to be computed separately
Grocery store and supermarket	1.0	Per premises, plus 1,000 square feet in excess if 2,000 square feet
Hospitals	1.1	Per bed
Hotels and motels	0.40	Per bedroom, plus restaurant and bar
Laundry (self-service)	1.0	Per premises, plus 0.5 per washer
Two-family residence	1.5	
Mobile homes (parks or subdivisions)	0.75	Per pad or site at indirect connection rate, plus laundry, community buildings and office, to be computed separately per schedule
Multiple-family residence, duplex	1.5	
Multiple-family residence, apartments	1.0	Plus 0.5 per dwelling unit in excess of one
Professional office	0.25	Per 500 square feet, minimum of 1 unit
Public institutions	0.75	Per 1,000 square feet
Restaurants (meals only)	2.0	For first 2,000 square feet, plus 0.5 for each additional 1,000 square feet
Restaurants (meals and drinks)	3.0	Same as above
Schools	1.0	Per classroom

UTILITIES

§ 34-50

<i>Occupation or Use</i>	<i>Units</i>	<i>Unit Factor</i>
Service stations	1.5	Per 1,000 square feet of building area
Snack bars, drive-ins, etc.	1.5	Per 1,000 square feet
Retail stores (other than listed)	1.0	Per premises, plus 0.1 per 1,000 square feet
Theaters (drive-in)	0.04	Per car space
Theaters	0.04	Per seat
Post office	1.0	Per 1,000 square feet
Warehouse and storage	0.2	Per 1,000 square feet
Veterinary facility	1.5	Per facility
Veterinary facility with kennel	1.5	Per facility, plus 0.5 per 5 kennels

(Code 1988, § 7.116)

Secs. 34-31-34-48. Reserved.

DIVISION 2. CROSS CONNECTIONS

Sec. 34-49. Rules of state department of environmental quality adopted.

The water supply cross connection rules of the state department of environmental quality, being R 325.11401 to R 325.11407 of the Michigan Administrative Code, are hereby adopted by reference as if fully set forth in this division.
(Ord. No. 39, § 1, 2-5-2002)

Sec. 34-50. Inspections-Duty of village.

It shall be the duty of the village to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the village and as approved by the state department of environmental quality.

(Ord. No. 39, § 2, 2-5-2002)

Sec. 34-51. Same-Right of village representative to enter property; compliance required; noncompliance evidence of cross connection.

A representative of the village shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the village for the purpose of inspecting the piping system thereof for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

(Ord. No. 39, § 3, 2-5-2002)

Sec. 34-52. Discontinuation of service.

The village may discontinue water service after reasonable notice to any property wherein any connection in violation of this division exists and shall take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this division.

(Ord. No. 39, § 4, 2-5-2002)

Sec. 34-53. Testing of backflow prevention devices.

Testable backflow prevention devices shall be tested initially upon installation to be sure that such devices are working properly. Subsequent testing of devices shall be conducted at a time interval specified by the village and in accordance with state department of environmental quality's requirements. Only individuals approved by the village shall be qualified to perform such testing, and every such individual shall certify the results of his testing.

(Ord. No. 39, § 5, 2-5-2002)

Sec. 34-54. Protection of potable water supply; nonpotable water warning label.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this division and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(Ord. No. 39, § 6, 2-5-2002)

Sec. 34-55. State plumbing code.

The provisions of this division shall not supersede those of the state plumbing code, but shall be considered supplementary to them.

(Ord. No. 39, § 7, 2-5-2002)

Sec. 34-56. Violation a municipal civil infraction.

Any person or customer found guilty of violating any of the provisions of this ordinance or any written order of the village, in pursuance thereof, shall be responsible for a municipal civil infraction.
(Ord. No. 39, § 8, 2-5-2002)

Chapter 35

RESERVED

Chapter 36

ZONING*

Article I. In General

- Sec. 36-1. Definitions.
- Sec. 36-2. Vested interest.
- Secs. 36-3-36-22. Reserved.

Article II. Administration and Enforcement

Division 1. Generally

- Sec. 36-23. Designation of officials; violations; penalties.
- Sec. 36-24. Interpretation of conflicting provisions.
- Secs. 36-25-36-51. Reserved.

Division 2. Board of Appeals

- Sec. 36-52. Establishment.
- Sec. 36-53. Authority.
- Sec. 36-54. Limitations.
- Sec. 36-55. Application for variance, appeal or special exception.
- Secs. 36-56-36-83. Reserved.

Division 3. Special Exceptions

- Sec. 36-84. Purpose; limitations.
- Sec. 36-85. Petitions.
- Sec. 36-86. Conditions for special exception.
- Sec. 36-87. Special provisions.
- Secs. 36-88-36-117. Reserved.

Division 4. Amendment Procedures

- Sec. 36-118. Authority to amend; request for amendment; fee.
- Sec. 36-119. Written proposal.
- Sec. 36-120. Map amendment requirements.
- Secs. 36-121- 36-138. Reserved.

Article III. District Regulations

- Sec. 36-139. Districts established; zoning map.
- Sec. 36-140. A Agricultural district.
- Sec. 36-141. R-1 Residential district, single-family.
- Sec. 36-142. R-2 Residential district, single-family.
- Sec. 36-143. R-3 Residential district, single-family and two-family.

***State law** references-Michigan zoning enabling act, MCL 125.3101 et seq.; municipal

planning, MCL 125.31 et seq.

CLIMAX CODE

- Sec. 36-144. R-4 Residential district, multiple-family.
- Sec. 36-145. R-5 Mobile home park district.
- Sec. 36-146. C-1 Commercial district, general.
- Sec. 36-147. C-2 Commercial district, shopping center.
- Sec. 36-148. I-1 Industrial district, manufacturing.
- Sec. 36-149. I-2 Industrial district, service.
- Secs. 36-150-36-166. Reserved.

Article IV. Supplemental Regulations

- Sec. 36-167. Parking of motor vehicles.
- Sec. 36-168. Signs and outdoor advertising structures.
- Sec. 36-169. Nonconforming uses.
- Sec. 36-170. Accessory uses or buildings.
- Sec. 36-171. Home occupations.
- Sec. 36-172. Screening.
- Sec. 36-173. Lot, yard and area requirements-General.
- Sec. 36-174. Same-Specific, by zoning district.
- Sec. 36-175. Standards required of special exception uses.

ARTICLE I. IN GENERAL**Sec. 36-1. Definitions.**

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

Accessory use means a use of a building, lot or portion thereof which is customarily incidental and subordinate to the principal use of the main building or lot.

Alley means a passage or way open to public travel affording generally a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

Apartment house means a building used and/or arranged for rental occupancy or cooperatively owned by its occupants, having three or more family units and with a yard, compound, service, or utilities in common.

Basement means a portion of a building located partly underground but having more than one-half its clear floor-to-ceiling height below the average grade of the adjoining ground.

Building means a structure having one or more stories and a roof, designed primarily for shelter, support or enclosure of persons, animals or property of any kind.

Building, accessory, means a building subordinate to and located on the same lot as a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.

Building height means the vertical distance from the average grade at the building to the average elevation of the roof of the highest story.

Building line means a line beyond which the foundation wall or any enclosed porch, vestibule or other portion of a building shall not project.

Care home means homes established to render nursing care for chronic or convalescent patients, and shall include rest and nursing homes, convalescent homes and boarding homes for the aged. The term "care home" excludes facilities for care of active or violent patients such as feeble-minded or mental patients, epileptics, alcoholics, senile psychotics or drug addicts.

Cellar means the portion of a building below the first floor joists at least half of whose clear ceiling height is below the level of the adjacent ground. Such a portion of a building shall not be used for habitation.

District means an area within which certain uses of land and buildings are permitted and all others prohibited, yards and other open spaces are required, lot areas, building height limits, and other requirements are established, and wherein all such permissions, prohibitions, and requirements are identical.

Dwelling, multiple-family, means a building containing three or more dwelling units. The term "multiple-family dwelling" includes an apartment house.

Dwelling, semidetached, means one of two buildings arranged or designed as dwellings located on abutting lots, separated from each other by a party wall without openings and extending from the cellar floor to the highest point of the roof, along the dividing lot line, and separated from any other building or structure by space on all other sides.

Dwelling, single-family, means a building containing not more than one dwelling unit designed for residential use and complying with the following standards:

- (1) The dwelling complies with the minimum square footage requirements of this chapter for the zone in which it is located.
- (2) The dwelling has a minimum width across any front, side or rear elevation of 20 feet and complies in all respects with this Code, including minimum heights for habitable rooms. Where a dwelling is required to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by this Code, then, and in such event, such federal or state standards or regulations shall apply.
- (3) The dwelling is firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the state construction code for single-family dwellings. If the dwelling is a mobile home, as defined in this section, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state mobile home commission or shall have a perimeter wall as required in this subsection.
- (4) The dwelling, if a mobile home, as defined in this section, is installed with the wheels removed. Furthermore, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- (5) The dwelling is connected to a public sewer and water supply or to such approved private facilities, if permissible under the provisions of this Code.
- (6) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure of standard construction; such storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (7) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not fewer than 12 inches on all sides or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not fewer than two exterior doors, with the second one being in either the

rear or side of the dwelling; and contains steps connected to such exterior door areas or to porches connected to such door areas where a difference in elevation requires such steps.

- (8) The compatibility of design and appearance shall be determined in the first instance by the city building inspector upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning board of appeals within a period of 15 days from the receipt of notice of such building inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition, as well as the character, design and appearance of one or more residential dwellings, located outside of mobile home parks, within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within such area or, where such area is not so developed, by the character, design and appearance of one or more residential dwellings, located outside of mobile home parks, throughout the city. This subsection shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard site-built home.
- (9) The dwelling contains no additions, rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required in this definition.
- (10) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and plumbing, electrical apparatuses and insulation within and connected to the mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, 24 CFR 3280, and as such standards may be amended from time to time. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

The standards set forth in this definition shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by state or federal law, or otherwise specifically required in provisions of this Code pertaining to such parks. All construction required in this definition shall be commenced only after a building permit has been obtained in accordance with the state construction code provisions and requirements.

Dwelling, two-family, means a building containing not more than two separate dwelling units.

Dwelling unit means a building or portion thereof arranged or designed for permanent occupancy by not more than one family for living purposes and having cooking facilities.

Excavation, commercial, means the digging of soil, sand, gravel, rock, minerals, clay, or other earthen material from a land surface when primarily for carrying on a

business or manufacturing operation for the purpose of sale, exchange, processing or manufacture. The term "commercial excavation" does not include grading of fill-in incidental to improvement of the land.

Facilities and services means those facilities and services that are normally accepted as necessary for urban living, such as paved streets, public and/or private water supply and sanitary sewer disposal, storm drainage system, schools, parks and playgrounds.

Family means one or more persons living as a single, nonprofit housekeeping unit, as distinguished from individuals or groups occupying a hotel, club, or fraternity or sorority house. The term "family" includes necessary servants when such servants share the common housekeeping facilities and services.

Farming means agricultural activity or the raising of livestock or small animals as a source of income.

Floor area means the total enclosed floor area of a structure used for residential purposes, excluding the floor area of uninhabitable basements, cellars, garages, accessory buildings, attics, breezeways, and porches. For manufacturing, business or commercial activities, floor area includes warehouse facilities, customer facilities, showcase facilities, and sales facilities.

Frontage means the length of the front property line of the lot or tract of land abutting a public street, road or highway.

Gasoline service station means a building, lot or portions thereof used and limited in function to retail sale of gasoline, oil, grease, antifreeze, tires, batteries and automobile accessories, and services such as lubrication, washing, polishing and other minor servicing to motor vehicles.

Home occupation means an occupation customarily engaged in by residents in their own dwelling, subject to the provisions of section 36-171.

Hospital means any institution, including a sanatorium, which maintains and operates facilities for overnight care and treatment of two or more nonrelated persons as patients suffering mental or physical ailments, but not including any dispensary or first aid treatment facilities maintained by a commercial or industrial plant, educational institution, convent, or a convalescent home.

Hotel means a building occupied as a more or less temporary abiding place of individuals who are lodged with or without meals, in which as a rule the rooms are occupied singly for hire, and in which provision is not made for cooking in any individual apartment except for that of the management.

Junkyard means any land or building used for commercial storage and/or sale of paper, rags, scrap metals, other scrap or discarding materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not to be used as a landfill.

Landfill means any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purposes, of trash, refuse or waste material of any kind.

Lot means land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this chapter for a lot in the district in which such lot is situated, and having the required frontage on a street.

Lot area means the total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.

Lot, depth of, means the average horizontal distance between the front lot line and the rear lot line.

Lot, front of, means the side of an interior or through lot which abuts a street; in a corner lot, the side abutting either street may be considered as the front lot line provided that the side selected as the front has the required minimum lot frontage.

Lot frontage means that portion of a lot extending along a street line. In odd-shaped or triangular-shaped lots, the length of the frontage may be reduced to not less than one-half of any minimum frontage herein required and the actual length of the street line shall not be less than 50 feet.

Lot, interior, means a lot other than a corner lot.

Lot width means the average horizontal width measured at right angles to the lot depth.

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

Motel means a group of attached or detached dwellings not more than two stories in height containing guest rooms which are provided for transient occupancy only, including auto courts, motor lodges and tourist homes.

Nonconforming use means the use of a building or of land lawfully existing at the time of the adoption of the ordinance from which this chapter is derived but which does not conform with the present use regulations of the district in which it is located.

Nursing home. See *Care home*.

Parking space, automobile, means that area required for the parking or storage of one automobile, including necessary aisle or driveway space providing access thereto.

Professional office means rooms or buildings used for office purposes by members of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, architects, etc., but not including medical or dental clinics.

Shelter, fallout, means a structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout,

air raids, storms, or other emergencies. Fallout shelters constructed completely below the ground level, except for a vent not exceeding 30 inches in height above ground level, may be contained within any yard area.

Shopping center means a group of five or more commercial establishments planned, developed and managed as a unit, with off-street parking provided on the same property and related in location, size and type of shops in the center.

Sign means any structure, part thereof, device attached thereto or painted or represented thereon, or any material or thing which displays numerals, letters, words, trademark or other representation used for direction, or designation of any person, place, product, service, business, or industry, which is located upon any land, on any building, in or upon a window, or indoors in such a manner as to attract attention from outside of the building.

Sign area means the surface of a sign used to convey the message, exclusive of the necessary supports or any appurtenances required by chapter 8. The area of open sign structures, consisting of letters or symbols without a solid surface in between, shall be calculated on the basis of the total area within the perimeter of the group of letters and/or symbols. The area of a double-faced sign which is constructed back to back shall be calculated on the basis of a single face.

Sign, outdoor advertising, means a sign which calls attention to a business, commodity, service, entertainment, or other activity conducted, sold, or offered elsewhere than on the premises upon which the sign is located.

Special exception means the granting to a petitioner, by the board of appeals, certain uses of land and/or buildings, because of their particular nature and due to certain circumstances, to become established as provided in this chapter (see article II, division 3).

Special exception uses means uses of land and/or buildings which, because of their particular nature and due to certain circumstances, are designated as exceptions, and may be permitted to become established within those districts as specified in this chapter (see article II, division 3).

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it, or of the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.

Street means a public dedicated right-of-way, other than an alley, which provides primary access to abutting properties and over which the public has an easement for vehicular access.

Structure means any thing constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground, and shall include fences which are more than 50 percent solid, tanks, towers, advertising devices, bins, tents, lunch wagons, trailers, dining cars, camp cars

or similar structures on wheels or other supports used for business or living purposes. The term "structure" shall not apply to wires and their supporting poles or frames of electrical or telephone utilities or to service utilities entirely below the ground.

Use means the principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied or maintained.

Variance means the granting of permission to a petitioner, by the board of appeals, to vary from the strict application of this chapter as provided in section 36-53(2).

Yard means open space on the same lot with a building or group of buildings, lying between the building and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except for plants, trees, shrubs, or fences.

Yard, front, means open space extending across the full width of lot between the front lot line or the proposed front street line and the nearest line of the building or portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any portion thereof.

Yard, rear, means open space extending across the full width of a lot between the rear line of the lot and the nearest line of the building porch or projection thereof. The depth of such yard is the average horizontal distance between the rear lot line and the nearest point of the building.

Yard, side, means open space between the side lot line, the side street line, or the proposed side street line, if such line falls within the lot, and the nearest line of the building, porch, or projection thereof, extending from the front yard to the rear yard or, in the absence of either such yards, to the front lot line or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the building, porch or projection thereof.

Zone. See *District*.
(Code 1988, § 5.102)

Sec. 36-2. Vested interest.

It is hereby expressly declared that nothing in this chapter shall be held or construed to give or grant to any person any vested interest, right, license, privilege or permit.
(Code 1988, § 5.126)

Secs. 36-3-36-22. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 36-23. Designation of officials; violations; penalties.

(a) *Administration*. The provisions of this chapter shall be administered by such persons who shall be designated by the village officials in accordance with applicable state statutes.

(b) *Enforcement.* The provisions of this chapter shall be enforced by such official as may be from time to time designated by resolution of the village officials.

(c) *Violations.*

- (1) Buildings erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this chapter, are declared to be a nuisance per se. All buildings or land use activities considered possible violations of the provisions of this chapter observed by or communicated to police and fire department employees or to any municipal official shall be reported to the zoning enforcement officer.
- (2) The zoning enforcement officer shall inspect each alleged violation and shall order correction, in writing or by posting of notice upon the premises, of all conditions found to be in violation of this chapter.
- (3) An appeal may be taken to the board of appeals by any person alleging error in any administrative order concerning the enforcement of this chapter.
- (4) All violations shall be promptly corrected after receipt of notification thereof by writing or by posting upon the premises by the zoning enforcement officer. A violation not so corrected shall be reported to the municipal attorney, who shall initiate prosecution procedures.

(d) *Penalties.* Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this chapter, a permit, license or exception granted under this chapter, or any lawful order of the zoning enforcement officer, board of appeals, or the village council issued pursuant to this chapter shall be responsible for a municipal civil infraction.

(Code 1988, § 5.103)

Sec. 36-24. Interpretation of conflicting provisions.

In interpreting and applying the provisions of this chapter, the requirements contained herein are declared to be the minimum requirements for the protection of health, morals, safety or welfare. This chapter shall not be deemed to interfere with, abrogate, annul, or otherwise affect, in any manner whatsoever, any ordinances, rules, regulations, permits, easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or larger open spaces than is imposed or required by other ordinances, rules, regulations, or permits, or by easements, covenants, or agreements between parties, the provisions of this chapter shall prevail. Except as hereinafter provided, the following general regulations shall apply:

(1) *Limitations on all land and structures.*

- a. No building shall be erected and no existing building shall be moved, altered, added to or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner other than that included among the uses hereinafter listed as permitted in the zone in which such building or land is located.

- b. Every building hereinafter erected shall be located on a lot, as herein defined; and except as herein provided, there shall be not more than one single-family dwelling on one lot.
 - c. Every dwelling structure shall be built upon a lot with frontage upon a public street, provided that any one lot of record created before the effective date of the ordinance from which this chapter is derived without any frontage on a public street but provided with an easement or right-of-way of no less than 20 feet wide may be granted a building permit, provided all other requirements of this chapter can be met.
 - d. The illumination of any building or use of land shall be designated and operated so that the source of light shall not be directed upon adjacent properties or the public streets. In no event shall the illumination of a building or use of land be permitted to flood upon adjacent residential structures.
- (2) *Limitations on height.* No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designed for the zone in which such building is located; provided, however, that the height limitations of this chapter shall not apply to church spires, belfries, cupolas, antennas, domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, silos, bulkheads, and necessary mechanical appurtenances usually carried above the rooflevel, except where, in the opinion of the building inspector, such may be deemed to interfere with aerial navigation or constitute a fire hazard. Such features, however, shall not exceed in total coverage 20 percent of the total roof area and shall not exceed a reasonable height to be determined upon reference of all such cases to the zoning board of appeals by the building inspector.
- (3) *Limitations on area.*
- a. No building shall be erected, nor shall any existing building be altered, enlarged, moved, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations herein designated for the zone in which such buildings or open spaces are located, except as otherwise specifically provided.
 - b. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as a yard or open space for any other building.
 - c. Any lot which was legally recorded at the time of adoption of the ordinance from which this chapter is derived and which was a buildable lot even though it may have less than the minimum area requirements is permitted.
- (4) *Building permits*
- a. *Building permit to erect or alter structures.* No structure shall be erected or altered, and no excavation shall be started until a building permit for such erection or alteration shall have been issued.

- b. *Prior building permits.* Nothing in this chapter shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived, provided that construction is commenced within 90 days after the date of issuance of the permit and that construction is carried on diligently and without interruption for a continuous period so that the entire building shall be completed according to the plans filed with the permit application within two years after the issuance of the building permit.
- (5) *Certificate of occupancy.*
- a. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed, converted or enlarged, wholly or partly, until it has been certified that the structure or use complies with the provision of this chapter. Such occupancy permits shall be granted or denied within 15 days from the date on which a written application is filed with the building inspector or zoning enforcement officer.
 - b. The issuance of a certificate of occupancy shall not be construed as permitting any violation of this chapter.
- (6) *Conflict with other laws.* Whenever the requirements of this chapter are at variance with the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive, or those that impose the higher standards, shall govern.
- (7) *Boundaries of zones.* Where uncertainty exists as to the boundaries of any of the zones as shown on the zoning map, the following rules shall apply:
- a. Zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions as shown on said zoning map.
 - b. Where zone boundaries are indicated as following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
 - c. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet therefrom, such lot lines shall be such boundaries.
 - d. In subdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps or described in the text of the ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
 - e. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or be used for any purpose other than a public purpose,

said land shall be subject to all of the regulations which apply within the zone immediately adjacent thereto or within the most restricted of the immediately adjacent zones, if there are more than one.

(Code 1988, § 5.105)

Secs. 36-25-36-51. Reserved.

DIVISION 2. BOARD OF APPEALS*

Sec. 36-52. Establishment.

There shall be a board of appeals as provided under applicable state statutes, and said board shall have such powers and duties as prescribed by law.

(Code 1988, § 5.104A)

Sec. 36-53. Authority.

The board of appeals shall have the authority to:

- (1) Hear and decide, upon request, the interpretation of the provisions of this chapter.
 - (2) Grant variances from the strict application of this chapter when, by reason of exceptional narrowness, shallowness, shape or topography of specific parcels of property at the time of the original enactment of the ordinance from which this chapter is derived or amendments thereto, or when the strict application of these regulations or amendments thereto would result in exceptional or undue hardship upon said property; provided that such relief or variances can be granted without substantial impairment of the intent or purpose of this chapter. This provision shall not be construed to permit the board, under the guise of a variance, to change the uses of land.
 - (3) Hear and decide appeals where it is alleged by appellants that there is error in any refusal of building, use, or occupancy permit or in any other order, requirement, decision, or determination made by the building inspector, zoning enforcement officer, or other municipal employee when passing upon an application for a building or other permit, or by any other officer or body in the administration of the zoning ordinance.
 - (4) Hear and decide petitions for special exceptions.
- (Code 1988, § 5.104B)

Sec. 36-54. Limitations.

(a) Nothing contained in this chapter shall be deemed to authorize the board of appeals to reverse or modify any refusal of a permit or any other order, requirement, decision, or determination which conforms to the provisions of this chapter and which, therefore, is not erroneous, or to authorize the board to validate, ratify, or legalize any violation of law or any of the regulations of this chapter.

*State law reference-Zoning board of appeals, MCL 125.3601 et seq.

(b) The board shall not amend any portion of this chapter or the zoning map; nor shall such power or authority be vested in the board.

(c) A decision of the board permitting the erection or alteration of a building or other use of the land shall be valid for a period of six months, during which time a building permit for such erection or alteration must be obtained and the erection or alteration started.

(d) No application for a variance or special exception which has been denied wholly or in part by the board shall be resubmitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the board to be valid.
(Code 1988, § 5.104C)

Sec. 36-55. Application for variance, appeal or special exception.

(a) Requests for variances, appeals or special exceptions may be made by submitting an application to the village clerk. A fee as currently established or as hereafter adopted by resolution of the village council from time to time shall accompany the application to help defray cost of processing said application.

(b) A site plan, plot plan or development plan of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses, shall be submitted with each request for a variance, appeal or special exception.
(Code 1988, § 5.104D)

Secs. 36-56-36-83. Reserved.

DIVISION 3. SPECIAL EXCEPTIONS*

Sec. 36-84. Purpose; limitations.

In order to make this chapter flexible to meet the needs of changing trends in development and new technology, the board of appeals is authorized to approve the establishment of special exception uses. In this way, the chapter does not become a rigid document that cannot be altered, but serves as a guideline upon which the zoning board of appeals may make enlightened judgments keeping development within the general philosophy of this chapter. Land and structure uses not specifically mentioned in this chapter or possessing unique characteristics may be designated as special uses and, as such, may be authorized by the issuance of a special exception with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few uses, such as landfills and junkyards, are inherently so objectionable as to make extra regulations and controls advisable even in the zone to which they are permitted. Others, such as

*State law reference-Special land uses, MCL 125.3504.

gasoline stations and taverns, must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety, or general welfare of the public, the uses listed as special exceptions are permitted in certain zones only if granted by the board of zoning appeals.

(Code 1988, § 5.123A)

Sec. 36-85. Petitions.

(a) Petitions for the granting of special exceptions shall be filed with the village clerk on forms provided therefor. The petitioner shall submit plans and specifications or other data or explanatory material stating the methods by which he will comply with the conditions specified for each granting of a special exception. At the time of filing his request for a grant of special exception, the petitioner shall pay to the clerk the fee required by section 36-55(a).

(b) The board of appeals shall review the application and, after a public hearing, shall grant or refuse the special exception and notify the petitioner and building inspector and/or zoning officer.

(Code 1988, § 5.123B)

Sec. 36-86. Conditions for special exception.

In hearing a request for any special exception, the board of appeals shall be governed by the following principles and conditions:

- (1) The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the board.
- (2) A special exception may be granted when the board of appeals finds from the evidence produced at the hearing that:
 - a. The proposed use does not affect adversely the general plan for physical development of the village as embodied in this chapter and in any master plan or portion thereof adopted by the village;
 - b. The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
 - c. The standards as may be set forth for a particular use for which a special exception may be granted can and will be met by the applicant.

(Code 1988, § 5.123C)

Sec. 36-87. Special provisions.

The board of appeals may and is hereby empowered to add to the specific provisions enumerated in this chapter others that it may deem necessary to protect adjacent properties, the general neighborhood, and the residents and workers therein.

(Code 1988, § 5.123D)

Secs. 36-88-36-117. Reserved.

DMSION 4. AMENDMENT PROCEDURES*

Sec. 36-118. Authority to amend; request for amendment; fee.

The regulations, restrictions, and boundaries established by this chapter may from time to time be amended, supplemented or repealed by the village as provided by applicable state law. Requests for amendment of this chapter may be made by any interested person by submitting an application for the proposed amendment to the village clerk. A fee shall be charged as currently established or as hereafter adopted by resolution of the village council from time to time.

(Code 1988, § 5.124A)

Sec. 36-119. Written proposal.

In the case of a text amendment, the applicant shall submit in writing the proposed text to be added and/or the existing text to be deleted.

(Code 1988, § 5.124B)

Sec. 36-120. Map amendment requirements.

In case of a map amendment, the applicant shall submit a written statement specifying the following:

- (1) The name and address of the owner of the land.
- (2) The street number, if any, or, if none, the location with respect to nearby public roads serving the land which is proposed to be reclassified.
- (3) A description, by metes and bounds, courses and distances of the land, or, if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the land records of the county, a lot, block and subdivision designation with appropriate plat reference.
- (4) An identification plat prepared by a civil engineer, surveyor, or other competent person and certified thereon by such person to be correct and in conformity with this section, showing the land proposed to be reclassified, or, if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded among the land records of the county, then a copy of such plat, the land proposed to be reclassified appearing in a color distinctive from that of other land shown on the plat.
- (5) The area of the land proposed to be reclassified, stated in square feet, if less than one acre, or in acres, if one acre or more.
- (6) The present classification and the classification proposed for such land.

(Code 1988, § 5.124C)

Secs. 36-121-36-138. Reserved.

*State law reference-Amendments or supplements, MCL 125.3202.

ARTICLE III. DISTRICT REGULATIONS

Sec. 36-139. Districts established; zoning map.

(a) For the purpose of this ordinance, the village is hereby divided or may in the future be divided, into the following zoning districts:

A	Agriculture
R-1	Residential, single-family
R-2	Residential, single-family
R-3	Residential, single and two-family
R-4	Residential, multiple-family
R-5	Mobile home park
C-1	Commercial, general
C-2	Commercial shopping center
I-1	Industrial, manufacturing
I-2	Industrial, service

(b) The locations and boundaries of the zones established in the village shall be shown on a map entitled "Zoning Map of the Village of Climax, Michigan," and as same may be amended subsequent to the adoption thereof; and said map section or portion thereof, together with all notations, dimensions and other data shown thereon, is hereby made a part of this article to the same extent as if the information set forth on said map were fully described and incorporated herein.

(c) The official copy of the zoning map shall be in the custody of the village clerk.
(Code 1988, § 5.106)

Sec. 36-140. A Agricultural district.

(a) *Description of district.* The A agricultural district is composed of certain land in outlying areas presently of rural character. Such land is zoned for agricultural use with the intent that agriculture will be the principal land use within the foreseeable future. The regulations for this district are designed to stabilize and protect the essential characteristics of the district without unduly restricting its use solely to that of an agricultural nature. To these ends, development is limited to a low concentration and to those uses which would not be detrimental to future development.

(b) *Permitted uses.*

(1) Single-family dwellings and the accessory structures and uses normally auxiliary thereto; provided that nothing in this section shall prohibit the conversion or alteration of any single-family structure in existence at the time of passage of the ordinance from which this chapter is derived, into not more than two separate dwelling units, provided that such dwelling units shall conform with the following provisions:

- a. There shall be no change or alternation of the exterior of the dwelling to change its appearance from that of a single dwelling unit.

- b. Any single-family dwelling converted under the provisions of this section shall be required to have within the enclosed walls of the original structure a total of not less than 2,000 square feet of habitable floor area for two dwelling units.
 - c. There shall be a minimum habitable floor area of 800 square feet for each separate dwelling unit within any single-family structure which has been converted to house two families.
 - d. The provisions of this section shall apply only to the conversion of single-family dwellings and shall not be construed to permit the construction of two-family dwellings.
- (2) State-licensed residential facilities, as required by MCL 125.3206.
 - (3) Any farm or agricultural activities, including stock nurseries, animal and livestock raising.
 - (4) The sale of farm or dairy produce which has been raised on the farm from which it is to be sold.
 - (5) Home occupations.
 - (6) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
 - (7) Signs, when in accordance with the provisions of section 36-168.
 - (8) Accessory uses or buildings, when in accordance with the provisions of section 36-170.
- (c) *Special exception uses.*
- (1) Churches, cemeteries, parochial and private schools.
 - (2) Eleemosynary, charitable and philanthropic institutions.
 - (3) Golf courses, private noncommercial clubs.
 - (4) Public utility buildings and structures necessary for the service of the community, provided that public utility activities of an industrial character, such as repair and maintenance yards, storage facilities, or activities which generate electronic interference, are prohibited.
- (d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.107)

Sec. 36-141. R-1 Residential district, single-family.

(a) *Description of district.* The R-1 residential district is composed of certain land in outlying areas presently of a rural residential character where low density single-family residential development has occurred or appears likely to occur. The regulations of this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe

environment for family life. To these ends, development is restricted to low density single-family residential use consistent with limited rural type facilities and services.

(b) *Permitted uses.*

- (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto, as specified in section 36-140(b)(1).
- (2) State-licensed residential facilities as required by MCL 125.3206.
- (3) Home occupations.
- (4) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (5) Signs, when in accordance with the provisions of section 36-168.
- (6) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.* Any special exception use permitted in the A agricultural zone.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.108)

Sec. 36-142. R-2 Residential district, single-family.

(a) *Description of district.* The R-2 residential district is composed of medium density single-family residential areas in the municipality where medium density single-family residential development has occurred, or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to medium density single-family residential use, where adequate facilities and services will be provided.

(b) *Permitted uses.*

- (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto.
- (2) State-licensed residential facilities as required by MCL 125.3206.
- (3) Home occupations.
- (4) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (5) Signs, when in accordance with the provisions of section 36-168.
- (6) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.*

- (1) Any special exception use permitted in the A agricultural district.
- (2) Care home.
- (3) Hospital or medical clinic, excluding veterinary hospitals.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.109)

Sec. 36-143. R-3 Residential district, single-family and two-family.

(a) *Description of district.* The R-3 residential district is composed of higher density single-family and two-family residential areas in the municipality where high density single-family or two-family residential development has occurred, or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to higher density single-family and two-family residential use where adequate facilities and services will be provided.

(b) *Permitted uses.*

- (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto.
- (2) State-licensed residential facilities as required by MCL 125.3206.
- (3) Two-family dwellings.
- (4) Home occupations.
- (5) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (6) Signs, when in accordance with the provisions of section 36-168.
- (7) Accessory uses, or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.*

- (1) Any special exception use permitted in the R-2 residential district.
- (2) Children's day nursery.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.110)

Sec. 36-144. R-4 Residential district, multiple-family.

(a) *Description of district.* The R-4 residential district is composed of certain areas within the municipality where multiple-family residential development has occurred, or appears desirable to occur. The regulations for this district are designed to protect

and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to multiple-family residential use where adequate public facilities and services will be provided.

(b) *Permitted uses.*

- (1) Two-family, semidetached dwellings and the accessory structures and uses normally auxiliary thereto.
- (2) Apartment houses, boardinghouses, garden apartment development and the accessory structures and uses normally auxiliary thereto.
- (3) Business offices in an apartment building for conducting business incidental to the rental, operation, service and maintenance of the apartment building, or buildings.
- (4) Home occupations, limited to existing single-family dwellings and to two-family semidetached dwellings.
- (5) Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- (6) Signs, in accordance with the provisions of section 36-168.
- (7) Accessory uses or buildings, in accordance with the provision of section 36-170.

(c) *Special exception uses.* Any special exception use permitted in the R-3 residential district.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.111)

Sec. 36-145. R-5 Mobile home park district.

(a) *Description of district.* The R-5 mobile home park district is designed solely for mobile home parks and such accessory structures and uses normally associated thereto, in accordance with those regulations specified by the Mobile Home Commission Act, Public Act No. 96 of 1987 (MCL 125.2301 et seq.), and in accordance with the area requirements specified herein.

(b) *Permitted uses.* Mobile home parks and those uses customarily incidental to the principal use.

(c) *Regulations required of mobile home parks.*

- (1) Mobile home park districts shall have frontage on a primary or major county street, or similarly adequate thoroughfare.
- (2) Mobile home park districts shall not be less than five acres in size.
- (3) The owner of every mobile home park which lies immediately adjacent to a residential district shall provide a screening area separating said park from the adjoining residential district. The screen shall be in the form of either a wall, fence, or evergreen planting which is compact and maintained in good

condition at all times. The height of the screen shall not be less than five feet, except where the screen would interfere with traffic safety, in which case it may be reduced in height to, but not less than, three feet. Adequate landscaping shall also be provided by the owner of the mobile home park within the front yard setback area between the mobile home sites and any public street so as to provide an attractive frontage upon said street.

- (4) Each mobile home site shall contain an area of not less than 2,000 square feet and have a width of not less than 30 feet.
- (5) Each mobile home site shall be well drained and be provided with a concrete slab base for the storage of each mobile home.
- (6) Site and development plans of new mobile home parks or additions to existing parks shall be submitted to and approved by the village council or its authorized representatives, as such may be designated from time to time by the board, and no mobile home park shall be licensed or licensable unless the plans are first approved by the village council or its authorized representative.
- (7) Every mobile home park established within the village shall be inspected periodically by an official designated by the village council. The frequency of said inspections, and any fees associated thereto, shall be determined by the village council.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.112)

Sec. 36-146. C-1 Commercial district, general.

(a) *Description of district.* The C-1 commercial district is established for the accommodation of community needs for general retail sales and service facilities. The regulations are designated to permit development of the enumerated functions as limited to protect the abutting and surrounding properties.

(b) *Permitted uses.*

- (1) Bakery and dairy sales, retail only.
- (2) Automobile repair garage.
- (3) Automobile sales agency and adjoining outdoor sales area of new or used cars, provided that no dismantling of cars, or storage of dismantled cars shall take place outdoors.
- (4) Boats and equipment sales.
- (5) Commercial recreation enterprises; indoors.
- (6) Contractor's work shops.
- (7) Greenhouse, nursery.
- (8) Hotel, motel.
- (9) Machinery and heavy equipment sales; indoors.

- (10) Banks, savings and loan associations.
- (11) Barbershops and beauty shops.
- (12) Books, stationery and newspapers.
- (13) Clothing and dry goods.
- (14) Drugstores and pharmaceuticals.
- (15) Florist and garden shops.
- (16) Funeral establishments.
- (17) Groceries and food stuffs.
- (18) Hardware, hobby shops, household appliances.
- (19) Laundromat, laundry and dry cleaning pickup station.
- (20) Music and dancing schools.
- (21) Offices, business or professional.
- (22) Photography store.
- (23) Radio and television, sales and service.
- (24) Restaurant or similar eating establishment.
- (25) Shoe sales and repair.
- (26) Signs, when in accordance with the provisions of section 36-168.
- (27) Clubs, private, noncommercial.
- (28) Single-family and two-family residential structures existing within the present C-1 district as of April 16, 2005. Such residential structures shall be considered conforming and shall be permitted to be reconstructed, enlarged and improved in accordance with the lot, yard and area requirements of the R-3 residential district, single-family and two-family.

(c) *Special exception uses.*

- (1) Animal hospital and kennel.
- (2) Any general retail use similar to those uses permitted in this section.
- (3) Bar, tavern or night club.
- (4) Bus or truck terminal.
- (5) Commercial recreation enterprises; outdoors.
- (6) Commercial earth removal, excavations.
- (7) Gasoline service stations.
- (8) Package liquor sales.

- (9) Public utility buildings and structures necessary for the service of the community, provided that:
 - a. There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - b. Public utility activities of an industrial character such as repair and maintenance yards, storage facilities or activities which generate electronic interference are prohibited.

(10) Riding stable, racetrack; commercial.

(11) Volunteer or municipal fire station.

(12) Used car lot.

(13) Newspaper publishing and job printing.

(14) Apartments as accessory uses.

(15) Dwelling, two-family and multiple-family.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.113; Ord. No. 41, § 1, 4-5-2005)

Sec. 36-147. C-2 Commercial district, shopping center.

(a) *Description of district.* The C-2 commercial district is designed solely to provide for integrated community, or regional shopping centers. The regulations are designed to permit development of the enumerated functions as limited by the standards designed to protect abutting and surrounding properties.

(b) *Permitted uses.*

- (1) Any uses permitted in C-1 commercial zone, when established as an integrated shopping center.
- (2) Bowling alleys and commercial recreation enterprises such as dance halls, skating rinks (indoors).
- (3) Signs, when in accordance with the provisions of section 36-168.
- (4) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.* Any special exception use permitted in the C-1 commercial district.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.114)

Sec. 36-148. I-1 Industrial district, manufacturing.

(a) *Description of district.* The I-1 industrial district is composed of certain lands located along state highways, major county thoroughfares and railroad rights-of-way. The district is designed to provide land for industries of a manufacturing nature where all work is carried on within an enclosed building producing little external effect of an objectionable nature to the surrounding properties.

(b) *Permitted uses.*

- (1) Offices and office buildings.
- (2) Manufacturing, compounding, assembling or treatment of articles, or merchandise, where all work is carried on within an enclosed building, and where any outdoor storage is limited to not more than ten percent of the lot area, and is maintained within the rear yard area.
- (3) Public utility buildings.
- (4) Signs, when in accordance with the provisions of section 36-168.
- (5) Warehouses; fully enclosed.
- (6) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational area.
- (7) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.*

- (1) Any industrial use which meets the intent and purpose of this district where all work is carried on within an enclosed building, and which does not emanate noise, vibration, odor, smoke, liquid wastes, or light to such an extent as to be objectionable to surrounding properties.
- (2) A determination of the board of appeals established under state law and this chapter shall be conclusive on any question of nuisance objectionableness of any business or operation under the terms of this section.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.

(Code 1988, § 5.115)

Sec. 36-149. I-2 Industrial district, service.

(a) *Description of district.* The I-2 industrial district is composed of certain lands located along major county thoroughfares and railroad rights-of-way. The district is designed to provide land for activities of an industrial nature, placing emphasis on the service type of industry as opposed to the manufacturing type of industry. Because of the nature of the district, it should be located so as to be least objectionable to adjoining commercial or residential uses.

(b) *Permitted uses.*

- (1) Automobile repair garage.

- (2) Construction and farm equipment sales.
- (3) Contractor's equipment yard.
- (4) Gasoline service station.
- (5) Grain equipment and processing.
- (6) Hardware and building supplies.
- (7) Ice and cold storage plant.
- (8) Lumber, fuel and feed yards.
- (9) Machine shops.
- (10) Public utility buildings and storage yards.
- (11) Signs, when in accordance with the provision of section 36-168.
- (12) Storage and warehousing.
- (13) Truck terminal, maintenance and service yard.
- (14) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (15) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.*

- (1) Landfill.
- (2) Earth removal, excavation; commercial.
- (3) Gravel processing and quarrying.
- (4) Junkyards, building material salvage yard.
- (5) Ready-mix concrete and asphalt plants.
- (6) Slaughterhouse.
- (7) Any industrial use which meets the intent and purpose of this district which does not emanate noise, vibration, odor, smoke, liquid wastes, or light, to such an extent as to be objectionable to surrounding properties.
- (8) A determination of the board of appeals established under state law and this chapter shall be conclusive on any question of nuisance, or objectionableness of any business or operation under the terms of this section.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.
(Code 1988, § 5.116)

Secs. 36-150-36-166. Reserved.

ARTICLE IV. SUPPLEMENTAL REGULATIONS**Sec. 36-167. Parking of motor vehicles.**

(a) *Adequate number of spaces required.* Every property owner shall provide and maintain at all times an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto, in each district for all the occupants, employees and patrons of said property.

(b) *Plan required.* A plan showing the required parking and loading spaces, including the means of access and interior circulation, except for one-family and two-family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.

(c) *Parking space shall be provided in the manner and location herein specified .*

- (1) No parking area, parking space or loading space which exists at the time the ordinance from which this section is derived becomes effective or which subsequently is provided for the purpose of complying with the provisions of this section shall thereafter be relinquished or reduced in any manner below the requirements established by this section, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this section within 300 feet of the proposed or existing uses for which such parking will be available.
- (2) Parking of motor vehicles in residential zones, except those used for farming, shall be limited to passenger vehicles, and not more than one commercial vehicle of the light delivery type, not to exceed three-fourths of a ton. The parking of any other type of commercial vehicle or buses, except for those parked on school property, is prohibited in a residential zone.

(d) *Requirements for all parking spaces and parking lots.*

- (1) Each automobile parking space shall be not less than 180 square feet in area or less than nine feet wide, exclusive of driveway and aisle space.
- (2) All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be constructed of materials which will have a dustfree surface resistant to erosion.
- (3) Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining residential lots.
- (4) No parking space shall be closer than five feet from the property line.
- (5) Off-street parking facilities in nonresidential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence, or compact planting not less than four feet or more than eight feet in height. Plantings shall be maintained in good condition and shall not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.

- (6) All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of single-family or two-family dwellings.
 - (7) Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.
 - (8) Requirements for the provisions of parking facilities with respect to two or more property uses of the same or different types may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, cooperatively established and operated, provided that the number of spaces designated is not less than the sum of individual requirements, and provided further that the specifications in regard to location, plan, etc., are complied with.
 - (9) The number of parking spaces required for land or buildings used for two or more purposes shall be the sum of the requirements for the various individual uses, computed in accordance with this section; parking facilities for one use shall not be considered as providing the required parking facilities for any other use.
- (e) *Minimum required parking spaces.*
- (1) Apartment houses: 1 1/4 parking space per family unit.
 - (2) Office buildings: one parking space for each 200 square feet of floor space utilized for work space of employees.
 - (3) Retail stores, supermarkets, department stores, personal service shops, and shopping centers: one parking space for each 100 square feet area in the basement and on the first floor area used for retail sales, one space for each 150 square feet of floor area on the second floor use for retail sales, one space for each 300 square feet of floor area on the third floor used for retail sales, and one space for each 400 square feet on any additional floor area used for retail sales.
 - (4) Manufacturing buildings: one parking space for each three employees on the maximum shift.
 - (5) Libraries, museums and post offices: one parking space for each 100 square feet of floor area.
 - (6) Bowling alleys: three parking spaces for each alley.
 - (7) Motels and tourist homes: one parking space for each separate unit.
 - (8) Theaters, auditoriums, stadiums and churches: one parking space for each four seats.

- (9) Dance halls, assembly halls, and convention halls without fixed seats: one parking space for each 100 square feet of floor area, if to be used for dancing or assembly.
 - (10) Restaurants and nightclubs: one parking space for each 100 square feet of floor area.
 - (11) Schools:
 - a. Private or public elementary and junior high schools: one parking space for each employee normally engaged in or about the building or grounds.
 - b. Senior high schools and institutions of higher learning: one parking space for each employee normally engaged in or about the building or grounds, and one additional space for each five students enrolled in the institution.
- (Code 1988, § 5.117)

Sec. 36-168. Signs and outdoor advertising structures.

(a) In any residential zone, an incidental sign not exceeding one square foot in area to advertise only home occupations or professional services shall be permitted. Such sign may be attached to the building, or may be located on the property of such use, but may be no closer to the street than the building setback line.

(b) In any zone where agricultural use is permitted, an incidental sign advertising the sale of farm products grown on the premises shall be permitted. Such sign will not exceed 48 square feet in area and shall be so located that it will not interfere with the full view of traffic.

(c) In any zone, one temporary real estate sign not exceeding six square feet in area shall be permitted for each lot, parcel or tract under 25,000 square feet in area. Such sign may be increased in size, or additional signs may be permitted for each additional 25,000 square feet of property advertised. No single sign shall exceed 250 square feet in area, and in no event shall more than two such 250 square foot signs be permitted on one lot, parcel or tract advertised, regardless of property area.

(d) Temporary signs on buildings under construction shall be limited to a total area of 48 square feet for all such signs.

(e) In any commercial or industrial district, a sign is permitted only where it advertises a business occupying the same lot or parcel of land upon which the sign is erected. Signs shall meet the building setback and height requirements, except for, and in addition to, the requirements provided below.

- (1) In any commercial or industrial district, a sign may be affixed flat against the wall of the building, or may project therefrom not more than 42 inches. Signs projecting over public property shall be at least 11 feet above the finished grade or sidewalk. The total sign area shall not exceed two square feet for each foot in length or height of the wall to which it is affixed. No such sign shall extend more than four feet in height above the building wall to which it is affixed.
- (2) One identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings. The area of said sign shall be

based on one square foot for each front foot of the building or group of buildings for which it is established; provided, however, that it shall not exceed 400 square feet in area, or be closer to the front, side or rear property line, than one-half the distance of the required building setback.

- (3) One identification sign may be erected for each separate commercial enterprise situated on an individual lot and operated under separate ownership from any adjoining commercial enterprise. Such sign shall not exceed 80 square feet in area, or be closer to the front, side or rear property line than one-half the distance of the required building setback.
- (4) Outdoor advertising signs (billboards) are permitted only in commercial and industrial zones under the following conditions:
 - a. Except as otherwise provided herein, signs and outdoor advertising structures are required to have the same setback as other principal structures or buildings in the zone in which they are erected.
 - b. Where two or more outdoor advertising structures are located along the frontage of a single street or highway, they shall not be less than 500 feet apart. A double face (back-to-back) or a V-type structure shall be considered as a single structure.
- (5) No sign or outdoor advertising structure shall be erected at any location where, by reason of the position, size, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device so as to interfere with, mislead or confuse traffic.
- (6) Signs of medical practitioners, commercial and industrial establishments and outdoor advertising structures may be illuminated; provided, however, that such illumination shall be concentrated upon the surface of the sign, and the sign shall be so located and arranged as to avoid glare or reflection onto any portion of any adjacent highway, or into the path of oncoming vehicles, or onto any adjacent premises.
- (7) In no event shall any sign or outdoor advertising structure have flashing or intermittent lights or be permitted to rotate or oscillate.
- (8) Signs of a public or quasi-public nature noting special events of general interest, such as a county fair, public or general election, horse show, etc., shall not exceed 80 square feet in area except by special exception. Such signs shall be removed within ten days after the event.

(Code 1988, § 5.118)

State law reference-Highway advertising act, MCL 252.301 et seq.

Sec. 36-169. Nonconforming uses.

The following regulations shall control nonconforming uses in existence at the time of passage of the ordinance from which this chapter is derived.

- (1) If the cost of repair or replacement of a nonconforming use or structure which has been destroyed by reason of windstorm, fire, explosion or any act of God or

the public enemy, exceeds 50 percent of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this chapter.

- (2) Nonconforming uses or structures in existence at any time of passage of the ordinance from which this chapter is derived shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this chapter.
- (3) If the nonconforming use of any land or structure shall terminate its activity for a continuous period of time exceeding one year, such use shall not be reestablished, and any future use of land and structure shall be in conformity with this chapter.
- (4) If a nonconforming use is changed to a permitted or more restrictive use in the district on which it is located, it shall not revert or be changed back to a nonconforming or less restrictive use.
- (5) The lawful nonconforming use of land not involving substantial buildings, nonconforming advertising signs and structures which are not necessary to the permitted uses of substantial structures, and temporary, movable or makeshift buildings, fences and other structures which are accessory to nonconforming uses not involving substantial buildings, shall be discontinued and the incidental structures removed within five years from the date of passage of the ordinance from which this chapter is derived. All subsequent use of such land shall be in conformity with the provisions of this chapter.

(Code 1988, § 5.119)

State law reference-Nonconforming uses or structures, MCL 125.3208.

Sec. 36-170. Accessory uses or buildings.

Any use which complies with all of the following conditions may be operated as an accessory use:

- (1) The use is clearly incidental and customary to and commonly associated with the operation of the permitted uses.
- (2) The use is operated and maintained under the same ownership and on the same lot or contiguous lot to the permitted uses.
- (3) The use does not include structures or structural features inconsistent with permitted uses.
- (4) The use does not include residential occupancy, except for living quarters for farm, domestic or other employees having employment on the premises.
- (5) Accessory buildings other than farm buildings shall be located only in the rear yard.
- (6) If an accessory use is carried on within the structure containing the permitted uses, the gross floor area within such structure utilized by accessory uses (except garages and off-street loading facilities) shall be not greater than 20

percent of the gross floor area, but not to exceed 300 square feet of a single unit dwelling; ten percent of the gross floor area of a structure containing any permitted uses other than a single-unit dwelling.

- (7) Fallout shelters are permitted as accessory uses and structures in any district, subject to the yard and lot coverage regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately, and in addition to shelter use, may be used for any accessory use permitted in the district, subject to the district regulations in such use. Fallout shelters constructed completely below ground level may be contained within any yard area.

(Code 1988, § 5.120)

Sec. 36-171. Home occupations.

Any home occupation operated in a single dwelling unit may be operated only if it complies with all of the following conditions:

- (1) The business is operated in its entirety within the single dwelling and not in a garage or accessory building, and only by the person maintaining a dwelling therein.
- (2) The business does not have any employees or regular assistants not residing in the dwelling, except for offices of doctors, dentists or other similar practitioners.
- (3) The dwelling does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling.
- (4) The occupation conducted therein is clearly incidental and secondary to the residential use of the building.
- (5) No goods or services are sold which are not produced by the immediate members of the family therein.
- (6) Restaurants, beauty and barbershops, and business or trade shall not be considered home occupations.
- (7) Noise or other objectionable characteristics incidental to the business shall not be discernible beyond the boundaries of the lot.
- (8) The business does not utilize more than 20 percent of the gross floor area, but not to exceed 300 square feet, in the single unit dwelling.

(Code 1988, § 5.121)

State law reference-Instruction in craft or fine art considered a home occupation, MCL 125.3204.

Sec. 36-172. Screening.

Every commercial or industrial use occupying land immediately adjacent to a residential district shall have a screening area separating the commercial or industrial use from adjoining residential districts. The screen shall be in the form of either

a wall, fence, or evergreen planting which is compact and maintained in good condition at all times. The height of the screen shall not be less than five feet, except where the screen would interfere with traffic safety, in which case it may be reduced to not less than three feet in height.

(Code 1988, § 5.122)

Sec. 36-173. Lot, yard and area requirements- General.

(a) This section contains general lot, yard and area requirements, and is used as a supplement to the specific requirements contained in section 36-174.

(b) Where the majority of the frontage along one side of a street within 500 feet of a vacant lot has been built upon at the time of passage of the ordinance from which this chapter is derived, any building erected on such vacant lot shall not be less than the average setback of the improved frontage.

(c) On corner lots, the width of the side yard adjacent to the side street shall be equal to the front yard setback of the lot adjoining the rear of said corner lot. When the lot adjoining said corner lot along the rear line does not front on the side street of the corner lot, the side yard shall not be less than two-thirds the front yard setback required for that district or equal the height of the building, whichever is greater.

(d) Where property is contiguous to an existing or an officially proposed major county street, the minimum front, side or rear yard contiguous thereto shall be increased in depth so as to permit a 100-foot right-of-way for major county streets.

(e) The minimum distance between multiple-family buildings within a single project area shall be as follows:

- (1) Where buildings are front-to-front or front-to-rear: two times the height of the taller building but not less than 50 feet.
- (2) Where buildings are side-to-side, if there are no windows on the side walls: a distance equal to the height of the taller building, but not less than 20 feet.
- (3) Where buildings are front to side or rear to side, if there are no windows on the side walls: Ph times the height of the taller building, but not less than 30 feet.
- (4) Where buildings are rear and side-to-side with windows on the side walls: 1112 times the height of the taller building, but not less than 40 feet.

(f) When a roadway is located between two buildings, the width of the roadway shall be in addition to the minimum distance between buildings provided in this section.

(g) Where the majority of the frontage along one side of a street within 500 feet of a vacant lot has been built upon at the time of passage of the ordinance from which this chapter is derived, any building hereafter erected on said vacant lot shall not be less than the average of the improved frontage.

(h) The setback or yard area of any commercial or industrial use or activity associated thereto maintained on a parcel of land adjacent to a residential district shall be two times that required within the district as specified in this section, or a

minimum of 25 feet, whichever is greater, and said use or activity shall be effectively screened by compact evergreens, fence or wall, from any adjoining residential district.

(i) The portion of the building extending beyond 35 feet in height shall be set back from each lot line one additional foot beyond the minimum requirement for each foot in height above 35 feet.

(Code 1988, § 5.127)

Sec. 36-174. Same-Specific, by zoning district.

Lot, yard, and area requirements within the zoning districts established by this chapter shall be as follows:

<i>Zoning District</i>									
	<i>A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>R-5</i>	<i>C-1</i>	<i>C-2</i>	<i>I-1 and I-2</i>
<i>Principal Structure</i>									
Minimum lot front- age, lot width (feet)							none	150	none
Single-family	200	125	100	75	70	30			
Two-family	200	250	ns	100	80	ns			
Multiple-family	ns	ns	ns	ns	100	ns			
Minimum lot area per dwelling unit (square feet)							none	20,000	50,000
Single-family	40,000	20,000	15,000	8,000	8,000	2,000			
Two-family	40,000	15,000	ns	5,000	5,000	ns			
Multiple-family	ns	ns	ns	ns	2,000	ns			
Maximum Building or Structure Height (feet)	35	35	35	35	50	25	35 3/	35 3/	35 3/
Maximum Building Coverage of Lot (%)	10	15	20	25	30	30	100	30	30
Minimum floor area per dwelling unit (square feet)									
Single-family	1,200	1,200	1,000	1,000	800	ns			
Two-family	800	800	ns	700	700	ns			
Multiple-family	ns	ns	ns	ns	600	ns			
Minimum front yard setback 1/ (feet)	50	40	35	35	30 3/	35	10	50	50
Minimum side yard 2/ (feet)	20	15	10	10	10 4/	10	none	25	25
Minimum rear yard (feet)	50	40	35	30	30 51	5	none	25	25

<i>Zanini? District</i>									
	<i>A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>R-5</i>	<i>C-1</i>	<i>C-2</i>	<i>I-1 and I-2</i>
<i>Accessory Buildings</i>									
Minimum building setback (see section 36-170(5))	ns	ns	ns	ns	ns	ns	ns	ns	ns
Minimum side yard 2/ (feet)	5	5	5	5	5	25	none	10	15
Minimum rear yard (feet)	5	5	5	5	5	25	none	10	15
Maximum building height (feet)	15	15	15	15	15	15	15	15	15
Maximum building coverage (percentage of rear yard)	5	10	15	20	25	20	10	10	10

NS = None Specified
(Code 1988, § 5.128)

Sec. 36-175. Standards required of special exception uses.

(a) Special exception uses shall comply with all of the following standards; provided that the board of appeals may add to these standards where it is necessary to protect adjacent properties, the general neighborhood and the residents and workers therein:

<i>Special Exception Use</i>	<i>Minimum Required Standard</i>
Animal hospital and kennel	2, 4, 5e
Asphalt and concrete ready-mix plant	2, 4, 5f
Automobile repair garage	2, 4, 5d
Bar, tavern and nightclub	2, 4, 5e
Bus or truck terminal	2, 4, 5e
Care home	3, 5a
Cemetery	2, 3, 5a
Church	1, 5b
Club, private noncommercial	1, 4, 5b
Drive-in theater	2, 5f, 9
Landfill	2, 5f, 9
Earth removal, excavations commercial	2, 5e
Gasoline service station	2, 4, 5d, 7
Golf courses	2, 3, 5d
Gravel processing and quarrying	2, 4, 5f
Hospital	2, 3, 5c
Institutions: charitable, eleemosynary, philanthropic	1, 3, 5c
Junkyards, building material salvage yard	2, 4, 5f, 9

<i>Special Exception Use</i>	<i>Minimum Required Standard</i>
Kennel	2, 4, 5e
Liquor, package sale	5d
Medical clinic	1, 4, 5a
Mobile home sales	2, 4, 5e
Nursery: children's	1, 4, 5a
Offices and office buildings	2, 4, 5a
Public utility buildings and structures	1, 4, 5a, 9
Quarrying	2, 4, 5f
Recreation, commercial; outdoors	2, 4, 5e
Riding stable; racetrack; commercial	2, 4, 5f
School: parochial and private	1, 5b
Slaughterhouse	2, 4, 5f
Truck terminal	2, 4, 5e
Used car lot	2, 4, 5e, 8
Volunteer or municipal fire station	2, 4, 5e
Dwelling: two-family or multiple-family	3, 8

(b) The minimum required standards enumerated below are referred to by the numbers following each special exception use in the table in subsection (a) of this section:

1. The use shall have frontage on an existing or officially proposed road having a major or greater classification.
2. The use shall have frontage on an existing or officially proposed road having a major or greater road classification.
3. The use shall have off-street parking facilities to satisfy average parking needs.
4. The use shall have off-street parking facilities to satisfy peak parking needs.
5. Buildings and activities shall not be closer than the specified number of feet to adjacent residential properties:
 - a. 25 feet.
 - b. 50 feet.
 - c. 100 feet.
 - d. 200 feet.
 - e. 500 feet.
 - f. 1,000 feet.
6. Public utility buildings shall, whenever practicable, have an exterior appearance similar to those buildings in the immediate area. The public utility buildings and structures shall have suitable landscaping, screen planting and fencing whenever deemed necessary by the board of appeals.
7. Gasoline pumps or other service appliances shall be set back at least 20 feet from the lot line.

8. No major repairs or dismantling shall be permitted outside of a closed structure.
9. The use shall be enclosed by a solid wall or compact screening of suitable material as determined by the board of appeals and shall not be less than six feet in height.

(Code 1988, § 5.129)

APPENDIX A
FRANCHISES

APPENDIX A-FRANCHISES

The following franchises have been granted by the village and are currently in effect:

- (1) CTS Telecom, Inc. (Public Act No. 480 of 2006, MCL 484.3301 et seq.). Executed 3-20-2007.
- (2) Nordic Electric Franchise. See Ord. No. 38, adopted 3-21-2000.
- (3) US Xchange, L.L.C. Executed 5-13-1999.
- (4) Fonorola Fiber Development, Inc. (replaces C&S Contract Services). Approved 7-7-1998.

CODE COMPARATIVE TABLE

1988 CODE

This table gives the location within this Code of those sections of the 1988 Code, as supplemented, which are included herein. Sections of the 1988 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

1988 Code	Section	1988 Code	Section
Section	this Code	Section	this Code
1.001-1.005	2-19-2-23	5.104C	36-54
1.007-1.011	2-24-2-28	5.104D	36-55
1.012-1.015	2-51-2-54	5.105	36-24
1.016	2-137	5.106-5.116	36-139-36-149
1.018-1.024	30-19-30-25	5.117-5.122	36-167-36-172
1.025-1.027	30-54-30-56	5.123A	36-84
1.029, 1.030	14-1	5.123B	36-85
1.033	2-138	5.123C	36-86
1.034-1.036	2-29-2-31	5.123D	36-87
1.037	1-11	5.124A	36-118
1.038, 1.039	1-17	5.124B	36-119
1.040	1-2	5.124C	36-120
1.090	1-16	5.126	36-2
1.201-1.228	28-1-28-28	5.127-5.129	36-173-36-175
1.301-1.304	2-160-2-163	5.202-5.213	18-19-18-30
2.101-2.108	14-21-14-28	6.101-6.106	22-19-22-24
2.112	14-29	6.201- 6.207	10-1-10-7
2.203, 2.204	14-47, 14-48	7.101- 7.111	34-19-34-29
2.301-2.304	8-118-8-121	7.116	34-30
2.401-2.404	16-19-16-22		
2.407' 2.408	6-2, 6-3		
2.410, 2.411	6-3, 6-4		
2.412, 2.413	20-19, 20-20		
2.415, 2.416	20-21, 20-22		
2.421	32-2		
2.601	6-5		
2.604, 2.605	6-6		
2.606	6-7		
3.101-3.104	8-19-8-22		
3.402-3.407	8-48-8-53		
3.501-3.504	8-80-8-83		
3.506, 3.507	8-85, 8-86		
3.510	8-87		
4.101, 4.102	32-2		
5.102	36-1		
5.103	36-23		
5.104A	36-52		
5.104B	36-53		

CODE COMPARATIVE TABLE

ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1988 Code, as supplemented, which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not a general and permanent nature.

Ordinance Number	Date	Section	Section this Code
29	7-17-1990		34-22
30	11-19-1991	II	32-24
		III	32-23
32	3-12-1995	2-11	16-48-16-57
35	8-18-1998	1-7	2-82-2-88
36	3-16-1999		2-28
37	1- 4-2000	2, 3	20-48, 20-49
39	2- 5-2002	1-8	34-49-34-56
40	1- 4-2005	1-7	12-1-12-7
41	4- 5-2005	1	36-146
42	4-18-2006	2.702-2.714	26-19-26-31
		2.716-2.720	26-32-26-36

STATE LAW REFERENCE TABLE

This table shows the location within this Code, either in the text or notes following the text, of references to the Michigan Compiled Laws.

MCL	Section this Code	MCL	Section this Code
8.3 et seq.	I-2	125.3202	Ch. 36, Art. II, Div. 4
15.231 et seq.	Ch. 2		
	Ch. 2, Art. II	125.3204	36-171
15.261 et seq.	Ch. 2	125.3206	36-140-36- 143
	Ch. 2, Art. II	125.3208	36-169
15.341 et seq.	Ch. 2, Art. II,		
	Ch. 2, Art. III	125.3504	Ch. 36, Art. II, Div. 3
29.1 et seq.	Ch. 16		
29.31	Ch. 16	125.3601 et seq.	Ch. 36, Art. II, Div. 2
29.41 et seq.	Ch. 16		
	20-19	128.1 et seq.	Ch. 10
		141.101 et seq.	34-19
29.417 et seq.	Ch. 26		34-28
61.1 et seq.	Ch. 2		34-20
	18-20	141.103	Ch. 34
		141.121	
62.1 et seq.	Ch. 2, Art. III		34-22
62.2	2-82	141.421 et seq.	Ch. 2, Art. V
65.1 et seq.	Ch. 2, Art. II		2-86
65.4	2-19, 2-20	141.1201 et seq.	Ch. 2, Art. V
65.5	2-21	141.2101 et seq.	Ch. 2, Art. V
65.8	Ch. 2, Art. III, Div. 2	168.1 et seq.	Ch. 12
	2-82	211.1 et seq.	8-83
	2-31		28-22
66.1		211.741 et seq.	Ch. 28
66.1 et seq.	Ch. 2, Art. II	211.761	28-26
66.2	I-17	211.761 et seq.	Ch. 28
66.3a	I-1	252.201 et seq.	Ch. 24
66.4	8-180	252.204 et seq.	Ch. 8, Art. VI
	32-1	252.301 et seq.	36-168
67.7 et seq.	Ch. 30	257.1 et seq.	14-71
67.17 et seq.	Ch. 30		Ch. 32
67.20 et seq.	Ch. 30		32-1
67.55 et seq.	Ch. 10	257.605, 257.606	Ch. 32
67.58-67.61	10-1	257.610	Ch. 32
68.31 et seq.	Ch. 28	257.707 et seq.	Ch. 14, Art. IV
68.34	28-12	257.951 et seq.	32-2
123.51 et seq.	Ch. 22	287.288	6-3
123.161 et seq.	Ch. 34	287.290	Ch. 6
123.361 et seq.	Ch. 26	324.101 et seq.	Ch. 14
124.281 et seq.	Ch. 34	324.4301 et seq.	Ch. 26
125.31 et seq.	Ch. 36		Ch. 34
125.538 et seq.	Ch. 8, Art. IV	324.8901 et seq.	26-29
125.1501 et seq.	8-19	324.11101 et seq.	Ch. 26
125.2301 et seq.	36-145		26-23
125.3101 et seq.	Ch. 36	324.11143	26-23

CLIMAX CODE

MCL	Section this Code
324.11501 et seq.	Ch. 26
324.11522	Ch. 16, Art. III
324.14501 et seq.	Ch. 26
324.19101 et seq.	Ch. 26
324.40101 et seq.	Ch. 6
333.2850	Ch. 10
333.26201 et seq.	Ch. 26
338.2301 et seq.	8-20
339.2401 et seq.	8-81
408.681 et seq.	Ch. 22
433.51 et seq.	6-2
445.401 et seq.	Ch. 24
	Ch. 24, Art. II
446.201 et seq.	Ch. 24
456.521 et seq.	Ch. 10
484.3301 et seq.	App. A, §
560.101 et seq.	Ch. 18
	18-20
560.112	18-21
560.120	18-23
560.131 et seq.	18-25
560.263	18-28
600.3801 et seq.	Ch. 14, Art. II
600.8396	2-195
600.8705	2-198
600.8705-	
600.8709	2-198
600.8707	2-198
600.8709	2-198
750.1 et seq.	Ch. 20
750.49 et seq.	Ch. 6
750.50	6-5
750.200 et seq.	Ch. 16
750.222 et seq.	20-21
750.240 et seq.	Ch. 16
750.243a et seq.	20-20
750.377a et seq.	30-56
750.479	22-23
750.546 et seq.	22-21
752.891	20-22

CODE INDEX

	Section
A	
ABANDONED MOTOR VEHICLES, MACHINERY OR APPLI- ANCES	
Blight	14-105
Nuisances	
Enumeration of nuisances	14-22(5)
ABANDONMENT	
Dangerous buildings	8-81
ABATEMENT	
Nuisances	
Failure to abate; action by village	14-25
Parks and recreation	
Park regulations	22-22
Solid waste	26-23 et seq.
See: SOLID WASTE	
ACCESS	
Dangerous buildings	8-81
Zoning	36-1
ACCESSORY BUILDINGS, STRUCTURES AND USES	
Zoning	
Accessory uses or buildings	36-170
ACTIONS. See: SUITS, ACTIONS AND OTHER PROCEED- INGS	
ADMINISTRATION	
Finance	2-137 et seq.
See: FINANCE	
Municipal civil infractions	2-195 et seq.
See: MUNICIPAL CIVIL INFRACTIONS	
Officers and employees	2-51 et seq.
See: OFFICERS AND EMPLOYEES	
Private sale of village property	2-160 et seq.
See: VILLAGE PROPERTY, PRIVATE SALE OF	
Village council	2-19 et seq.
See: VILLAGE COUNCIL	
Village manager	2-82 et seq.
See: VILLAGE MANAGER	
ADVERTISING	
Zoning	
Signs and outdoor advertising structures	36-168
AGENCIES . See: DEPARTMENTS AND OTHER AGENCIES OF VILLAGE	

AGREEMENTS . See: CONTRACTS AND AGREEMENTS

CLIMAX CODE

	Section
AGRICULTURE	
Zoning	
A Agricultural district	36-140
ALCOHOLIC LIQUORS	
Parks and recreation	
Park regulations	22-22
AMBULANCES . See: EMERGENCY VEHICLES	
AMPLIFIERS	
Noise	
Specific violations	14-71
ANIMALS	
Care of animals	6-5
Hunting prohibited	6-6
Impounded animals	6-4
Noise	
Specific violations	14-71
Posting of signs for invisible fencing	6-1
Running at large, creating disturbance or committing damage prohibited; domesticated animals and fowl	6-2
Solid waste	
Refuse management	26-19
Violation as a municipal civil infraction	6-7
Violations; penalty	6-3
ANNEXATION	
Certain provisions saved from repeal	1-13 ¶)
APPEALS	
Dangerous buildings	8-85
Fences, walls, hedges and enclosures	8-147
Zoning	
Appeals, board of	
Application for variance, appeal or special exception ...	36-55
APPEALS, BOARD OF	
Zoning	36-52 et seq.
See: ZONING	
ARROWS	
Parks and recreation	
Park regulations	B
ASSEMBLIES	
Loitering	N
ATTORNEY. See: VILLAGE ATTORNEY	
	K
	S
B	
CDi:2	

. See: FINANCIAL INSTITUTIONS

22-22

20-49

CODE INDEX

	Section
BICYCLE PATH AND SIDEWALK SAFETY	
Definitions	32-23
Operation of motor vehicle on bicycle path/sidewalk prohibited	32-24
BICYCLES	
Bicycle path and sidewalk safety	32-23
BILLBOARDS. See: SIGNS AND BILLBOARDS	
BLIGHT	
Definitions	14-104
Nuisance declared	14-106
Operation of certain licensed businesses	14-107
Purpose	14-103
Regulations	14-105
Violation as a municipal civil infraction	14-108
BOARDS, COMMISSIONS AND COMMITTEES	
Definitions and rules of construction	1-2
Library board	
Extension of present terms of present village library board members	12-7
Library board members; term of office	12-6
Municipal ordinance violations bureau	
Established and empowered	2-195
Location, supervision, rules and regulations of bureau	2-196
Village council	2-19 et seq.
See: VILLAGE COUNCIL	
Zoning	
Administration and enforcement	
Appeals, board of	
Establishment	36-52
BONDS, ISSUANCE/ISSUES	
Certain provisions saved from repeal	1-13(3)
BONDS, SURETY OR PERFORMANCE	
Water and sewers	
Water	
Exceptions	34-29
BOTTLE BREAKING. See: GLASS OR BOTTLE BREAKING	
BOUNDARIES	
Zoning	
Administration and enforcement	
Interpretation of conflicting provisions	
Boundaries of zones	36-24(7)
BRIDGES AND CULVERTS	
Driveway construction	8-48
Noise	
Exceptions	14-71

CLIMAX CODE

	Section
BRUSH. See: WEEDS AND BRUSH	
BUILDING MATERIALS	
Blight	14-105
BUILDINGS AND BUILDING REGULATIONS	
Blight	14-105
Dangerous buildings	8-80 et seq.
See: DANGEROUS BUILDINGS	
Driveway construction	8-48 et seq.
See: DRIVEWAY CONSTRUCTION	
Fences	8-141 et seq.
See: FENCES, WALLS, HEDGES AND ENCLOSURES	
Fire prevention and protection.....	16-1 et seq.
See: FIRE PREVENTION AND PROTECTION	
Health and sanitation	
Buildings to be used as dwellings.....	14-47
Moving of buildings	8-118
See: MOVING BUILDINGS AND OTHER STRUCTURES	
Noise	
Specific violations... ..	14-71
Property maintenance code.....	8-180 et seq.
See: PROPERTY MAINTENANCE CODE	
Solid waste	
Refuse management	
Storage of refuse on premises	
Container construction	26-26(b)
Waste not eligible for collection; procedures	
Construction, commercial and industrial waste	26-23(a)
State construction code	8-19 et seq.
See: STATE CONSTRUCTION CODE	
Streets, sidewalks and other public places	30-20 et seq.
See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Subdivision control	18-19 et seq.
See: SUBDIVISIONS	
Water	34-19 et seq.
See: WATER AND SEWERS	
Zoning	36-1 et seq.
See: ZONING	
BURIAL. See: CEMETERIES	
BURNING. See: FIRE PREVENTION AND PROTECTION	
BURNING PITS	
Fire prevention and protection	
Burning	
Permit required for campfires or burning pits	16-51
BUSINESSES	
Blight	

Operation of certain licensed businesses	14-107
--	--------

CODE INDEX

	Section
BUSINESSES (Cont'd.)	
Dangerous buildings	8-81
Solid waste	
Refuse management	
Waste not eligible for collection; procedures	
Construction, commercial and industrial waste	26-23(a)
Zoning	36-146 et seq.
See: ZONING	

C

CAMPFIRES	
Fire prevention and protection	
Burning	
Permit required for campfires or burning pits	16-51
CAMPING	
Parks and recreation	
Park regulations	22-22
CEMETERIES	
Care of grounds; annual assessment; price of lots	10-3
Finance	
Care of grounds; annual assessment; price of lots	10-3
General fund	10-4
Perpetual care fund.....	10-5
General fund	10-4
Monuments, markers and other improvements	10-7
Perpetual care fund	10-5
Securing of additional grounds	10-2
Sexton; duties, responsibilities and compensation	10-6
Compensation	10-6(c)
Duties	10-6(b)
Position established	10-6(a)
Village council responsible for regulation	10-1
CERTIFICATES, CERTIFICATION	
Zoning	
Administration and enforcement	
Interpretation of conflicting provisions	
Certificate of occupancy	36-24(5)
CHURCHES . See: RELIGIOUS INSTITUTIONS	
CLIMBING	
Parks and recreation	
Park regulations	22-22
CODE OF ORDINANCES*	

*Note-The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and

preface which are to be found in the preliminary pages of this volume .

CLIMAX CODE

	Section
CODE OF ORDINANCES (Cont'd.)	
Amendment procedure	1-14
Application to future legislation	1-6
Catchlines	1-4
Certain provisions saved from repeal	1-13
Continuation of existing ordinances	1-10
Definitions and rules of construction	1-2
Designation and citation of Code	1-1
Effect of repeal of ordinances	1-11
General penalty	1-17
History notes	1-9
Interpretation per state acts	1-3
Prior offenses or rights not affected by Code	1-12
Reference to offices	1-8
Reference to other sections	1-7
References and notes	1-5
Severability	1-16
Supplementation of Code	1-15
 CODES	
Definitions and rules of construction	1-2
Michigan vehicle code	32-1 et seq.
See: MICHIGAN VEHICLE CODE	
Property maintenance code	8-180 et seq.
See: PROPERTY MAINTENANCE CODE	
State construction code	8-19 et seq.
See: STATE CONSTRUCTION CODE	
Traffic and vehicles	
Adoption of Uniform Traffic Code; definition; changes in code	32-2
Water and sewers	
Water	
Cross connections	
State plumbing code	34-55
 COMMERCIAL . See: BUSINESSES	
 COMMISSIONS AND COMMITTEES. See: BOARDS, COM- MISSIONS AND COMMITTEES	
 COMPUTATION OF TIME	
Definitions and rules of construction	1-2
 CONSTRUCTION. See: BUILDINGS AND BUILDING REG- ULATIONS	
 CONTRACTS AND AGREEMENTS	
Dangerous buildings	
Administration; joint administration and enforcement agree- ment	Work contracte d by the
Finance	

village council

8-86

2-138

CODE INDEX

	Section
CONTRACTS AND AGREEMENTS (Cont'd.)	
Solid waste	
Refuse management	
Exclusive contracts	26-33
Streets, sidewalks and other public places	
Sidewalks	
Construction contracts	30-21
Water and sewers	
Water	
Receiving funds	
Contract payment fund.....	34-26(2)
CONTROLLED SUBSTANCES	
Parks and recreation	
Park regulations	22-22
CONVALESCENT HOMES. See: NURSING HOMES	
COUNCIL. See: VILLAGE COUNCIL	
COUNTY	
Definitions and rules of construction	1-2
CULVERTS. See: BRIDGES AND CULVERTS	
CURBS AND GUTTERS	
Environment	
Deposit of ashes, garbage or other matter in streets and gutters	14-1
Solid waste	
Refuse management	
Placement of refuse for collection	
Curbside pickup service	26-27(2)
D	
DAMAGE, DEFACEMENT, DESTRUCTION, INJURY, ETC.	
Animals	
Running at large, creating disturbance or committing damage prohibited; domesticated animals and fowl ..	6-2
Dangerous buildings	8-81
Fire prevention and protection	16-1 et seq.
See: FIRE PREVENTION AND PROTECTION	
Loitering	20-49
Parks and recreation	
Park regulations	22-22
Solid waste	
Refuse management	
Damaging bags or containers	26-31
DANGEROUS BUILDINGS	
Administration; joint administration and enforcement agreement	8-86
Appeals	8-85

CLIMAX CODE

	Section
DANGEROUS BUILDINGS (Cont'd.)	
Definitions	8-81
Enforcement of judgment against other assets; lien; effectiveness; priority	8-84
Hearing; testimony; determination; compliance; cost; collection	8-83
Notice of dangerous or unsafe conditions; contents; hearing officer; service.....	8-82
Prohibited	8-80
Violation as a municipal civil infraction	8-87
DANGEROUS CONDITIONS	
Buildings, dangerous	
Notice of dangerous or unsafe conditions; contents; hearing officer; service.....	8-82
Fences, walls, hedges and enclosures	
Barbed wire, dangerous materials	8-142
Nuisances	
Enumeration of nuisances	14-22(6)
DEBRIS	
Blight	14-105
Nuisances	
Enumeration of nuisances	14-22(2)
DEFACEMENT. See: DAMAGE, DEFACEMENT, DESTRUCTION, INJURY, ETC.	
DEMOLITION	
Noise	
Specific violations	14-71
Solid waste	
Refuse management	26-19
DEPARTMENTS AND OTHER AGENCIES OF VILLAGE	
Definitions and rules of construction	1-2
Library board	
Extension of present terms of present village library board members	12-7
Library board members; term of office	12-6
Municipal ordinance violations bureau	
Established and empowered	2-195
Location, supervision, rules and regulations of bureau....	2-196
State construction code	
Designation of enforcing agency	8-20
Village council	2-19 et seq.
See: VILLAGE COUNCIL	
Village manager	
Establishment of office	2-82
Zoning	
Administration and enforcement	

CODE INDEX

	Section
DEPARTMENTS AND OTHER AGENCIES OF VILLAGE	
(Cont'd.)	
Appeals, board of	
Establishment	36-52
DESTRUCTION . See: DAMAGE, DEFACEMENT, DESTRUC-	
TION, INJURY, ETC.	
DEVELOPMENT . See: PLANNING AND DEVELOPMENT	
DISEASE CONTROL . See: HEALTH AND SANITATION	
DISMANTLE. See: REPAIR, REDESIGN, MODIFY OR DIS-	
MANTLE	
DISORDERLY PERSONS, DISORDERLY CONDUCT	
Loitering	
Prohibited actions	20-49
DISTRICTS	
Zoning	36-139 et seq.
See: ZONING	
DISTURBANCE	
Loitering	20-49
Parks and recreation	
Park regulations	22-22
DRAINAGE	
Driveway construction	8-48
Zoning	36-1
DRIVEWAY CONSTRUCTION	
Conditions of driveway construction	8-51
Definitions	8-48
Permit application and issuance thereof	8-50
Submission of plan	8-49
Violation as a municipal civil infraction	8-53
Waiver provisions	8-52
DRUGS AND MEDICINES. See also: CONTROLLED SUB-	
STANCES	
Solid waste	
Refuse management	
Waste not eligible for collection; procedures	
Pathogenic waste; disposition of medicines, poisons,	
etc.....	26-23(b)

E

EASEMENTS	
Certain provisions saved from repeal	1-13(9)
Zoning	36-1
ELECTIONS	

Date of election of village officers	12-1
--	------

CLIMAX CODE

	Section
ELECTIONS (Cont'd.)	
Elected officers; term of office; duties	12-2
Extension of present terms of present village library board members	12-7
Extension of present terms of village officers	12-4
Library board members; term of office	12-6
Nonpartisan election	12-5
Term of office for village trustees	12-3
ELECTRONIC DEVICES	
Noise	
Specific violations	14-71
EMERGENCIES	
Fire prevention and protection.....	16-1 et seq.
See: FIRE PREVENTION AND PROTECTION	
Zoning	36-1
EMERGENCY VEHICLES	
Noise	
Exceptions	14-71
EMPLOYEES. See: OFFICERS AND EMPLOYEES	
ENCLOSURES. See: FENCES, WALLS, HEDGES AND ENCLOSURES	
ENGINE EXHAUST	
Noise	
Specific violations	14-71
ENTRY	
Water and sewers	
Water	
Cross connections	
Inspections	
Right of village representative to enter property; compliance required; noncompliance evidence of cross connection	34-51
ENVIRONMENT	
Blight	14-103 et seq.
See: BLIGHT	
Deposit of ashes, garbage or other matter in streets and gutters	14-1
Noise control.....	14-70 et seq.
See: NOISE	
Public nuisances.....	14-21 et seq.
See: NUISANCES	
Sanitation	
Buildings to be used as dwellings.....	14-47

Violation as a municipal civil infraction.....	14-48
--	-------

CODE INDEX

	Section
ENVIRONMENTAL CONCERNS	
Water and sewers	
Water	
Cross connections	
Rules of state department of environmental quality adopted	34-49
EXCAVATIONS	
Noise	
Specific violations; exceptions	14-71
Nuisances	
Enumeration of nuisances	14-22(6)
Solid waste	
Refuse management	26-19
EXPLOSIVES	
Offenses against public safety	
Explosive articles	20-19
Parks and recreation	
Park regulations	22-22
F	
FENCES, WALLS, HEDGES AND ENCLOSURES	
Animals	
Posting of signs for invisible fencing	6-1
Appeals	8-147
Barbed wire, dangerous materials	8-142
Distance from sidewalk	8-144
Nuisance	8-145
Obstruction of view	8-143
Permit required	8-146
Permitted fences; height regulations	8-141
Violation as a municipal civil infraction	8-148
Zoning	
Screening	36-172
FINANCE	
Cemeteries	10-3 et seq.
See: CEMETERIES	
Certain provisions saved from repeal	1-13(2), 1-13(3)
Dangerous buildings	
Hearing; testimony; determination; compliance; cost; col- lection	8-83
Private sale of village property	2-160 et seq.
See: VILLAGE PROPERTY, PRIVATE SALE OF	
Provisions re	2-137
Solid waste	
Refuse management	
Waste not eligible for collection; procedures	
Hazardous waste cleanup or abatement; liability for costs	26-23(c)

CLIMAX CODE

	Section
FINANCE (Cont'd.)	
Special assessments	
Limitation on preliminary expenses	28-8
Water and sewers	
Water	
Receiving funds	34-26
Work contracted by the village council.	2-138
FINANCIAL HARDSHIP	
Water and sewers	
Water	
Exceptions	34-29
FINANCIAL INSTITUTIONS	
Water and sewers	
Water	
Receiving funds	
Bank accounts	34-26(6)
FINES, FORFEITURES AND OTHER PENALTIES	
General penalty	1-17
Municipal civil infractions	
Schedule of civil fines	2-202
FIRE ENGINES	
Noise	
Exceptions	14-71
FIRE PREVENTION AND PROTECTION	
Burning	
Burning without permit prohibited	16-48
Certain burning activities permitted with burning permit	16-49
Civil enforcement procedure	16-56
Conditions on permits	16-50
Enforcement authority	16-57
Form of permit	16-53
Length of time of permit	16-52
Permit fee.....	16-54
Permit requirements for campfires or burning pits	16-51
Violation as a municipal civil infraction	16-55
Prevention of fires	
Building, maintaining hazardous fires prohibited	16-19
Improper storage	16-21
Safe condition	16-20
Violation as a municipal civil infraction	16-22
Water and sewers	
Water	
Rates and charges	
Hydrant rental	34-22(6)
FIREARMS AND WEAPONS	
Offenses against public safety	
BB guns and air guns	20-22

CODE INDEX

	Section
FIREARMS AND WEAPONS (Cont'd.)	
Discharge of firearms	20-21
Parks and recreation	
Park regulations	22-22
FIREWORKS	
Offenses against public safety	20-20
Parks and recreation	
Park regulations	22-22
FOOD AND FOOD SERVICES	
Solid waste	
Refuse management	26-19
FORFEITURES. See: FINES, FORFEITURES AND OTHER PENALTIES	
FRANCHISES	
Certain provisions saved from repeal	1-13(5)
List of Franchises. See Appendix A	

G

GARBAGE. See: SOLID WASTE	
GATHERINGS. See: ASSEMBLIES	
GENDER	
Definitions and rules of construction	1-2
GLASS OR BOTTLE BREAKING	
Parks and recreation	
Park regulations	22-22
GRADES, GRADING	
Certain provisions saved from repeal	1-13(11)
Driveway construction	8-48
GROUNDS. See: PROPERTY	
GUNS. See: FIREARMS AND WEAPONS	
GUTTERS. See: CURBS AND GUTTERS	

H

HAZARDOUS WASTE	
Solid waste	
Refuse management	
Waste not eligible for collection; procedures	c
Hazardous waste cleanup or abatement; liability for	o

sts	
Pathogenic waste; disposition of medicines, poisons, etc.....	26-23(c)
	26-23(b)

CLIMAX CODE

	Section
HAZARDS	
Fire prevention and protection	16-1 et seq.
See: FIRE PREVENTION AND PROTECTION	
Special assessments	28-28
HEALTH AND SANITATION	
Buildings to be used as dwellings	14-47
Dangerous buildings	8-81
Junkyards	
Cleanup of vacated premises	24-22
Solid waste	26-1 et seq.
See: SOLID WASTE	
Violation as a municipal civil infraction	14-48
Water	34-19 et seq.
See: WATER AND SEWERS	
HEARINGS	
Dangerous buildings	
Hearing; testimony; determination; compliance; cost; collection	8-83
Special assessments	28-11
HEDGES. See: FENCES, WALLS, HEDGES AND ENCLOSURES	
HOME OCCUPATIONS	
Zoning	36-171
HOOTING. See: YELLING, SHOUTING, HOOTING, WHISTLING, SINGING, ETC.	
HOURS	
Noise	
Specific violations	14-71
Parks and recreation	
Park regulations	22-21
Solid waste	
Refuse management	
Time for depositing refuse and removing containers	26-28
HOUSING	
Blight	14-105
Dangerous buildings	8-81
Health and sanitation	
Buildings to be used as dwellings	14-47
Solid waste	
Refuse management	26-19
Zoning	36-141 et seq.
See: ZONING	
HUNTING	

Animals	
Prohibited	6-6

CODE INDEX

	Section
■	
ICEBOXES. See: REFRIGERATORS, ICEBOXES, ETC.	
IDENTIFICATION	
Animals	
Posting of signs for invisible fencing.....	6-1
Junkyards	
Identity of sellers of junk and records of purchases	24-21
Solid waste	
Refuse management	
Approved receptacles; special markings	
Bulk refuse tag.....	26-25(4)
Vehicle requirements	26-34(a)
Water and sewers	
Water	
Cross connections	
Protection of potable water supply; nonpotable water	
warning label	34-54
ILLEGAL ACTIVITIES	
Loitering.....	20-49
Parks and recreation	
Park regulations	22-22
Solid waste	
Refuse management	
Unlawful dumping, littering, scattering of refuse	26-29
IMPOUNDMENT	
Animals	6-4
IMPROVEMENTS. See: PUBLIC WORKS AND IMPROVEMENTS	
INDUSTRIES	
Dangerous buildings	8-81
Solid waste	
Refuse management	
Waste not eligible for collection; procedures	
Construction, commercial and industrial waste	26-23(a)
Zoning	
I-1 Industrial district, manufacturing	36-148
I-2 Industrial district, service	36-149
INJURY. See: DAMAGE, DEFACEMENT, DESTRUCTION, INJURY, ETC.	
INSECT CONTROL. See also: PEST CONTROL	
Solid waste	
Refuse management	26-19
INSPECTIONS	
Solid waste	

CLIMAX CODE

	Section
INSPECTIONS (Cont'd.)	
Refuse management	
Vehicle requirements	26-34(a)
Water and sewers	
Water	
Cross connections	
Provisions re-Duty of village	34-50
INSTITUTIONS	
Solid waste	
Refuse management	26-19
INTOXICATING BEVERAGES, INTOXICATION. See: ALCOHOLIC LIQUORS	
INVESTIGATIONS	
Nuisances	14-23

J

JUNK	
Blight	14-105
Junkyards	
Identity of sellers of junk and records of purchases	24-21
Nuisances	
Enumeration of nuisances	14-22(2)
JUNK MOTOR VEHICLES	
Blight	14-105
JUNKYARDS	
Cleanup of vacated premises	24-22
Definitions	24-20
Identity of sellers of junk and records of purchases	24-21
License	
Denial	24-53
Fee.....	24-52
Form of application	24-51
Required	24-50
Revocation	24-54
Purpose and contents	24-19
Violation as a municipal civil infraction	24-23

L

LAND DIVISIONS AND SUBDIVISIONS	
Special assessments	
Division of parcels	28-25
Subdivision control	18-19 et seq.
See: SUBDIVISIONS	

LAND USE

Certain provisions saved from repeal	1-13(9)
--	---------

CODE INDEX

	Section
LAND USE (Cont'd.)	
Streets, sidewalks and other public places	
Sidewalks	
Reservation of land; construction; approval of street	
commissioner	30-19
Zoning	
Administration and enforcement	
Interpretation of conflicting provisions	
Limitations on all land and structures	36-24(1)
LIABILITY	
Solid waste	
Refuse management	
Waste not eligible for collection; procedures	
Hazardous waste cleanup or abatement; liability for costs	26-23(c)
LIBRARY BOARD	
Extension of present terms of present village library board members	12-7
Library board members; term of office	12-6
LICENSES AND PERMITS	
Blight	
Operation of certain licensed businesses	14-107
Driveway construction	
Permit application and issuance thereof	8-50
Fences, walls, hedges and enclosures	
Permit required	8-146
Fire prevention and protection..	16-48 et seq.
See: FIRE PREVENTION AND PROTECTION	
Junkyards	24-50 et seq.
See: JUNKYARDS	
Moving buildings and other structures	
Permit	8-120
Required	8-118
Zoning	
Administration	
Interpretation of conflicting provisions	
Building permits	36-24(4)
LIENS	
Dangerous buildings	
Enforcement of judgment against other assets; lien; effectiveness; priority	
Nuisances	
Property, lien on	
Special assessments	
Creation of lien	
	LITTERING
	Solid waste

8-84

14-26

28-17

CLIMAX CODE

	Section
LITTERING (Cont'd.)	
Refuse management	
Unlawful dumping, littering, scattering of refuse	26-29
LOADING AND UNLOADING	
Noise	
Specific violations	14-71
LOITERING	
Prohibited actions	20-49
Purpose	20-48
LOTS	
Cemeteries	
Care of grounds; annual assessment; price of lots	10-3
Solid waste	
Refuse management	
Vacant lots	26-30
Subdivisions	
Lot division	18-28
Village council review of preliminary plat for tentative approval	
Standards for review	18-22(a)(2)
Zoning	36-140 et seq.
See: ZONING	
LOUDSPEAKERS	
Noise	
Specific violations	14-71

M

MACHINERY OR APPLIANCES. See: ABANDONED MOTOR VEHICLES, MACHINERY OR APPLIANCES	
MAINTENANCE	
Cemeteries	
Care of grounds; annual assessment; price of lots	10-3
Fire prevention and protection	
Prevention of fires	
Building, maintaining hazardous fires prohibited	16-19
Solid waste	
Refuse management	
Vehicle requirements	26-34(b)
Streets, sidewalks and other public places	
Sidewalks	30-23
Water and sewers	
Water	
Receiving funds	
Operation and maintenance fund	34-26(1)

CODE INDEX

	Section
MANUFACTURED HOMES AND MANUFACTURED HOME PARKS	
Zoning	
R-5 Mobile home park district	
Regulations required	36-145(c)
MAPS. See: SURVEYS, MAPS AND PLATS	
MARKERS. See: MONUMENTS	
MCL	
Definitions and rules of construction	1-2
MEASURES. See: WEIGHTS AND MEASURES	
MECHANICAL DEVICES	
Noise	
Specific violations.....	14-71
MEDICINES. See: DRUGS AND MEDICINES	
MICHIGAN VEHICLE CODE	
Adopted by reference	32-1(a)
Enforcement	32-1(c)
Purpose	32-1(b)
MISCHIEVOUS ACTIVITIES	
Loitering.....	20-49
MOBILE HOMES AND MOBILE HOME PARKS. See: MANUFACTURED HOMES AND MANUFACTURED HOME PARKS	
MODIFY. See: REPAIR, REDESIGN, MODIFY OR DISMANTLE	
MOLESTATION	
Parks and recreation	
Park regulations	22-22
MONUMENTS	
Cemeteries	
Monuments, markers and other improvements	10-7
MOPEDS	
Bicycle path and sidewalk safety	32-23
MOTOR VEHICLES. See: TRAFFIC AND VEHICLES	
MOTORCYCLES	
Bicycle path and sidewalk safety	32-23
MOVING BUILDINGS AND OTHER STRUCTURES	
Action of council	8-119
Permit	8-120
Permit required.	8-118
Violation as a municipal civil infraction	8-121

CLIMAX CODE

	Section
MUNICIPAL CIVIL INFRACTIONS	
Animals	
Violation	6-7
Availability of other enforcement remedies	2-200
Blight	
Violation	14-108
Bureau established and empowered	2-195
Citations	2-198
Driveway construction	
Violation	8-53
Fences, walls, hedges and enclosures	
Violation	8-148
Fire prevention and protection	
Burning	
Violation	16-55
Prevention of fires	
Violation	16-22
Health and sanitation	
Violation	14-48
Junkyards	
Violation	24-23
Location, supervision, rules and regulations of bureau	2-196
Moving buildings and other structures	
Violation	8-121
Municipal civil infractions designated and Code sections affected	2-201
Municipal ordinance violation notice	2-197
Noise	
Violation	14-72
Nuisances	
Violation	14-29
Parks and recreation	
Park regulations	
Violation	22-24
Property maintenance code	
Violation	8-182
Retention of municipal ordinance violation notices; accounting of admissions and denials of responsibility and civil fines	2-199
Schedule of civil fines	2-202
Solid waste	
Refuse management	Violation
Violation	n .
State construction code
Violation
Subdivisions
Violation
Trees and shrubbery

26-37

8-22

18-30

30-57

CODE INDEX

	Section
MUNICIPAL CIVIL INFRACTIONS (Cont'd.)	
Water and sewers	
Water	
Cross connections	
Violation	34-56
MUNICIPAL ORDINANCE VIOLATIONS BUREAU	
Established and empowered	2-195
Location, supervision, rules and regulations of bureau	2-196
MUSICAL INSTRUMENTS	
Noise	
Specific violations	14-71
N	
NOISE	
Excessive noise prohibited	14-70
Specific violations; exceptions	14-71
Exceptions	14-71(b)
Specific violations	14-71(a)
Violation as a municipal civil infraction	14-72
NONCONFORMITIES	
Dangerous buildings	8-81
Zoning	
Nonconforming uses	36-169
NOTICES, NOTIFICATION	
Dangerous buildings	
Notice of dangerous or unsafe conditions; contents; hearing officer; service	8-82
Municipal civil infractions	
Municipal ordinance violation notice	2-197
Retention of municipal ordinance violation notices; accounting of admissions and denials of responsibility and civil fines	2-199
Nuisances	14-24
Solid waste	
Refuse management	
Nuisance	
Notice to abate	26-36(b)
Responsibility for payment; billing practice	
Seasonal or temporary premises; notice	26-32(c)
Village property, private sale of	
Notice requirements	2-162
Water and sewers	
Water	
Exceptions	34-29
NUISANCES	
Additional remedies	14-27

CLIMAX CODE

	Section
NUISANCES (Cont'd.)	
Animals	
Running at large, creating disturbance or committing damage prohibited; domesticated animals and fowl ..	6-2
Blight	
Nuisance declared	14-106
Dangerous buildings	8-81
Enumeration of nuisances	14-22
Failure to abate; action by village	14-25
Fences, walls, hedges and enclosures	8-145
Investigations	14-23
Lien on property	14-26
Noise	14-70 et seq.
See: NOISE	
Notice	14-24
Prohibited	14-21
Solid waste	
Refuse management	
Nuisance	
Accumulations or deposits of refuse	26-36(a)
Special assessments	28-28
Violation as a municipal civil infraction	14-29
NUMBER	
Definitions and rules of construction	1-2
NURSING HOMES	
Zoning	36-1
O	
OBSTACLE COURSE	
Noise	
Specific violations	Prior offenses or rights not affected by Code
OBSTRUCTIONS	
Fences, walls, hedges and enclosures	
View, obstruction of.	
ODORS	
Nuisances	
Enumeration of nuisances	
OFFENSES AND MISCELLANEOUS PROVISIONS	
Loitering	
Prohibited actions	
Purpose	
Offenses against public safety	
BB guns and air guns	
Discharge of firearms	
Explosive articles	
Fireworks	

14-71

8-143

14-22(1)

20-49

20-48

20-22

20-21

20-19

20-20

1-12

CODE INDEX

	Section
OFFENSIVE MATERIALS	
Nuisances	
Enumeration of nuisances	14-22(2)
OFFICERS AND EMPLOYEES	
Cemeteries	
Sexton; duties, responsibilities and compensation	
Position established	10-6(a)
Certain provisions saved from repeal	1-13(12)
Compensation of officers	2-54
Dangerous buildings	
Notice of dangerous or unsafe conditions; contents; hearing officer; service.....	8-82
Definitions and rules of construction	1-2
Elections	12-1 et seq.
See: ELECTIONS	
Municipal ordinance violations bureau	
Bureau established and empowered	2-195
Location, supervision, rules and regulations of bureau....	2-196
Officers	2-51
Parks and recreation	
Park regulations	
Police and park employees	22-23
Special police officers	2-52
Street commissioner	2-53
Streets, sidewalks and other public places	
Sidewalks	
Reservation of land; construction; approval of street	
commissioner	30-19
Village council	2-19 et seq.
See: VILLAGE COUNCIL	
Village manager	2-82 et seq.
See: VILLAGE MANAGER	
Zoning	36-52 et seq.
See: ZONING	
OPEN SPACES. See: YARDS AND OPEN SPACES	
ORDINANCES, RESOLUTIONS, ETC.	
Code of ordinances	Adoption
See: CODE OF ORDINANCES	of
Michigan vehicle code	Unif
Adopted by reference	orm
Property maintenance code	Traff
Adopted	ic
Amendments	Code
State construction code	;
Adopted	defin
Traffic and vehicles	ition;

changes in code	1-1 et seq.
.....	
	32-1(a)
	8-180
	8-181
	8-19
	32-2

CLIMAX CODE

ORDINANCES, RESOLUTIONS, ETC. (Cont'd.)	Section
Village council	
Ordinances-Adoption	2-30
Water and sewers	
Water	
Cross connections	
Rules of state department of environmental quality adopted	34-49
P	
PARADES AND PROCESSIONS	
Parks and recreation	
Park regulations	22-22
PARKING	
Certain provisions saved from repeal	1-13(13)
Zoning	
Parking of motor vehicles	36-167
PARKING LOTS	
Zoning	
Parking of motor vehicles	
Requirements for all parking spaces and parking lots ..	36-167(d)
PARKS AND RECREATION	
Park regulations	
Definitions	22-19
Hours	22-21
Intent.....	22-20
Police and park employees	22-23
Uses and prohibited acts	22-22
Violation as a municipal civil infraction	22-24
PENALTIES. See: FINES, FORFEITURES AND OTHER PEN- ALTIES	
PERFORMANCE BONDS. See: BONDS, SURETY OR PER- FORMANCE	
PERMITS. See: LICENSES AND PERMITS	
PERMITTED USES	
Zoning	36-140 et seq.
See: ZONING	
PERSON	Refuse manage ment ...
Definitions and rules of construction
PEST CONTROL
Solid waste

.....

1-2

26-19

CODE INDEX

	Section
PETITIONS	
Special assessments	
Initiation by petition	28-4
Reconsideration of petitions	28-27
Streets, sidewalks and other public places	
Sidewalks	
Petition for construction	30-20
Zoning	
Administration and enforcement	
Special exceptions	36-85
PLANNING AND DEVELOPMENT	
Driveway construction	
Submission of plan	8-49
Fire prevention and protection.	16-1 et seq.
See: FIRE PREVENTION AND PROTECTION	
Special assessments	
Deviation from plans and specifications.	28-7
Subdivision control	18-19 et seq.
See: SUBDIVISIONS	
Zoning	36-1 et seq.
See: ZONING	
PLATS. See: SURVEYS, MAPS AND PLATS	
PLUMBING	
Water and sewers	
Water	
Cross connections	
State plumbing code	34-55
POLICE OFFICERS	
Parks and recreation	
Park regulations	
Police and park employees	22-23
Special police officers	2-52
POLICE VEHICLES	
Noise	
Exceptions	14-71
PROCEEDINGS. See: SUITS, ACTIONS AND OTHER PROCEEDINGS	
PROCESSES. See: WRITS, WARRANTS AND OTHER PROCESSES	
PROCESSIONS . See: PARADES AND PROCESSIONS	
PROPERTY	
Cemeteries	
Care of grounds; annual assessment; price of lots	10-3
Securing of additional grounds	10-2

CLIMAX CODE

	Section
PROPERTY (Cont'd.)	
Fire prevention and protection	16-1 et seq.
See: FIRE PREVENTION AND PROTECTION	
Nuisances	
Lien on property	14-26
Streets, sidewalks and other public places	
Sidewalks	
Default of property owners and occupants	30-25
Duties of adjoining property owners and occupants	30-24
Subdivision control	18-19 et seq.
See: SUBDIVISIONS	
Village property, private sale of	
Authorization	2-160
Water and sewers	
Water	
Cross connections	
Inspections-Right of village representative to enter property; compliance required; noncompliance ev- idence of cross connection	34-51
Zoning	36-1 et seq.
See: ZONING	
PROPERTY MAINTENANCE CODE	
Adopted	8-180
Amendments	8-181
Violation as a municipal civil infraction	8-182
PUBLIC ACT	
Definitions and rules of construction	1-2
PUBLIC PLACES. See: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
PUBLIC WORKS AND IMPROVEMENTS	
Cemeteries	
Monuments, markers and other improvements	10-7
Certain provisions saved from repeal	1-13(6)
Subdivisions	
Penalty in case of failure to complete construction of public improvement	18-27
Water and sewers	
Water	
Receiving funds	
Improvement fund	34-26(4)
PUBLICATIONS	
Village council	
Publications and reading of minutes	2-23
PURCHASES AND PURCHASING	
Certain provisions saved from repeal	1-13(7)
Junkyards	
Identity of sellers of junk and records of purchases	24-21

CODE INDEX

	Section
PURCHASES AND PURCHASING (Cont'd.)	
Village manager	
Purchasing responsibilities	2-87
R	
RACETRACKS	
Noise	
Specific violations.....	14-71
RADIOS, STEREOS, ETC.	
Noise	
Specific violations.....	14-71
RATS. See: RODENT CONTROL	
RECORDS AND REPORTS	
Junkyards	
Identity of sellers of junk and records of purchases	24-21
Special assessments	
Assessor to file assessment roll	28-10
Survey and report.....	28-5
Village council	
Reports of committees	2-27
Zoning	
Administration and enforcement	
Amendment procedures	
Written proposal	36-119
RECREATIONAL VEHICLES	
Blight	14-105
RECYCLING	
Solid waste	
Refuse management	
Approved receptacles; special markings	
Recyclable materials	26-25(1)
Yard waste recycling bag	26-25(5)
REDESIGN. See: REPAIR, REDESIGN, MODIFY OR DIS-	
MANTLE	
REFRIGERATORS, ICEBOXES, ETC.	
Solid waste	
Refuse management	26-19
REFUSE. See: SOLID WASTE	
RELIGIOUS INSTITUTIONS	
Solid waste	
Refuse management	26-19
REMOVAL. See: ABATEMENT	
RENTAL	
Zoning	36-1

CLIMAX CODE

	Section
REPAIR, REDESIGN, MODIFY OR DISMANTLE	
Blight	14-105
REPORTS. See: RECORDS AND REPORTS	
RESIDENCES, RESIDENTIAL. See: HOUSING	
RESOLUTIONS. See: ORDINANCES, RESOLUTIONS, ETC.	
ROCKETS. See: FIREWORKS	
RODENT CONTROL	
Nuisances	
Enumeration of nuisances	14-22(4)
Solid waste	
Refuse management	26-19
RUBBISH. See: SOLID WASTE	
S	
SAFETY	
Bicycle path and sidewalk safety	
Operation of motor vehicle on bicycle path/sidewalk prohibited	32-24
Blight	14-105
Fire prevention and protection	16-1 et seq.
See: FIRE PREVENTION AND PROTECTION	
SALES	
Certain provisions saved from repeal	1-13(7)
Village property, private sale of	
Authorization	2-160
Zoning	36-1
SANITATION. See: HEALTH AND SANITATION	
SCHOOLS	
Solid waste	
Refuse management	26-19
SECONDHAND GOODS	
Junkyards	24-19 et seq.
See: JUNKYARDS	
SEWERS. See: WATER AND SEWERS	
SHALL, MAY	
Definitions and rules of construction	
SHOUTING. See: YELLING, SHOUTING, HOOTING, WHISTLING, SINGING, ETC.	
SHRUBBERY. See: TREES AND SHRUBBERY	
	SIDEWALKS. See: STREETS, SIDEWALKS.

CODE INDEX

	Section
SIGNALING DEVICES	
Noise	
Specific violations	14-71
SIGNS AND BILLBOARDS	
Animals	
Posting of signs for invisible fencing.....	6-1
Zoning	
Signs and outdoor advertising structures	36-168
SINGING. See: YELLING, SHOUTING, HOOTING, WHIS- TLING, SINGING, ETC.	
SOLID WASTE	
Abatement	
Refuse management. See herein that subject	
Blight	14-105
Certain provisions saved from repeal	1-13(15)
Environment	
Deposit of ashes, garbage or other matter in streets and gutters	14-1
Nuisances	
Enumeration of nuisances	14-22(2)
Open spaces. See herein: Yards and Open Spaces	
Parks and recreation	
Park regulations	22-22
Refuse management	
Abatement	
Nuisance	
Notice to abate	26-36(b)
Time for depositing refuse and removing containers	26-28
Waste not eligible for collection; procedures	
Hazardous waste cleanup or abatement; liability for costs	26-23(c)
Approved receptacles; special markings	26-25
Bulk refuse tag	26-25(4)
Recyclable materials	26-25(1)
Refuse bag	26-25(2)
Refuse cart	26-25(3)
Yard waste recycling bag	26-25(5)
Collection days	26-21
Damaging bags or containers.....	26-31
Definitions	26-19
Exclusive contracts	26-33
Nuisance	26-36
Accumulations or deposits of refuse	26-36(a)
Notice to abate.....	26-36(b)
Outside collectors	26-35
Placement of refuse for collection	26-27
Back door service	26-27(1)
Curbside pickup service	26-27(2)

CLIMAX CODE

	Section
SOLID WASTE (Cont'd.)	
Village brush pickup program	26-27(3)
Precollection practices	26-24
Bulk waste	26-24(4)
Garbage	26-24(1)
Rubbish	26-24(2)
Yard waste	26-24(3)
Producer collection	26-22
Refuse collection	26-20
Refuse bag service	26-20(1)
Refuse container service	26-20(2)
Responsibility for payment; billing practice	26-32
Continuation of service; change in occupancy	26-32(b)
Responsibility for payment	26-32(a)
Seasonal or temporary premises; notice	26-32(c)
Storage of refuse on premises	26-26
Bagged refuse	26-26(c)
Bags unprotected	26-26(e)
Bulky refuse	26-26(d)
Container construction	26-26(b)
Refuse carts or bags required	26-26(a)
Time for depositing refuse and removing containers	26-28
Unlawful dumping, littering, scattering of refuse	26-29
Vacant lots	26-30
Vehicle requirements	26-34
Identification ; inspections	26-34(a)
Maintenance	26-34(b)
Operation	26-34(c)
Violation as a municipal civil infraction	26-37
Waste not eligible for collection; procedures	26-23
Construction, commercial and industrial waste	26-23(a)
Hazardous waste cleanup or abatement; liability for costs	26-23(c)
Pathogenic waste; disposition of medicines, poisons, etc.	26-23(b)
Yards and open spaces	
Approved receptacles; special markings	
Yard waste recycling bag	26-25(5)
Placement of refuse for collection	
Back door service	26-27(1)
Precollection practices	
Yard waste	26-24(3)
Yards and open spaces	
Refuse management. See herein that subject	
SPECIAL ASSESSMENTS	
Accounts	28-21
Additional assessments; refunds	28-18
Additional procedures	28-19
Assessor to file assessment roll	28-10
Authority to assess	28-2

CODE INDEX

	Section
SPECIAL ASSESSMENTS (Cont'd.)	
Changes or corrections to assessment roll	28-12
Collection of special assessments	28-20
Combination of projects	28-24
Contested assessments	28-22
Creation of lien	28-17
Deferred payments of special assessments	28-26
Definitions	28-1
Delinquent special assessments	28-16
Deviation from plans and specifications	28-7
Division of parcels	28-25
Hazards and nuisances	28-28
Hearing	28-11
Initiation by petition	28-4
Initiation of special assessment projects	28-3
Limitations on preliminary expenses	28-8
Objection to assessment	28-13
Partial payments; when due	28-15
Reassessment for benefits	28-23
Reconsideration of petitions	28-27
Roll	28-9
Special assessment; when due	28-14
Survey and report	28-5
Tentative determination; assessment roll.....	28-6
SPECIAL EXCEPTION USES	
Zoning	36-140 et seq.
See: ZONING	
STATE	
Definitions and rules of construction.....	1-2
STATE CONSTRUCTION CODE	
Adopted	8-19
Designation of enforcing agency	8-20
Establishment of fee schedule	8-21
Violation as a municipal civil infraction	8-22
STEREOS. See: RADIOS, STEREOS, ETC.	
STORAGE	
Fire prevention and protection	
Prevention of fires	
Improper storage	16-21
Solid waste	
Refuse management	
Storage of refuse on premises	26-26
Zoning	36-1
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
Bicycle path and sidewalk safety	
Operation of motor vehicle on bicycle path/sidewalk prohibited	32-24

CLIMAX CODE

	Section
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES	
(Cont'd.)	
Buildings and building regulations	
Sidewalks	
Construction contracts	30-21
Construction specifications	30-22
Petition for construction	30-20
Reservation of land; construction; approval of street commissioner	30-19
Certain provisions saved from repeal	1-13(10)
Environment	
Deposit of ashes, garbage or other matter in streets and gutters	14- 1
Fences, walls, hedges and enclosures	
Distance from sidewalk	8- 144
Noise	
Specific violations ; exceptions	14-71
Officers and employees	
Street commissioner	2-53
Shade trees	30-54 et seq.
See: TREES AND SHRUBBERY	
Sidewalks	
Construction contracts	30-21
Construction specifications	30-22
Default of property owners and occupants	30-25
Duties of adjoining property owners and occupants	30-24
Maintenance	30-23
Petition for construction	30-20
Solid waste	
Refuse management	26-19
Subdivisions	
Village council review of preliminary plat for tentative approval	
Standards for review	18-22(a)(1)
Zoning	36-1
STRUCTURES .See:BUILDINGS AND BUILDING REGULA- TIONS	
SUBDIVISIONS	
Authority	18-20
Final plat for final approval, submission of	18-25
Lot division	18-28
Penalty in case of failure to complete construction of public improvement	18-27
Procedure	18-29
Purpose	18- 19
Review by village council of final plat for final approval	18-26
Submission of preliminary plat for final approval	18-23
Submission of preliminary plat for tentative approval.	18-21

CODE INDEX

	Section
SUBDIVISIONS (Cont'd.)	
Village council	
Preliminary plat for final approval, Village council, review of	18-24
Review by village council of final plat for final approval ..	18-26
Village council review of preliminary plat for tentative approval.	18-22
Village council review of preliminary plat for final approval	18-24
Village council review of preliminary plat for tentative approval	18-22
Standards for review	18-22(a)
General provisions	18-22(a)(3)
Lots	18-22(a)(2)
Streets	18-22(a)(1)
Tentative approval	18-22(b)
Violation as a municipal civil infraction	18-30
SUITS, ACTIONS AND OTHER PROCEEDINGS	
Dangerous buildings	
Enforcement of judgment against other assets; lien; effectiveness; priority	8-84
Hearing; testimony; determination; compliance; cost; collection	8-83
Fire prevention and protection	
Burning	
Civil enforcement procedure	16-56
Moving buildings and other structures	
Action of council.	8-119
SURETY BONDS. See: BONDS, SURETY OR PERFORMANCE	
SURVEYS, MAPS AND PLATS	
Certain provisions saved from repeal	1-13(9)
Special assessments	
Survey and report	28-5
Subdivisions..	18-19 et seq.
See: SUBDIVISIONS	
Zoning	
Administration and enforcement	
Amendment procedures	
Map amendment requirements.	36-120
District regulations	
Districts established; zoning map	36-139
T	
TAMPERING	
Parks and recreation	
Park regulations	22-22

CLIMAX CODE

	Section
TAXATION	
Cemeteries	
Care of grounds; annual assessment; price of lots	10-3
Certain provisions saved from repeal	1-13(1)
Special assessments	28-1 et seq.
See: SPECIAL ASSESSMENTS	
TELEVISION	
Noise	
Specific violations	14-71
TENSE	
Definitions and rules of construction	1-2
TESTING AREA	
Noise	
Specific violations	14-71
THROWING OBJECT	
Parks and recreation	
Park regulations	22-22
TRAFFIC AND VEHICLES	
Adoption of Uniform Traffic Code; definition; changes in code	32-2
Changes in code	32-2(c)
Definition	32-2(b)
Uniform Traffic Code adopted by reference	32-2(a)
Bicycle path and sidewalk safety	
Definitions	32-23
Operation of motor vehicle on bicycle path/sidewalk prohibited	32-24
Blight	14-105
Certain provisions saved from repeal	1-13(13)
Michigan vehicle code	32-1 et seq.
See: MICHIGAN VEHICLE CODE	
Noise	
Specific violations	14-71
Solid waste	
Refuse management	
Vehicle requirements	26-34
Zoning	
Parking of motor vehicles	36-167
TRAILERS AND TRAILER PARKS	
Housing. See: MANUFACTURED HOMES AND MANUFACTURED HOME PARKS	
Vehicles. See: TRUCKS AND TRAILERS	
TREES AND SHRUBBERY	
Cutting, etc., prohibited	30-56
Nuisances	
Enumeration of nuisances	14-22(3)
Prohibited in public rights-of-way	30-54

CODE INDEX

	Section
TREES AND SHRUBBERY (Cont'd.)	
Trimming	30-55
Violation as a municipal civil infraction	30-57
Zoning	36-1
TRESPASSING	
Dangerous buildings	8-81
TRUCKS AND TRAILERS	
Blight	14-105
Noise	
Specific violations	14-71
U	
UNLAWFUL ACTS. See: ILLEGAL ACTIVITIES	
UNLOADING. See: LOADING AND UNLOADING	
UTILITIES	
Certain provisions saved from repeal	1-13(4)
Water	34-19 et seq.
See: WATER AND SEWERS	
V	
VARIANCES	
Zoning	
Appeals, board of	
Application for variance, appeal or special exception ...	36-55
VEGETATION	
Nuisances	
Enumeration of nuisances	14-22(1)
Solid waste	
Refuse management	26-19
VEHICLES. See: TRAFFIC AND VEHICLES	
VESTED INTEREST	
Zoning	36-2
VILLAGE	
Definitions and rules of construction	1-2
Nuisances	
Failure to abate; action by village	14-25
Water and sewers	
Water	
Cross connections	
Inspections-Duty of village	34-50
VILLAGE ATTORNEY	
Village council	
Ordinances	
Preparation by attorney; majority vote required	2-29

CLIMAX CODE

	Section
VILLAGE COUNCIL	
Cemeteries	
Village council responsible for regulation	10-1
Compensation of village president and trustees	2-28
Definitions and rules of construction	1-2
Finance	
Work contracted by the village council	2-138
Moving buildings and other structures	
Action of council.	8-119
Order of business	2-22
Ordinances	
Adoption	2-30
Effective date	2-31
Preparation by attorney; majority vote required	2-29
Publications and reading of minutes	2-23
Quorum	2-21
Regular meetings	2-19
Reports of committees	2-27
Rules of order	2-24
Special committees	2-26
Special meetings	2-20
Standing committees	2-25
Subdivisions	18-22 et seq.
See: SUBDIVISIONS	
VILLAGE MANAGER	
Acting village manager	2-84
Appointment of village manager	2-83
Compensation	2-85
Dealing with employees	2-88
Duties	2-86
Establishment of office	2-82
Purchasing responsibilities	2-87
VILLAGE PROPERTY, PRIVATE SALE OF	
Authorization	2-160
Confirmation	2-163
Notice requirements	2-162
Price	2-161
VIOLENCE	
Loitering	20-49

W

WALLS. See: FENCES, WALLS, HEDGES AND ENCLOSURES
WARRANTS. See: WRITS, WARRANTS AND OTHER PROCESSES
WASTE. See: SOLID WASTE

CODE INDEX

	Section
WATER AND SEWERS	
Certain provisions saved from repeal	1-13(15)
Water	
Administration	34-21
Cross connections	
Discontinuation of service	34-52
Inspections	
Duty of village	34-50
Right of village representative to enter property; compliance required; noncompliance evidence of cross connection	34-51
Protection of potable water supply; nonpotable water warning label	34-54
Rules of state department of environmental quality adopted	34-49
State plumbing code	34-55
Testing of backflow prevention devices	34-53
Violation a municipal civil infraction	34-56
Definitions	34-20
Equivalent user table.....	34-30
Exceptions	34-29
Finding	34-19
Fixed rates	34-24
Insufficient moneys	34-27
Investments	34-28
No free service	34-23
Operations	34-25
Rates and charges	34-22
Additional charges	34-22(4)
Billing	34-22(5)
Connection charge	34-22(2)
Direct connection	34-22(2)(a)
Equivalent user factor.....	34-22(2)(c)
Indirect connection	34-22(2)(b)
Payment of connection charge	34-22(2)(d)
Enforcement	34-22(7)
Hydrant rental	34-22(6)
Special rates	34-22(3)
Water rates	34-22(1)
Receiving funds	34-26
Bank accounts	34-26(6)
Contract payment fund	34-26(2)
Improvement fund.....	34-26(4)
Operation and maintenance fund.....	34-26(1)
Replacement fund	34-26(3)
Surplus moneys	34-26(5)
Zoning	36-1

CLIMAX CODE

	Section
WATER TOWERS, ELEVATED	
Water and sewers	
Water	34-20
WEAPONS. See: FIREARMS AND WEAPONS	
WEEDS AND BRUSH	
Nuisances	
Enumeration of nuisances	14-22(1)
Solid waste	
Refuse management	
Placement of refuse for collection	
Village brush pickup program	26-27(3)
WEIGHTS AND MEASURES	
Fences, walls, hedges and enclosures	
Distance from sidewalk	8-144
Permitted fences; height regulations	8-141
Solid waste	
Refuse management	26-19
Subdivision control	18-19 et seq.
See: SUBDIVISIONS	
Zoning	36-1 et seq.
See: ZONING	
WELLHOUSES	
Water and sewers	
Water	34-20
WELLS	
Water and sewers	
Water	34-20
WHISTLING. See: YELLING, SHOUTING, HOOTING, WHISTLING, SINGING, ETC.	
WRITS, WARRANTS AND OTHER PROCESSES	
Dangerous buildings	
Notice of dangerous or unsafe conditions; contents; hearing officer; service	8-82
Municipal civil infractions	
Citations	2-198

y

YARDS AND OPEN SPACES	
Blight	14-105
Solid waste	26-24 et seq.
See: SOLID WASTE	
Zoning	36-140 et seq.
See: ZONING	

CODE INDEX

	Section
YELLING, SHOUTING, HOOTING, WHISTLING, SINGING, ETC.	
Noise	
Specific violations	14-71
Z	
ZONING (Generally)	
Certain provisions saved from repeal	1-13(14)
ZONING	
A Agricultural district.....	36-140
Description of district	36-140(a)
Lot, yard and area requirements	36-140(d)
Permitted uses	36-140(b)
Special exception uses	36-140(c)
Accessory uses or buildings	36-170
Administration and enforcement	
Amendment procedures	
Authority to amend; request for amendment; fee.....	36-118
Map amendment requirements	36-120
Written proposal	36-119
Appeals, board of	
Application for variance, appeal or special exception ...	36-55
Authority	36-53
Establishment	36-52
Limitations	36-54
Designation of officials; violations; penalties	36-23
Administration	36-23(a)
Enforcement	36-23(b)
Penalties	36-23(d)
Violations	36-23(c)
Interpretation of conflicting provisions	36-24
Area, limitations on	36-24(3)
Boundaries of zones	36-24(7)
Building permits	36-24(4)
Building permit to erect or alter structures	36-24(4)(a)
Prior building permits	36-24(4)(b)
Certificate of occupancy	36-24(5)
Conflict with other laws	36-24(6)
Height, limitations on	36-24(2)
Limitations on all land and structures.....	36-24(1)
Special exceptions	
Conditions for special exception	36-86
Petitions	36-85
Purpose; limitations	36-84
Special provisions	36-87
Amendment procedures	
Administration and enforcement. See herein that subject	
Appeals, board of	
Administration and enforcement. See herein that subject	

CLIMAX CODE

	Section
ZONING (Cont'd.)	
Businesses	
C-1 Commercial district, general.	36-146
C-2 Commercial district, shopping center	36-147
Home occupations	36-171
C-1 Commercial district, general	36-146
Description of district	36-146(a)
Lot, yard and area requirements	36-146(d)
Permitted uses	36-146(b)
Special exception uses	36-146(c)
C-2 Commercial district, shopping center	36-147
Description of district	36-147(a)
Lot, yard and area requirements	36-147(d)
Permitted uses	36-147(b)
Special exception uses	36-147(c)
Definitions	36-1
District regulations. See herein also specific districts	
Districts established; zoning map	36-139
Districts	
District regulations. See herein also specific districts	
Districts established; zoning map	36-139
Lot, yard and area requirements	
Specific, by zoning district	36-174
Home occupations	36-171
Housing	
Home occupations	36-171
R-1 Residential district, single-family	36-141
R-2 Residential district, single-family	36-142
R-3 Residential district, single-family and two-family	36-143
R-4 Residential district, multiple-family	36-144
I-1 Industrial district, manufacturing	36-148
Description of district	36-148(a)
Lot, yard and area requirements	36-148(d)
Permitted uses	36-148(b)
Special exception uses	36-148(c)
I-2 Industrial district, service	36-149
Description of district	36-149(a)
Lot, yard and area requirements	36-149(d)
Permitted uses	36-149(b)
Special exception uses	36-149(c)
Lot, yard and area requirements	
A Agricultural district	36-140
Lot, yard and area requirements	36-140(d)
C-1 Commercial district, general	
Lot, yard and area requirements	36-146(d)
C-2 Commercial district, shopping center	
Lot, yard and area requirements	36-147(d)
General.	36-173
I-1 Industrial district, manufacturing	
Lot, yard and area requirements	36-148(d)

CODE INDEX

	Section
ZONING (Cont'd.)	
I-2 Industrial district, service	
Lot, yard and area requirements	36-149(d)
Specific, by zoning district.....	36-174
R-1 Residential district, single-family	
Lot, yard and area requirements	36-141(d)
R-2 Residential district, single-family	
Lot, yard and area requirements	36-142(d)
R-3 Residential district, single-family and two-family	
Lot, yard and area requirements	36-143(d)
R-4 Residential district, multiple-family	
Lot, yard and area requirements	36-144(d)
R-5 Mobile home park district	
Lot, yard and area requirements	36-145(d)
Specific, by zoning district	36-174
Lots	
A Agricultural district	36-140
Lot, yard and area requirements	36-140(d)
C-1 Commercial district, general	
Lot, yard and area requirements	36-146(d)
C-2 Commercial district, shopping center	
Lot, yard and area requirements	36-147(d)
I-1 Industrial district, manufacturing	
Lot, yard and area requirements	36-148(d)
I-2 Industrial district, service	
Lot, yard and area requirements	36-149(d)
Lot, yard and area requirements	
General	36-173
R-1 Residential district, single-family	
Lot, yard and area requirements	36-141(d)
R-2 Residential district, single-family	
Lot, yard and area requirements	36-142(d)
R-3 Residential district, single-family and two-family	
Lot, yard and area requirements	36-143(d)
R-4 Residential district, multiple-family	
Lot, yard and area requirements	36-144(d)
R-5 Mobile home park district	
Lot, yard and area requirements	36-145(d)
Nonconforming uses	36-169
Parking of motor vehicles	36-167
Adequate number of spaces required	36-167(a)
Minimum required parking spaces	36-167(e)
Parking space shall be provided in the manner and loca- tion herein specified	36-167(c)
Plan required	36-167(b)
Requirements for all parking spaces and parking lots	36-167(d)
Permitted uses	
A Agricultural district	36-140(b)
C-1 Commercial district, general.	36-146
C-2 Commercial district, shopping center	36-147(b)

CLIMAX CODE

	Section
ZONING (Cont'd.)	
I-1 Industrial district, manufacturing	36-148(b)
I-2 Industrial district, service	36-149(b)
R-1 Residential district, single-family	36-141(b)
R-2 Residential district, single-family	36-142(b)
R-3 Residential district, single-family and two-family	36-143(b)
R-4 Residential district, multiple-family	36-144(b)
R-5 Mobile home park district	36-145(b)
R-1 Residential district, single-family	36-141
Description of district	36-141(a)
Lot, yard and area requirements	36-141(d)
Permitted uses	36-141(b)
Special exception uses	36-141(c)
R-2 Residential district, single-family	36-142
Description of district	36-142(a)
Lot, yard and area requirements	36-142(d)
Permitted uses	36-142(b)
Special exception uses	36-142(c)
R-3 Residential district, single-family and two-family	36-143
Description of district	36-143(a)
Lot, yard and area requirements	36-143(d)
Permitted uses	36-143(b)
Special exception uses	36-143(c)
R-4 Residential district, multiple-family	36-144
Description of district	36-144(a)
Lot, yard and area requirements	36-144(d)
Permitted uses	36-144(b)
Special exception uses	36-144(c)
R-5 Mobile home park district	36-145
Description of district	36-145(a)
Lot, yard and area requirements	36-145(d)
Permitted uses	36-145(b)
Regulations required of mobile home parks	36-145(c)
Screening	36-172
Signs and outdoor advertising structures	36-168
Special exception uses	
A Agricultural district	36-140(c)
Administration and enforcement. See herein that subject	
Appeals, board of	
Application for variance, appeal or special exception ...	36-55
C-1 Commercial district, general	36-146(c)
C-2 Commercial district, shopping center	36-147(c)
I-1 Industrial district, manufacturing	36-148(c)
I-2 Industrial district, service	36-149(c)
R-1 Residential district, single-family	36-141(c)
R-2 Residential district, single-family	36-142(c)
R-3 Residential district, single-family and two-family	36-143(c)
R-4 Residential district, multiple-family	36-144(c)
Standards required of special exception uses	36-175
Standards required of special exception uses	36-175

CODE INDEX

	Section
ZONING (Cont'd.)	
Supplemental regulations	
Accessory uses or buildings	36-170
Home occupations	36-171
Lot, yard and area requirements. See herein that subject	
Nonconforming uses	36-169
Parking of motor vehicles. See herein that subject	
Screening	36-172
Signs and outdoor advertising structures	36-168
Standards required of special exception uses	36-175
Vested interest	36-2
Yards and open spaces	
A Agricultural district	
Lot, yard and area requirements	36-140(d)
C-1 Commercial district, general	
Lot, yard and area requirements	36-146(d)
C-2 Commercial district, shopping center	
Lot, yard and area requirements	36-147(d)
I-1 Industrial district, manufacturing	36-148
Lot, yard and area requirements	36-148(d)
I-2 Industrial district, service	
Lot, yard and area requirements	36-149(d)
R-1 Residential district, single-family	
Lot, yard and area requirements	36-141(d)
R-2 Residential district, single-family	
Lot, yard and area requirements	36-142(d)
R-4 Residential district, multiple-family	
Lot, yard and area requirements	36-144(d)
R-5 Mobile home park district	
Lot, yard and area requirements	36-145(d)