

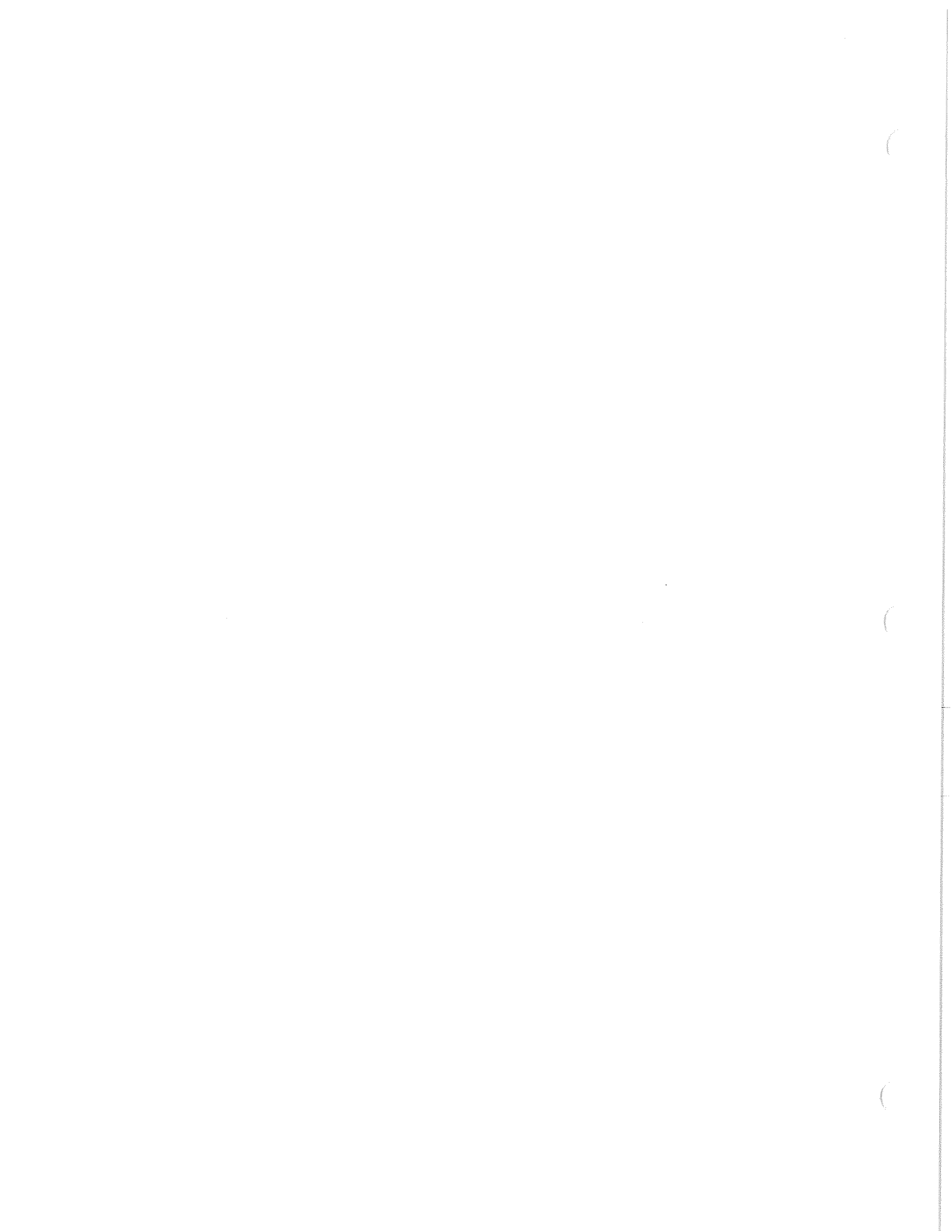
PUBLISHER'S ACKNOWLEDGMENT

In the publication of this Code of Ordinances, every effort was made to provide easy access to local law by village officials, the citizens of this village, and members of the business community.

We want to express our grateful appreciation to all village officials for their untiring efforts in the preparation of this Code of Ordinances.

AMERICAN LEGAL PUBLISHING CORPORATION

Stephen G. Wolf, Esq.
President



**Village of Howard City
Montcalm County, Michigan
Ordinance # 2013-2**

Council member Williams Council member Marek, supported by Council member Cummings, moved the adoption of the following ordinance: supported by Council member Cummings, moved the adoption of the following ordinance:

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE VILLAGE OF HOWARD CITY, MICHIGAN, REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE VILLAGE OF HOWARD CITY DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the political subdivision are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Michigan empower and authorize the political subdivision to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Legislative Authority of the Village of Howard City has authorized a general compilation, revision and codification of the ordinances of the Political Subdivision has authorized a general and permanent nature and publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE OF HOWARD CITY, MICHIGAN.

Section 1. The general ordinances of the Village of Howard City, as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the "Code of Ordinances of the Village of Howard City, Michigan."

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following Titles:

VILLAGE OF HOWARD CITY, MICHIGAN

TABLE OF CONTENTS

Chapter

TITLE I: GENERAL PROVISIONS

- 10. General Code Construction; General Penalty

TITLE III: ADMINISTRATION

- 30. Downtown Development; Authority
- 31. Municipal Civil Infractions
- 32. Officials and Employees
- 33. Purchasing, Contracting and Selling Procedure
- 34. Special Assessments
- 35. Village Organizations

TITLE V: PUBLIC WORKS

- 50. General Provisions
- 51. Solid Waste; Collection and Disposal
- 52. Sewer Regulations, Rates and Facilities
- 53. Water Service, Connection and Rates
- 54. Cross Connections

TITLE VII: TRAFFIC CODE

- 70. Traffic Regulations
- 71. Parking Regulations
- 72. Drunk Driving Cost Recovery
- 73. Off-Road Recreational Vehicles
- 74. Snowmobiles
- 75. Truck Routes

TITLE IX: GENERAL REGULATIONS

- 90. Animal Regulations
- 91. Burning; Outdoor Furnaces
- 92. Fair Housing
- 93. Parks and Recreation
- 94. Public Nuisances

- 95. Streets and Sidewalks
- 96. Trees

TITLE XI: BUSINESS REGULATIONS

- 110. General Licensing
- 111. Junkyards
- 112. Peddlers and Transient Merchants
- 113. Telecommunications Providers

TITLE XIII: GENERAL OFFENSES

- 130. Disorderly Conduct
- 131. Fire Prevention and Protection
- 132. Minors; Curfew
- 133. Drug Paraphernalia
- 134. Weapons; Bows and Arrows

TITLE XV: LAND USAGE

- 150. Buildings; Codes Adopted
- 151. Address Numbering
- 152. Property Maintenance Code
- 153. Subdivision Control
- 154. Zoning Code

TABLE OF SPECIAL ORDINANCES

Table

- I. Zoning Changes
- II. Agreements

PARALLEL REFERENCES

References to Michigan Compiled Laws
References to Prior Code
References to Ordinances

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- Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and re-ordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.
- Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the Clerk.
- Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provision, sections, penalties and regulations therein contained and as of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.
- Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 13th day of May 2013.

Effective Date.

Upon publication as required by law this Ordinance shall become effective twenty (20) days after its adoption.

Yeas: Cummings, Gondre, Harris, Marek, Scott, Thomas, Williams

Nays: None

Absent: None

ORDINANCE NO. 2013-2 DECLARED ADOPTED

S. Michael Scott, President

Kim Alexander, Clerk

I hereby certify the foregoing to be a true copy of an ordinance duly adopted at a regular meeting of the Village Council of the Village of Howard City held on May 13, 2013.

Kim Alexander, Clerk

Introduced: May 13, 2013

Adopted: May 13, 2013

Published: May 27, 2013

Effective: June 16, 2013

**VILLAGE OF HOWARD CITY, MICHIGAN
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- 50. General Provisions
- 51. Solid Waste; Collection and Disposal
- 52. Sewer Regulations, Rates and Facilities
- 53. Water Service, Connection and Rates
- 54. Cross Connections
- 55. Groundwater Protection

TITLE VII: TRAFFIC CODE

- 70. Traffic Regulations
- 71. Parking Regulations
- 72. Drunk Driving Cost Recovery
- 73. Off-Road Recreational Vehicles
- 74. Snowmobiles
- 75. Truck Routes

TITLE IX: GENERAL REGULATIONS

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- 91. Burning; Outdoor Furnaces
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TITLE IX: GENERAL REGULATIONS (Cont'd)

- 95. Streets and Sidewalks
- 96. Trees
- 97. Smoking and Vaping

TITLE XI: BUSINESS REGULATIONS

- 110. General Licensing
- 111. Junkyards
- 112. Peddlers and Transient Merchants
- 113. Telecommunications Providers
- 114. Liquor License Regulations

TITLE XIII: GENERAL OFFENSES

- 130. Disorderly Conduct
- 131. Fire Prevention and Protection
- 132. Minors; Curfew
- 133. Drug Paraphernalia
- 134. Weapons; Bows and Arrows

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Chapter

10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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- 10.01 How Code designated and cited
- 10.02 Definitions
- 10.03 Section catchlines and other headings
- 10.04 Certain ordinances not affected by Code
- 10.05 Continuation of ordinances
- 10.06 Prior rights and offenses
- 10.07 Ordinances repealed not reenacted
- 10.08 Amendments to Code
- 10.09 Supplementation of Code
- 10.10 Appearance tickets
- 10.11 Separability of provisions

- 10.99 General penalty; continuing violations

SECTION 10.01 HOW CODE DESIGNATED AND CITED.

This Code shall constitute and be designated as the "Howard City Code".

Statutory reference:

Codification authority, see MCL 66.3a

SECTION 10.02 DEFINITIONS.

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

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

CHARTER. Public Act 3 of 1895, State of Michigan, in its application to the Village.
(Prior Code, Section 1.005)

CODE. The Howard City Code, as designated in Section 10.01.

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

COUNCIL or VILLAGE COUNCIL. The Village Council of the Village of Howard City.

COUNTY. County of Montcalm.

JUVENILE. A person under 17 years of age.

MINOR. A person under 21 years of age.

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

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

ORDINANCES. The ordinances of the Village of Howard City, and all amendments thereto.

PERSON. Any natural individual, firm, trust, partnership, association, corporation or other legal entity. Whenever the word **PERSON** is used in any section of this Code prescribing a penalty or fine, as applied to partnerships or associations, the word includes the partners, or members thereof, and as applied to corporations the word includes officers, agents or employees thereof who are responsible for any violations of the section. The singular includes the plural. The masculine gender includes the feminine and neuter genders.

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

VILLAGE. The Village of Howard City, Michigan.

SECTION 10.03 SECTION CATCHLINES AND OTHER HEADINGS.

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

SECTION 10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.

(A) Nothing in this Code or the ordinance adopting this Code shall affect any ordinance not in conflict with or inconsistent with this Code:

- (1) Promising or guaranteeing the payment of money for the Village, or authorizing the issuance of any bonds of the Village or any evidence of the Village's indebtedness, or any contract or obligations assumed by the Village;
- (2) Containing any administrative provisions of the Village Council;
- (3) Granting any right or franchise;
- (4) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating and the like any street or public way in the Village;
- (5) Making any appropriation;
- (6) Levying or imposing taxes;
- (7) Establishing or prescribing grades in the Village;
- (8) Providing for local improvements and assessing taxes therefor;
- (9) Dedicating or accepting any plat or subdivision in the Village;
- (10) Extending or contracting the boundaries of the Village;
- (11) Prescribing the number, classification or compensation of any Village officers or employees;
- (12) Prescribing specific parking restrictions;

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(13) Pertaining to rezoning; and

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

(B) All the ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. The ordinances are on file in the Village Clerk/Treasurer's office.

SECTION 10.05 CONTINUATION OF ORDINANCES.

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

SECTION 10.06 PRIOR RIGHTS AND OFFENSES.

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

SECTION 10.07 ORDINANCES REPEALED NOT REENACTED.

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

SECTION 10.08 AMENDMENTS TO CODE.

(A) Amendments to any of the provisions of this Code shall be made by amending the provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Howard City Code, is hereby amended to read as follows: . . ." The new provisions shall then be set out in full as desired.

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

SECTION 10.09 SUPPLEMENTATION OF CODE.

(A) By contract or by Village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Village Council. A supplement to the Code shall include all

substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

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

- (1) Organize the ordinance material into appropriate divisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other divisions of the Code printed in the supplement, and make changes in the catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other divisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other division numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this Chapter", "this subchapter", "this division" and the like, as the case may be, or to "sections _____ through _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

SECTION 10.10 APPEARANCE TICKETS.

The following public servants are hereby authorized to issue and serve appearance tickets with respect to ordinances of the Village, as provided by Public Act 147 of 1968, being MCL 764.9c, as amended, when the public servant has reasonable cause to believe that a person has committed an offense in violation of a Village ordinance:

- (A) Health Officer;
- (B) Building Inspector;

(C) Fire Marshal; and

(D) Fire Chief.

SECTION 10.11 SEPARABILITY OF PROVISIONS.

Each section, division, sentence, clause and provision of this Code is separable and if any provision shall be held unconstitutional or invalid for any reason, the decision shall not affect the remainder of this Code, or any part thereof, other than that part affected by the decision.

SECTION 10.99 GENERAL PENALTY; CONTINUING VIOLATIONS.

(A) Unless a violation of this Code or any ordinance of the Village is specifically designated in the Code or ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(B) The penalty for a misdemeanor violation shall be a fine not exceeding \$500 or imprisonment not exceeding 90 days, or both, plus costs of prosecution, unless a specific penalty is otherwise provided for the violation by this Code or any ordinance.

(C) The sanction for a violation that is a municipal civil infraction shall be a civil fine in an amount as provided by this Code or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Public Act 236 of 1961, being MCL 600.8701 et seq., or as otherwise permitted by law, including the costs of prosecution in an amount of not less than \$9 and not more than \$500. Municipal civil infractions shall be subject to the enforcement procedures as set forth in Chapter 31 of this Code.

(1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this Code or any ordinance, the civil fine for a violation shall be not less than \$50, plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for a repeat offense, which means a repeated violation by a person of any requirement or provision of this Code or any ordinance within any 12-month period. Unless otherwise specifically provided by this Code or any ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

(a) The fine for any offense which is a first repeat offense shall be \$250, plus costs.

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500, plus costs.

(D) A violation includes any act that is prohibited or made or declared to be unlawful or an offense by this Code or any ordinance, and any omission or failure to act where the act is required by this Code or any ordinance.

(E) A violation includes causing, securing, aiding, abetting, concealing, counseling, procuring, facilitating, commanding, assisting in or soliciting a violation as defined in (D) above, attempting to commit a violation, or conspiring with one or more persons to commit a violation.

(F) Each day on which any violation of this Code or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(G) In addition to any remedies available at law, the Village may bring an action for an injunction or other process against a person to restrain, prevent or abate a public nuisance or the violation of this Code or any Village ordinance.

Cross-reference:

Municipal civil infractions, see Chapter 31

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TITLE III: ADMINISTRATION

Chapter

- 30. DOWNTOWN DEVELOPMENT; AUTHORITY**
- 31. MUNICIPAL CIVIL INFRACTIONS**
- 32. OFFICIALS AND EMPLOYEES**
- 33. PURCHASING, CONTRACTING AND SELLING
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- 34. SPECIAL ASSESSMENTS**
- 35. VILLAGE ORGANIZATIONS**

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CHAPTER 30: DOWNTOWN DEVELOPMENT; AUTHORITY

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Downtown Development Authority

- 30.01 Title
- 30.02 Purpose
- 30.03 Definitions
- 30.04 Creation of authority
- 30.05 Description of Downtown District
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- 30.43 Use of monies in the Project Fund
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DOWNTOWN DEVELOPMENT AUTHORITY**SECTION 30.01 TITLE.**

This subchapter shall be known as the "Downtown Development Authority Ordinance of the Village of Howard City".

(Prior Code, Section 20.001) (Ord. 96-15, passed 11-25-1996)

SECTION 30.02 PURPOSE.

The purpose of this subchapter is to create a public body corporate to act in the best interests of the Village to halt property value deterioration, increase property tax valuation where possible in the business district of the Village, eliminate the causes of that deterioration and to promote economic growth pursuant to Public Act 197 of 1975, being MCL 125.1651 through 125.1680, as amended ("Act 197").

(Prior Code, Section 20.002) (Ord. 96-15, passed 11-25-1996)

SECTION 30.03 DEFINITIONS.

The terms used herein shall have the same meaning given in Act 197, or as otherwise defined in this section, unless the context clearly indicates to the contrary.

ACT 197. Public Act 197 of 1975, being MCL 125.1651 et seq., as amended.

AUTHORITY. The Downtown Development Authority of the Village of Howard City.

BOARD or ***BOARD OF DIRECTORS.*** The Board of Directors of the Authority.

COUNCIL or ***VILLAGE COUNCIL.*** The Village Council of the Village of Howard City.

DOWNTOWN DISTRICT. The Downtown District designated herein or as hereafter amended.

PRESIDENT. The President of the Village.

VILLAGE. The Village of Howard City.

(Prior Code, Section 20.003) (Ord. 96-15, passed 11-25-1996)

SECTION 30.04 CREATION OF AUTHORITY.

(A) There is hereby created, pursuant to Act 197, a Downtown Development Authority for the Village. The Authority shall be a public body corporate and shall be known and exercise the powers under title of "Downtown Development Authority of the Village of Howard City".

(B) The Authority may adopt a seal, may sue and be sued in any court or tribunal of this State, and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided herein and in Act 197. The enumeration of a power shall not be construed as a limitation upon the general powers of the Authority.

(Prior Code, Section 20.004) (Ord. 96-15, passed 11-25-1996)

SECTION 30.05 DESCRIPTION OF DOWNTOWN DISTRICT.

The Downtown District in which the Authority shall exercise its powers as provided by Act 197 shall consist of that property in the Village described as follows: part of the northeast one-quarter of Section 34 and part of Sections 26 and 35, Town 12 North, Range 10 West, Village of Howard City and Reynolds Township, Montcalm County, Michigan, described as follows: beginning at the southwest corner of aforesaid Section 26; thence northerly along the west line of Section 26 to the northwest corner of Block F of the Second Addition of the Village, as recorded in Liber 1 of Plats, Page 4, County records; thence easterly along the north line of aforesaid Block F to the northwest corner of Block E of aforesaid Second Addition; thence easterly along the north line and extended north line of Block E to the centerline of Myrtle Street; thence southerly along the centerline of Myrtle Street to the centerline of Shaw Street; thence easterly along the centerline of Shaw Street to the centerline of Mulberry Street; thence northerly along the centerline of Mulberry Street to the intersection of the centerline of Mulberry Street and the extended south line of the north 200 feet of the west one-half of Block C of aforementioned Second Addition; thence easterly along aforementioned south line to the east line of the west half of Block C of aforementioned Second Addition; thence northerly along the east line to the south line of the north 150 feet of Block C of aforementioned Second Addition; thence easterly along aforementioned south line and extended south line to the west line of the east 108.5 feet of Block B of aforementioned Second Addition; thence northerly along the west line to the north line of Block B and also the south line of Edgerton Street; thence easterly along the south line to the centerline of Tamarack Street; thence south along the centerline of Tamarack Street to the extended north line of Lot 2, Block 41 of the Second Addition; thence easterly along the north line and extended north line of Lot 2 to the centerline of Muenster Street; thence southerly along the centerline of Muenster Street to the intersection of the extended north line of Lot 11, Block 18 of the plat of the Village (Liber P, Page 579, County records); thence easterly along the north line and extended north line of Lot 11 to the westerly line of Lot 8, Block 18 of aforementioned plat; thence northerly along the west line of Lot 8 and Lot 22 to the north line of Lot 22 of aforementioned plat; thence southeasterly along the north line of Lot 22 and along the north line of Lot 4, Block 18 of the plat of the Village, to the centerline of Cass Street; thence northeasterly along the centerline and extended centerline of Cass Street to the east-west one-quarter line of aforementioned Section 26; thence westerly along the east-west one-quarter line to a point that is 200 feet (as measured along the east-west one-quarter line); westerly of the centerline of the MDNR Railroad Bed; thence northerly 400 feet; thence northeasterly on a line that is 300 feet perpendicular measurement

and parallel to the centerline of the MDNR Railroad Bed to its intersection with the north one-sixteenth line of Section 26; thence easterly along the north one-sixteenth line to a point that is 300 feet perpendicular measurement east of the centerline of the Railroad Bed; thence southwesterly parallel with the Railroad Bed to its intersection with the east one-sixteenth line of Section 26; thence southerly along the one-sixteenth line to its intersection with the centerline of White Street; thence southwesterly along the centerline of White Street to its intersection with the extended north line of Lot 12, Block 12 of the plat of the Village; thence southeasterly along the extended north line and the north line of Lot 12 to the northwest corner of Lot 5, Block 12 of aforementioned plat; thence easterly along the north line of Lot 5 to the centerline of Lincoln Street; thence southerly along the centerline of Lincoln Street to its intersection with the extended south line of Lot 3, Block 11 of the plat of the Village; thence westerly along the extended south line and the south line of aforementioned Lot 3 to its intersection with the extended east line of Lot 6 of aforementioned plat; thence northwesterly parallel with the north line of Lots 6, 7, 8 and 9, Block 11 of the plat of the Village to the centerline of White Street; thence southwesterly along the centerline of White Street to its intersection with the centerline of Shaw Street; thence easterly along the centerline of Shaw Street to its intersection with the centerline of White Street, south of Shaw Street; thence southwesterly along the centerline of White Street to its intersection with the centerline of Joy Street; thence northwesterly along the centerline of Joy Street to its intersection with the centerline of Pine Street; thence southerly along the centerline of Pine Street to its intersection with the extended north line of Lot 6, Block 29 of the First Addition to the Village (Liber Z, Page 500, County records); thence westerly along the extended north line and the north line of Lot 6 to the northwest corner of Lot 6; thence southerly along the west line of Lots 6 through 15 inclusively, Block 29 and Lots 12 through 19 inclusively, Block 28 of the First Addition of the plat of the Village, to the centerline of Walnut Street; thence easterly along centerline of Walnut Street to the centerline of Pine Street; thence southerly along the extended centerline of Pine Street to the east-west one-quarter line of Section 35; thence easterly along the east-west one-quarter line to the east one-sixteenth line of Section 35; thence southerly along the east one-sixteenth line to the south one-sixteenth line of Section 35; thence westerly along the south one-sixteenth line to the centerline of Ensley Street; thence northeasterly along the centerline of Ensley Street to the north-south one-quarter line of Section 35; thence northerly along the north-south one-quarter line to the centerline of Elm Street; thence easterly along centerline of Elm Street to the centerline of Cass Street; thence northeasterly along the centerline of Cass Street to the centerline of Shaw Street; thence westerly along the centerline of Shaw Street to the centerline of Muenster Street; thence southerly along the centerline of Muenster Street to the extended south line of Block 0 of the Second Addition to the plat of the Village as recorded in Liber 1 of Plats, Page 4, County records; thence westerly along the extended south line and south line of Block 0 to the centerline of Alder Street; thence northerly along the centerline of Alder Street to the extended south line of Block N of the Section Addition; thence westerly along the extended south line and the south line of Block N to the centerline of Hemlock Street; thence northerly along the centerline of Hemlock Street to the extended south line of the north 200 feet of Block M of the Second Addition; thence westerly along the extended south line and the south line of the north 200 feet of Block M to the centerline of Mulberry Street; thence southerly along the centerline of Mulberry Street to the extended south line of Block L of the Second Addition; thence westerly along the extended south line and the south line of Block L to the west line of Section 35; thence northerly along the west line of Section 35 to a point that is 300 feet south of the northwest corner of Section 35 and being also the northeast corner of Section 34; thence westerly along the south line of the north 300 feet of the northeast one-quarter of the northeast one-quarter of Section 34 to the west line of the northeast one-quarter of the northeast one-quarter of Section 34; thence

northerly along the west line to the north line of Section 34; thence easterly along the north line to the point of beginning, subject to amendments as may occur pursuant to this section, and Act 197.
(Prior Code, Section 20.005) (Ord. 96-15, passed 11-25-1996; Ord. 97-2, passed 2-10-1997)

SECTION 30.06 BOARD OF DIRECTORS.

(A) The Authority shall be under the supervision and control of a Board, consisting of the President and ten members. The members shall be appointed by the President subject to approval of the Council.

(B) Eligibility for membership of the Board and terms of office shall be as provided by Act 197. All members shall hold office until the member's successor is appointed.
(Prior Code, Section 20.006) (Ord. 96-15, passed 11-25-1996)

SECTION 30.07 POWERS OF AUTHORITY.

The Authority shall possess all of the powers necessary to carry out the purposes of its incorporation and shall have all powers provided by Act 197.
(Prior Code, Section 20.007) (Ord. 96-15, passed 11-25-1996)

SECTION 30.08 FISCAL YEAR; ADOPTION OF BUDGET; REPORTS; AUDITS.

(A) The fiscal year of the Authority shall begin on March 1 of each year and end on February 29 of the following year, or other fiscal year as may be established by the Village.

(B) The Board shall annually prepare a budget and shall submit it to the Village for consideration by the Village Council.

(1) The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the Village Council.

(2) The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(C) The Authority shall be audited annually by the same independent auditors auditing the Village, and copies of the audit report shall be filed with the Council.
(Prior Code, Section 20.008) (Ord. 96-15, passed 11-25-1996)

SECTION 30.09 TERMINATION.

Upon completion of its purposes, the Authority may be dissolved by an ordinance duly adopted by the Council. The property and assets of the Authority, after dissolution and satisfaction of its obligations, shall revert to the Village.

(Prior Code, Section 20.009) (Ord. 96-15, passed 11-25-1996)

DOWNTOWN DEVELOPMENT AND TAX INCREMENT FINANCING PLAN**SECTION 30.35 TITLE.**

This subchapter shall be known and cited as the "Village of Howard City Downtown Development and Tax Increment Financing Plan Ordinance".

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.36 FINDINGS.

It is hereby determined that:

(A) Public hearings were held on the proposed Downtown Development and Tax Increment Financing Plan (herein the "Plan") on August 11, 1997 and March 13, 2000, following the notice and disclosure requirements of Public Act 197 of 1975, being MCL 125.1651 through 125.1680, as amended (the "Act of 197");

(B) The Plan meets the requirements set forth in Section 17(2) of the Act of 197, being MCL 125.1667, as amended and the tax increment financing plan included in the Plan meets the requirements set forth in Section 14 of the Act of 197, being MCL 125.1664, as amended;

(C) The proposed method of financing the development as set forth in the Plan is feasible and the Downtown Development Authority of the Village (the "Authority") has the ability to arrange the financing;

(D) The development is reasonable and necessary to carry out the purposes of the Act of 197;

(E) Any land included within the development area, which includes the entire Downtown Development District (the "development area") to be acquired is reasonably necessary to carry out the purposes of the Act of 197;

(F) The development plan is in reasonable accord with the master plan of the Village;

(G) Public services, such as fire and police protection and utilities, are or will be adequate to service the development area;

(H) Changes in zoning, streets, street levels, intersections and utilities, to the extent required by the Plan, are reasonably necessary for the development project and for the Village; and

(I) The Village Council hereby determines that the Plan constitutes a public purpose.
(Ord. 2000-4, passed 3-13-2000)

SECTION 30.37 APPROVAL AND ADOPTION OF THE PLAN.

The Plan is hereby approved and adopted as provided herein. The duration of the Plan shall be until December 31, 2022, except as it may be modified by subsequent amendment of the Plan pursuant to the Act of 197.

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.38 AVAILABILITY OF PLAN.

A copy of the Plan and all amendments thereto shall be maintained on file in the Village Clerk/Treasurer's office.

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.39 PREPARATION OF BASE YEAR ASSESSMENT ROLL.

(A) The base year assessment roll shall list each taxing jurisdiction in the development area on the effective date of this subchapter, the initial assessed value of each parcel of property within the development area, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem and personal property taxes on the property in the development area.

(B) The Village Clerk/Treasurer shall transmit copies of the base year assessment roll to the Village Treasurer, Township Treasurer, County Treasurer, the Authority and any other taxing jurisdiction subject to capture, together with a notice that the base year assessment roll has been prepared in accordance with this subchapter and the tax increment financing plan contained in the Plan approved by this subchapter.

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.40 PREPARATION OF THE ANNUAL TAX INCREMENT ASSESSMENT ROLL.

(A) Each year within 15 days following the final equalization of property in the development area, the Clerk/Treasurer, working together with the Township Assessor and with information provided by the Township Assessor, shall prepare the tax increment assessment roll.

(B) The tax increment assessment roll shall show the information required in the base year assessment roll and, in addition, the amount by which the current assessed value as finally equalized for all taxable property in the development area exceeds the assessed value of the property as shown on the base year assessment roll (the "captured assessed value").

(C) Copies of the annual tax increment assessment roll shall be transmitted by the Village Clerk/Treasurer to the same persons as the base year assessment roll, together with a notice that it has been prepared in accordance with this subchapter, and the Plan.

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.41 ESTABLISHMENT OF PROJECT FUND; APPROVAL OF DEPOSITORY.

The Secretary/Treasurer of the Authority shall establish a separate fund that shall be kept in a depository bank account or accounts in a bank or banks approved by the Village Treasurer, to be designated Downtown Development Authority Project Fund. To the extent permitted by law, all monies received by the Authority pursuant to the Plan shall be deposited in the Project Fund. All monies in the Project Fund and earnings thereon shall be used only in accordance with the Plan.

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.42 PAYMENT OF TAX INCREMENTS TO THE AUTHORITY.

The Village Treasurer, the Township Treasurer and the County Treasurer shall, as ad valorem and personal property taxes are collected on the property in the Downtown District, pay that portion of the taxes, except for penalties and collection fees, that the captured assessed value (as defined in the Act of 197) bears to the initial assessed value (as defined in the Act) to the Secretary/Treasurer of the Authority for deposit in the Project Fund, excluding therefrom the taxes denied from debt millage. The payments shall be made on the date or dates on which the Village Treasurer, Township Treasurer and the County Treasurer are required to remit taxes to each of the applicable taxing jurisdictions.

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.43 USE OF MONIES IN THE PROJECT FUND.

The monies credited to the Project Fund and on hand therein from time to time shall be used annually in the following manner and following order of priority:

(A) First, to pay to the Village for its payment of debt services on, or to pay into debt retirement fund or funds for all outstanding series of bonds issued pursuant to the Plan or any other series of bonds or obligations pledging or committing the use of tax increment revenues of the Authority as a source of debt service payments, an amount equal to the interest and principal coming due (in the case of principal whether by maturity or mandatory redemption) prior to the next collection of taxes, less any credit for sums on hand in the debt retirement fund;

(B) Second, to establish a reserve account for payment of principal of and interest on bonds issued pursuant to the Plan to the extent required by any resolution authorizing the bonds;

(C) Third, to pay the administrative, auditing and operating costs of the Authority and the Village pertaining to the Plan, and the development area, including planning and promotion to the extent provided in the annual budget of the Authority;

(D) Fourth, to repay amounts advanced by the Village for project costs, including costs for preliminary plans, and fees for other professional services;

(E) Fifth, to pay, to the extent determined desirable by the Authority and approved by the Village, the cost of completing and remaining public improvements as set forth in the Plan, to the extent those costs are not financed from other sources; and

(F) Sixth, to pay the cost of any additional improvements to the Plan that are determined necessary by the Authority and approved by the Village Council in accordance with the Act of 197.
(Ord. 2000-4, passed 3-13-2000)

SECTION 30.44 RESPONSIBILITY FOR EXPENDITURES THAT EXCEED PROJECT FUND.

In the event the Village issues obligations on behalf of the Authority, and the Village is required in any fiscal year to pay out of its General Fund any portion of the debt service on such an obligation, the Authority shall be required to fully reimburse the Village from its available funds (but only after the set aside for debt service for any fiscal year has been met), including, but not limited to, tax revenues derived from assessed value captured under tax increment financing or other revenue sources of the Authority.

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.45 ANNUAL REPORT.

(A) After the end of each fiscal year, the Authority shall submit to the Village Council, with copies to each taxing jurisdiction, a report on the status of the Project Fund.

(B) The report shall include the amount and source of revenue in the account, the amount and purpose of expenditures from the account, the amount of principal and interest on any outstanding indebtedness, the amount in any bond reserve account, the initial assessed value of the Downtown Development District, the captured assessed value of the Downtown Development District and the amount of captured assessed value retained by the Authority, the tax increments received and the amount of any surplus from the prior year, and any additional information requested by the Village Council or deemed appropriate by the Authority.

(Ord. 2000-4, passed 3-13-2000)

SECTION 30.46 REFUND OF SURPLUS TAX INCREMENTS.

Any surplus money in the Project Fund after the Plan is no longer in effect shall be paid by the Authority to the Village Treasurer, Township Treasurer or County Treasurer and rebated by each to the appropriate taxing jurisdiction.

(Ord. 2000-4, passed 3-13-2000)

CHAPTER 31: MUNICIPAL CIVIL INFRACTIONS

Section

- 31.01 Definitions
- 31.02 Commencement of a municipal civil infraction action
- 31.03 Municipal Ordinance Violations Bureau
- 31.04 Location, employees
- 31.05 Disposition of violations
- 31.06 Bureau limited to accepting admissions of responsibility
- 31.07 Municipal civil infraction violation notices
- 31.08 Schedule of fines
- 31.09 Procedure where admission of responsibility not made or fine is not paid
- 31.10 Authorized officials

- 31.99 Penalty

Cross-reference:

Authorized Village officials; municipal civil infraction citations, see Section 32.01

SECTION 31.01 DEFINITIONS.

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

ACT. Public Act 236 of 1961, as amended being MCL 600.101 to 600.9948.

AUTHORIZED VILLAGE OFFICIAL. A Village official or employee authorized by resolution or ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

BUREAU. The Village of Howard City Municipal Ordinance Violations Bureau, as established by this Chapter.

MUNICIPAL CIVIL INFRACTION. An act or omission that is prohibited by any ordinance of the Village, but which is not a crime under an ordinance of the Village, and for which civil sanctions including, without limitations, fines, damages, expenses and costs may be ordered.

MUNICIPAL CIVIL INFRACTION ACTION. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or notice prepared by an authorized Village official, directing a person, firm, corporation, trust, partnership or other legal entity to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the persons cited.

MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE. A written notice prepared by an authorized Village official, directing a person, firm, corporation, trust, partnership or other legal entity to appear at the Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the Village, as authorized under MCL 600.8396 and 600.8707(6).

SUBSEQUENT VIOLATION. A repeat municipal civil infraction violation of the same requirement or provision of an ordinance committed by a person, firm, corporation, trust, partnership or other legal entity and for which the person admits responsibility or its determined to be responsible.
(Prior Code, Section 3.001) (Ord. 96-25, passed 12-9-1996)

SECTION 31.02 COMMENCEMENT OF A MUNICIPAL CIVIL INFRACTION ACTION.

(A) A municipal civil infraction action may be commenced upon the issuance, by an authorized Village official, of a municipal civil infraction citation, directing the alleged violator to appear in court; or a municipal civil infraction violation notice directing the alleged violator to appear at the Bureau.

(B) If an admission of responsibility is not made and the civil fine and costs prescribed by the ordinance for the violation are not paid at the Bureau, a citation may be filed with the court and a copy of the citation may be served by first class mail upon the alleged violator at his or her last known address.

(Prior Code, Section 3.002) (Ord. 96-25, passed 12-9-1996)

SECTION 31.03 MUNICIPAL ORDINANCE VIOLATIONS BUREAU.

(A) The Bureau is hereby established to accept admissions of responsibility for municipal civil infractions and to collect and retain civil fines and costs as prescribed.

(B) The Bureau shall be under the supervision and control of the Village Clerk/Treasurer.
(Prior Code, Section 3.003) (Ord. 96-25, passed 12-9-1996)

SECTION 31.04 LOCATION, EMPLOYEES.

The Village Clerk/Treasurer shall, subject to the approval of the Village Council, establish a convenient location for the Bureau, administer the Bureau and adopt rates and regulations for its operation.

(Prior Code, Section 3.004) (Ord. 96-25, passed 12-9-1996)

SECTION 31.05 DISPOSITION OF VIOLATIONS.

(A) The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice has been issued.

(B) The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau.

(C) Nothing in this Chapter shall prevent or restrict the Village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction.

(D) No person shall be required to dispose of a municipal civil infraction violation at the Bureau and may have the violation processed before a court of competent jurisdiction.

(E) The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice a person or in any way diminish the person's rights, privileges and protection accorded to that person by law.

(Prior Code, Section 3.005) (Ord. 96-25, passed 12-9-1996)

SECTION 31.06 BUREAU LIMITED TO ACCEPTING ADMISSIONS OF RESPONSIBILITY.

(A) The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions.

(B) The Bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation and in no event shall the Bureau determine, or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.

(Prior Code, Section 3.006) (Ord. 96-25, passed 12-9-1996)

SECTION 31.07 MUNICIPAL CIVIL INFRACTION VIOLATION NOTICES.

Municipal civil infraction violation notices shall specify the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(Prior Code, Section 3.007) (Ord. 96-25, passed 12-9-1996)

SECTION 31.08 SCHEDULE OF FINES.

(A) A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the violations listed below shall be as follows.

<i>Code Section</i>	<i>Fine for First Violation</i>	<i>Fine for Second Violation</i>	<i>Fine for Third or any Subsequent Violation</i>
Sections 52.25-52.33	\$50	\$150	\$500
Chapter 75	\$250	\$500	\$750
Sections 90.45-90.47	\$50	\$150	\$500
Sections 91.15, 91.16	\$50	\$150	\$500
Sections 93.01-93.08	\$50	\$150	\$500
Sections 94.20, 94.21	\$50	\$150	\$500
Section 94.56	\$50	\$150	\$500
Chapter 111	\$50	\$150	\$500
Sections 150.30- 150.36	\$50	\$150	\$500
Chapter 151	\$50	\$150	\$500
Chapter 152	\$50	\$150	\$500

(B) Copies of the schedule of fines shall be posted as required by law.
(Prior Code, Section 3.008) (Ord. 96-25, passed 12-9-1996; Ord. 2001-6, passed 9-24-2001; Ord. 2005-9, passed 11-7-2005)

SECTION 31.09 PROCEDURE WHERE ADMISSION OF RESPONSIBILITY NOT MADE OR FINE IS NOT PAID.

If an alleged violator who is served with a municipal civil infraction violation notice does not appear at the Bureau, admit responsibility and pay the civil fine and costs prescribed by the schedule of fines for the violation within the time specified in the notice, a municipal civil infraction may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation need not comply with all form and content requirements of MCL 600.8705 and 600.8709, as amended, but shall consist of a sworn complaint

containing the allegations stated in the municipal civil infractions violation notice and shall fairly inform the alleged violator how to respond to the citation.

(Prior Code, Section 3.009) (Ord. 96-25, passed 12-9-1996)

SECTION 31.10 AUTHORIZED OFFICIALS.

The Village President, Village Manager, Clerk, Treasurer, Authorized Village Representative, Fire Chief, Building Official, Zoning Administrator, Code Enforcement Officer and Superintendent of the Department of Public Works are hereby designated as the Village officials authorized to issue municipal civil infraction citations and municipal civil infraction violation notices as provided for by Village ordinance.

(Prior Code, Section 4.001) (Ord. 96-30, passed 12-9-1996; Ord. 99-3, passed 9-13-1999; Ord. 2020-3, passed 12-14-2020)

SECTION 31.99 PENALTY.

(A) Unless another penalty is specifically provided, any person, firm, corporation, trust, partnership or other legal entity determined responsible for a municipal civil infraction shall be subject to the penalty set forth in Section 10.99.

(B) In addition to the penalties provided by this section and Section 10.99, the district court shall have jurisdiction to enforce any judgement, writ or order necessary to enforce any provision of a Village ordinance, the violation of which is a municipal civil infraction, including, but not limited to, abatement of the violating condition or granting any injunctive relief. In addition, the court may impose the total amount of the civil fine, costs or both as a lien upon the property where the violation occurred.
(Prior Code, Section 3.010) (Ord. 96-25, passed 12-9-1996)

CHAPTER 32: OFFICIALS AND EMPLOYEES

Section

Village Manager

- 32.01 Establishment of office
- 32.02 Appointment of Village Manager
- 32.03 Acting Manager
- 32.04 Compensation
- 32.05 Duties
- 32.06 Purchasing responsibilities
- 32.07 Dealing with employees

Pay and Benefits

- 32.10 Village Trustee benefits
- 32.11 Village President benefits
- 32.12 Other payments

Village Employees Seeking Elective Office

- 32.20 Policy with respect to Village employees seeking elective office

VILLAGE MANAGER

SECTION 32.01 ESTABLISHMENT OF OFFICE.

In accordance with the authority granted to the Village Council for the appointment of Village officers as deemed necessary for the execution of the powers granted to the Village pursuant to Public Act 3 of 1895, as amended being MCL 61.1 - 75.12, which is the Charter of the Village, there is hereby established the administrative office of Village Manager.
(Ord. 2005-5, passed 5-23-2005)

SECTION 32.02 APPOINTMENT OF VILLAGE MANAGER.

- (A) The President shall, with the concurrence of four or more Trustees, appoint a Village Manager.

(B) The Council may by contract enter into other terms and conditions as the Manager and Council deem appropriate consistent with State law.

(C) The Manager shall serve at the pleasure of the Council and may be removed without cause by the affirmative vote of four or more Trustees following an opportunity for a hearing before the Council. At the hearing, formal procedural and evidentiary rules need not be followed by 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.
(Ord. 2005-5, passed 5-23-2005)

SECTION 32.03 ACTING MANAGER.

The President shall fill the vacancy of the office of Village Manager until such time as the Council acts to fill the vacancy.
(Ord. 2005-5, passed 5-23-2005; Ord. 2012-1, passed 3-12-2012; Ord. 2012-4, passed 9-10-2012)

SECTION 32.04 COMPENSATION.

The Village Manager shall receive compensation as the Council shall determine by resolution or contract.
(Ord. 2005-5, passed 5-23-2005)

SECTION 32.05 DUTIES.

(A) The Village Manager shall be the chief administrative officer of the Village, and shall exercise management supervision over all departments and over all the Village's property.

(B) The Manager shall have the following functions and duties:

(1) Attend all meetings of the Village Council and its committees with the right to participate but not vote;

(2) Perform the following roles for the Village:

(a) Act as the Zoning Administrator and be responsible for preparing all agenda and related materials for Planning Commission and Zoning Board of Appeals meetings;

(b) Act as the Chief Ordinance and Code Enforcement Administrator for the Village; provided, however, that this delegation of authority shall not authorize the Village to usurp the authority of the County and its officers to enforce those codes and ordinances for which the County is responsible under State law;

(c) Act as the Executive Administrator for the Village Downtown Development Authority and be responsible for preparing all agenda and related materials for Downtown Development Authority Board meetings;

(d) Serve as the Administrator in charge of the Village's departments including, but not limited to, police, fire and municipal services and coordinate and oversee compliance with State legal requirements; and

(e) Act as the Street Administrator for the Village and make appearances before the Village Council, Planning Commission and Zoning Board of Appeals as necessary.

(3) Be responsible for human resource management and enforce personnel rules adopted by the Village Council. The Manager shall have the following responsibilities:

(a) To appoint, suspend or remove appointed administrative officers and department heads as authorized by, and subject to the approval of, the Council. The Manager shall recommend to the Employee Relations Committee of the Council proposed salaries and wages for appointed administrative officers and department heads; and

(b) To appoint, suspend or remove all employees of the Village other than those identified in division (B)(3)(a) above. All those actions shall be taken in compliance with personnel rules or policies adopted by the Council. The Manager shall recommend to the Employee Relations Committee of the Council proposed salaries and wages for all employees of the Village other than those identified in division (B)(3)(a) above.

(4) Be responsible for directing the Authorized Village Representative, Director of the Department of Municipal Services and Chief of the Fire Department;

(5) Exercise supervisory responsibility over the accounting, budgeting, personnel, purchasing and related management functions of the Village Clerk/Treasurer;

(6) Attend all meetings of Village boards and commissions, including the Village Planning Commission, Zoning Board of Appeals and Downtown Development Authority, with the right to participate but not vote;

(7) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, Public Act 2 of 1963 being MCL 14.421 - 14.440a;

(8) Act as the Purchasing Agent of the Village;

(9) 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;

(10) Investigate all complaints concerning the administration of the Village, and shall have authority at all times to inspect the books, records and papers of any agent, employee or officer of the Village;

(11) Make recommendations to the Council for the adoption of measures as deemed necessary or expedient for the improvement or betterment of the Village; and

(12) Perform other duties as directed by the Village Council from time to time.
(Ord. 2005-5, passed 5-23-2005)

SECTION 32.06 PURCHASING RESPONSIBILITIES.

(A) The Village Manager shall act as Purchasing Agent for all Village offices and departments.

(B) The Manager may delegate some or all the duties as Purchasing Agent to another officer or employee provided that the delegation shall not relieve the Manager of the responsibility for the proper conduct of those duties.

(C) The Village Manager shall have the authority to purchase any product or service as authorized by, and in accordance with, any adopted Village purchasing ordinance.

(D) The Village Manager shall have the authority to purchase any product or service regardless of its cost when the purchase is necessitated by an emergency condition.

(E) ***EMERGENCY CONDITION*** means any event that presents an imminent threat to the public health or safety or any event that would result in the disruption of a Village service that is essential to the public health or safety.

(Ord. 2005-5, passed 5-23-2005)

SECTION 32.07 DEALING WITH EMPLOYEES.

(A) No member of the Council 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.

(B) Except for purpose of inquiry, members of the Council shall deal with employees and departments under the jurisdiction of the Village Manager through the Manager.

(Ord. 2005-5, passed 5-23-2005)

PAY AND BENEFITS

SECTION 32.10 VILLAGE TRUSTEE BENEFITS.

(A) Each Trustee shall receive an annual stipend to be set by the Council.

(B) Each Trustee shall receive a payment per meeting of the Village Council.

(C) Trustees shall be paid in a single annual installment at the conclusion of the final meeting of the fiscal year of the Village.
(Ord. 2006-6, passed 8-14-2006)

SECTION 32.11 VILLAGE PRESIDENT BENEFITS.

(A) The President shall receive an annual stipend to be set by the Council.

(B) The President shall receive a payment per meeting of the Village Council.

(C) The President shall be paid on a monthly basis.

(D) The President shall participate in the Village's retirement program.

(E) The President may participate in the Village's insurance programs at his or her sole expense.
(Ord. 2006-6, passed 8-14-2006)

SECTION 32.12 OTHER PAYMENTS.

Village Trustees and the Village President shall only receive other compensation for services performed for the Village as authorized by law.
(Ord. 2006-6, passed 8-14-2006)

VILLAGE EMPLOYEES SEEKING ELECTIVE OFFICE

SECTION 32.20 POLICY WITH RESPECT TO VILLAGE EMPLOYEES SEEKING ELECTIVE OFFICE.

Pursuant to Act No. 169 of the Public Acts of 1976, as amended (the "Act"), the Village hereby adopts the following policy with regard to political activities by Village employees:

(A) An employee of the Village may become a candidate for nomination and election to any State elective office, or any district, county, city, village, township, school district, or other local elective office without first obtaining a leave of absence from his or her employment. If the person becomes a candidate for elective office within the Village, the Village shall require the person to request and take a leave of absence without pay when he or she complies with the candidacy filing requirements, or 60 days before any election relating to the relevant position, whichever date is closer to the election.

(B) An employee of the Village may engage in other political activities on behalf of a candidate or issue in connection with partisan or nonpartisan elections.

(C) An employee of the Village who is elected to a Village office shall resign unless granted a leave of absence from his or her employment with the Village during his or her elected term.

(D) Political activities as provided for herein shall not be actively engaged in by an employee during the hours when that person is being compensated for the performance of that person's duties as a public employee.

(Res. 2016-5, passed 8-15-2016)

CHAPTER 33: PURCHASING, CONTRACTING AND SELLING PROCEDURE

Section

- 33.01 Purchasing agent
- 33.02 Purchases or contracts under \$1,000 and between \$1,000 and \$5,000
- 33.03 Purchases or contracts over \$5,000
- 33.04 Exceptions to competitive bidding
- 33.05 Sale of property
- 33.06 Real property
- 33.07 Procurement policy

SECTION 33.01 PURCHASING AGENT.

The Village Manager shall act as Purchasing Agent of the Village, unless another officer or employee shall be designated to act as a Purchasing Agent by the Manager in writing filed with the Clerk/Treasurer. The Purchasing Agent, with the approval of the Council, may promulgate lawful policies regarding purchases.

(Prior Code, Section 2.001) (Ord. passed 6-6-1961; Ord. 94-0, passed 1-10-1994)

SECTION 33.02 PURCHASES OR CONTRACTS UNDER \$1,000 AND BETWEEN \$1,000 AND \$5,000.

(A) Purchases of supplies, materials or equipment the cost of which is less than \$500, may be made in the open market by the Purchasing Agent provided funds have been appropriated for the purchase and the cost does not exceed the unencumbered balance appropriated thereto.

(B) Purchases of supplies, materials or equipment, with a cost of up to \$2,500 may be made in the open market by the Village Manager. Over \$2,500 purchases shall, except when the Council determines that no advantage to the Village would result, be based on at least three competitive bids and be awarded to the lowest responsible bidder meeting specifications.

(1) The Purchasing Agent may solicit bids verbally or may contact prospective bidders by written communication.

(2) A record shall be kept of all open market orders and the bids submitted which records shall be available for public inspection. Any or all bids may be rejected at the discretion of the Council.
(Prior Code, Section 2.002) (Ord. passed 6-6-1961; Ord. 94-0, passed 1-10-1994; Ord. 2017-1, passed 2-20-2017)

SECTION 33.03 PURCHASES OR CONTRACTS OVER \$5,000.

Any expenditure for supplies, materials, equipment or construction projects, or any other contract obligating the Village, where the amount of the Village's obligation is in excess of \$5,000, shall be made after receipt of sealed competitive bids, in accordance with the provisions of the section.

(A) The expenditures shall be made the subject of a written contract. A purchase order shall be a sufficient written contract only where the expenditure is in the usual and ordinary course of the Village's business and in no case shall it be sufficient for the construction of public works, contracting for supplies or services over a period of time or where the quality of the goods or materials or the scope of the services bargained for is not wholly standardized.

(B) Notice inviting sealed competitive bids shall be published in a newspaper of general circulation in the Village or posted in three separate places in the Village, at least five days before the final date for submitting bids. The notice shall concisely state the specifications of the supplies, materials, equipment or construction projects or other matter being contracted for, and state the amount of bond or other security, if any, required. The notice shall state the time limit, place of filing and time of opening bids and shall also state that the Village's right to reject any or all bids is reserved.

(C) The Purchasing Agent shall also solicit bids from a reasonable number of qualified prospective bidders as are known to him or her by sending each a copy of the notice requesting bids.

(D) The Council shall prescribe the amount of any security to be deposited with any bid which deposit shall be in the form of cash, letter of credit, certified or cashier's check or bond written by a surety company authorized to do business in the State. The amount of the security shall be expressed in terms of percentage of the bid submitted. The Council shall also fix the amount of the performance bond and in case of construction contracts, the amount of the labor and material bond required of the successful bidders.

(E) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the President and the Clerk/Treasurer. The bids shall be examined, tabulated and reported to the Council with the recommendation of the Purchasing Agent.

(F) When the bids are submitted to the Council, the contract to be executed shall also be submitted to the Council. If the Council finds any of the bids to be satisfactory, it shall award the contract to the lowest responsible bidder, unless it determines that the public interest will be better served by accepting a higher bid, and shall authorize execution of the contract upon execution of the contract by the successful bidder and the filing of any required bonds. The award may be by resolution or ordinance. The Council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.

(G) As required by law and with respect to all other contracts at the discretion of the Village Council, the contractor, at the time a contract is executed shall file a bond executed by a surety company authorized to do business in the State to the Village conditioned upon the performance of the contract

and saving the Village harmless from all losses or damages caused by reason of any carelessness or negligence by the contractor or its agents and from all expense of inspections, engineering and otherwise, caused by delay in the completion of any improvement and further conditions to pay all laborers, mechanics, subcontractors and material men as well as all just debts, dues and demands incurred in the performance of the contract. The bonds in the case of contracts less than \$50,000 shall be in an amount as determined by the Village Council.

(H) All bids, deposits of cash, letters of credit or certified or cashier's checks may be retained until a contract is awarded and signed. If any successful bidder fails or refuses to enter into a contract within five days after the same has been awarded, or file any bond required within the same time, the deposit accompanying the bid shall be forfeited to the Village and the Council may, in its discretion, award the contract to the next low responsible bidder unless the Council determines that the public interest will be better served by accepting a higher bid, or the contract may be re-advertised.
(Prior Code, Section 2.003) (Ord. passed 6-6-1961; Ord. 94-0, passed 1-10-1994)

SECTION 33.04 EXCEPTIONS TO COMPETITIVE BIDDING.

Subject to prior approval of the Council, competitive bidding shall not be required in the following cases:

(A) Where the product or material contracted for is not competitive in nature, and the Purchasing Agent so certifies to the Council in writing;

(B) In the employment of professional services;

(C) Where the Council shall determine that the public interest will be best served by joint purchase with, or purchase from, another unit of government; and

(D) For emergency repairs and services.

(Prior Code, Section 2.004) (Ord. passed 6-6-1961; Ord. 94-0, passed 1-10-1994)

SECTION 33.05 SALE OF PROPERTY.

Whenever any personal property belonging to the Village is no longer needed for corporate or public purposes, the same may be offered for sale on approval by the Council. Personal property not exceeding \$1,000 in value may be sold for cash by the Purchasing Agent upon approval of the President, after receiving quotations or competitive bids therefor for the best price obtainable. Personal property with a value in excess of \$1,000 may be sold after receiving quotations or competitive bids, as provided in Section 33.03, and after approval of the sale by the Council. In the purchase of automotive equipment, bidders may include in their bid a trade-in allowance for old equipment and the equipment may be disposed of in trade without further bidding requirements.

(Prior Code, Section 2.005) (Ord. passed 6-6-1961; Ord. 94-0, passed 1-10-1994)

SECTION 33.06 REAL PROPERTY.

Real property may, consistent with State law, be purchased, sold or leased upon the affirmative majority vote of the members elect of the Council. Where the Council determines that it would be in the best interest of the Village to do so, it may mandate that a particular parcel of real property only be sold after competitive bidding consistent with Section 33.03.

(Prior Code, Section 2.006) (Ord. passed 6-6-1961; Ord. 94-0, passed 1-10-1994; Ord. 98-6, passed 11-9-1998)

SECTION 33.07 PROCUREMENT POLICY.

The Village hereby adopts the procurement policy attached to Res. 2019-4, passed 4-15-2019, which is incorporated by reference as if laid out in full herein.

(Res. 2019-4, passed 4-15-2019)

CHAPTER 34: SPECIAL ASSESSMENTS

Section

- 34.01 Definitions
- 34.02 Special assessments authorized
- 34.03 Initiation of proceedings; investigation and report
- 34.04 Public hearing
- 34.05 Resolution of approval
- 34.06 Filing of roll and report; fixing and notice of meeting of review
- 34.07 Meeting of review
- 34.08 Special assessments to constitute a lien
- 34.09 Statements of assessment
- 34.10 Time for payment
- 34.11 Collection of assessments
- 34.12 Payment after due date
- 34.13 Payment in quarterly installments
- 34.14 Certification of costs to Council
- 34.15 Insufficient assessments
- 34.16 Excess assessments
- 34.17 Apportionment of assessments on divided lots
- 34.18 Invalid assessments
- 34.19 Judgment in spite of improper assessments

SECTION 34.01 DEFINITIONS.

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

COST. When referring to the cost of any public improvement, includes the cost and expense of services, plans, condemnation, the spreading of rolls, notices, advertising, financing, construction, engineering and legal fees and all other costs therefor and the financing thereof.

PUBLIC IMPROVEMENT. A public or otherwise lawful improvement which is of a nature so as to specially benefit the real property to be assessed.
(Ord. 99-4, passed 9-13-1999)

SECTION 34.02 SPECIAL ASSESSMENTS AUTHORIZED.

The entire cost or any part thereof of all public improvements may be defrayed by special assessment upon the properties specially benefitted in the manner provided in this Chapter.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.03 INITIATION OF PROCEEDINGS; INVESTIGATION AND REPORT.

(A) Proceedings for making public improvements and defraying the entire cost or any part thereof by special assessment shall be initiated by resolution of the Village Council.

(B) For the purpose of determining whether a sufficient number of property owners are interested in a public improvement, the Council may require petitions from the owners of property in the proposed special assessment district.

(C) Whenever the Council determines to make any public improvement and defray the entire cost or any part thereof by special assessment, it shall by resolution direct the Village Manager to make an investigation of the proposed public improvement and report his or her findings to the Council.

(D) The report shall include the following:

(1) The estimated cost of the proposed public improvement;

(2) Plans and specifications for the public improvement; and

(3) Recommendations as to the following:

(a) The portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the Village at large;

(b) The extent of the improvement and boundaries of the district; and

(c) Any other facts or recommendations that will aid the Council in determining whether the improvement shall be made and how the same shall be financed.

(E) As a precondition to directing the Village Manager to prepare the report called for in this section, the Council may require the property owners in the proposed special assessment district to pay the Village an amount sufficient to cover the cost of the report.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.04 PUBLIC HEARING.

Upon receipt of the report of the Manager and prior to passing a resolution determining to proceed with establishing any special assessment district for the making of any public improvements, the Council shall hold a public hearing on the advisability of proceeding with the public improvement. Notice of the meeting shall be given in the manner provided by law, but not less than by publication given twice, the first publication occurring at least ten days prior to the time of the hearing, in a newspaper in general circulation in the Village. In addition, notice of the hearing shall be mailed by first class mail to each property owner or party in interest in the special assessment district, as shown by the applicable current assessment rolls, at least ten days prior to the time of the hearing, the notice to be mailed to the addresses shown on the applicable current assessment rolls.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.05 RESOLUTION OF APPROVAL.

Following the hearing referenced in Section 34.04, the Council may, by resolution, approve the report prepared by the Manager and the plans and specifications and estimates of cost for the public improvement. In addition, by the resolution, Council may determine to proceed with the public improvement, determine the necessity and set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, determine the part or proportion of the cost of the public improvement to be paid by the properties specially benefitted thereby and the part or proportion, if any, to be paid by the Village at large. If the improvement is to be an improvement to the water supply system of the Village, the portion representing benefit to the Village at large shall be paid from the water supply system. If the improvement is to the sanitary sewer system of the Village, the portion representing benefit to the Village at large shall be paid by the sanitary sewer system. In the resolution, Council may also determine the number of installments in which the special assessment may be paid, the rate of interest, not exceeding 8% per annum, to be charged on unpaid installments, whether any portion is to be deferred, and direct the Village Manager to make a special assessment roll of the part or proportion of the cost to be borne by the properties specially benefitted according to the benefits received and to report the same to Council.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.06 FILING OF ROLL AND REPORT; FIXING AND NOTICE OF MEETING OF REVIEW.

When the special assessment roll has been reported to Council, it shall order the same filed in the office of the Village Clerk/Treasurer for public examination along with the report of the Manager required in Section 34.03 and shall fix a date, time and place when a public hearing shall be held and the Council shall meet and review the special assessment roll. As directed by the Council, the Manager shall give notice of the hearing concerning the review and confirmation of the special assessment roll, in the manner provided by law, but not less than in accordance with the procedures set forth in Section 34.04.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.07 MEETING OF REVIEW.

(A) The Council shall meet and review the special assessment roll at the time and place appointed or at an adjourned hearing thereof and shall consider any objections thereto. Council may correct the roll as to any assessment or description of any lot or parcel of land or other error appearing therein. Any changes made shall be noted in Council's minutes. After the hearing and review, Council may confirm the special assessment roll with corrections as it may have made, if any, or may refer it back to the Village Manager for revision, or may annul it or any proceedings in connection therewith. No special assessment roll shall be finally confirmed, except by the affirmative vote of two-thirds of Council or as otherwise permitted by law.

(B) The Manager shall endorse the date of confirmation upon each special assessment roll. The roll shall be, upon confirmation, final and conclusive.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.08 SPECIAL ASSESSMENTS TO CONSTITUTE A LIEN.

(A) All special assessments contained in any special assessment roll, including any part thereof to be paid in installments, shall from the date of confirmation of the roll constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land and a debt to the Village from the persons to whom they are assessed. The liens shall be of the same character and effect as the lien created for Village taxes and shall include accrued interest and fees.

(B) No judgment or decree nor act of the Council vacating a special assessment shall destroy or impair the lien of the Village upon the premises assessed for the amount of the assessment as may be equitably charged against the same or as by a regular mode of proceeding might be lawfully assessed thereon. All special assessments shall become due upon confirmation of the roll or in annual installments, not to exceed 20 in number, as the Council may determine at the time of confirmation.

(C) If the special assessment will be due in annual installments, the Council shall determine when the first installment shall be due as well as when subsequent installments shall fall due.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.09 STATEMENTS OF ASSESSMENT.

Whenever any special assessment roll is confirmed and payable, Council shall direct the Village Manager to transmit the roll to the Clerk/Treasurer for collection. The Clerk/Treasurer shall mail statements of the several assessments to the respective owners of the several lots and parcels of land assessed as indicated by the records of the Assessor, stating the amount of the assessment and the manner

in which it may be paid, provided that failure to mail the statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.
(Ord. 99-4, passed 9-13-1999)

SECTION 34.10 TIME FOR PAYMENT.

The whole or any part of any assessment may be paid without interest or penalty after the date of confirmation of the special assessment roll as determined by the Council.
(Ord. 99-4, passed 9-13-1999)

SECTION 34.11 COLLECTION OF ASSESSMENTS.

Each special assessment shall be collected by the Clerk/Treasurer with the same rights and remedies as provided in the Village Charter and State law for the collection of taxes, except as otherwise provided in this Chapter. After the due date determined by the Council, a collection fee of 4% of the amount of the assessment or installment due shall be added. All collection fees shall belong to the Village and be collectible in the same manner as the collection fee for Village taxes.
(Ord. 99-4, passed 9-13-1999)

SECTION 34.12 PAYMENT AFTER DUE DATE.

After the expiration of the period provided in Section 34.10 for payment without interest or fees, any installment may be discharged by paying the face amount thereof together with fees and interest thereon from the date of confirmation to the date of payment.
(Ord. 99-4, passed 9-13-1999)

SECTION 34.13 PAYMENT IN QUARTERLY INSTALLMENTS.

Council may, by resolution, upon confirmation of the assessment roll on or before the first meeting in January of any year, direct that a property owner may pay any installment due and payable during that year or any succeeding year in quarterly portions, the portions to fall due as Council may direct, and, in that case, the Clerk/Treasurer shall, not later than 20 days after the direction, notify each owner of the option to pay the installment in the manner provided. The failure to mail the notice shall not invalidate the assessment or entitle the owner to any extension of time within which to pay the assessment or any installment thereof. Interest on the installments shall be computed as if the entire amount were paid annually.
(Ord. 99-4, passed 9-13-1999)

SECTION 34.14 CERTIFICATION OF COSTS TO COUNCIL.

Upon completion of the improvement, the financing thereof and the payment of the cost thereof, the Village Manager shall certify to Council the total cost of the improvement, together with the amount of the original roll for the improvement.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.15 INSUFFICIENT ASSESSMENTS.

Should the assessments in any special assessment roll, including the amount assessed to the Village at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then Council may, unless otherwise prohibited by law, make additional assessments to supply the deficiency against the Village and the several lots and parcels of land in the same ratio as the original assessments, but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvements and, in any event, shall not exceed that amount as established by law.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.16 EXCESS ASSESSMENTS.

The excess by which any special assessment or the proceeds of sale of any special assessment bonds prove larger than the actual cost of the improvement and expenses incidental thereto shall be placed in the General Fund of the Village, provided that the overage does not exceed 5% of the assessment. In the event the assessment should prove larger than necessary by more than 5%, the entire excess shall be refunded on a pro rata basis to the owners of the property assessed as shown by the current applicable assessment roll. The refund shall be made by credit against future unpaid installments to the extent the installments then exist and the balance of the refund shall be made in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or part by the special assessment.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.17 APPORTIONMENT OF ASSESSMENTS ON DIVIDED LOTS.

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 amounts upon the several lots and lands so divided and shall enter the several amounts as amendments upon the special assessment roll. The Clerk/Treasurer shall, within ten days after the apportionment, send notice of that action to the persons concerned at their last known addresses by first class mail. The apportionment shall be final and conclusive on all parties unless protest in writing is received by the Clerk/Treasurer within 20 days of the mailing of the notice.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.18 INVALID ASSESSMENTS.

Whenever any special assessment is, in the opinion of Council, invalid by reason of irregularity or informality in the proceedings, or if any court or tribunal of competent jurisdiction adjudges the assessment to be illegal, Council shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, have the power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on the reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any assessment or part thereof levied upon any premises has been set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment on the premises, and the reassessment shall to that extent be deemed satisfied.

(Ord. 99-4, passed 9-13-1999)

SECTION 34.19 JUDGMENT IN SPITE OF IMPROPER ASSESSMENTS.

If it appears that by reason of any irregularities or informalities the assessment has not been properly made, the court or tribunal may nevertheless, on satisfactory proof that costs have been incurred by the Village which are a proper charge against the person assessed or the lot or premises in question, render judgment for the amount properly chargeable against the person or upon the lot or premises.

(Ord. 99-4, passed 9-13-1999)

CHAPTER 35: VILLAGE ORGANIZATIONS

Section

Housing Commission

- 35.01 Establishment authority
- 35.02 Membership
- 35.03 Meetings; record; quorum; appointment of officers, employees
- 35.04 Powers and duties
- 35.05 Reports
- 35.06 Power of eminent domain

Planning Commission

- 35.20 Establishment and purpose
- 35.21 Membership; term; removal
- 35.22 Powers and duties

HOUSING COMMISSION

SECTION 35.01 ESTABLISHMENT AUTHORITY.

Pursuant to Public Act 18 of 1933, being MCL 125.651 et seq. (Act 18), as amended, there is hereby established a Housing Commission, hereinafter called the "Village of Howard City Housing Commission", with authority to purchase, acquire, construct, maintain, operate, improve, extend or repair housing facilities within the Village and to eliminate housing conditions which are detrimental to the public peace, health, safety, morals or welfare of the Village.
(Prior Code, Section 160.001)

SECTION 35.02 MEMBERSHIP.

(A) The Commission shall consist of five members, who shall be appointed by the Village President.

(B) The term of office of the members of the Commission shall be five years, but members of the first Commission appointed hereunder shall be appointed for the terms of one year, two years, three

years, four years and five years respectively, and annually thereafter, one member shall be appointed for a term of five years.

(C) Members of the Commission shall serve without compensation and may be removed from office by the Village President.

(D) Any vacancy in office shall be filled by appointment by the Village President for the remainder of the unexpired term.

(Prior Code, Section 160.002)

SECTION 35.03 MEETINGS; RECORD; QUORUM; APPOINTMENT OF OFFICERS, EMPLOYEES.

(A) The Commission shall meet at regular intervals after public notice of the time and place of the meeting and all meetings of the Commission shall be open to the public. The Commission shall adopt by-laws and its own rules of procedure not inconsistent with the provisions of Act 18 or of this subchapter, and shall keep a record of its proceedings. Three members of the Commission shall constitute a quorum for the transaction of its business and a President and a Vice President shall be elected by the Commission. The Commission may appoint a Director, who may also serve as Secretary and other employees or officer as shall be necessary.

(B) The Commission shall prescribe the duties of all of its officers and employees and may with the approval of the Village Council fix their compensation. The Commission may from time to time and with the approval of the Village Council, employ engineers, architects and consultants as necessary to accomplish the purposes for which it is established.

(Prior Code, Section 160.003)

SECTION 35.04 POWERS AND DUTIES.

The Commission shall have those powers and duties enumerated in MCL 125.657, as amended, which are:

(A) To determine in what areas of the Village it is necessary to provide proper sanitary housing facilities for families of low income and for the elimination of housing conditions which are detrimental to the public peace, health, safety, morals and/or welfare;

(B) To purchase, lease, sell, exchange, transfer, assign and mortgage any property, real or personal, or any interest therein, or acquire the same by gift, bequest or under the power of eminent domain; to own, hold, clear and improve property; to engage in or to contract for the design and construction, reconstruction, alteration, improvement, extension and/or repair of any housing project or projects or parts thereof; to lease and/or operate any housing project or projects;

(C) To control and supervise all parks and playgrounds forming a part of the housing development but may contract with existing departments of the Village for operation or maintenance of either or both;

(D) To establish and revise rents of any housing project or projects, but shall rent all property for sums as will make them self-supporting, including all charges for maintenance and operation, for the principal and interest on loans and bonds, and for taxes;

(E) To rent only to tenants as are unable to pay for more expensive housing accommodations; and

(F) To call upon other departments for assistance in the performance of its duties, but the departments should be reimbursed for any added expense incurred there and in addition, shall have other powers relating to housing project facilities as may be prescribed by ordinance or resolution of the Village Council, or as may be necessary to carry out the purposes of this subchapter; providing, however, that all contracts, deeds, leases or purchases entered into by the Commission shall be in the name of the Village and shall be subject to approval by the Village Council. Contracts for the purchase of necessary materials, leases with tenants and options need not be so approved.

(Prior Code, Section 160.004)

SECTION 35.05 REPORTS.

The Commission shall make an annual report of its activities to the Village Council, and shall make other reports as the Village Council may from time to time require.

(Prior Code, Section 160.006)

SECTION 35.06 POWER OF EMINENT DOMAIN.

The Commission may recommend to the Village Council the prosecution of proceedings under the power of eminent domain in accordance with the laws of the State and or provisions of the Village Charter or ordinances, relative to condemnation.

(Prior Code, Section 160.007)

PLANNING COMMISSION

SECTION 35.20 ESTABLISHMENT AND PURPOSE.

(A) In accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008, being MCL 125.3801 et seq. ("Act 33"), as amended, and this section, the Village Council hereby creates a Planning Commission for the Village with the powers, duties and provisions included in this Chapter and also provided for by statute.

(B) The Planning Commission currently existing, as authorized by the Village ordinance, shall continue to serve in its official role subject to provisions of this subchapter and the Michigan Planning Enabling Act, Act 33, as amended being MCL 125.3801 - 125.3885, and shall act as the Zoning Commission for the Village, as provided for under the State Zoning Enabling Act, Public Act 110 of 2006, as amended being MCL 125.3101 - 125.3702.

(Prior Code, Section 180.001) (Ord. 2011-3, passed 9-12-2011)

SECTION 35.21 MEMBERSHIP; TERM; REMOVAL.

The Planning Commission shall consist of seven members, serving as follows.

(A) One of the members of the Planning Commission shall also be a member of the Village Council serving as a member ex officio.

(1) The ex officio member shall be selected by resolution of the Village Council, and shall serve a term as set forth in the resolution; provided however, that in no case shall the term of the ex officio member exceed his or her term as Village Council member.

(2) The ex officio member may be removed by the Village Council for inefficiency, neglect of duty or malfeasance in office.

(B) The remaining six members shall be appointed by the Village President, subject to the approval of Village Council.

(1) Appointed members shall serve a term of three years or until his or her successor takes office except that the respective terms of two of the members first appointed shall be for one year and the term of three of the first appointed members shall be for two years.

(2) After a public hearing, a member so appointed may be removed by the Village President for inefficiency, neglect of duty or malfeasance in office.

(Prior Code, Section 180.002) (Ord. 2005-7, passed 8-22-2005)

SECTION 35.22 POWERS AND DUTIES.

The Commission shall have all of the powers and duties now or hereafter provided by State law for Village planning commissions, including, but not in limitation of, the foregoing those powers provided for in Act 33 and Public Act 222 of 1943, being MCL 125.51 - 125.55.

(Prior Code, Section 180.003)

TITLE V: PUBLIC WORKS

Chapter

- 50. GENERAL PROVISIONS**
- 51. SOLID WASTE; COLLECTION AND DISPOSAL**
- 52. SEWER REGULATIONS, RATES AND FACILITIES**
- 53. WATER SERVICE, CONNECTION AND RATES**
- 54. CROSS CONNECTIONS**
- 55. GROUNDWATER PROTECTION**

CHAPTER 50: GENERAL PROVISIONS

Section

50.01 Water and sewer deposits; requirement; lien

SECTION 50.01 WATER AND SEWER DEPOSITS; REQUIREMENT; LIEN.

(A) No water or sewer service shall be supplied to any premises in the Village until a cash deposit equivalent to three times the monthly base rate for service to the premises is deposited with the Village office as security for the payment of the utility charges.

(B) The cash deposit shall, unless otherwise provided herein or in the event utility charges to the premises are not current, be refunded to the owner of the premises upon the sale of the premises or one year after initially deposited, whichever occurs first.

(C) The Village shall have, as security for the collection of its water and sewer rates, assessments, charges or rentals, a lien upon the property, lot(s), parcel(s) or premises to which water or sewer service is supplied. The lien shall become effective immediately upon the distribution of the water or the provision of sewer service. The lien may be enforced by any manner authorized under Public Act 178 of 1939, being MCL 123.161 through 123.167, as amended, and specifically, without limiting the foregoing, in accordance with the general laws of the State for the enforcement of tax liens.

(D) The lien provided for herein shall have priority over all other liens except taxes or special assessments.

(1) The lien shall not apply, however, for water or sewer charges accruing subsequent to the filing with the Village of an affidavit relative to a lease which provides that the lessor is not responsible for the payment of water or sewer bills.

(2) The affidavit provided for herein shall include the following:

(a) The affidavit regarding the execution of the lease shall be filed with the Village Clerk/Treasurer, as designee of the DPW Superintendent;

(b) The affidavit shall contain a notation stating the expiration date of the lease; and

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(c) The affidavit shall be accompanied by a copy of the lease and shall further contain a provision pledging that the lessor shall give 20 days' notice to the Village Clerk/Treasurer of any cancellation, change in or termination of this lease.

(3) Where the provisions of this division (D) are met, the cash deposit provided for in division (A) above shall be returned to the tenant, after subtracting all outstanding charges, assessments or rentals, at the end of the tenancy.

(E) In the event water or sewer charges become delinquent, the cash deposit may be applied to the outstanding charges. Service to the premises shall be discontinued in the event any outstanding water or sewer charges are not paid when due. Service shall not again be provided until all outstanding, prior charges have been satisfied by payment.

(Prior Code, Section 120.001)

CHAPTER 51: SOLID WASTE; COLLECTION AND DISPOSAL

Section

- 51.01 Purpose and intent
- 51.02 Definitions
- 51.03 Disposal of solid waste
- 51.04 Accumulation
- 51.05 Unauthorized dumping and littering
- 51.06 Pre-collection requirements; separation; containers
- 51.07 Village bags and tags
- 51.08 Receptacles
- 51.09 Franchise; permits
- 51.10 Transportation of waste materials
- 51.11 Prohibited waste
- 51.12 Private collection and transfer site; unauthorized dumping
- 51.13 Enforcement

- 51.99 Penalty

SECTION 51.01 PURPOSE AND INTENT.

It is the intent of the Village Council that this Chapter be liberally construed for the purpose of regulating the preparation, collection and disposal of residential solid waste and materials, maintaining public and private property in a clean, orderly and sanitary condition, for the health, safety and welfare of the Village, and providing for a reasonable system of user fees. The Village Manager is authorized to make additional administrative rules and regulations as appear to be necessary to carry out the intent of this Chapter.

(Ord. 2006-5, passed 7-24-2006)

SECTION 51.02 DEFINITIONS.

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

BUILDING. A structure used, in whole or part, for human habitation, manufacturing, sales or another purpose.

BULK RUBBISH. Rubbish, such as cardboard containers, wooden crates and similar rubbish, that does not readily fit in an approved container or bag.

COMMERCIAL ESTABLISHMENT. Any property designated by the Village's zoning ordinance or used other than for residential purposes.

COMMERCIAL SOLID WASTE. Waste material resulting from the operation of mercantile enterprises, including garbage and rubbish, but excluding all hazardous waste.

COMMERCIAL SOLID WASTE COLLECTION. Solid waste pickup from all commercial, industrial or institutional establishments or rental properties comprised of five or more dwelling units.

CONSTRUCTION MATERIAL. Waste from buildings, driveways or other construction, alteration or repair, including dirt from excavations.

DEMOLITION DEBRIS. Refuse which is incidental to the demolition of buildings or structures on a premises.

DESIGNATED COLLECTOR. A residential waste collector granted a franchise by the Village to collect and dispose of solid waste or recycling and household hazardous waste.

DOMESTIC SOLID WASTE. Solid waste materials resulting from the residential use of property including, but not limited to, garbage and rubbish, but excluding all hazardous waste, bulk waste, special refuse, yard waste, construction material and demolition debris.

GARBAGE. Any organic waste incidental to the use, preparation and storage of food for human consumption. This term does not include food processing wastes from canneries, slaughterhouses and packing houses or hazardous waste.

HAZARDOUS WASTE. Any material that has been identified by State or Federal regulation to be unsuitable for disposal in a Type II sanitary landfill or its State certified equivalent.

HOUSEHOLD HAZARDOUS WASTE. Items or materials designated by State and Federal authorities as typical household usage byproducts, and which can be disposed of through a household hazardous waste collection system.

INDUSTRIAL ESTABLISHMENT. Property designated by the Village's Zoning Ordinance or used as industrial property, and excluding commercial or residential property.

INDUSTRIAL SOLID WASTE. All solid waste materials resulting from industrial or manufacturing operations or process of every nature, including organic wastes from canneries, slaughterhouses, packinghouses and other industrial food processing operations. This term includes refuse material resulting from cleaning up in connection with such industrial or manufacturing operations, and refuse material resulting from offices, stores, lunchrooms, warehouses or other operations established in conjunction with such industrial or manufacturing operations, but excludes hazardous waste.

MEDICAL WASTE. Any material identified by State or Federal regulation to be medical, bio-hazardous or pathological waste and is subject to special handling and disposal regulations.

MULTIPLE RESIDENTIAL. Residential establishments consisting of five or more dwelling units. These establishments are considered a commercial establishment.

MUNICIPAL SOLID WASTE. Rubbish and garbage consisting of certain discarded products incidental to housekeeping and mercantile enterprises that are not recyclable. The waste shall be classified as either residential, commercial or industrial solid waste as further defined in this section, and excludes hazardous waste.

PREMISES. A parcel of land, including any buildings, structures or appurtenances within the Village, which includes the adjoining street, right-of-way or legal easement, separated from adjacent parcels of land by legal description.

RECYCLABLE MATERIAL. Materials designated in accordance with the provisions of this Chapter to be separated from solid waste for the express purpose of preparation for and delivery to a secondary market or other use.

REFUSE. The same as **SOLID WASTE**.

RESIDENTIAL SOLID WASTE. The same as **DOMESTIC SOLID WASTE**.

RESIDENTIAL SOLID WASTE COLLECTION. Weekly solid waste pickup from residential units.

RESIDENTIAL UNIT. A building, or portion thereof, designated or used for residential purposes and having cooking facilities and separate sanitary facilities. A **RESIDENTIAL UNIT** is also referred to in this Chapter as a **DWELLING UNIT**.

RUBBISH. Miscellaneous waste materials resulting from housekeeping and ordinary mercantile enterprises, including materials such as packing boxes, cartons, excelsior, paper ashes, cinders, glass, metal, plastic and rubber, but excluding hazardous waste.

SOLID WASTE. Garbage and rubbish. This term does not include human body waste, liquid waste, materials that have been separated either at the source or a processing site for the purpose of reuse, recycling or composting, or any material that has been identified by State or Federal regulation to be unsuitable for disposal in a Type II sanitary landfill or its State designated equivalent.

SPECIAL REFUSE. Furniture, appliances and other bulky refuse items that are unsuitable for regular solid waste collection services.

SPECIAL REFUSE BAG. A bag sold by the designated collector or its designee for the purpose of collection, except not on large item days. **SPECIAL REFUSE BAGS** shall be of a distinctive color

or material and printed with the company seal or other appropriate words which indicate the use of the bag.

TYPE II SANITARY LANDFILL. As defined in Part 115 of Public Act 451 of 1994, being MCL 324.11501 et seq., as amended, or a State equivalent designation.

VILLAGE DESIGNATED WASTE or RECYCLABLE COLLECTION AND TRANSFER FACILITY. A facility which the Village identifies by resolution as an approved location for the collection and transfer of all or some of the following: solid waste, yard waste, household hazardous waste and recycling.

VILLAGE YARD WASTE BAG. A type of bag specifically identified by the Village as a suitable container for the purpose of yard waste collection.

YARD WASTE. Grass clippings, leaves, weeds, hedge clippings, garden waste and twigs.

YARD WASTE COLLECTION. Collection service provided by the Village or its authorized agent. (Ord. 2006-5, passed 7-24-2006)

SECTION 51.03 DISPOSAL OF SOLID WASTE.

A person shall only dispose of solid waste and segregate items as provided in or authorized by this Chapter.

(Ord. 2006-5, passed 7-24-2006) Penalty, see Section 51.99

SECTION 51.04 ACCUMULATION.

(A) *Accumulation of refuse.* No owner or person in control of a residential dwelling unit, commercial establishment or industrial establishment shall permit the accumulation of refuse, rubbish or garbage upon the premises for a period that creates a health hazard, subjects adjacent property occupants to unreasonably offensive odors or become a public nuisance. The accumulation of refuse, rubbish or garbage on a premises for a period in excess of 15 days shall be prima facie evidence of the creation of a health hazard and a per se public nuisance; provided, however, that a health hazard or public nuisance may be created in a period less than 15 days.

(B) *Composting storage.* Leaves, yard waste and vegetable waste may be stored for composting purposes in a manner which will not harbor rodents, subject adjacent property owners to an unreasonably offensive odor or become a public nuisance, provided it is stored in required rear yards, enclosed and located not closer than ten feet from the property line.

(C) *Alley or lawn extension.* Where refuse, rubbish, garbage or yard waste are deposited in an alley or lawn extension, which consists of the area between the sidewalk and the street, it shall be the duty of

the owner or occupant of the adjacent lot or premises to remove from the alley adjoining the lot or premises, or the entire lawn extension adjoining lot, all the substances.
(Ord. 2006-5, passed 7-24-2006) Penalty, see Section 51.99

SECTION 51.05 UNAUTHORIZED DUMPING AND LITTERING.

(A) *Throwing or depositing of refuse.* No person may throw or deposit refuse upon a street, right-of-way or alley, or place or permit the placement of any portable or non-portable container upon another property without the permission of the owner, proprietor, occupant or agent in charge of the property.

(B) *Alternate means of disposal.* Residential units not using the franchised Village collection system may be required to prove alternative means of disposal of solid waste. Only a designated collector can collect and transport residential solid waste in the Village.
(Ord. 2006-5, passed 7-24-2006) Penalty, see Section 51.99

SECTION 51.06 PRE-COLLECTION REQUIREMENTS; SEPARATION; CONTAINERS.

(A) *Pre-collection; separation and container regulation.* All persons within the Village who place the following items for disposal, removal or collection shall do so in strict conformity with the following regulations.

(1) *Solid waste.* Solid waste shall be separated and contained in an approved bag or in another acceptable solid waste container.

(2) *Yard waste.* Yard waste shall be separated as required by the Village and contained in an approved bag or container.

(3) *Special refuse.* All special refuse shall be separated and must be removed using an approved method. Approved methods of removal shall be limited to:

(a) Arrangements with a lawful collector of the refuse;

(b) Transfer to a Village designated collection and transfer site; or

(c) By tagging the debris with a Village special refuse tag for collection by the Village.

(4) *Bulk rubbish.* All bulk rubbish, such as cardboard containers, wooden crates and similar rubbish, shall be separated, flattened and tied in bundles or packed in suitable containers of a size that may be readily handled by one collector, and in no case shall the bundle or container be larger than that which is approved by the collector.

(5) *Industrial solid waste.* All industrial solid waste shall be collected by privately contracted collectors, and shall otherwise comply with the provisions of this Chapter.

(6) *Construction and demolition debris.* All construction and demolition debris shall be separated and collected by privately contracted collectors, and shall otherwise comply with the provisions of this Chapter.

(7) *Hazardous waste.* All hazardous waste, except household hazardous waste, shall be separated and collected by privately contracted collectors, and shall otherwise comply with the provisions of this Chapter.

(8) *Household hazardous waste.* All waste classified as household hazardous waste by local, State or Federal regulations shall be separated and disposed of through the collection system of the Village, County or private contractors, when available.

(9) *Medical waste.* All medical waste shall be separated and disposed of in accordance with all applicable State and Federal regulations and shall be collected by privately contracted collectors, and shall otherwise comply with the provisions of this section.

(B) *Use of unapproved bags or containers.* Items not placed in an approved bag/container will not be picked up, unless otherwise provided in this Chapter. The collection of solid waste is conditioned upon the observance of all provisions of this Chapter.

(Ord. 2006-5, passed 7-24-2006)

SECTION 51.07 VILLAGE BAGS AND TAGS.

(A) *Specifications.* The specifications for Village bags and/or tags and their use shall be promulgated by the Village.

(B) *Prices.* The prices for Village residential waste collection shall be determined in accordance with the terms of the franchise with the designated collector. The cost of collection and disposal of residential solid waste and materials shall be billed by the designated collector directly to the residential property owner or occupant at a rate outlined in the franchise.

(C) *Sale and purchase of waste bags.* The Village or its authorized representatives may sell Village solid waste bags to individuals and/or participating sales establishments. Participating sales establishments shall sell the bags for not more than the price specified by the Village Council.

(D) *Allowable weight.* The gross weight of the Village solid waste bags when filled with waste, shall not exceed 40 pounds.

(E) *Use of cart or receptacle.* The designated collector shall provide the option to Village residents of using a cart or receptacle. The gross weight of the cart or receptacle when filled with waste shall not exceed the cart or receptacle's specifications.
(Ord. 2006-5, passed 7-24-2006)

SECTION 51.08 RECEPTACLES.

(A) *Provision.* The owner, manager or occupant of a building, house or structure where refuse accumulates shall provide and maintain proper refuse receptacles as defined in divisions (D) and (E) below, and shall place, or cause to be placed, in the receptacles all refuse accumulating on the premises, provided that bulk rubbish may be stored in a condition properly prepared for collection as specified in this section.

(B) *Residential.* The person in charge of every residential building having four or fewer residential units shall provide and keep clean and in place proper receptacles to house bagged waste.

(C) *Commercial, industrial and multiple residential.* The person in charge of a building consisting of five or more dwelling units, and every building used or a commercial or industrial business shall provide and keep clean and in place proper receptacles of a portable type as defined in division (D) below; provided that if the Village determines that portable receptacles are not practical for multiple dwellings, commercial or industrial businesses, it may authorize the use of non-portable receptacles of a type that can be mechanically hoisted by a refuse collection vehicle, and with specifications established and approved by the Village and as defined in division (E) below. All the receptacles for commercial or industrial businesses shall be placed upon the facility owned by the commercial or industrial business and not upon the Village owned property without permission of the Village.

(D) *Portable receptacles.* Portable receptacles for residential refuse shall be of metal, fiberglass, plastic or other substantial construction approved by the Village. The receptacles shall have handles and tight fitting covers and shall not exceed 96 gallons each in capacity. The Village may approve the use of plastic bags of a capacity and quality specified for the storage and disposal of solid and/or yard waste. In no event shall the gross weight of receptacles, and the waste they contain, exceed the specifications of the receptacle.

(E) *Non-portable receptacles.* Non-portable receptacles for solid waste shall be of substantial construction, with a capacity of not more than eight cubic yards, and shall meet all specifications established by the Village. All garbage shall be properly wrapped or placed within a closed plastic bag before it is placed in a non-portable receptacle.

(F) *Nonconforming receptacles.* Receptacles that are badly broken or otherwise fail to meet the requirements of this Chapter may be classified as rubbish and, after due notice to the owner, may be collected as rubbish by the collection contractor.

(G) *Location.* All non-portable receptacles shall be placed and collected in a location designated by the Village. The receptacles shall be located so that the designated collector will not have to trespass on the private property of another in order to pick up the receptacles.

(1) In no event shall non-portable receptacles be placed in or upon public property, easements or public rights-of-way.

(2) All portable receptacles shall be stored within the side or rear yards of the premises, and shall not be set out for collection prior to 12:00 noon preceding the day of collection, and after the receptacles are emptied they shall be returned to their place of storage on the same day collections are made.

(3) Points of collection shall be determined by the Village.

(4) No empty portable receptacles shall be stored on Village property or in a front yard.
(Ord. 2006-5, passed 7-24-2006)

SECTION 51.09 FRANCHISE; PERMITS.

(A) *Grant of exclusive franchise.* The Village shall by resolution grant an exclusive franchise to a designated collector, giving it the right, power and authority to collect and transport garbage and trash from residences and residential rental units within the Village. The designated collector shall receive no compensation from the Village but shall be permitted to enter into contracts for the collection of solid residential waste with the residents of the Village.

(B) *Franchise particulars.* The Village's franchise agreement with the designated collector shall address the following matters:

(1) A description of the methods and equipment which the applicant proposes to use for collecting solid waste in the Village;

(2) A description of the type of collection to be provided, and the part of the Village which the collection will affect;

(3) A plan for meeting the pre-collection requirements set forth in this Chapter;

(4) Proof of liability insurance as required by Village policy and worker's compensation insurance as required by State law;

(5) A written plan for meeting all collection and disposal requirements set forth in other relevant Village, County, State and Federal regulations, as appropriate;

(6) The name and address of the sites to be used to dispose of the materials collected;

(7) Proof of access to and use of an adequate and approvable materials recovery facility;

(8) Other facts as the Village may from time to time require for the purposes of determining whether the applicant complies with all laws, rules or regulations established by the Village, County, State or Federal government in regards to waste handling and/or disposal;

(9) Cost and duration of service, including any proposed cost increases;

(10) An agreement to indemnify and save harmless the Village and its agents, employees, officers and representatives from all claims, liability or demands (including attorney fees) or losses for injury to persons or property arising out of, or resulting from the grant of the franchise or the company's activities under the franchise; and

(11) Provision for a performance guarantee, in a form and amount acceptable to the Village Council, to and for the protection of the public during the collection, transporting or disposal of the solid waste or other material.

(Ord. 2006-5, passed 7-24-2006; Ord. 2006-7, passed 8-14-2006)

SECTION 51.10 TRANSPORTATION OF WASTE MATERIALS.

(A) *Mode of transportation.* The transportation of all garbage, rubbish or other waste materials through the streets, alleys or thoroughfares of the Village shall be conducted in a manner which does not create a nuisance. It shall be unlawful for any person or entity, other than a designated collector, to commercially transport or convey over any street, alley or public place within the Village any garbage, solid waste or refuse except in accordance with the terms of this Chapter. Only a designated collector may commercially transport domestic solid waste within the Village after November 30, 2006.

(B) *Conveyance vehicles.* Vehicles conveying waste must be of a construction and operated in a manner that the contents shall not spill upon the public streets or alleys, into the air, or otherwise create a nuisance.

(Ord. 2006-5, passed 7-24-2006) Penalty, see Section 51.99

SECTION 51.11 PROHIBITED WASTE.

(A) *Prohibited placement.* It shall be unlawful for any person to place leaves, yard waste, household hazardous waste specifically required to be separated from solid waste by this Chapter or Village Council resolution, in a refuse container for the purpose of refuse collection, removal or disposal, nor otherwise dispose of the item, except in conformance with the provisions of this section.

(B) *Use by nonresidents.* The Village solid waste disposal and resource recovery program is designated to accommodate the needs of residents of the Village. Nonresidents are strictly prohibited

from disposing of solid waste through the program. All violators will be prosecuted to the fullest extent allowed by law and/or provision of this Chapter.

(Ord. 2006-5, passed 7-24-2006) Penalty, see Section 51.99

SECTION 51.12 PRIVATE COLLECTION AND TRANSFER SITE; UNAUTHORIZED DUMPING.

(A) *Allowable private collection.* The Village, with the approval of the Village Council, is authorized to permit the use of private property within the Village as a private collection and transfer site subject to reasonable terms and regulations as deemed necessary for the protection of the public, which rules and regulations shall at all times be subject to revision, cancellation, alteration or amendment by the Village Council; provided, however, that the permit shall be revocable at any time without cause and without previous notice by the Village or the Village Council.

(B) *Unlawful dumping.* It shall be unlawful for any person to dump or deposit any waste or recyclable material in the Village, except in a collection and transfer site duly designated as such by the Village and/or Village Council.

(Ord. 2006-5, passed 7-24-2006)

SECTION 51.13 ENFORCEMENT.

Enforcement of this Chapter shall be the responsibility of the Village Manager or his or her designee. The Village is authorized and directed to establish and promulgate reasonable regulations as to the matter, days and times for the collection of waste or recyclable material with a permitted collector.

(Ord. 2006-5, passed 7-24-2006)

SECTION 51.99 PENALTY.

(A) A person who violates any provision of this Chapter is responsible for a municipal civil infraction and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, subject to divisions (B) and (C) below.

(B) The fine for a violation of this Chapter shall be not less than \$50 or more than \$500, plus costs and other expenses permitted by law.

(C) For purposes of the penalty for a repeat offense under this Chapter, a repeat offense means a second or any subsequent violation of the same requirements or provisions committed within any six-month period.

(Ord. 2006-5, passed 7-24-2006)

CHAPTER 52: SEWER REGULATIONS, RATES AND FACILITIES

Section

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SEWER FACILITIES

SECTION 52.01 DEFINITIONS.

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

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

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

SEWER. A pipe or conduit for carrying sewage.

STORM SEWER or ***STORM DRAIN.*** A sewer, which carries storm and surface waters and drainage, but excludes sewage and industrial wastes.

SUPERINTENDENT. The Superintendent of Public Works of the Village or his or her authorized deputy, agent or representative.
(Prior Code, Section 115.001)

SECTION 52.02 WASTE DEPOSITS.

(A) No person shall place or deposit, in an unsanitary manner upon public or private property within the Village, any human or animal excrement, garbage or other objectionable waste.

(B) No person shall discharge to any natural outlet within the Village any unsanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.
(Prior Code, Section 115.002) Penalty, see Section 52.99

SECTION 52.03 PRIVIES AND SEPTIC TANKS.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(Prior Code, Section 115.003) Penalty, see Section 52.99

SECTION 52.04 SEWER CONNECTION REQUIRED.

The owner of a house, building or other structure used for human occupancy, employment, recreation or other purpose situated on property within the Village, which property abuts any highway, street, alley, right-of-way or easement in which there is located a public sanitary or combined sewer, is hereby required at his or her expense to install suitable toilet facilities therein and to connect the structure directly with the public sewer in accordance with the provisions of this subchapter, within 90 days after date of official notice to do so, provided that the public sewer is within 200 feet of the structure.

(Prior Code, Section 115.004) (Ord. 95-22, passed 11-27-1995)

SECTION 52.05 PRIVATE SEWER SYSTEMS.

Where a public sanitary or combined sewer is not available under the provisions of this section, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this subchapter.

(Prior Code, Section 115.005) Penalty, see Section 52.99

SECTION 52.06 PERMIT AND FEE.

(A) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by an authorized Village official.

(B) The application for the permit shall be made on a form furnished by the Village, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent.

(Prior Code, Section 115.006) (Ord. 2002-2, passed 6-10-2002) Penalty, see Section 52.99

SECTION 52.07 INSPECTION.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent.

(Prior Code, Section 115.007)

SECTION 52.08 STANDARDS.

(A) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State, and shall be constructed and connected in accordance with the plumbing regulations of the Village.

(B) No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet. (Prior Code, Section 115.008) Penalty, see Section 52.99

SECTION 52.09 DISCONTINUANCE OF SYSTEM.

At a time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 52.05, a direct connection shall be made to the public sewer in compliance with this subchapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Prior Code, Section 115.009) Penalty, see Section 52.99

SECTION 52.10 OPTIONS IN HANDLING HAZARDOUS DISCHARGES.

(A) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, containing the substances or possessing the characteristics enumerated in Section 52.29, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or

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

(B) If the Superintendent permits the pretreatment of equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the Superintendent and the State authorities and subject to the requirements of all applicable codes, ordinances and laws, including Federal pretreatment standards.

(Ord. 2009-4, passed 3-9-2009)

SECTION 52.11 MEASUREMENTS; TEST AND ANALYSES.

All measurements, tests and analyses of the characteristics of wastewater to which reference is made in this section shall be determined in accordance with the current edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, most current ASTM and EPA-approved procedures contained in 40 C.F.R. Section 136 or any validated methods from recognized authority. In cases where the above referenced procedures are not available or do not apply to the characteristic involved and shall be determined at the control structure provided for, or upon suitable samples taken at, the control structure. If no special control structure has been required, the control structures shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(Ord. 2009-4, passed 3-9-2009)

SECTION 52.12 MEASUREMENTS AND TESTS.

(A) All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with the latest edition of one of the references following:

(1) *Standard Methods for the Examination of Water and Wastewaters*, American Public Health Association, New York, New York 10019;

(2) A.S.T.M. Standards, Part 23, Water; *Atmospheric Analysis*, 1972. American Society for Testing and Materials, Philadelphia, PA 19103; or

(3) *Methods for Chemical Analysis of Water and Wastes*, Environmental Protection Agency, Water Quality Office, Analytical Quality Control Laboratory, 1014 Broadway, Cincinnati, Ohio 45202.

(B) For purposes of determining user charges and surcharges, sampling and flow monitoring shall be required and instrumented at the expense of any user subject to industrial cost recovery.

(C) Sampling of wastewater for determination of its characteristics shall be performed in accordance with one of the following schedules:

(1) Seven consecutive 24-hour composite samples each 30-day period; or

(2) Three consecutive 24-hour composite samples repeated twice during any 30-day period. Each set of three consecutive composites shall be at periods during the 30-day time at no closer interval than 11 days from the last 24-hour composite sample to the first 24-hour composite of the second set of three.

(D) Initiation of sampling times and periods will be at the pleasure of the Village and can be without prior notification to the discharge.

(E) Waste characteristics determined in accordance with the schedule shall be used to determine each of the 24-hour period waste characteristics in accord with the flow metered for each of the 24-hour periods. The results of each 24-hour period discharge shall then be averaged to a one-day period, multiplied by 30 days to determine waste discharge for any 30-day period.

(Ord. 2009-4, passed 3-9-2009)

SEWER RULES AND REGULATIONS

SECTION 52.25 DEFINITIONS.

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

B.O.D. (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory filtering.

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

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

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

GREASE TRAP. A tank of suitable size and material located in a sewer line and so designed to remove grease and oily wastes from the sewage.

INDUSTRIAL WASTES. The liquid wastes from industrial processes as distinct from sanitary sewage.

INSPECTOR. Any person or persons duly authorized by the Village Council to inspect and approve the installation of building sewers and their connection to the public sewer system.

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

NUISANCE. This term shall mean, but is not limited to any condition where sewage or the effluent from any sewage disposal facility or toilet device is exposed to the surface of the ground, into any ditch, storm sewer, lake or stream, or when the odor, appearance or presence of this material has an obnoxious or detrimental effect on or to the senses and/or health of persons, or when it shall obstruct the comfortable use or sale of adjacent property.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

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

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

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

(2) **SANITARY SEWER.** A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

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

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

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

(2) **PUBLIC SEWER.** A sewer receiving both surface runoff and sewage.

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

SLUG. Any discharge of water; sewage or industrial wastes which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

SUPERINTENDENT. The Superintendent of the Municipal Sewage Works of the Village of Howard City, Michigan, or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in water, sewage or other liquids; and which are removable by laboratory filtering.

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

TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

VILLAGE. The Village of Howard City, Michigan.

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

(Prior Code, Section 116.001) (Ord. 3-67, passed 10-31-1967)

SECTION 52.26 USE OF PUBLIC SEWERS REQUIRED.

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

(B) It shall be unlawful to discharge into waters within the Village, or in any area under the jurisdiction of the Village, any sewage, industrial waste or other pollutants, except where suitable treatment has been provided in accordance with subsequent provisions of this Code.

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, septic tank, private sewage works or other facilities intended or used for the disposal of sewage or industrial waste.

(D) The owner of a house, building or other structure used for human occupancy, employment, recreation or other purpose situated on property within the Village, which property abuts any highway, street, alley, right-of-way or easement in which there is located a public sanitary or combined sewer, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect the structure directly with the public sewer in accordance with the provisions of this Chapter, within 90 days after date of official notice to do so, provided that the public sewer is within 200 feet of the structure. (Prior Code, Section 116.002) (Ord. 3-67, passed 10-31-1967; Ord. 95-25, passed 11-27-1995) Penalty, see Section 52.99

SECTION 52.27 PRIVATE SEWAGE DISPOSAL.

(A) Where a public sanitary or combined sewer is not available under the provisions of Section 52.26(D), the building sewer shall be connected to a private sewage disposal system complying with all requirements of the State Department of Public Health or other governmental agencies having jurisdiction.

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

(C) At times as a public sewer becomes available to a property served by a sewage disposal system as provided in Section 52.26(D), a direct connection shall be made to the public sewer in compliance

with this subchapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, and filled with suitable material.

(D) No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the State Department of Public Health or other government agencies having jurisdiction.

(Prior Code, Section 116.003) (Ord. 3-67, passed 10-31-1967)

SECTION 52.28 BUILDING SEWER AND CONNECTIONS.

(A) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Village.

(1) Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for the permit shall have executed unto the Village and deposited with the Village Clerk/Treasurer a corporate surety bond in the sum of \$5,000 conditioned that he or she will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any ordinances of the Village pertaining to plumbing.

(2) The person applying for the permit to perform work in any public street way or alley shall also file with the Village Clerk/Treasurer a corporate surety bond or other satisfactory evidence of public comprehensive liability insurance in the amount of \$300,000, which shall state that the person will indemnify and save harmless the Village and the owner of the premises against all damages arising out of unskillfulness or negligence on his or her part in connection with plumbing or excavating for plumbing as prescribed in this subchapter.

(3) The bonds and public comprehensive liability insurance shall remain in force and must be executed for a period of one year except that on the expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to the expiration.

(4) The bonds and public comprehensive liability insurance need not be posted in those situations where any of the work is performed by the Village.

(B) There shall be two classes of building sewer permits: for residential service; and for service to establishments producing industrial waste. In either case, the owner or his or her agent shall make application on a special form furnished by the Village. The permit applications shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Inspector.

(C) All costs and expense incidental to the installation and connection of a building sewer shall be paid in accordance with the Village's adopted ordinances and resolutions. The owner or the person installing a building sewer for the owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation.

(D) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no public sewer is available or can be connected to the rear through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only by special permission granted by the Superintendent.

(E) Old buildings sewer or portions thereof, may be used in connection with new buildings only when they are found on examination and test by the Inspector to meet all requirements of this subchapter.

(F) The building sewer shall be constructed of either vitrified clay sewer pipe and fittings meeting the current A.S.T.M. specifications for standard or extra strength clay sewer pipe, asbestos cement meeting the current A.S.T.M. specifications, extra heavy cast iron soil pipe meeting the current A.S.T.M. specifications or the Department of Commerce commercial standards for extra heavy cast iron soil pipe and fittings or concrete sewer pipe and fittings meeting the current A.S.T.M. specifications for standard or extra strength concrete sewer pipe. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that vitrified clay pipe or asbestos cement or concrete pipe may be accepted if laid on a suitably improved bed or cradle as approved by the Inspector.

(G) All joints and connections shall be made gas-tight and water-tight. Vitrified clay sewer pipe shall be fitted with factory made resilient compression joints meeting the current A.S.T.M. specifications for vitrified clay pipe joints having resilient properties (Designation C425).

(1) Asbestos cement or concrete sewer pipe joints shall be of the rubber ring, flexible compression type, similar and equal to joints specified for vitrified clay pipe. The joints and connections shall conform to the manufacturer's recommendations.

(2) Joints for cast iron pipe shall be made with oakum or hemp and filled not less than one inch deep with lead meeting Federal Specification (QQQ-156), or they shall be sealed with neoprene gasket of a type approved by the Inspector. Paint, varnish and putty shall not be permitted on the jointing material until after testing. Joints for clay and cement asbestos shall be resilient compression joints.

(H) The size and slope of the building sewers shall be subject to the approval of the Inspector, but in no event shall the diameter be less than six inches unless cast iron is used, in which case four-inch may be used. The slope of the six-inch pipe shall not be less than one-eighth inch per foot.

(I) Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Inspector. Pipe laying and backfill shall be performed in accordance with current A.S.T.M. Specifications (C-12) except that no backfill shall be placed until the work has been inspected by the Inspector or his or her representatives.

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

(K) The connection of the building sewer into the public sewer shall be made at the "Y" branch designated for that property, if the branch is available at a suitable location. Any connection not made at the designated "Y" branch in the main sewer, shall be made only as directed by the Inspector.

(L) The applicant for the building sewer shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector or his or her representative.

(M) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village.

(Prior Code, Section 116.004) (Ord. 3-67, passed 10-31-1967; Ord. 2000-5, passed 4-10-2000; Ord. 2002-2, passed 6-10-2002) Penalty, see Section 52.99

SECTION 52.29 USE OF THE PUBLIC SEWER.

(A) No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, sub-surface drainage, cooling water, unpolluted air-conditioning water or unpolluted industrial process waters to any sanitary sewer. No footing drains shall be connected to sanitary sewers. All footing drain water shall be discharged to storm sewers or dry wells.

(B) Storm water and all other unpolluted drainage shall be discharged to sewers specifically designated as storm sewers, or to a natural outlet approved by the County Road Commission, County Drain Commissioner, State Water Resources Commission, and/or other interested governmental agencies. Industrial cooling water, unpolluted air conditioning water or unpolluted process waters may be discharged to a storm sewer or natural outlet upon approval of the Village, and where appropriate, upon approval of the County Drain Commissioner, State Water Resources Commission and/or other interested governmental agencies.

(C) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animal, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer;

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; or

(4) Solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, ungrounded garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers and the like, either whole or ground by garbage grinders.

(D) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that the wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance.

(1) In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant and other pertinent factors.

(2) The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than 150°F (65°C);

(b) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150°F (0° to 65°C);

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.076 hp metric) or greater shall be subject to the review and approval of the Superintendent;

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to a degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for the materials;

(f) Any waters or wastes containing phenols or other taste or odor producing substances, in concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for the discharge to the receiving waters;

(g) Any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations;

(h) Any waters or wastes having a pH in excess of 9.5; and

(i) Materials which exert or cause:

1. Unusual concentrations of inert suspended solids such as, but not limited to, fullers earth, lime slurries and lime residues, or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate;

2. Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions;

3. Unusual B.O.D., chemical oxygen, demand or chlorine requirements in quantities so as to constitute a significant load on the sewage treatment works;

4. Unusual volume of flow or concentration of wastes constituting "slugs" as described herein; or

5. Any person, firm or corporation whose operations entail the discharge of wastes containing toxic poisonous or objectionable substances shall file with the Village a written statement setting forth the nature of the operation contemplated or currently being carried on, the amount of water required to be used and its source, the proposed point of discharge of the waste into the sewage system of the Village, the maximum amount to be discharged per second, and a fair statement setting forth the expected bacterial, physical, chemical or other known characteristics of the wastes. Within 30 days of receipt of the statement the Village shall make an order of determination setting forth the maximum limits for the substances listed in division (C) above.

(E) Any order of determination issued by the Village may be reviewed annually, and the maximums set forth therein adjusted to compensate for increased flows in the entire sewer system, or increased contribution of toxic, poisonous or objectionable substances by other users of the Village sewer system. It shall be the duty of the Village to apportion to each industry its fair share of toxic waste discharged in a manner that the combined waste of all users will not endanger the sewage system or treatment processes.

(F) Any order of determination issued in pursuance of this subchapter shall be considered a part of this subchapter for the specific industrial user or other establishment involved, and shall be enforceable in the same manner as this subchapter.

(G) The Village, when advised by the Superintendent that a particular industrial user is violating the terms of the order of determination as herein referred to, may discontinue sewer service to the industrial user until a time as the industry shall conform to the provisions of the order of determination.

(H) Where the wastes from an industrial user exceed the limits set forth in the Village's order of determination, the user may be required, as a condition precedent to his or her continued right to use the public sewer, to construct necessary pretreatment facilities to keep wastes discharged to the public sewers within the ordered limits.

(I) Appeal procedure:

(1) Any industrial user which is subject to an order of determination issued by the Village shall have the right to appeal the rulings and findings of the Village. Neither of the referees shall be in the employ of the party selecting him or her;

(2) Within ten days after receiving notice of the selection of the referees, the Village shall file with the referees a copy of its determination and the results of its investigation supporting same. Within ten days thereafter, appellant industrial user shall file its reply together with supporting documentation. The referees may thereafter require additional information and may, if they choose, hold a hearing at which both sides may present evidence and arguments. The referees shall render a written opinion within ten days after the last documents are filed and the opinion shall be binding upon all parties. If the referees cannot agree, they shall select a third referee having the same qualifications and a decision of the majority shall be binding; and

(3) The referees shall be entitled to reasonable compensation and expenses, and the cost thereof shall be borne equally by appellant and the Village.

(J) Grease, oil and sand interceptors:

(1) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be a type and capacity approved by the Village and shall be located so as to be readily accessible for cleaning and inspection;

(2) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight and equipped with easily removable covers which, when bolted in place, shall be gas-tight and water-tight; and

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

(K) Where preliminary treatment facilities are provided for any waters or wastes they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense, in continuously efficient operation at all times.

(1) Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities, or additions to, or expansion of existing treatment facilities, shall be submitted for the approval of the Village, and the appropriate State agency.

(2) No construction of the facilities shall be commenced until the approval is obtained in writing.

(L) When required by the Village the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be located in a safe and accessible position and shall be constructed in accordance with plans approved by the Village. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so it is in a safe and accessible position at all times.

(M) All sewer customers shall either have approved meters on all water intakes which are the sources of wastes ultimately discharged to the sanitary sewer system, or shall meter the liquid wastes in a manner acceptable to the Village.

(Prior Code, Section 116.005) (Ord. 3-67, passed 10-31-1967) Penalty, see Section 52.99

SECTION 52.30 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment, which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Prior Code, Section 116.006) (Ord. 3-67, passed 10-31-1967) Penalty, see Section 52.99

SECTION 52.31 POWERS AND AUTHORITY OF INSPECTORS.

The Superintendent, Inspector and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter upon all properties at all reasonable times for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this subchapter.

(Prior Code, Section 116.007) (Ord. 3-67, passed 10-31-1967)

SECTION 52.32 CONDITIONS OF SERVICE.

(A) The property owner shall install and maintain at his or her own expense the building sewer, as defined in this subchapter.

(B) Applications may be cancelled and/or sewer service discontinued by the Village for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

(1) Misrepresentation in the application as to the property or fixtures to be serviced by the sanitary sewer system;

(2) Nonpayment of bills; and

(3) Improper or imperfect service pipes and fixtures or failure to keep same in suitable state of repair.

(C) Bills and notices relating to the conduct of the business of the Village will be mailed to the customer at the address listed on the application, unless a change of address has been filed in writing at the business office of the Village; and the Village shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused from nonpayment of a bill or from any performance required in the notice.

(D) It is the policy of the Village to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The Village's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(3) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint. Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

When it becomes necessary for the Village to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge in the sum of \$30.

(E) (1) Where the water or sewer service supplied to a customer has been discontinued for nonpayment of delinquent bill, the Village reserves the right to request a nominal sum be placed on deposit with the Village for the purpose of establishing or maintaining any customer's credit.

(2) The reconnection will not be made until after all delinquent bills and other charges, if any, owed by the customer to the Village have been paid.

(F) The Village shall make all reasonable efforts to eliminate interruption of service, and when the interruption occurs will endeavor to reestablish service with the shortest possible delay. Whenever service is interrupted for purpose of working on the sewage collection system or the treatment equipment, all consumers affected by the interruption will be notified in advance whenever it is possible to do so.

(G) The Village shall in no event be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breakage of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

(H) The premises receiving sanitary sewer service shall at all reasonable hours be subject to inspection by duly authorized personnel of the Village.

(I) Special terms and conditions may be made where sewer service is used by the Village or community for public purposes such as public parks and the like.

(J) These rules may be changed or amended.
(Prior Code, Section 116.009) (Ord. 3-67, passed 10-31-1967)

SECTION 52.33 ABATEMENT OF NUISANCES.

Nothing stated in these regulations may be construed to limit the power of the Village Board of Health to order the immediate and complete abatement of a public nuisance or menace to the public health or of a condition which, in the opinion of the Village Council, acting as the Village Board of Health, may be a menace to the public health.

(Prior Code, Section 116.012) (Ord. 3-67, passed 10-31-1967)

RATES AND CHARGES FOR USE AND SERVICE OF SANITARY SEWER SYSTEM

SECTION 52.45 RATES AND CHARGES.

The rates and charges for the use of the municipal sanitary sewer system of the Village shall be as follows:

Howard City - Public Works

(A) *Monthly rates for Village customers with municipal water service.*

Class	Meter Size	REU	FY 17/18		FY 18/19	
			Readiness to Serve (RTS)	Commodity Charge per 1,000 Gallons	Readiness to Serve (RTS)	Commodity Charge per 1,000 Gallons
Single-family residential	5/8" x 3/4"	1	\$17.60	\$4.20	\$18.13	\$4.33
Other classes of users within Village:	5/8" x 3/4"	2	\$35.20	\$4.20	\$36.26	\$4.33
	1"	2.5	\$44.00	\$4.20	\$45.32	\$4.33
	1-1/2"	4	\$70.40	\$4.20	\$72.51	\$4.33
	2"	8	\$140.80	\$4.20	\$145.02	\$4.33
	3"	11	\$193.60	\$4.20	\$199.41	\$4.33
	4"	14	\$246.40	\$4.20	\$253.80	\$4.33
Outside of Village:	5/8" x 3/4"		\$70.40	\$7.44	\$72.51	\$7.66
	2"		\$281.60	\$7.44	\$290.05	\$7.66
	3"		\$387.20	\$7.44	\$398.82	\$7.66
After FY 18/19, the readiness-to-serve commodity charge per 1,000 gallons will be increased by 3% annually (on March 1 of each year) from the immediately preceding year's rate.						

(B) *Monthly rates for customers without municipal water service.*

(1) Single-family residential customers of the sanitary sewer system, which are not also customers of the municipal water system, shall pay a monthly readiness-to-serve charge of \$18.13 plus a flat commodity charge of \$15.98 per month. After FY 18/19, the readiness-to-serve charge and commodity charge shall be increased by 3% annually (on March 1 of each year) from the immediately preceding year's rate.

(2) Multi-family residential and non-residential customers of the sanitary sewer system, which are not also customers of the municipal water system, shall pay a monthly readiness-to-serve charge of \$36.26 plus a flat commodity charge of \$23.19 per month. After FY 18/19, the readiness-to-serve and commodity charge shall be increased by 3% annually (on March 1 of each year) from the immediately preceding year's rate.

(3) Service to industrial establishments may be by contract if the Village Council deems this to be in the public interest.

(4) The rate for sewer service to structures served by the system outside the Village's boundaries shall be twice the rate charged for the same service within the Village unless there exists a separate established agreement of the Village Council.

(C) *Connection fee.* Unless otherwise approved in writing by the Village, all connections to the sanitary sewer system shall be made to the Village in accordance with Village specifications, and the Village shall charge a fee for the connections as established by resolution of the Village Council.

(D) *Deposit.* A cash deposit equivalent to three times the monthly base rate as security for payment of water rates shall be required to the extent and in the manner, permitted by law and in accordance with Section 50.01.

(Prior Code, Section 117.001) (Ord. 1-67, passed 10-31-1967; Ord. passed 1-13-1981; Ord. 84-2, passed 3-27-1984; Ord. 85-5, passed 8-27-1985; Ord. 94-1, passed 3-14-1994; Ord. 98-3, passed 6-22-1998; Ord. 2009-1, passed 1-12-2009; Ord. 2009-3, passed 3-9-2009; Ord. 2017-2, passed 6-19-2017; Ord. 2018-2, passed 3-19-2018)

SECTION 52.46 BILLING.

Bills for the rates and charges as herein established by the municipality shall be sent monthly. All bills shall be payable on the twentieth day of the month following the period of service and shall be paid at the office of the Village. If any charge for the services of the system shall not be paid by the twentieth day of the month in which it shall become due and payable, a charge of 10% of the amount of the bill shall be added thereto and collected therewith. If any bills for the service of the sewer system shall remain unpaid after 30 days following the rendition of the bill therefor, the water supply for the lot, parcel of land or premises affected shall be cut off and shall not be turned on again except on payment in full of the delinquent charges therefor, in addition to the payment of a charge of \$30, subject to the same policy and procedures set forth in Section 52.32(D).

(Prior Code, Section 117.002) (Ord. 1-67, passed 10-31-1967; Ord. 94-1, passed 3-14-1994)

SECTION 52.47 SERVICE CHARGES; CUSTOMERS NOT SUPPLIED BY MUNICIPAL WATER SYSTEM.

The service charges for sanitary sewer service to customers not being supplied water by a municipal water system will be due and payable on the twentieth day of each month. Penalties for non-payment of bills will be provided for under Section 52.46.

(Prior Code, Section 117.003) (Ord. 1-67, passed 10-31-1967)

SECTION 52.48 APPLICATION FOR SERVICE; FEE.

(A) Applications for sewer service shall be filed with the Village Clerk/Treasurer upon a form supplied by the Village.

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(B) Except where otherwise provided by resolution of the Village Council, a fee as set by a resolution of the Village Council shall be paid to the Village at the time the application is filed with the Clerk/Treasurer for the connection charge to the sewer system.
(Prior Code, Section 117.004) (Ord. 1-67, passed 10-31-1967; Ord. 83-2, passed 6-14-1983; Ord. 94-1, passed 3-14-1994; Ord. 2000-5, passed 4-10-2000; Ord. 2001-2, passed 4-9-2001)

SECTION 52.49 JOINT LIABILITY; TENANT DEPOSIT.

The owner of the premises served and the occupant thereof and the user of the sanitary sewer service shall be jointly and severally liable for the sewer service provided the premises. A deposit of \$20 shall be required from all tenants. A cash deposit of three times the monthly base rate for service to the premises shall be required from all tenants. The deposit shall be applied to any bill for sewer service delinquent more than 30 days. Upon the disconnection of the sewer service any balance of the deposit shall be returned to the applicant without interest.
(Prior Code, Section 117.005) (Ord. 1-67, passed 10-31-1967)

SECTION 52.50 DUTY OF VILLAGE CLERK/TREASURER.

It is hereby made the duty of the Village Clerk/Treasurer to render bills for sewer service and all other charges in connection therewith and to collect all monies due therefrom.
(Prior Code, Section 117.006) (Ord. 1-67, passed 10-31-1967)

SECTION 52.51 SEWER SYSTEM FUND ACCOUNT.

All revenues and monies derived from the operation of the sewer system shall be paid to and held by the Clerk/Treasurer separate and apart from all other funds of the municipality, and all of the sums and all other funds and monies incident to the operation of the system, as may be delivered to the Clerk/Treasurer, shall be deposited in a separate fund designated the "Sewer System Fund Account" and the Clerk/Treasurer shall administer the fund in every respect in a manner provided by the statutes of the State pertaining thereto.
(Prior Code, Section 117.007) (Ord. 1-67, passed 10-31-1967)

SECTION 52.52 RECORDS; ACCOUNTS; ANNUAL AUDIT.

The Village Clerk/Treasurer shall establish a proper system of accounts, and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system, and at regular annual intervals the Village Council shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewer system.

(Prior Code, Section 117.008) (Ord. 1-67, passed 10-31-1967)

SECTION 52.53 FREE SERVICE PROHIBITED.

There shall be no free service rendered by the Village to any user of the sanitary sewer system. All users shall pay the rates and charges set forth by ordinance or resolution of the Village Council. (Prior Code, Section 117.011) (Ord. 1-67, passed 10-31-1967; Ord. 94-1, passed 3-14-1994; Ord. 2000-5, passed 4-10-2000)

SECTION 52.54 SUFFICIENCY LANGUAGE.

(A) The Village Council has determined that the purpose of sewer rates is to produce sufficient revenues each year to pay for the costs of service.

(B) The costs of service to be paid from revenues shall include all of the following:

(1) Operation and maintenance expenses;

(2) Debt service expenses; and

(3) Capital expenses not funded from bonded indebtedness.

(Ord. 2009-3, passed 3-9-2009)

SECTION 52.55 ESTABLISHING RATES AND CHARGES.

The rates for total sewer service charges are to be established by ordinance of the Village Council, which may be enacted apart from the published ordinances as necessary to ensure sufficiency of revenues in meeting operation, maintenance and replacement costs, as well as debt service. The rates shall be fixed and revised from time to time as may be necessary to produce these amounts.

(Ord. 2009-3, passed 3-9-2009)

SECTION 52.99 PENALTY.

(A) Any person who violates any provision of this Chapter for which no specific penalty is prescribed shall be guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99 of this Code.

(B) Any person found to be violating any provisions of Sections 52.25 through 52.33, except 52.30, shall be served with written notice stating the nature of the violation and providing a reasonable time of not less than five business days in which to correct the violation.

(C) A person that fails or refuses to comply with a notice under division (B) is responsible for a municipal civil infraction, and shall be subject to the penalty set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$50 for a first violation, \$150 for a second violation and \$500 for a third or subsequent violation.

(D) In addition to the penalties provided above, the Village may seek abatement of the violation and injunctive or other relief prescribed by the laws of the state for the abatement of a public nuisance or the violation of a Village ordinance designated as a municipal civil infraction.
(Prior Code, Section 116.008) (Ord. 96-35, passed 12-9-1996)

CHAPTER 53: WATER SERVICE, CONNECTION AND RATES

Section

Water Service

- 53.01 Definitions
- 53.02 Service connections
- 53.03 Turning on water service
- 53.04 Access to meters
- 53.05 Reimbursement of damage
- 53.06 Meter failure
- 53.07 Inaccurate meters
- 53.08 Hydrant use
- 53.09 Lawn sprinkling
- 53.10 Additional regulations
- 53.11 Injury to facilities

Water Service Connection

- 53.25 Connection to municipal water supply system required

Water Rates and Charges

- 53.40 Rates and charges

WATER SERVICE

SECTION 53.01 DEFINITIONS.

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

DEPARTMENT. The Department of Public Works of the Village.

WATER CONNECTION. The part of the water distribution system connecting the water main with the premises served.

WATER MAIN. The part of the water distribution system located within easement lines or streets designed to supply more than one water connection.
(Prior Code, Section 118.001)

SECTION 53.02 SERVICE CONNECTIONS.

(A) Service connections shall be installed by the Department upon payment of the required connection fee and meter installation fee.

(B) All meters and water connections shall be the property of the Village.

(C) Except as otherwise provided by ordinance or resolution of the Village Council, connection fees and meter installation charges shall not be less than the cost of materials, installation and overhead attributable to the installations.

(Prior Code, Section 118.002) (Ord. 2000-5, passed 4-10-2000)

SECTION 53.03 TURNING ON WATER SERVICE.

No person, other than an authorized employee of the Village, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his or her work (when it must be immediately turned off) or upon receiving a written order from the Department; provided, that upon written permit from the Department, water may be turned on for construction purposes only, prior to the granting of a certificate of occupancy for the premises, and upon payment of the charges applicable thereto.

(Prior Code, Section 118.003) Penalty, see Section 10.99

SECTION 53.04 ACCESS TO METERS.

(A) The Department shall have the right to shut off the supply of water to any premises where the Department is not able to obtain access to the water meter.

(B) Any qualified employee of the Department is not able to obtain access to the water meter.

(C) Any qualified employee of the Department shall at all reasonable hours, have the right to enter the premises where the meters are installed for the purpose of reading, testing, removing or inspecting same and no person shall hinder, obstruct or interfere with the employee in the lawful discharge of his or her duties in relation to the care and maintenance of the water meter.

(Prior Code, Section 118.004)

SECTION 53.05 REIMBURSEMENT OF DAMAGE.

Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage, which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the Village on presentation of a bill therefor; and in cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the Village.
(Prior Code, Section 118.005)

SECTION 53.06 METER FAILURE.

If any meter shall fail to register properly, the Department shall estimate the consumption on the basis of former consumption and bill accordingly.
(Prior Code, Section 118.006)

SECTION 53.07 INACCURATE METERS.

(A) A consumer may require that the meter be tested.

(B) If the meter is found accurate a charge equal to the testing fee and shipping and handling will be made.

(C) If the meter is found defective, a new meter will be installed and no charge will be made.
(Prior Code, Section 118.007) (Ord. 2002-1, passed 1-14-2002)

SECTION 53.08 HYDRANT USE.

(A) No person, except a firefighter or authorized employee of the Village in the performance of his or her duties, shall open or use any fire hydrant, except in case of emergency, without first securing a written permit from the Department.

(B) Permits for a period not in excess of 15 days may be granted by the Department, upon written application in a form as it shall prescribe and upon payment of the required fees. Permits may be granted only on terms and fees as the Council, by resolution, shall prescribe.

(C) In no case shall any hydrant be opened or closed except with a hydrant wrench provided by the Village.
(Prior Code, Section 118.008) Penalty, see Section 10.99

SECTION 53.09 LAWN SPRINKLING.

(A) The Superintendent of the Department, subject to approval by the President, may regulate, limit or prohibit the use of water for any purpose.

(B) The regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for firefighting.

(C) No like regulation, limitation or prohibition shall be effective until 24 hours after publication of the regulation, limitation or prohibition, either in a newspaper of general circulation in the Village or posting in three places within the Village.

(D) Any person violating any such rule or regulation shall, upon conviction thereof, be punished as prescribed in Section 10.99.

(Prior Code, Section 118.009) Penalty, see Section 10.99

SECTION 53.10 ADDITIONAL REGULATIONS.

(A) The Superintendent of the Department may make and issue additional rules and regulations concerning the water distribution system, connections thereto, meter installations and maintenance, hydrants and water mains and the appurtenances thereto, not inconsistent herewith.

(B) The rules and regulations shall be effective upon approval by the Council.

(Prior Code, Section 118.010)

SECTION 53.11 INJURY TO FACILITIES.

No person, except an employee of the Village in the performance of his or her duties, shall willfully or carelessly damage, destroy, deface or tamper with any structure, appurtenance or equipment, which is part of the Village water distribution system.

(Prior Code, Section 118.011)

WATER SERVICE CONNECTION**SECTION 53.25 CONNECTION TO MUNICIPAL WATER SUPPLY SYSTEM REQUIRED.**

(A) (1) The owner of each structure or premises used for human occupancy, employment, recreation or other purposes situated within the Village and abutting on any street, alley or right-of-way

in which there is located, or may in the future be located, a water main of the Village water supply system shall, at the owner's expense, within 180 days after the water main becomes available, install suitable plumbing facilities therein and connect the facilities directly to the Village water supply system.

(2) A water main is available if it is located within a 200-foot radius of the structure or premises.

(B) Division (A) above shall not apply to a structure or premises otherwise lawfully connected to a private well at the time this amendatory provision becomes effective until a time as the well:

- (1) Is determined by the State or County health authorities to be unfit for human consumption;
- (2) Needs to be relocated for any reason; or
- (3) Is reconstructed in any manner beyond cleaning or the replacement of the point.

(C) All connections to the Village water supply system shall be made in accordance with requirements of Section 53.02 and other rules and regulations promulgated by the Department of Public Works pursuant to Section 53.10.

(D) Where the Village water supply system is not available, the owner of each premises used for human occupancy, employment, recreation or other purposes situated within the Village shall, at the owner's sole expense, provide and maintain water to the premises in accordance with applicable law and the rules and regulations of any governmental entity or agency of competent jurisdiction.

(E) Private wells may be used for agricultural irrigation, gardens and lawn watering purposes. (Prior Code, Section 119.001) (Ord. 85-4, passed 8-27-1985; Ord. 96-10, passed 11-25-1996)

WATER RATES AND CHARGES

SECTION 53.40 RATES AND CHARGES.

(A) Water furnished by the system shall be measured by a meter installed by the Village or as otherwise expressly permitted by the Village.

(B) The monthly rates and charges for water furnished by the Village's system shall be as follows.

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(1) *Monthly rates for Village customers.*

Class	Meter Size	FY 17/18		FY 18/19	
		Readiness to Serve (RTS)	Commodity Charge per 1,000 Gallons	Readiness to Serve (RTS)	Commodity Charge per 1,000 Gallons
Single-family residential	5/8" x 3/4"	\$11.25	\$2.77	\$11.59	\$2.85
Other classes within Village	5/8" x 3/4"	\$22.50	\$2.77	\$23.18	\$2.85
	1"	\$28.13	\$2.77	\$28.97	\$2.85
	1-1/2"	\$45.00	\$2.77	\$46.35	\$2.85
	2"	\$90.00	\$2.77	\$92.70	\$2.85
	3"	\$123.75	\$2.77	\$127.46	\$2.85
	4"	\$157.50	\$2.77	\$162.23	\$2.85
Outside of Village	5/8" x 3/4"	\$45.00	\$5.38	\$46.35	\$5.54
	1"	\$56.26	\$5.38	\$57.95	\$5.54
	1-1/2"	\$90.00	\$5.38	\$92.70	\$5.54
	2"	\$180.00	\$5.38	\$185.40	\$5.54
	3"	\$247.50	\$5.38	\$254.93	\$5.54

After FY 18/19, the readiness-to-serve charge and a commodity charge per 1,000 gallons will be increased by 3% annually (on March 1 of each year) from the immediately preceding year's rate.

(C) *Fire protection rate.* For the use of water through fire hydrants for fire protection and for the availability of the water, the Village may pay in equal quarterly installments a sum per hydrant as set by resolution of the Village Council, the payments to be made from funds of the Village legally available for those purposes. Nothing herein shall prohibit the Village from assessing the charges to properties benefitted in the manner authorized by law.

(D) *Connection fee.* Unless otherwise approved in writing by the Village, all connections to the water system shall be made by the Village in accordance with Village specifications, and the Village shall charge a fee for the connections as established by resolution of the Village Council.

(E) *Deposit.* A cash deposit equivalent to three times the monthly base rate as security for payment of water rates shall be required to the extent and in the manner, permitted by law and in accordance with Section 50.01.

(Ord. 2009-2, passed 1-12-2009; Ord. 2017-3, passed 6-19-2017; Ord. 2018-01, passed 3-19-2018)

[Text continues on page 45]

(d) The rate for sewer service to structures served by the system outside the Village's boundaries shall be twice the rate charged for the same service within the Village, unless there exists a separate established agreement of the Village Council.
(Ord. 2009-2, passed 1-12-2009)

CHAPTER 54: CROSS CONNECTIONS

Section

- 54.01 Adoption of State rules
- 54.02 Inspections
- 54.03 Right of inspector to enter property; duty of owner, lessee and the like to furnish information
- 54.04 Authority to discontinue water service
- 54.05 Protection of potable water supply
- 54.06 Chapter supplementary to State Plumbing Code

- 54.99 Penalty

SECTION 54.01 ADOPTION OF STATE RULES.

The Village adopts by reference as fully as if set out at length herein the *Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality*, being R 325.11401 to R 325.11407 of the Michigan Administrative Code, as amended.
(Ord. 2005-4, passed 5-9-2005)

SECTION 54.02 INSPECTIONS.

(A) It shall be the duty of the Department of Municipal Services to cause inspections to be made of all properties served by the Village's public water supply system. The frequency of inspections and re-inspections based on potential health hazards shall be as established by the Department of Municipal Services and as approved by the State Department of Environmental Quality.

(B) All testable backflow prevention assemblies shall be tested upon installation to be sure that the device is working properly. Subsequent testing of assemblies shall be conducted on an annual basis as required by the Department of Municipal Services and in accordance with the State Department of Environmental Quality requirements. Only individuals that are approved and State certified shall be qualified to perform the testing.
(Ord. 2005-4, passed 5-9-2005; Ord. 2006-8, passed 9-11-2006)

SECTION 54.03 RIGHT OF INSPECTOR TO ENTER PROPERTY; DUTY OF OWNER, LESSEE AND THE LIKE TO FURNISH INFORMATION.

(A) An employee or other designated representative of the Village shall have the right to enter at any reasonable time any property served by a connection to the Village's public water supply system for the purpose of inspecting the piping system or systems thereof for cross connections.

(B) 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 or systems on the property.

(C) The refusal of the information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

(Ord. 2005-4, passed 5-9-2005) Penalty, see Section 54.99

SECTION 54.04 AUTHORITY TO DISCONTINUE WATER SERVICE.

(A) The Department of Municipal Services is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this Chapter exists and to take other precautionary measures deemed necessary to eliminate any danger of contamination of the Village's public water supply system.

(B) Water service to the property shall not be restored until the cross connections have been eliminated in compliance with the provisions of this Chapter.

(Ord. 2005-4, passed 5-9-2005)

SECTION 54.05 PROTECTION OF POTABLE WATER SUPPLY.

(A) The potable water supply made available on the properties served by the Village's public water supply shall be protected from possible contamination as specified by this Chapter and by the State and by the applicable Plumbing Code.

(B) Any water 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. 2005-4, passed 5-9-2005)

SECTION 54.06 CHAPTER SUPPLEMENTARY TO STATE PLUMBING CODE.

This Chapter does not supercede the State Plumbing Code, but is supplementary to it.

(Ord. 2005-4, passed 5-9-2005)

SECTION 54.99 PENALTY.

Any person who violates any provision of this Chapter or any written order of the Department of Municipal Services issued hereunder is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$50 for a first violation and \$300 for a second or subsequent violation.
(Ord. 2005-4, passed 5-9-2005)

CHAPTER 55: GROUNDWATER PROTECTION

Section

- 55.01 Purpose
- 55.02 Definitions
- 55.03 Scope
- 55.04 General provisions
- 55.05 Review requirements
- 55.06 Determination of applicability
- 55.07 Conditions for approval or denial
- 55.08 Exemptions and waivers
- 55.09 Appeals

- 55.99 Penalties and costs

SECTION 55.01 PURPOSE.

(A) The Village of Howard City has determined that:

- (1) The groundwater underlying the Village is the sole source of the Village's drinking water.
- (2) Groundwater aquifers are integrally connected with, and flow into, the surface water, lakes, and streams which constitute significant public health, recreational and economic resources of the Village.
- (3) Spills and discharges of petroleum products, sewage and other hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

(B) Therefore, the Village has enacted this chapter to:

- (1) Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the Village, and protect them from adverse development or land use practices.
- (2) Preserve and protect present and potential sources of drinking water supply for public health and safety.
- (3) Conserve the natural resources of the Village.

(4) Protect the financial investment of the Village in its drinking water supply and to meet State requirements for wellhead protection.

(5) Assure that State regulations which help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.
(Ord. 2015-5, passed 5-18-2015)

SECTION 55.02 DEFINITIONS.

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

AQUIFER. A geologic formation, group of formations or part of a formation capable of storing and yielding a significant amount of groundwater to wells or springs.

BEST MANAGEMENT PRACTICES. Measures, either managerial or structural to prevent or reduce pollution inputs to soil, surface water or groundwater.

DEVELOPMENT. The carrying out of any construction, reconstruction, alteration of surface of structure or change of land use or intensity of use.

ENVIRONMENTAL CONTAMINATION. The release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity, which is or may become injurious to the environment, or to the public health, safety, or welfare.

FACILITY. Any building, structure, or installation from which there may be a discharge of pollutants.

HAZARDOUS SUBSTANCE. A chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment. The term **HAZARDOUS SUBSTANCE** includes, but is not limited to, hazardous substances as defined in the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767 and **HAZARDOUS WASTE** as defined in Act No. 451 of the Public Acts of 1994, Part 111 as amended.

PRIMARY CONTAINMENT FACILITY. A tank, pit, container, pipe, or vessel of first containment of a hazardous substance.

SECONDARY CONTAINMENT FACILITY. A second tank, catchment pit, pipe or vessel that contains liquid or chemical leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent the discharge to land, ground waters, or surface waters, of any pollutant which may emanate from said storage container or containers.

UNDERGROUND STORAGE TANK SYSTEM. A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Act No. 451 of the Public Acts of 1994, Part 213, as amended.

USED OIL. Any oil which had been:

- (1) Refined from crude oil;
- (2) Used; and
- (3) As a result of such use contaminated by physical or chemical impurities.

WELL. A permanent or temporary opening in the surface of the earth for the purpose of removing fresh water, testing water quality, measuring water characteristics, liquid recharge, waste disposal, or dewatering purposes during construction, as defined in State law.

WELLHEAD PROTECTION AREA (WHPA). The area around and upgradient from the public water supply wells delineated by the ten year travel time contour capture boundary.
(Ord. 2015-5, passed 5-18-2015)

SECTION 55.03 SCOPE.

The provisions of this chapter shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds), and which use or development requires site plan review under any provision of this Code.
(Ord. 2015-5, passed 5-18-2015)

SECTION 55.04 GENERAL PROVISIONS.

(A) *Groundwater protection standards.*

(1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.

(2) Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding, or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.

(3) Industrial facilities with a point source discharge of storm water shall maintain a Storm Water Pollution Prevention Plan in accordance with applicable State and Federal regulations.

(4) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a State surface or groundwater discharge permit. If connected to the public sewer system then the volumes and concentrations of waste discharged to the floor drain may require compliance with the Villages' use of public sewer as set forth in Chapter 52.

(5) Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.

(6) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.

(7) In determining conformance with the standards of this Chapter, the Village shall take into consideration all publications of the Village of Howard City Council, and other applicable references.

(8) Bulk storage of pesticides shall be in accordance with State law.

(B) *Aboveground storage and use areas for hazardous substances and polluting material.*

(1) Primary containment of hazardous substances shall be product tight.

(2) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of ten gallons or less packaged for retail use shall be exempt from this item.

(3) Outdoor storage of hazardous substances shall be prohibited except in product tight containers which are protected from weather, leakage, accidental damage and vandalism, including an allowance of the expected accumulation of precipitation.

(4) Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained in accordance with applicable State legal requirements.

(5) Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetland, groundwater or soils.

(6) The location of the aboveground storage of hazardous substances and methods of primary and secondary containment shall be clearly illustrated on the site plan.

(C) *Underground storage tanks.*

(1) Existing or new underground storage tanks shall be registered with the authorized state agency in accordance with applicable requirements of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality.

(2) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the Michigan Department of Environmental Quality. Leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by Village officials for the preceding five years.

(3) All underground storage tanks which have been out of service for 12 months shall be removed from the site.

(D) *Well abandonment.* Out of service wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Environmental Quality, Water Bureau, Drinking Water and Environmental Health, Well Construction Unit.

(E) *Sites with contaminated soils and/or groundwater.*

(1) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.

(2) Development shall not be allowed on contaminated areas of a site unless information from the Michigan Department of Environmental Quality is available indicating that cleanup will proceed in a timely fashion.

(3) Information must be provided regarding the type, concentration and extent of identified contamination, land use deed restrictions and any remedial action plans.

(4) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(F) *Construction standards.*

(1) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetlands may be improper.

(2) Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container of over 25 gallons, or 220 pounds containing hazardous substances shall have secondary containment.

(3) If the contractor will be storing or handling hazardous substances that require a manufacturer's material safety data sheet, the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.

(4) Upon completion of construction, all hazardous substances and containment systems no longer used, or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled, or re-used in a proper manner as prescribed by applicable State and Federal regulations.

(5) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(G) *Maintenance*. In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and groundwater. Cracks and holes in floors, foundations and walls must be repaired in areas where chemicals are handled or stored.

(Ord. 2015-5, passed 5-18-2015) Penalty, see Section 55.99

SECTION 55.05 REVIEW REQUIREMENTS.

(A) Specify location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, use, load/unloading, recycling, or disposal of hazardous materials.

(B) Specify location of all underground and aboveground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous materials storage, collection of contaminated stormwater or wash water, and all similar uses.

(C) Specify location of existing and proposed wells.

(D) Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

(E) Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.

(F) Submit "Hazardous Materials Reporting Form for Site Plan Review".

(G) Submit the Village Environmental Permits Checklist.

(H) Refer to Chapter 154 for additional site plan requirements.
(Ord. 2015-5, passed 5-18-2015)

SECTION 55.06 DETERMINATION OF APPLICABILITY.

It shall be the responsibility of any person owning real property and/or owning and operating business within the Village corporate limits to make a determination of the applicability of this chapter as it pertains to the property and/or business under his or her ownership or operation and his or her failure to do so shall not excuse any violations of this chapter.
(Ord. 2015-5, passed 5-18-2015) Penalty, see Section 55.99

SECTION 55.07 CONDITIONS FOR APPROVAL OR DENIAL.

The Planning Commission, upon reviewing a site plan subject to this chapter, may approve, approve with conditions or deny such site plan, in the manner and as provided for in Chapter 154.
(Ord. 2015-5, passed 5-18-2015)

SECTION 55.08 EXEMPTIONS AND WAIVERS.

The transportation of any hazardous substance shall be exempt from the provisions of this Chapter provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a State licensed hazardous waste treatment, storage, or disposal facility.
(Ord. 2015-5, passed 5-18-2015)

SECTION 55.09 APPEALS.

The Village Council may grant a special permit if it finds by written decision that the proposed use:

(A) Meets the intent of this chapter as well as its specific criteria;

(B) Will not, during construction or thereafter, have an adverse impact on any aquifer or recharge area in the district; and

(C) Will not adversely affect an existing or potential domestic or municipal water supply, and is consistent with existing and probable future development of surrounding areas.
(Ord. 2015-5, passed 5-18-2015)

SECTION 55.99 PENALTIES AND COSTS.

(A) *Falsifying information.* Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any method required under this chapter, shall be guilty of a misdemeanor and subject to a fine of not more than \$500 dollars, jail of up to 90 days, as well as the costs of prosecution.

(B) *Violations.* Any person or persons who is found to have violated an order of the Village issued pursuant to this chapter or who fails to comply with any provision of this chapter or the orders, rules, and regulations and permits issued hereunder, shall be responsible for a municipal civil infraction and subject to a fine of not more than \$500 dollars as well as the costs of prosecution.

(C) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. Any person or persons violating any of the provisions of this chapter shall be liable to the Village for any expense, loss, or damage caused by such violation. The Village shall bill the person or persons for the costs incurred by the Village caused by the violation.
(Ord. 2015-5, passed 5-18-2015)

TITLE VII: TRAFFIC CODE

Chapter

- 70. TRAFFIC REGULATIONS**
- 71. PARKING REGULATIONS**
- 72. DRUNK DRIVING COST RECOVERY**
- 73. OFF-ROAD RECREATIONAL VEHICLES**
- 74. SNOWMOBILES**
- 75. TRUCK ROUTES**

Howard City - Traffic Code

CHAPTER 70: TRAFFIC REGULATIONS

Section

General Provisions

- 70.01 School buses; overtaking; signs and lights; enforcement
- 70.02 Engine brakes prohibited

State Vehicle Code; Uniform Traffic Code

- 70.20 State Vehicle Code adopted
- 70.21 References in State Vehicle Code
- 70.22 Enforcement of State Vehicle Code; sanctions
- 70.23 Uniform Traffic Code adopted
- 70.24 References in Uniform Traffic Code
- 70.25 Enforcement of Uniform Traffic Code; sanctions

- 70.99 Penalty

GENERAL PROVISIONS

SECTION 70.01 SCHOOL BUSES; OVERTAKING; SIGNS AND LIGHTS; ENFORCEMENT.

(A) The driver of a vehicle shall not overtake or meet and pass any school bus which has stopped for the purpose of receiving or discharging passengers. All school buses shall contain signs on the back and front thereof, with respect thereto, as shall be approved by the State Highway Commissioner.

(B) The driver of a vehicle overtaking or meeting any school bus which has stopped and is displaying two alternately flashing red lights located at the same level shall bring the vehicle to a full stop at least ten feet from the school bus and shall not proceed until the school bus has resumed motion or the school bus driver signals to proceed or the visual signals are no longer actuated. The driver of the school bus, before resuming, shall signal stopped traffic to proceed and shall when resuming motion proceed in a manner so as to allow congested traffic to disperse by keeping the bus as near to the right side of the road as can be done with safety. Passengers crossing the road upon being discharged from a school bus shall cross in front of the stopped school bus. At an intersection where traffic is controlled by an officer or a traffic stop and go signal, a vehicle need not be brought to a full stop before passing

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the school bus, but may proceed past the school bus at a speed not greater than ten mph and with due caution for the safety of passengers being received or discharged from the school bus.

(C) This section shall be enforceable when signs giving notice of the local traffic regulation are posted upon or at the entrance to the area or part thereof affected as may be most appropriate or sufficiently legible as to be seen by an ordinarily observant person.

(Prior Code, Section 46.001) (Ord. 1-66, passed 4-5-1966) Penalty, see Section 70.99

SECTION 70.02 ENGINE BRAKES PROHIBITED.

(A) For purposes of this section, *ENGINE BRAKES* are defined as an exhaust or exhaust manifold powered auxiliary braking system found on trucks. The terms *TRUCK* and *TRUCK TRACTOR* used in this section shall have the same meaning as provided in the Michigan Vehicle Code, as amended from time to time, being MCL 257.1 et seq.

(B) The Village Council hereby finds that engine brakes are an auxiliary system and that drivers of trucks have other means of braking. In all areas of the Village, the use and application of engine brakes can be noisy and disruptive of the peace and tranquility of nearby residential areas.

(C) A person who violates a prohibition on the use of engine brakes on streets within the Village under this section is responsible for a municipal civil infraction as defined in Chapter 31.

(Ord. 2007-1, passed 8-13-2007) Penalty, see Section 70.99

STATE VEHICLE CODE; UNIFORM TRAFFIC CODE

SECTION 70.20 STATE VEHICLE CODE ADOPTED.

Pursuant to the provisions of the General Law Village Act, Public Act 3 of 1895, as amended, being MCL 61.1 et seq., the Michigan Vehicle Code, Public Act 300 of 1949, as amended, being MCL 257.1 et seq., is adopted by reference, as if fully set forth herein.

(Ord. 2003-1, passed 3-10-2003)

SECTION 70.21 REFERENCES IN STATE VEHICLE CODE.

References in the Michigan Vehicle Code to *LOCAL AUTHORITIES* shall mean the Village of Howard City, Montcalm County, Michigan.

(Ord. 2003-1, passed 3-10-2003)

SECTION 70.22 ENFORCEMENT OF STATE VEHICLE CODE; SANCTIONS.

(A) The Michigan Vehicle Code may be enforced by any authorized representative or other employee of the Village authorized to enforce criminal ordinances or authorized to issue civil infractions.

(B) The penalties provided by the Michigan Vehicle Code are adopted by reference; provided, however, that the Village may not enforce any provision of the Michigan Vehicle Code for which maximum period of imprisonment is greater than 93 days, except as provided in MCL 66.2, as amended, or as otherwise provided by law.

(C) When any person is found guilty of a misdemeanor or responsible for a civil infraction pursuant to this section, the judge or magistrate shall summarily determine and tax the costs of the action which shall include all expenses, direct and indirect, to the Village has been put in connection with the violation or infraction up to the entry of judgment.

(Ord. 2003-1, passed 3-10-2003)

SECTION 70.23 UNIFORM TRAFFIC CODE ADOPTED.

The *Uniform Traffic Code for Cities, Townships, and Villages*, as promulgated by the Director of the State Department of State Police pursuant to the Administrative Procedures Act of 1969, Public Act 306 of 1969, being MCL 24.201 to 24.328 and made effective October 30, 2002, is adopted by reference, as if fully set forth herein.

(Ord. 2003-1, passed 3-10-2003)

SECTION 70.24 REFERENCES IN UNIFORM TRAFFIC CODE.

References in the Uniform Traffic Code to “governmental unit” or “municipality” shall mean the Village of Howard City, Montcalm County, Michigan.

(Ord. 2003-1, passed 3-10-2003)

SECTION 70.25 ENFORCEMENT OF UNIFORM TRAFFIC CODE; SANCTIONS.

(A) The Uniform Traffic Code may be enforced by any authorized representative or other employee of the Village authorized to enforce criminal ordinances or authorized to issue civil infractions.

(B) The penalties provided by the Uniform Traffic Code are adopted by reference; provided, however, that the Village may not enforce any provision of the Uniform Traffic Code for which the maximum period of imprisonment is greater than 93 days.

(C) When any person is found guilty of a misdemeanor or responsible for a civil infraction pursuant to this section, the judge or magistrate shall summarily determine and tax the costs of the action which

shall include all expenses, direct and indirect, to which the Village has been put in connection with the violation or infraction up to the entry of judgment.

(Ord. 2003-1, passed 3-10-2003)

SECTION 70.99 PENALTY.

(A) A person who violates any provision of this Chapter for which no specific penalty is prescribed shall be guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

(B) Any person who violates Section 70.01 is guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

(Prior Code, Section 46.002) (Ord. 1-66, passed 4-5-1966)

CHAPTER 71: PARKING REGULATIONS

Section

Parking Prohibited

- 71.01 No parking hours
- 71.02 Declaration of necessity
- 71.03 Definitions
- 71.04 Impounding vehicles
- 71.05 Presumption of ownership

PARKING PROHIBITED

SECTION 71.01 NO PARKING HOURS.

(A) No person, firm, corporation or other entity shall park or permit to remain parked any motor vehicle on any Village street or parking lot from 2:00 a.m. and 7:00 a.m. from November 1 to April 15.

(B) No person, firm, corporation or other entity shall park or permit to remain parked any large truck, as defined herein, on any Village street or parking lot from 2:00 a.m. to 7:00 a.m. (Prior Code, Section 48.001) (Ord. 91-3, passed 6-10-1991; Ord. 98-1, passed 5-11-1998; Ord. 98-5, passed 10-12-1998; Ord. 2016-1, passed 12-19-2016) Penalty, see Section 10.99

SECTION 71.02 DECLARATION OF NECESSITY.

The Village Council finds that this subchapter is necessary in order to ensure clear vision, facilitate fire and police protection, facilitate snow and refuse removal, and to ensure those areas adjacent to the traveled portion of the Village streets are open and available, in order that drivers will have an open area should they have to leave the traveled portion of the street in order to avoid a dangerous situation on the traveled roadway.

(Prior Code, Section 48.002) (Ord. 91-3, passed 6-10-1991)

SECTION 71.03 DEFINITIONS.

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

LARGE TRUCK. A wheeled vehicle for road travels with or without motive power over 25 feet in length.

STREETS. As used in Section 71.01:

(1) On curbed street, the whole width area between the curbs; and

(2) On streets without curbs on each side, that portions of the street open for, developed for or maintained for vehicular travel.

(Prior Code, Section 48.003) (Ord. 91-3, passed 6-10-1991)

SECTION 71.04 IMPOUNDING VEHICLES.

Any motor vehicle or large truck parked in violation of this subchapter may be impounded by an authorized representative of the Village and may be caused to be removed by the authorized representative to any motor vehicle pound.

(Prior Code, Section 48.004) (Ord. 91-3, passed 6-10-1991)

SECTION 71.05 PRESUMPTION OF OWNERSHIP.

The registered owner of any motor vehicle or large truck parked in violation of this subchapter shall be presumed to have parked the motor vehicle or large truck.

(Prior Code, Section 48.005) (Ord. 91-3, passed 6-10-1991)

CHAPTER 72: DRUNK DRIVING COST RECOVERY

Section

- 72.01 Purpose
- 72.02 Definitions
- 72.03 Liability for expense of an emergency response
- 72.04 Cost recovery fees

SECTION 72.01 PURPOSE.

(A) The Village finds that a significant number of traffic arrests and traffic accidents in the Village involve drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances.

(B) In addition, the Village finds that in traffic accidents involving drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances there is a greater likelihood of personal injury and property damage.

(C) As a result of these determinations, a greater operational and financial burden is placed upon the Village's firefighting and rescue services by persons who are operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances.
(Prior Code, Section 146.001) (Ord. 91-1, passed 4-8-1991)

SECTION 72.02 DEFINITIONS.

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

EMERGENCY RESPONSE.

(1) The providing, sending and/or utilizing of police, firefighting, emergency medical and rescue services by the Village, or by a private individual or corporation operating at the request or direction of the Village, to an incident resulting in an alcoholic beverage or controlled substance or the combined influence of an alcoholic beverage and/or controlled substance; or

(2) An incident resulting in a traffic stop and arrest by an authorized Village representative when a driver was operating the motor vehicle while under the influence of an alcoholic beverage and/or controlled substance.

EXPENSE OF AN EMERGENCY RESPONSE. The direct and reasonable costs incurred by the Village, or to a private person or corporation operating at the request or direction of the Village, when making an emergency response to the incident, including the costs of providing police, firefighting and rescue services at the scene of the incident. These costs further include all the salaries and wages of the Village personnel responding to the incident, all salaries and wages of the Village personnel engaged in the investigation, supervision and report preparation, all costs connected with the administration and provision of all chemical tests of his or her blood, breath or urine and all costs related to any prosecution of the person causing the incident.

(Prior Code, Section 146.002) (Ord. 91-1, passed 4-8-1991)

SECTION 72.03 LIABILITY FOR EXPENSE OF AN EMERGENCY RESPONSE.

(A) *Person responsible.* Any person is liable for the expense of an emergency response if, while under the influence of an alcoholic beverage or controlled substance, or the combined influence of an alcoholic beverage and controlled substance, the person's operation of a motor vehicle proximately causes any incident resulting in an emergency response.

(B) *Presumptions.* For the purpose of this Chapter, a person is under the influence of an alcoholic beverage or controlled substance, or the combined influence of an alcoholic beverage and controlled substance, when his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while under the influence of an alcoholic beverage if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of 0.07%.

(C) *Charge against a person.* The expense of an emergency response shall be a charge against the person liable for the expenses under this Chapter. The charge constitutes a debt of that person and is collectable by the Village for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

(D) *Cost recovery schedule.* The Village Council shall, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available to the public from the Village Clerk/Treasurer.

(E) *Billing.* An authorized Village representative, may, within ten days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person liable for the expenses as enumerated under this Chapter. The bill(s) shall require full payment in 30 days from the date of service.

(F) *Failure to pay; procedure to recover costs.* Any failure by the person described in this Chapter as liable for the expense of an emergency response to pay the bill within 30 days of service shall be considered in default. In case of default, the Village may commence civil suit to recover the expenses and all costs allowed by law.

(Prior Code, Section 146.003) (Ord. 91-1, passed 4-8-1991)

SECTION 72.04 COST RECOVERY FEES.

The fees schedule for the Cost Recovery Program shall be adopted from time to time by resolution of the Village Council. Nothing in the Cost Recovery Program or the fee schedule shall prohibit the Village from recovering expenses under MCL 769.1f, as amended, where applicable.

(Prior Code, Section 146.005) (Ord. 91-1, passed 4-8-1991, Res. passed - -)

CHAPTER 73: OFF-ROAD RECREATIONAL VEHICLES

Section

- 73.01 Definitions
- 73.02 Designated roads
- 73.03 Operating conditions
- 73.04 License; safety certificate
- 73.05 Registered motor vehicle
- 73.06 Evidence

- 73.99 Penalty

SECTION 73.01 DEFINITIONS.

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

COUNTY. The County of Montcalm, Michigan.

DIRECT SUPERVISION. The direct visual observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

DRIVER'S LICENSE. An operator's or chauffeur's license or permit issued to an individual by the Secretary of State under Chapter 111 of the State Vehicle Code, Public Act 300 of 1949, as amended, being MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

OPERATE. To ride in or on, and be in actual physical control of, the operation of an ORV.

OPERATOR. A person who operates or is in actual physical control of the operation of an ORV.

ORV. A motor-driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail required to be licensed in accordance with Public Act 451 of 1994, as amended, being MCL 324.81101 et seq.

ROAD. A County primary road or County local road as described in Section 5 of Public Act 51 of 1951, being MCL 247.655.

ROAD COMMISSION. The Board of County Road Commissioners for the County of Montcalm.

SAFETY CERTIFICATE. A certificate issued pursuant to Public Act 451 of 1994, as amended, being MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

VILLAGE. The Village of Howard City, Montcalm County, Michigan.
(Ord. 2012-2, passed 6-11-2012)

SECTION 73.02 DESIGNATED ROADS.

(A) Subject to the provision of this Chapter, an ORV may be operated only on the far right on the maintained portion of the public roads in the Village prior to December 1 and after March 31 of each year.

(B) ORV use on a public road shall not occur if otherwise prohibited by law.

(C) An ORV may not be operated on the public roads in the Village between the hours of 11:00 p.m. and 6:00 a.m., local time.
(Ord. 2012-2, passed 6-11-2012)

SECTION 73.03 OPERATING CONDITIONS.

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a designated road in the Village:

(A) At a speed of no more than 25 mph, or a lower posted ORV speed limit, or in a careful manner having due regard for conditions then existing;

(B) By a person not less than 12 years of age;

(C) With the flow of traffic;

(D) In a manner which does not interfere with traffic on the road;

(E) Traveling single file, except when overtaking and passing another ORV;

(F) While displaying a lighted headlight and lighted taillight at all times;

(G) When the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eye wear approved by the United States Department of Transportation. This subdivision does not apply if the vehicle is equipped with a windshield and a roof or roll bar that meets

or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt;

(H) With a throttle so designated that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle;

(I) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation;

(J) When equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 mph; a brake light, brighter than a taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours between one-half hour after sunset and one-half hour before sunrise;

(K) Pursuant to noise emission standards defined by law; and

(L) In a court action in this State where competent evidence demonstrates that a vehicle that is permitted to be operated on a highway pursuant to the State Vehicle Code, Public Act 300 of 1949, being MCL 257.1 to 257.923, collided with an ORV on a roadway, the driver of the ORV involved in the collision shall be considered prima facie negligent.

(Ord. 2012-2, passed 6-11-2012)

SECTION 73.04 LICENSE; SAFETY CERTIFICATE.

A person less than 16 years of age shall not operate an ORV on a road in the Village unless the person is under the direct supervision of a parent or guardian and has in his or her possession an ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(Ord. 2012-2, passed 6-11-2012)

SECTION 73.05 REGISTERED MOTOR VEHICLE.

Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road in the Village if the ORV is registered as a motor vehicle, and either is more than 60 inches wide or has three wheels.

(Ord. 2012-2, passed 6-11-2012)

SECTION 73.06 EVIDENCE.

In a court action in this State, if competent evidence demonstrates that a vehicle that is permitted to operate on a road pursuant to State law was in a collision with an ORV required to be operated on the

far right of the maintained portion of the road pursuant to this Chapter, the operator of the ORV shall be considered prima facie negligent.

(Ord. 2012-2, passed 6-11-2012)

SECTION 73.99 PENALTY.

A person who violates any provision of this Chapter is responsible for a municipal civil infraction, and shall be subject to the penalty set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$500 for each violation. In addition, a court may order the person to pay full restitution for any damage to the environment, a road or public property damaged as a result of the violation.

(Ord. 2012-2, passed 6-11-2012)

CHAPTER 74: SNOWMOBILES

Section

- 74.01 Definitions
- 74.02 Regulations
- 74.03 Exceptions to regulations
- 74.04 Equipment required
- 74.05 Unattended vehicles
- 74.06 Restriction of operation
- 74.07 Traffic regulations
- 74.08 Incorporation by reference; State law affecting law enforcement

- 74.99 Penalty

SECTION 74.01 DEFINITIONS.

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

OPERATE. To control the operation of a snowmobile.

OPERATOR. A person who operates or is in actual control of a snowmobile.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.

(Prior Code, Section 47.001) (Ord. passed 3-3-1970)

SECTION 74.02 REGULATIONS.

It shall be unlawful for any person to operate a snowmobile under the following circumstances:

(A) On private property of another without the express permission to do so by the owner or occupant of the property;

(B) On public school grounds, park property, playgrounds and recreational areas without express provision or permission to do so by the proper public authority;

(C) In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons;

(D) In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person;

(E) Without having the snowmobile registered as provided by statute, except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his or her immediate family, or any other person with permission of the owner; and/or

(F) Within the right-of-way of any public street in the Village unless the operator shall have a valid driver's license or is accompanied by a licensed driver, who is actually occupying the seat in the vehicle. (Prior Code, Section 47.002) (Ord. passed 3-3-1970) Penalty, see Section 10.99

SECTION 74.03 EXCEPTIONS TO REGULATIONS.

(A) Notwithstanding the prohibitions of this Chapter, the Parks and Recreation Director shall have authority to supervise and regulate events or programs in connection with events conducted by the Parks and Recreation Department in which snowmobiles are used.

(B) The Parks and Recreation Director shall have the authority to designate Village park areas that he or she shall deem available for the use of snowmobiles. (Prior Code, Section 47.003) (Ord. passed 3-3-1970)

SECTION 74.04 EQUIPMENT REQUIRED.

All snowmobiles operated within the Village shall have the following equipment:

(A) Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cutout, bypass or similar device on the vehicle;

(B) Adequate brakes in good working condition and at least one headlight and one taillight; and

(C) A safety or so-called "dead man throttle" in operating condition; a *SAFETY* or *DEAD MAN THROTTLE* is defined as a device which, when pressure is removed from the accelerator or throttle, causes the motor to be disengaged from the driving track. (Prior Code, Section 47.004) (Ord. passed 3-3-1970) Penalty, see Section 10.99

SECTION 74.05 UNATTENDED VEHICLES.

It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended

on public property while the motor is running, or with keys for starting the vehicle left in the ignition. (Prior Code, Section 47.005) (Ord. passed 3-3-1970) Penalty, see Section 10.99

SECTION 74.06 RESTRICTION OF OPERATION.

The Village Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads or streets or other Village property within the Village when in its opinion the public safety and welfare so require.

(Prior Code, Section 47.006) (Ord. passed 3-3-1970)

SECTION 74.07 TRAFFIC REGULATIONS.

Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any representative of the Village authorized to direct or regulate traffic.

(Prior Code, Section 47.007) (Ord. passed 3-3-1970) Penalty, see Section 10.99

SECTION 74.08 INCORPORATION BY REFERENCE; STATE LAW AFFECTING LAW ENFORCEMENT.

This Chapter incorporates by reference Part 821 of Public Act 451 of 1994, being MCL 324.82101 et seq.

(Prior Code, Section 47.008) (Ord. passed 3-3-1970)

SECTION 74.99 PENALTY.

A person who violates any provision of this Chapter is responsible for a municipal civil infraction, and shall be subject to the penalty set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$500 for each violation. In addition, a court may order the person to pay full restitution for any damage to the environment, a road or public property damaged as a result of the violation.

CHAPTER 75: TRUCK ROUTES

Section

- 75.01 Purpose
- 75.02 Traffic control signs
- 75.03 Truck routes map
- 75.04 Street designations
- 75.05 Truck routes
- 75.06 Motor vehicles of restricted class
- 75.07 Travel into or out of Village
- 75.08 Travel within the Village; truck routes; exceptions

- 75.99 Penalty

SECTION 75.01 PURPOSE.

(A) The purpose of this Chapter is to regulate the orderly operation of trucks on the streets of the Village.

(B) The primary objectives are to facilitate the transfer of goods and services by trucks to businesses and to preserve the quality of life of neighborhoods.

(C) Prime considerations involved with the purpose of this Chapter are:

- (1) The safety of our citizens;
- (2) Avoidance of unreasonable or unnecessary disturbance or reduction in property values due to truck noise, vibrations and/or air pollution;
- (3) Protection against the deterioration of those streets not designated for truck traffic; and
- (4) Adequate truck service to businesses and residences in an expeditious manner, having due regard for economical vehicle operation.

(Ord. 2005-9, passed 11-7-2005)

SECTION 75.02 TRAFFIC CONTROL SIGNS.

Where density of traffic, protection of life and property, construction and condition of the roadway, or any hazardous condition make it advisable, the direction of traffic flow, and routing of buses, trucks and heavy vehicles, will be made by this Chapter by duly posting traffic control signs and it shall be unlawful to drive or cause to be driven, any vehicle in violation of the direction and routing. (Ord. 2005-9, passed 11-7-2005) Penalty, see Section 75.99

SECTION 75.03 TRUCK ROUTES MAP.

(A) The streets designated as forming the truck route system are indicated upon the truck route map hereby adopted by reference, and all notations, references or other information located thereon, are made a part of this Chapter and shall have the same force and effect as if fully set forth or described herein.

(B) The map shall be properly attested by an authorized Village representative and shall be on file with the Village Clerk/Treasurer. (Ord. 2005-9, passed 11-7-2005)

SECTION 75.04 STREET DESIGNATIONS.

The streets of the Village are hereby designated for purposes of this Chapter as follows: those streets or portions of streets specifically designated as truck routes in Section 75.05. (Ord. 2005-9, passed 11-7-2005)

SECTION 75.05 TRUCK ROUTES.

The following roadways, or portions of roadways, in the Village, are hereby designated as truck routes for purposes of this Chapter:

<i>Street</i>	<i>Location</i>
Ensley Street	From north Village limit to south Village limit
Shaw Street	From west Village limit east to Ensley Street
Washburn Street	From Ensley Street east 1,450 feet
White Street	From Zylstra Drive south 400 feet
Zylstra Drive	From Ensley Street east to White Street

(Ord. 2005-9, passed 11-7-2005; Ord. 2006-3, passed 2-13-2006)

SECTION 75.06 MOTOR VEHICLES OF RESTRICTED CLASS.

MOTOR VEHICLES OF THE RESTRICTED CLASS as used in this Chapter are defined as all motor vehicles having a weight of 10,000 pounds or more including the load therein, except vehicles carrying or designated to carry passengers, all governmentally-owned or leased vehicles, public utility vehicles and vehicles used for private refuse handling.

(Ord. 2005-9, passed 11-7-2005)

SECTION 75.07 TRAVEL INTO OR OUT OF VILLAGE.

Motor vehicles of the restricted class, which do not have a pickup, delivery or service within the Village, shall enter and exit the Village on truck routes only.

(Ord. 2005-9, passed 11-7-2005)

SECTION 75.08 TRAVEL WITHIN THE VILLAGE; TRUCK ROUTES; EXCEPTIONS.

Motor vehicles of the restricted class, while in the Village, shall travel on truck routes only, except as follows:

(A) The operation of authorized emergency vehicles may occur on any roadway in the Village;

(B) The operation of recreational vehicles as defined by State law, which are of the restricted class, may use any roadway in the Village;

(C) The operation of motor vehicles of the restricted class is permitted on any roadway in the Village for pickup, delivery or service where the destination is not on a truck route, provided that ingress and egress thereto or therefrom is accomplished in the following manner:

(1) Vehicles of the restricted class shall utilize designated truck routes to the point closest to delivery, pickup or service;

(2) Upon leaving or returning to the truck route, vehicles of the restricted class shall utilize the shortest route available to reach the delivery, pickup or service destination; and

(3) In making consecutive deliveries, pickups or services to destinations not on truck routes, motor vehicles of the restricted class shall proceed on roadways other than truck routes only if the distance traveled on non-truck routes as a result of this routing would be less than the distance traveled on non-truck routes if the vehicle had returned to a truck route as in (C)(2) above and then proceeded to the next delivery points in divisions (C)(1) and (2) above.

(D) The roadways designated as truck routes in Section 75.05 shall be posted with signs at appropriate intervals. Those signs shall consist of the words "truck route" below which shall be placed an arrow indicating the direction of the truck route;

(E) Non-truck route streets may be posted with signs at reasonable intervals where appropriate. The signs shall indicate "No Trucks" or "Not a Truck Route";

(F) It shall be the duty of any person driving or in charge or control of any buses, trucks or heavy vehicles, other than vehicles carrying or designed to carry passengers upon any roadway not a designated truck route upon the request of an authorized Village representative, to stop and answer any questions regarding the weight of the truck, its destination and its point of origin; and those persons shall also present log book, weight slips, delivery slips and other written evidence of destination or point of origin, for the officer's examination;

(G) If any designated truck route or portion thereof shall be under repair or otherwise temporarily out of use, motor vehicles of the restricted class shall use other temporary truck routes as may be designated by the Village Manager, or designee; and

(H) In case of an emergency, a temporary permit allowing exceptions to this Chapter may be issued by the Village Manager or designee.
(Ord. 2005-9, passed 11-7-2005)

SECTION 75.99 PENALTY.

A person who violates any provision of this Chapter is responsible for a municipal civil infraction, and shall be subject to the penalty set forth in Section 10.99 and Chapter 31 of this Code, except that the fine for repeat offenses shall be as set forth in Section 31.08.
(Ord. 2005-9, passed 11-7-2005)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMAL REGULATIONS**
- 91. BURNING; OUTDOOR FURNACES**
- 92. FAIR HOUSING**
- 93. PARKS AND RECREATION**
- 94. PUBLIC NUISANCES**
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Howard City - General Regulations

CHAPTER 90: ANIMAL REGULATIONS

Section

Animal Regulations Generally

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- 90.02 Enforcement responsibility
- 90.03 Definitions
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- 90.05 Limit on number of dogs
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- 90.07 Dogs running at large
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ANIMAL REGULATIONS GENERALLY**SECTION 90.01 PRIVILEGE OF PET OWNERSHIP.**

It is deemed by the Village that the ownership of an animal carries with it responsibilities with regard to the care and custody of the animal. In interpretation and application, the provisions of this subchapter shall be construed to impose a primary responsibility for compliance with the provisions of this subchapter on the owner of the animal.

(Prior Code, Section 89.001) (Ord. 97-8, passed 10-13-1997)

SECTION 90.02 ENFORCEMENT RESPONSIBILITY.

Responsibility for enforcement of this subchapter shall be vested in the County Sheriff's Department, State police, the County Animal Control Division and the Village Department of Public Works, its agents and employees. Primary responsibility for enforcement is vested in the County Animal Control Division.

(Prior Code, Section 89.002) (Ord. 97-8, passed 10-13-1997)

SECTION 90.03 DEFINITIONS.

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

ANIMAL. Dog, cat, bird; reptile, mammal or fish.

ANIMAL CONTROL OFFICER. An agent of the County Animal Control or any other persons designated for duties by the President of the Village.

COUNTY. The County of Montcalm, Michigan.

DIRECTOR. The Director of the County Animal Control or comparable County department or agency.

KENNEL. Any establishment which keeps or boards dogs or cats for remuneration whether for breeding, sale, sporting, training or grooming purposes.

IMPOUNDED. If any animal pursuant to this subchapter or any State statute has been received into the custody of any animal shelter, that animal will have been ***IMPOUNDED.***

OWNER. When applied to the proprietorship of an animal, means every person having a right of property in the animal, every person who keeps or harbors the animal or has it in his or her care, and

every person who permits the animal to remain on or about any premises occupied by that person. For the purposes of this definition, any animal which remains on or about the premises of a person for a period of five days will be presumed to be *OWNED* by that person.

VILLAGE. The Village of Howard City, Michigan.
(Prior Code, Section 89.005) (Ord. 97-8, passed 10-13-1997)

SECTION 90.04 LICENSES.

All dogs over the age of four months within the Village shall at all time be currently licensed in accordance with the requirements of State law, any regulations of the County Animal Control Division or County ordinances. A license tag issued by the County or township shall be securely affixed to a collar, harness or other device which shall be worn by the dog at all times unless the dog is within the confines of the residence of the owner, a dog run or other secure enclosure on the owner's premises.
(Prior Code, Section 89.006) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.05 LIMIT ON NUMBER OF DOGS.

No person shall have within his or her care, custody or control within the Village more than four dogs, other than dogs under four months of age born to a female dog under the care, custody or control of those persons; provided that this section shall not be construed to require any person to dispose of any licensed dog owned by the person at the effective date of this subchapter, except as provided in Sections 90.15 through 90.17.

(Prior Code, Section 89.007) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.06 BARKING DOGS.

No person owning or having charge, care, custody or control of a dog shall permit the dog at any time, by loud or frequent or habitual barking, yelping or howling, to cause a nuisance or annoyance to another person.

(Prior Code, Section 89.008) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.07 DOGS RUNNING AT LARGE.

No person owning or having charge, care, custody or control of a dog shall cause, permit or allow the same to run at large or to be upon any highway, street, road, lane, alley, court or other public place, or upon the private property or premises of another person without the consent of the owner of the property, unless the dog is restrained by a substantial chain or leash not exceeding six feet in length and is under the control of a person with the ability to restrain it.

(Prior Code, Section 89.009) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.08 KENNEL LICENSE.

Kennels shall be allowed as permitted by the Village zoning ordinance and the requirements of the Director of Animal Control of the County. Only under these circumstances will more than four dogs over four months old be permitted in one person's care, custody or control in the Village.

(Prior Code, Section 89.010) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.09 IMPOUNDMENT OF ANIMALS.

Any animal which is in violation of the provisions of this subchapter may be impounded and held at the County Animal Shelter according to the County animal control health regulations of the County for the operation of its animal shelter.

(Prior Code, Section 89.011) (Ord. 97-8, passed 10-13-1997)

SECTION 90.10 GUIDELINES FOR ANIMAL CARE.

Every animal and pet owner and every person who owns, conducts, manages or operates any animal establishment for which a license is required shall comply with each of the following conditions.

(A) Housing facilities for animals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, contain the animals and restrict the entrance of other animals.

(B) All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition.

(C) No animal shall be without attention more than 24 consecutive hours (whenever an animal is left unattended at a commercial animal facility, the name, address and telephone number of the responsible person shall be posted in a conspicuous place at the front of the property).

(D) No person by any means, shall tease, abuse, mistreat, annoy, torment or in any manner makes to suffer an animal.

(E) No conditions shall be maintained or permitted that are or could be injurious to the animals.

(F) All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

(G) Animals shall be provided with proper shelter and protection from the weather at all times.

(H) No person shall work, use or rent any animal, which is overheated, weakened, exhausted, sick, injured, diseased, lame or otherwise unfit.

(I) No person shall allow any animal to constitute or cause a hazard, or be a menace to the health, peace or safety of the community.

(J) No person shall confine an animal on a chain for more than four hours unless that chain permits movement over at least 30 square feet and allows the animals free access to a suitable shelter.

(K) No person shall keep any animal in a manner which creates a nuisance because of odor. As used herein, *NUISANCE BECAUSE OF ODOR* shall mean capable of being smelled 100 feet from the property line of the premises where the animal is kept.

(Prior Code, Section 89.012) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.11 ANIMAL ABUSE.

A person shall not:

(A) Molest, injure, kill or capture any wild animal, or molest or disturb any wild bird's nest or the contents thereof on either public or private property, with the exception of the legal hunting of game birds as permitted under State law; or

(B) Tease, abuse, mistreat, annoy, torment or in any manner make to suffer any animal except in the lawful hunting of the animal, or as otherwise provided under State or Federal law.

(Prior Code, Section 89.013) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.12 NUISANCE BY DEFECATION.

No person owning or having custody or control of an animal shall intentionally, or through failure to exercise due care, permit the animal to defecate on any public or private property (other than the property of the person) unless the person immediately collects all fecal matter deposited by the animal.

(Prior Code, Section 89.014) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.13 REPRESENTATIVE INVESTIGATION.

(A) Representatives of the County Animal Shelter, Sheriff's Department or other duly designated representatives may enter any premises where animals are maintained, for investigation or inspection as to whether or not any portion of the premises, building structure, enclosure, pen or cage is being used, kept or maintained, in violation of this Chapter or any County ordinance.

(B) No person shall deny, prevent, obstruct or attempt to deny, prevent or obstruct the access.

(C) This section does not permit any person to enter a private dwelling except where necessary to rescue an animal.

(Prior Code, Section 89.015) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.14 DEFINITION OF VICIOUS ANIMAL.

For purposes of Sections 90.14 through 90.19 *VICIOUS ANIMAL* is defined to mean:

(A) Any animal that when unprovoked, approaches, in a dangerous or terrorizing manner, any person in an apparent attitude of attack in any public place, or upon any private property not occupied by the animal's owner;

(B) Any animal with a known propensity, tendency or disposition to attack when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;

(C) Any animal which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public property; or

(D) Any dog owned or harbored primarily or in part of the purpose of dog fighting or any dog trained for animal fighting.

(Prior Code, Section 89.016) (Ord. 97-8, passed 10-13-1997)

SECTION 90.15 DETERMINATION OF A VICIOUS ANIMAL.

(A) *Written complaint.* Authorized Village officials shall have the authority to make a determination that an animal is vicious, as defined in Section 90.15, upon the written complaint of any person.

(B) *Informal hearing/notice.* Prior to such a determination, the authorized Village official shall conduct an informal hearing, written notice of which shall be given to the complainant and to the owner of the animal, where the owner's address can be reasonably ascertained by the Village. The hearing shall be held no less than ten days, nor more than 20 days after the notice is mailed, by first class mail to the owner of the animal. At the hearing, all interested persons shall have the opportunity to present evidence on the issue of the animal's viciousness.

(C) *Severe injury/immediate impound.* In the event that the animal in question has caused severe injury to any person, the President or his or her designee, prior to the hearing, may order the immediate seizure and impoundment of the animal, at the owner's expense, pending the determination.

(D) *Mandatory compliance or removal from Village.* If, as a result of the hearing, the President determines that the animal is vicious, the owner, at the owner's expense, must within ten calendar days either comply with the requirements in Section 90.16 or remove the animal from the Village.

(Prior Code, Section 89.017) (Ord. 97-8, passed 10-13-1997)

SECTION 90.16 REQUIREMENTS FOR KEEPING VICIOUS ANIMALS.

In addition to other requirements, the keeping of a vicious animal is subject to the following.

(A) *Leash and muzzle.* No person shall permit a vicious animal to go outside the owner's residence, or its kennel or pen, unless the animal is securely leashed with a leash that is of sufficient strength that the animal cannot break or tear it and that is no more than four feet in length. No person shall permit a vicious animal to be kept on a chair, rope or other type leash unless a competent person, of adequate size and strength is in physical control of the leash. Vicious animals may not be chained, tethered, tied or otherwise leashed to inanimate objects such as trees, posts, buildings and the like. While outside the owner's home or the animals kennel or pen, all vicious animals must be muzzled by a muzzling device sufficient to prevent the animal from biting persons or other animals.

(B) *Confinement outdoors.* Owners of vicious animals who maintain their animal outdoors must, within ten days of the effective date of such a determination, fence a portion of their property with a perimeter or area fence. Within this perimeter fence, the vicious animal must be humanely confined inside a pen or kennel, which shall be a minimum of five feet wide, ten feet long and five feet in height above grade. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides, a secure top attached to all sides all to be at least nine-gauge chain link fencing with necessary steel supporting posts. The sides must be either buried two feet in to the ground, sunken into a concrete pad, or securely attached to a wire bottom. The gate to the pen or kennel must be of the same materials as the fencing, fit closely and be securely locked with a key or combination lock when the animals are within the structure. All pens or kennels erected to house the animals must comply with all zoning and building regulations of the Village and must be adequately lighted, appropriately ventilated and kept in a clean and sanitary condition.

(C) *Confinement indoors.* Owners of vicious animals may maintain their animal indoors, provided that no vicious animal may be kept on a porch, patio or in any part of house or structure that would allow the animal to exit the building on its own volition.

(D) *Signs.* All owners, keepers or harborers of vicious animals within the Village shall display in a prominent place on their premises a sign easily readable by the public using words: "Beware of Vicious Animal". In addition, a similar sign is required to be posted on the kennel or pen of the animal if it will not be confined exclusively indoors.

(E) *Insurance.* All owners, keepers or harborers of vicious animals must provide proof to the Village of public liability insurance for a single incident amount of \$100,000 for bodily injury to, or death of any person or persons which may result from the animal. The insurance policy shall provide that no cancellation of the policy will be made unless 30 days' written notice is first given to the Village Clerk/Treasurer.

(F) *Identification photographs.* All owners, keepers or harborers of vicious animals must provide the Village Clerk/Treasurer with two color photographs, clearly showing the color and approximate size of the animal.

(Prior Code, Section 89.018) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.17 ENFORCEMENT OF RESTRICTIONS ON VICIOUS ANIMALS.

(A) In the event that any law enforcement officer, Animal Control Officer or County Health Department employee has probable cause to believe that a vicious animal is being harbored in violation of this Chapter, that officer or employee may:

(1) Order the violation immediately corrected and cite the owner, keeper or harborer to appear in court for the violation; or

(2) If the violation cannot be immediately corrected and the animal is posing an imminent and serious threat to the safety of human beings or other domestic animals, the vicious animal may be seized and impounded at the owner's expense. The owner, harborer or keeper will be cited to appear in court for the violation.

(B) The animal may be released to the owner only after payment of any fees and penalties and upon presentation of proof that either the animal will now be kept in accordance with the restrictions of this Chapter, or will be permanently removed from the Village.

(C) If the owner, harborer or keeper of an alleged vicious animal fails to appear, or fails to either provide proof that the animal will now be kept in compliance with this subchapter and if the animal cannot be adopted by someone providing proof that it will be kept restrained or confined as specified in this subchapter, the animal will be humanely euthanized.

(D) Each day that violation of this Chapter continues shall be deemed a separate offense.
(Prior Code, Section 89.019) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.18 EXCUSED BEHAVIOR.

No animal shall be declared vicious pursuant to this subchapter, if the threat, injury or damage caused by the animal was sustained by a person who, at the time was: committing an assault, a criminal trespass or other crime upon the property occupied by the owner, harborer or keeper of the animal; or was physically abusing or assaulting the animal. Nor shall any animal be declared vicious if it was responding to pain or injury, or was protecting itself, its kennels or its offspring.

(Prior Code, Section 89.020) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

SECTION 90.19 RESPONSIBILITY OF PARENT OR LEGAL GUARDIAN.

In the event that the owner or keeper of the vicious animal is a minor, any parent or legal guardian of the minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the vicious animal.

(Prior Code, Section 89.021) (Ord. 97-8, passed 10-13-1997) Penalty, see Section 90.99

ANIMAL CONTROL

SECTION 90.30 KEEPING OF CERTAIN ANIMALS; PERMISSION REQUIRED.

(A) No person, firm or corporation shall keep any horses, cattle, swine, sheep, ponies, goats, rabbits, pigeons or other animals, except dogs and cats, within the Village limits of the Village, shall make an application in writing to the Village Clerk/Treasurer for permission of the Village Council to do so; describing particularly the following:

- (1) The place where the applicant proposes to keep the animals or fowl;
- (2) The number thereof;
- (3) The distance from the place of keeping to the public streets and the boundary lines of the applicant's premises; and
- (4) The distance to the dwelling houses or other structures situated upon the lands adjoining the proposed place.

(B) All applications hereunder shall be submitted by the Village Clerk/Treasurer to the Health Officer for the Village for investigation and report and recommendation to the Village Council.

(C) If it shall appear to the Village Council, after receiving the report and recommendation that it will not be detrimental to the health, safety and welfare of any of the inhabitants of the Village or constitute a public nuisance the Village Council shall then grant to the person or persons applying thereof, a permit in writing and signed by the Village Clerk/Treasurer, authorizing the applicant to keep the specified horses, cattle, swine, sheep, ponies, goats, rabbits, poultry, pigeons or other animals and fowl, as applied for; and the permit shall set forth the place where the same may be kept in the manner as is set forth in the approved application for the permit.

(D) No person, firm or corporation shall keep any of the aforementioned animals within the Village in a manner contrary to the terms and conditions of the permit.

(Prior Code, Section 88.001) (Ord. 2-69, passed 6-3-1969; Ord. 2018-5, passed 4-16-2018) Penalty, see Section 90.99

SECTION 90.31 CONDITIONS; SUSPENSION, REVOCATION OF PERMIT.

No person, firm or corporation keeping any of the aforementioned animals or fowl pursuant to the permission of the Village Council as aforesaid, shall keep the same in a place which is not neat and sanitary, or is in violation of any rules and regulations for the keeping as may be made from time to time by the Health Officer of the Village. Failure to comply with these regulations and rules shall be sufficient grounds for suspension or revocation of any permit by the Village Council.

(Prior Code, Section 88.004) (Ord. 2-69, passed 6-3-1969) Penalty, see Section 90.99

SECTION 90.32 CHICKEN REGULATIONS.

The keeping of chickens may be permitted within the Village subject to compliance with the following requirements:

(A) An annual permit from the Village must be obtained (March 1 to February 28). The permit shall be non-transferable and site specific. Written authorization and consent is required from the property owner, if different from the applicant.

(B) Permits shall be processed consistent with the provisions of Section 90.30 and in accordance with the following:

(1) No more than four chickens may be kept on a parcel at any time.

(2) Roosters are prohibited.

(3) Slaughtering of chickens at the property is prohibited.

(4) Chickens shall be kept in the rear yard and setback a minimum of ten feet from any side or rear lot line and 40 feet from any residential structure on adjacent property.

(5) Any person keeping hens shall remain subject to public nuisance and other associated codes and ordinances, including, but not limited to, noise, odor, and blight.

(C) A permit fee shall apply as established by resolution of the Village Council from time to time.

(D) The Village reserves the right to limit the number of permits issued as deemed necessary by the Village Council in order to further public health, safety, and welfare.

(E) Chickens shall be provided and kept within an enclosure that includes both a coop and connected fenced run at all times. The total size of the enclosure shall not exceed 36 square feet in size. The coop shall be elevated a minimum of 18 inches off the ground. The enclosure shall not exceed six feet in height. The enclosure shall be constructed and maintained so as to prevent rats, mice, or other rodents or vermin from being harbored.

(F) Appropriate feeder containers shall be used for all feeding and water and all unused or unconsumed food shall be adequately secured and stored after every feeding as to prevent access by rats, mice or other rodents or vermin. All feed and other items associated with the keeping of chickens shall be secured and protected in sealed containers. An animal shall be properly fed, and a yard where an animal is kept shall be well drained, maintained in a sanitary condition, and treated so as to effectively prevent the breeding or harboring of flies, mosquitoes, or rodents.

(G) Owner and occupants responsible for premises being kept clean.

(1) Sanitary conditions shall be maintained. Any person keeping hens shall keep or cause to be kept all manure, or offal therefrom, deposited or accumulated from such animal securely and closely confined to or buried upon their premises and in such a manner as will prevent it from being scattered from such place or deposited into or upon any street, sidewalk, alley, gutter, storm drain, ditch, lake, wetland, or waterway, and such person, shall so cover and care for it as to prevent any malodorous or offensive condition to exist and prevent any nuisance to arise there from, except that persons shall be permitted to use chicken manure as compost on their property provided that such composting is done in a manner that does not create an offensive or malodorous condition.

(2) A person who owns, manages, leases, rents or occupies any premises is equally responsible for keeping the premises in a clean and habitable condition and shall take all necessary precautions to prevent a nuisance, or other condition detrimental to public health from arising thereon, and shall take all reasonable precautions to prevent rodents and vermin including rats, bedbugs and cockroaches from being attracted to the premises.

(3) Chickens shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as it relates to laying chickens, as amended, except as otherwise provided in this chapter.

(4) A person shall not maintain or permit to be maintained or permit an unclean building, yard or premises. All manure and excreta shall be removed and disposed of in such manner so as to prevent the breeding or harboring of insects and vermin.

(H) *Violation to be a municipal civil infraction.* A violation of this section shall be a municipal civil infraction, punishable by a fine and other relief as set forth in Section 90.99.
(Ord. 2018-04, passed 4-16-2018)

CAT REGULATIONS

SECTION 90.45 DEFINITIONS.

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

CAT. A carnivorous quadruped belonging to the feline family and held as a domestic cat.

PERSON. Any person, firm, partnership, association or corporation.

RUNNING AT LARGE or ***RUN AT LARGE***. The presence of any cat at any place except upon the land and premises of the owner or custodian of the cat; provided, however, that a cat shall not be considered to be ***RUNNING AT LARGE*** if it is on a leash and under the control of a person physically able to control the cat.

(Prior Code, Section 87.001) (Ord. 88-1, passed 7-11-1988)

SECTION 90.46 UNLAWFUL ACTS.

No person owning or possessing a cat shall cause or permit the cat to run at large within the Village. (Prior Code, Section 87.002) (Ord. 88-1, passed 7-11-1988) Penalty, see Section 90.99

SECTION 90.47 ADMINISTRATION.

(A) The Village through its Department of Public Works shall take possession of all cats found to be running at large within the Village and shall transfer control of the cat to the Animal Control Department for the County, for disposal in accordance with all applicable laws and regulations.

(B) Employees of the Village taking possession of any cat shall keep and maintain a complete record indicating the date the cat was acquired, a basic description of the cat and the circumstances under which the cat was acquired.

(Prior Code, Section 87.003) (Ord. 88-1, passed 7-11-1988)

SECTION 90.99 PENALTY.

(A) A person who violates any provision of this Chapter for which no specific remedy is prescribed is guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

(B) A person who violates Sections 90.01 through 90.14, 90.18 or 90.19 is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$25 for a first violation, \$150 for a second violation and \$500 for a third or subsequent violation.

(C) A person who violates Sections 90.15, 90.16, or 90.17 shall, in addition to the penalties set forth in Section 10.99, shall pay all expenses, including shelter, food, handling and veterinary care and testimony necessitated by the enforcement of those sections. Court costs, legal and administrative expenses incurred by the Village shall be taxed against the owner, keeper or harbinger of the animal that is the subject of the complaint or enforcement action.

(D) A person who violates Sections 90.30 or 90.31 is guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$100, or both, and costs of prosecution as provided in Section 10.99.

(E) A person who violates Sections 90.45 through 90.47 is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$50 for a first violation, \$150 for a second violation and \$500 for a third or subsequent violation.

(Prior Code, Section 87.004) (Ord. 88-1, passed 7-11-1988; Ord. 97-8, passed 10-13-1997; Ord. 96-35, passed 12-9-1997)

CHAPTER 91: BURNING; OUTDOOR FURNACES

Section

Burning Leaves and Lawn Clippings

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- 91.31 Applicability
- 91.32 Definitions
- 91.33 Outdoor furnaces
- 91.34 Right of entry and inspection
- 91.35 Appeals and variances
- 91.36 Enforcement

- 91.99 Penalty

BURNING LEAVES AND LAWN CLIPPINGS

SECTION 91.01 DEFINITIONS.

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

BURN or ***BURNING***. Burning in any manner within the Village.

PERSON. Any person, firm, partnership, association or corporation.
(Prior Code, Section 145.001) (Ord. 88-3, passed 9-12-1988)

SECTION 91.02 UNLAWFUL ACTS.

No person shall burn leaves and/or lawn clippings within the Village.
(Prior Code, Section 145.002) (Ord. 88-3, passed 9-12-1988) Penalty, see Section 91.99

SECTION 91.03 EFFECTIVE DATE.

This subchapter shall become effective upon the approval of the composting capital grant application made by the Village through the State Department of Natural Resources 1987-88 Clean Michigan Fund, the date being more than 20 days from and after its enactment.
(Prior Code, Section 145.004) (Ord. 88-3, passed 9-12-1988)

BURNING TRASH AND DEBRIS

SECTION 91.15 DEFINITIONS.

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

A BUSINESS OR COMMERCIAL VENTURE. Any activity carried on within the Village for profit, and commonly recognized in the business world as a ***BUSINESS VENTURE.***

APPROVED INCINERATOR. Any device approved for use by a business or a commercial venture that meets the standards set forth in the 1982 edition of the National Fire Protection Association Code for commercial incinerators.

BURN or BURNING. Burning in any manner within the Village.

GARBAGE. Animal and/or vegetable waste resulting from the processing, handling, preparation, sale or consumption of food and all animal or vegetable parts or substances whether involved in food processing or not.

PERSON. Any person, firm, partnership, association or corporation.

TRASH AND DEBRIS. Property of any kind commonly kept or used in a home, business or commercial venture that has been placed outside in a way to indicate that it is not to be used or to be discarded.

(Prior Code, Section 144.001) (Ord. 88-2, passed 9-12-1988; Ord. 88-4, passed 10-24-1988)

SECTION 91.16 UNLAWFUL ACTS.

(A) No person shall burn any garbage, trash or debris within the Village, except as hereafter provided.

(B) A business or commercial venture may burn waste, trash or debris, with the exception of garbage, in an approved incinerator.

(Prior Code, Section 144.002) (Ord. 88-2, passed 9-12-1988) Penalty, see Section 91.99

OUTDOOR FURNACES

SECTION 91.30 PURPOSE.

It is the intent and purpose of this Chapter to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Village by regulating outdoor furnaces.

(Ord. 2009-5, passed 7-13-2009)

SECTION 91.31 APPLICABILITY.

This Chapter applies to all outdoor furnaces in the Village.

(A) This Chapter does not apply to the outdoor grilling or cooking of food using charcoal, wood, propane or natural gas.

(B) This Chapter does not apply to burning fuel in a stove, furnace, fireplace or other heating device within a building, which building is used for human or animal occupancy. Further, this Chapter does not apply to accessory uses, as that phrase is defined in the Village's zoning ordinance.

(C) This Chapter does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction, recreational or maintenance activities.

(D) This Chapter does not apply to lawful recreational fires.
(Ord. 2009-5, passed 7-13-2009)

SECTION 91.32 DEFINITIONS.

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

CHIMNEY. Any flue or flues that carry off exhaust from an outdoor wood furnace, firebox or burn chamber.

OUTDOOR FURNACE. A furnace, stove or other heating device that is located outside of a building, which building is for human or animal occupancy, and which burns fuel to heat the building. An **OUTDOOR WOOD FURNACE** may also be referred to as an **OUTDOOR WOOD BOILER** or **WOOD HYDRONIC HEATER**.

REFUSE. Any waste including, but not limited to, trash, plastics, gasoline, rubber, naphtha, household garbage, materials painted or treated with petroleum products (Chapter board, railroad ties and pressure-treated wood), leaves, grass clippings and cardboard.

ZONING ADMINISTRATOR. The Village Manager or designee responsible for enforcing the zoning ordinance of the Village.
(Ord. 2009-5, passed 7-13-2009)

SECTION 91.33 OUTDOOR FURNACES.

An outdoor furnace may be installed and used only in accordance with all of the following provisions.

(A) The outdoor furnace may not be used to burn refuse. Fuel burned in any outdoor furnace shall only include untreated wood, wood pellets, corn products or other listed fuels specifically approved by the manufacturer's instructions, such as fuel oil, natural gas or propane backup.

(B) The outdoor furnace may only be located in the rear or side yard of a lot and shall be located at least 100 feet from the nearest property line.

(C) Outdoor furnaces are permitted only in connection with, incidental to, and on the same lot with a principal use which is permitted in the particular zoning district. No outdoor furnace may be placed on a lot without a principal use.

(D) The outdoor furnace shall only be permitted in Agricultural/Open Space (AG/OS), Single Family Residential (R-1) and Single- and Two-Family Residential (R-2) Zoning Districts.

(E) The owner of the property on which the outdoor furnace is to be located shall submit a site plan showing the location of the outdoor furnace, applicable setbacks and existing structures proposed on the property. Prior to issuing a permit, the Zoning Administrator may require additional information as reasonably deemed necessary to determine compliance with this Chapter and other applicable laws.

(F) The property owner on which the outdoor furnace is to be located shall obtain a mechanical permit from the County Building Department.

(G) An outdoor furnace shall be laboratory tested and listed to appropriate safety standards such as UL (Underwriters Laboratories), CAN/CSA (Canada National Standard/Canadian Standards Association) or ANSI (American National Standards Institute) standards or other industry recognized safety standards.

(H) Outdoor furnaces installed after the effective date of this Chapter shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this Chapter.

(I) Outdoor furnaces installed prior to the effective date of this Chapter shall, if otherwise lawful, be deemed a nonconforming structure consistent with Section 154.004.
(Ord. 2009-5, passed 7-13-2009)

SECTION 91.34 RIGHT OF ENTRY AND INSPECTION.

The Zoning Administrator may inspect any property for the purpose of ascertaining compliance with the provisions of this Chapter.
(Ord. 2009-5, passed 7-13-2009)

SECTION 91.35 APPEALS AND VARIANCES.

(A) Appeals from an administrative decision of the Zoning Administrator or a request for a variance from the strict application of the requirements of this Chapter may be made to the Village's Zoning Board of Appeals.

(B) Request for appeals shall be made in writing to the Village not later than 21 days of the decision from which relief is sought.

(1) The application fee for appeals and variances shall be the same amount as those established for the Zoning Board of Appeals.

(2) The Zoning Board of Appeals may affirm, modify or deny the decision being appealed.

(a) In the case of a request for a variance, the Zoning Board of Appeals may deny the variance, approve the variance or approve the variance with conditions necessary to carry out the intent of this Chapter.

(b) In considering a variance request, the Zoning Board of Appeals shall rely upon the standards contained in this Chapter and Section 154.100.
(Ord. 2009-5, passed 7-13-2009)

SECTION 91.36 ENFORCEMENT.

Enforcement of this Chapter shall be the responsibility of the Zoning Administrator, who is also hereby designated as an authorized local official.

(Ord. 2009-5, passed 7-13-2009)

SECTION 91.99 PENALTY.

(A) A person who violates any provision of this Chapter for which no specific remedy is prescribed is guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

(B) A person who violates Sections 91.15 or 91.16 is responsible for a municipal civil infraction and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$50 for a first violation, \$150 for a second violation and \$500 for a third or subsequent violation.

(C) A person who violates Sections 91.30 through 91.36 is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be not less than \$50 for a first violation, \$250 for a second violation and \$500 for a third or subsequent violation.

(Ord. 88-2, passed 9-12-1988; Ord. 96-35, passed 12-9-1996; Ord. 2009-5, passed 7-13-2009)

VILLAGE COUNCIL
VILLAGE OF HOWARD CITY
MONTCALM COUNTY, MICHIGAN

At a regular meeting of the Village Council for the Village of Howard City held on June 21, 2021, Village Hall, 125 E. Shaw Street, Howard City, Michigan, Village Council Member VanWagner made the motion to adopt the following ordinance, which motion was seconded by the Village Council Member MacTavish:

ORDINANCE NO. 2021-2

AN ORDINANCE TO REPLACE CHAPTER 92: FAIR HOUSING, OF THE VILLAGE
OF HOWARD CITY CODE OF ORDINANCES

The Village of Howard City ordains:

AN ORDINANCE PROHIBITING AND MAKING UNLAWFUL DISCRIMINATION IN HOUSING AND/OR REAL PROPERTY BECAUSE OF RACE, COLOR, RELIGION, CREED, NATIONAL ORIGIN, ANCESTRY, SEX, OR DISABILITY IN THE VILLAGE OF HOWARD CITY.

WHEREAS, the Village of Howard City, Michigan desires to assure equal opportunity to all residents regardless of race, color, religion, creed, national origin or ancestry, sex, or disability, to live in decent, sanitary, and healthful living quarters; and,

WHEREAS, the 1963 Constitution of the State of Michigan provides as follows in Article I (Section 2) "...no person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin..." (Section 4) "...The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief..." (Section 9) "...Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state..." and,

WHEREAS, the Congress of the United States has provided that "it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States" and has established by law the following provisions:

"... it shall be unlawful:

- a. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make available or deny, a dwelling to any person because of race, color, religion, sex, or national origin.
- b. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of race, color, religion, sex, or national origin ..."

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE OF HOWARD CITY,
MICHIGAN, AS FOLLOWS:

CHAPTER 92: FAIR HOUSING

Section

- 92.01 Declaration of Policy
- 92.02 Definitions
- 92.03 Prohibited Acts
- 92.04 Penalty
- 92.05 Force & Effect
- 92.06 Validity
- 92.07 Immediate

SECTION 92.01 - DECLARATION OF POLICY

- a. In furthering the policy of the State of Michigan as expressed in its Constitution and other Laws; in order that the safety and general welfare, peace and health of all the inhabitants of the Village may be ensured, it is hereby declared the policy of the Village of Howard City, Michigan, to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.
- b. It is the policy of the Village of Howard City that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the Village, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.
- c. Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

SECTION 92.02 - DEFINITIONS

Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this SECTION and as used in this Ordinance.

- a. **DISCRIMINATE** - The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodation and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

- b. HOUSING ACCOMMODATION - The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of one or more human beings, or any real estate so used, designed or intended for such use.
- c. REAL PROPERTY - The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the Village Howard City, Michigan.
- d. REAL ESTATE BROKER - The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.
- e. FINANCIAL INSTITUTION - The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.
- f. OWNER - An "owner" means any person/persons who hold legal or equitable title to or own any beneficial interest in any real property or who hold legal or equitable title to shares of or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.
- g. DECENT, SANITARY, HEALTHFUL STANDARD LIVING QUARTERS - "Decent, sanitary, healthful standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

SECTION 92.03 - PROHIBITED ACTS

It shall be unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property in the Village of Howard City, Michigan:

- a. To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the Village or in furnishing of any facilities or services in connection therewith.
- b. To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

- c. To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.
- d. To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.
- e. To distribute or cause to be distributed, written material or statements designed to induce any owner or any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.
- f. To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.
- g. For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed, or disability.
- h. For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

SECTION 92.04 - PENALTY

Any person convicted of violating any of the provisions of this Ordinance shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than fifteen hundred dollars (\$1,500.00). Each day a violation continues shall constitute a separate violation. This Section shall in no way abrogate or impair the right of the Village of Howard City, Michigan, to specifically enforce, by any legal means, any of the provisions of this Ordinance.

SECTION 92.05

That all Ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 92.06

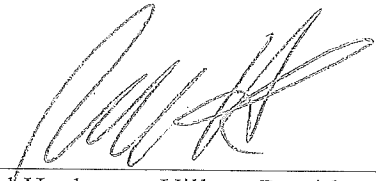
That it is the intention of the Village of Howard City, Michigan that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 92.07

That this Ordinance shall be known as Ordinance No. 2021-2 of the Village Howard City, Michigan, and shall be in full force and effect from and after its passage, approval, recording, and publication in pamphlet form in accordance with law.

PASSED AND ADOPTED this 21st day of June, 2021 (year).

APPROVED BY ME this 21st day of June, 2021 (year).



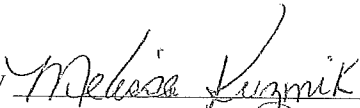
Randal Heckman, Village President

ORDINANCE NO. 2021-2 DECLARED ADOPTED.

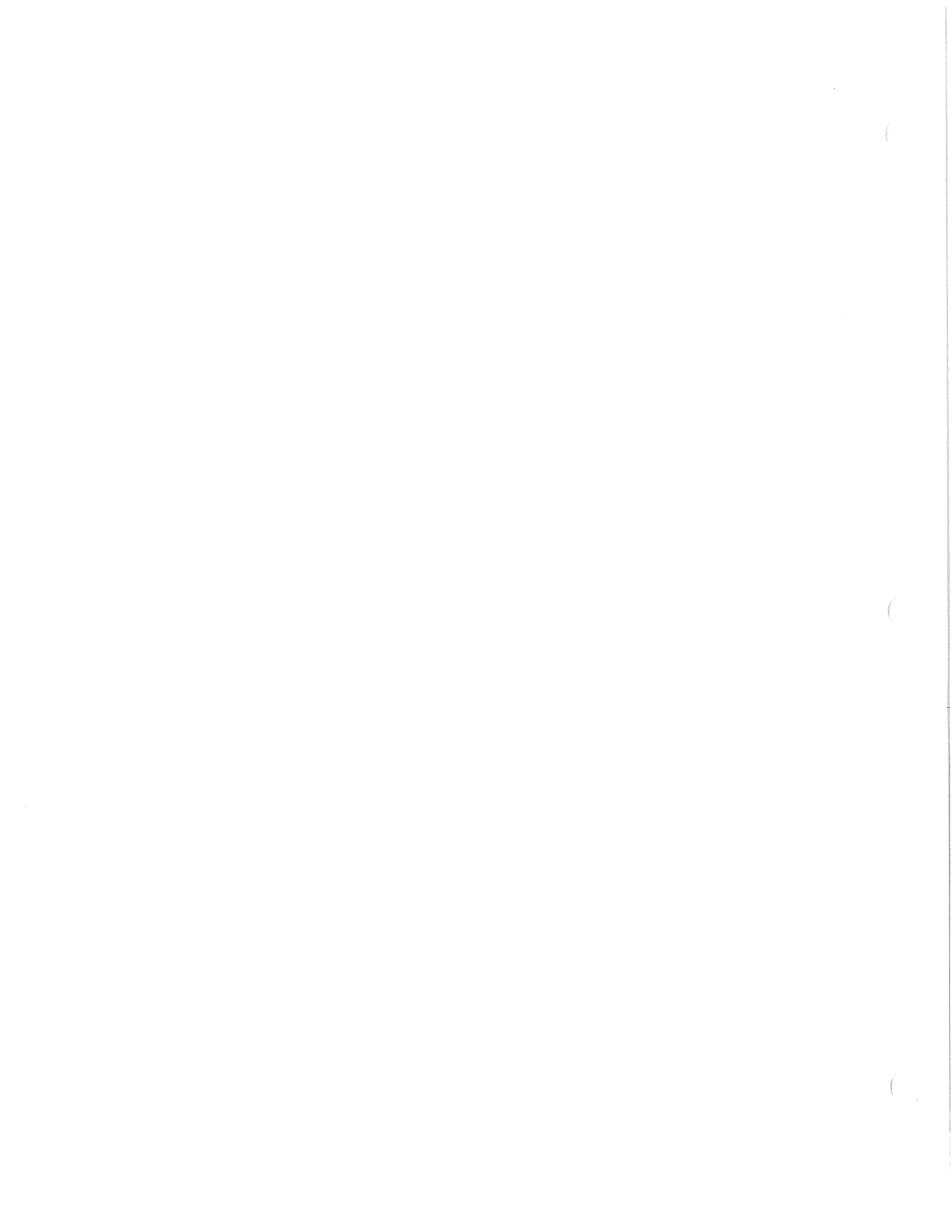
CERTIFICATION

I certify that the foregoing is a true copy of an Ordinance adopted by the Village Council of the Village of Howard City at the time, date and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

By 

Melissa Kuzmik, Village Clerk



CHAPTER 93: PARKS AND RECREATION

Section

Parks and Playgrounds

- 93.01 Definitions
- 93.02 Hours
- 93.03 Assemblies
- 93.04 Conduct
- 93.05 Rubbish and waste
- 93.06 Fires
- 93.07 Rules and regulations
- 93.08 Vehicles

Park Regulations

- 93.20 Injury to park property
- 93.21 Intoxicating liquors
- 93.22 Waste containers
- 93.23 Ball games
- 93.24 Additional rules

- 93.99 Penalty

PARKS AND PLAYGROUNDS

SECTION 93.01 DEFINITIONS.

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

ASSEMBLY. Any event designated to attract the attendance of persons, including, but not limited to, a concert, show, exhibition, performance, speech, display or other form of entertainment. **ASSEMBLY** does not include Recreation Department games and events, and events sponsored by the Village.

GROUP. Any club, organization, association or any number of persons gathered together and forming a recognizable unit having common characteristics and a community of interest.

PARK. Any park, playground, recreation center or any other area in the Village, leased by, owned or used by the Village, which area is primarily set aside for or devoted to active or passive recreation.

PARK COMMISSIONER. The Park Commissioner appointed by the Village President.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

VEHICLE. Any conveyance; whether motor-powered, animal-drawn or self-propelled. The term shall include any trailer in tow, of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the Village parks.

(Prior Code, Section 126.001) (Ord. 4-78, passed 9-19-1978)

SECTION 93.02 HOURS.

No person shall use or enter upon a beach or park during hours when the beach or park is posted as being closed.

(Prior Code, Section 126.002) (Ord. 4-78, passed 9-19-1978) Penalty, see Section 93.99

SECTION 93.03 ASSEMBLIES.

(A) *Application.* Any person, assembly or group expecting to attract more than 100 persons, desiring use of the park, shall make application to the Village Clerk/Treasurer and shall not use the park until the application is approved by the Park Commissioner.

(B) *Approval; application; cleanup.* All approvals shall require the user to clean up the area occupied after the affair is over, and all applications for use must give the name, address and phone number of the person responsible for the cleanup.

(C) *Approval; conditions.* Approval for use of the parks shall be granted by the Park Commissioner if all the following conditions are satisfied:

- (1) The Park Commissioner finds that the park is large enough for the anticipated crowd;
- (2) The purpose and proposed activity of the applicant will not disturb the peace of the persons in the area surrounding the park; and
- (3) Reasonable provisions have been made for cleanup after the gathering under division (B) above.

(D) *Exclusive use: prohibited.* Under no circumstances shall any group be granted exclusive use of a park and no permittee shall exclude the public from the park. The granting of a permit hereunder does not guarantee or give any priority to the group in the use of any building or structures in the parks or playgrounds.

(Prior Code, Section 126.003) (Ord. 4-78, passed 9-19-1978) Penalty, see Section 93.99

SECTION 93.04 CONDUCT.

(A) *Willfully abusing equipment.* No person shall mark, deface, disfigure, injure, displace or remove any table, bench, fireplace, railing, pavement, water line or other public utility, appurtenance, structure or Village property in the park.

(B) *Jostling or crowding.* No person shall jostle or crowd another in any public park, nor shall any person throw any ball or other object in a manner so as to unreasonably annoy or endanger other persons in or on the park or beach, nor shall any person engage in any rough or violent play therein.

(Prior Code, Section 126.004) (Ord. 4-78, passed 9-19-1978) Penalty, see Section 93.99

SECTION 93.05 RUBBISH AND WASTE.

(A) *Garbage and rubbish: receptacles.* No person shall throw, place, deposit or leave any garbage, rubbish, glass, cans, containers, papers or other waste in any public park or playground except in containers provided by the Village for that purpose. Waste material, other than those resulting from use of the park, may not be deposited in park receptacles.

(B) *Water pollution.* No person shall throw, discharge or otherwise place in the water or any fountain, stream or other body of water in or adjacent to any park or beach, any substance, liquid or solid, which may result in water pollution or a creation of hazard to the health and safety of other persons.

(Prior Code, Section 126.005) (Ord. 4-78, passed 9-19-1978) Penalty, see Section 93.99

SECTION 93.06 FIRES.

No person shall start or maintain a fire in any park, except in existing fireplaces and stoves or stoves and grills provided by park users. All fires shall be extinguished after use.

(Prior Code, Section 126.006) (Ord. 4-78, passed 9-19-1978) Penalty, see Section 93.99

SECTION 93.07 RULES AND REGULATIONS.

The Village Council, by resolution, is hereby authorized to further promulgate necessary and reasonable rules and regulations respecting the use of public parks and playgrounds, including the hours

the parks or playgrounds are open for use by the public and may regulate and limit the use of the equipment and other facilities therein. The Village Council shall have authority to forbid the use of equipment and facilities of any park, playground or beach to any person who refuses or neglects to obey the rules and regulations governing the uses thereof.

(Prior Code, Section 126.007) (Ord. 4-78, passed 9-19-1978)

SECTION 93.08 VEHICLES.

No person may drive, operate or park a vehicle within a park except upon a street, path, drive or parking area which is marked and designated for the use of vehicles. An exception is permitted for a single vehicle traveling at a slow rate of speed into the park for the purpose of loading and unloading only items for use by a group that is utilizing the park in accordance with the terms of this subchapter.

(Prior Code, Section 126.008) (Ord. 4-78, passed 9-19-1978) Penalty, see Section 93.99

PARK REGULATIONS

SECTION 93.20 INJURY TO PARK PROPERTY.

No person shall obstruct any walk or drive in any public park or playground and no person shall injure, mar or damage in any manner, any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, fireplaces or other public property within or pertaining to the parks.

(Prior Code, Section 125.001) (Ord. passed 6-6-1961) Penalty, see Section 93.99

SECTION 93.21 INTOXICATING LIQUORS.

No person shall bring into or drink in any Village park any alcoholic beverage.

(Prior Code, Section 125.002) (Ord. passed 6-6-1961) Penalty, see Section 93.99

SECTION 93.22 WASTE CONTAINERS.

No person shall place or deposit any garbage, glass, tin cans, paper or miscellaneous waste in any park or playground except in containers provided for that purpose.

(Prior Code, Section 125.003) (Ord. passed 6-6-1961) Penalty, see Section 93.99

SECTION 93.23 BALL GAMES.

No person shall engage in baseball, football or softball throwing, or other violent or rough exercises or play in any public park or other public place, except in areas designated therefor by order of the Village Council.

(Prior Code, Section 125.004) (Ord. passed 6-6-1961) Penalty, see Section 93.99

SECTION 93.24 ADDITIONAL RULES.

The Village Council may, by resolution, prescribe additional rules and regulations pertaining to the conduct and use of parks and public grounds as it shall deem necessary to administer the same and to protect public property and the safety, health, morals and welfare of the public, and no person shall fail to comply with those rules and regulations.

(Prior Code, Section 125.005) (Ord. passed 6-6-1961) Penalty, see Section 93.99

SECTION 93.99 PENALTY.

(A) A person who violates any provision of this Chapter for which no specific remedy is prescribed is guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

(B) A person who violates Sections 93.01 through 93.08 is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$50 for a first violation, \$150 for a second violation, and \$500 for a third or subsequent violation.

(Prior Code, Section 126.009) (Ord. passed 6-6-1961; Ord. 4-78, passed 9-19-1978; Ord. 96-35, passed 12-9-1996)

CHAPTER 94: PUBLIC NUISANCES

Section

Grass and Noxious Weeds

- 94.01 Purpose
- 94.02 Cutting of grass and weeds
- 94.03 Duty of occupant or owner
- 94.04 Removal by Village; costs to owner or occupant
- 94.05 Notice to remove

Placement of Inoperable Vehicles

- 94.20 Prohibition on placement of inoperable vehicles
- 94.21 Definitions

Real Property; Nuisances

- 94.35 Definitions
- 94.36 Declaration of public nuisance
- 94.37 Procedure for declaration of a public nuisance
- 94.38 Abatement of nuisance and costs
- 94.39 Finding of public nuisance
- 94.40 Notification to owners
- 94.41 Posting and listing of public nuisances
- 94.42 Appeal
- 94.43 Entry into or use of vacated property

Trash and Debris

- 94.55 Definitions
- 94.56 Unlawful acts

Noise Ordinance

- 94.70 Noise ordinance

Garage and Yard Sales

- 94.85 Purpose
- 94.86 Requirements, time, manner, and place of conducting, etc.

94.99 Penalty

GRASS AND NOXIOUS WEEDS**SECTION 94.01 PURPOSE.**

The purposes of this subchapter are to preserve the stability, harmony and appearance of the neighborhoods of the Village by requiring the owners and occupants of dwellings to maintain their lawns in reasonable condition and appearance in conformity with the standards of the neighborhood, and to protect the health and safety of the residents of the Village by controlling the growth and spreading of noxious plants and weeds.

(Ord. 97-6, passed 8-25-1997)

SECTION 94.02 CUTTING OF GRASS AND WEEDS.

No owner or occupant of any premises, be it residential, industrial, commercial or other, shall permit the growth (growth being that of a height not to exceed six inches) of grass, weeds or other undesirable vegetation on property surrounding any and all buildings on those properties to a minimum distance of 50 feet from the walls of the structure or to the next joining property or to the traveled portion of the roadway. If parts or all of the property is located so that it is not to be intended to be continuously maintained (such property as wetland, wooded areas, agricultural land and some vacant lots) and is not creating a nuisance, the property shall be temporarily exempted from this subchapter with approval from the Public Works Department and/or Zoning Administrator, but may at any time be required to meet these requirements.

(Ord. 97-6, passed 8-25-1997)

SECTION 94.03 DUTY OF OCCUPANT OR OWNER.

It shall be the duty of the occupant and owner of every premises within the Village, to cut and remove or destroy, by lawful means, all the grass, weeds or rank vegetation as often as necessary to comply with the provisions of Section 94.02.

(Ord. 97-6, passed 8-25-1997)

SECTION 94.04 REMOVAL BY VILLAGE; COSTS TO OWNER OR OCCUPANT.

(A) If the provisions of Sections 94.02 or 94.03 are not complied with, the Superintendent of the Department of Public Works, or his or her duly authorized representative, shall notify the occupant and owner of the premises to comply with the provisions of those sections within a time to be specified in the notice, which notice shall be given in accordance with Section 94.05.

(B) The notice shall require compliance with Sections 94.02 or 94.03 within five days after service of the notice. If the occupant or owner does not comply within the time identified, the Superintendent may, with the approval of the Village Council, cause the weeds, grass and other vegetation to be removed or destroyed and the actual cost of the cutting, removal or destruction plus costs of inspection and other additional costs in connection therewith shall be charged against the premises and the same shall be billed to the owner.

(C) If the charges are not paid within 30 days after billing, they shall be collected as a single lot assessment as permitted by law.
(Ord. 97-6, passed 8-25-1997)

SECTION 94.05 NOTICE TO REMOVE.

Notice to the owner or occupant of a premises required to be given under Section 94.04 shall be served by:

(A) Posting the notice in some conspicuous place on the premises, and mailing the notice to the person at his or her last known address; or

(B) Delivering the notice personally to the owner or occupant or by leaving the same at his or her residence, office or place of business with some person of suitable age and discretion.
(Ord. 97-6, passed 8-25-1997)

PLACEMENT OF INOPERABLE VEHICLES

SECTION 94.20 PROHIBITION ON PLACEMENT OF INOPERABLE VEHICLES.

It shall be unlawful for any person within the Village to accumulate, place, park or store on any street, highway or other public place, or on any private premises, or to permit the accumulation, placement, parking or storage on premises owned, occupied or controlled by that person the following:

(A) Unenclosed inoperable motor vehicles or recreational vehicles;

(B) Unenclosed unlicensed motor vehicles or recreational vehicles; or

(C) Unenclosed discarded or dismantled motorized equipment.
(Prior Code, Section 102.001) (Ord. 2000-1, passed 1-10-2000) Penalty, see Section 94.99

SECTION 94.21 DEFINITIONS.

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

INOPERABLE. When, by reason of dismantling, disrepair or otherwise, a vehicle cannot be lawfully propelled on public highways by its own power. Any vehicle that has a main component part missing or unattached shall be deemed to be ***INOPERABLE***.

MOTORIZED EQUIPMENT. Any equipment that is normally propelled by a motor on the equipment or that utilizes a motor in its operations, including, but not limited to, a lawn mower, tractor mower or snow-blower.

PERSON. Includes any individual, firm, corporation, trust, partnership or other legal entity. (Prior Code, Section 102.002) (Ord. 2000-1, passed 1-10-2000)

REAL PROPERTY; NUISANCES**SECTION 94.35 DEFINITIONS.**

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

OWNER. Any person who possesses or holds any legal or equitable interest in real property. ***OWNER*** also includes any person who holds, exercises or delegates any control, custody or dominion over real property whether or not that person has or claims to have any legal or equitable interest in the real property. ***OWNER*** specifically includes tenants, whether or not identified in a written lease.

REAL PROPERTY. Any land, house, structure, building, dwelling, apartment, premises or any part thereof.

REPEATED or ***REPEATEDLY.*** Two or more times within any one-year period.

VILLAGE COUNCIL. The Howard City Village Council or a special committee of the Howard City Village Council designated by resolution of the Village Council. (Ord. 2005-10, passed 11-7-2005)

SECTION 94.36 DECLARATION OF PUBLIC NUISANCE.

Whenever one of the following specified incidents or conditions occurs or exists repeatedly on any real property within the Village, the Village Council may declare by resolution that the real property is a public nuisance, and may order the nuisance abated:

(A) The illegal use, sale, manufacturing, distribution, furnishing or possession of a controlled substance or drug paraphernalia; or

(B) The illegal use, sale, manufacturing, distribution, furnishing or possession of an alcoholic beverage;

(C) The illegal use of a firearm; or

(D) The illegal keeping, managing or permitting prostitution.
(Ord. 2005-10, passed 11-7-2005; Ord. passed 7-14-2014)

SECTION 94.37 PROCEDURE FOR DECLARATION OF A PUBLIC NUISANCE.

A declaration of a public nuisance under this Chapter by the Village Council shall occur according to the following procedure.

(A) A declaration of a public nuisance may occur only after notice is given to the owner of the real property and the owner has had an opportunity to be heard at a public hearing before the Village Council.

(B) Notice of the public hearing shall be given to the owner by personal service or certified mail to the address indicated by the Village Treasurer's records and the Montcalm County Register of Deeds records. The notice shall state the nature of the alleged public nuisance, and the time, date and location of the hearing. Certified mail shall be delivered with a return receipt requested. Notice to an owner shall occur at least seven calendar days prior to the date of the hearing. Notice shall be given to all persons having a known ownership interest in the real property. Notice shall be posted on the real property at least seven calendar days prior to the date of the hearing.

(C) The Village Council shall act as a municipal administrative agency, functioning in a quasi-judicial capacity as authorized by State law, when determining whether or not a public nuisance exists under the standards established in this subchapter. The Village Council shall make this determination based solely on evidence presented at the public hearing, of which a record shall be made and kept. In conducting the public hearing, the Village Council shall afford an owner and Village personnel an opportunity to present evidence and make arguments as to factual and legal issues. Cross-examination of opposing witnesses shall be permitted. An owner may appear in person or be represented

by an attorney, but lay representation shall not be permitted. In conducting the public hearing, the Village Council may admit and give weight to probative evidence of a nature commonly relied upon by reasonably prudent individuals in the conduct of their affairs. The Village Council shall not be bound by the Michigan Rules of Evidence. Irrelevant, incompetent and unduly repetitious evidence shall be excluded.

(Ord. 2005-10, passed 11-7-2005; Ord. passed 7-14-2014)

SECTION 94.38 ABATEMENT OF NUISANCE AND COSTS.

If the Village Council determines by a preponderance of the evidence that any real property is a public nuisance according to the provisions of this subchapter, and after giving due consideration to the actions taken by the owner to prevent or abate the specified incidents or conditions, it may, by resolution, order abatement of the public nuisance in addition to any other remedies available at law or in equity. The order of abatement may be entered at the public hearing on the alleged public nuisance, or at a later hearing noticed out in the same manner as the public evidentiary hearing. The Village Council may receive additional evidence on the issue of abatement.

(A) If it is determined that all or a portion of the real property should be vacated to abate the public nuisance, the Village Council may order the real property vacated and declare occupancy of all or a portion of the real property prohibited, which shall authorize the Authorized Village Representative to prohibit occupancy by padlocking, boarding, or otherwise securing the real property, for up to one year as determined by the Village Council based upon the evidence. By way of example, if only a single apartment in a multiple-unit structure is the site of the incidents or conditions specified in this subchapter, then the Village Council shall vacate the single apartment, and not the entire structure.

(B) The Village Council may determine and order that the owner shall be liable for the full cost of materials and personnel, including Village employees and contractors, utilized in padlocking, boarding or securing the real property, and subsequent or remedial actions required to keep the real property vacant for the abatement period.

(C) The Village Council may order the costs assessed against the real property as a lien, collected as taxes and assessed against the owner as a personal debt.
(Ord. 2005-10, passed 11-7-2005; Ord. passed 7-14-2014)

SECTION 94.39 FINDING OF PUBLIC NUISANCE.

The Village Council may find that a public nuisance exists if the following conditions are established:

(A) If two or more of the following listed incidents or conditions occur within a one-year period, as established by evidence presented at the public hearing:

(1) The real property has been searched by law enforcement officers and an illegal controlled substance or illegal drug paraphernalia has been found on the site;

(2) The real property has been the site of the illegal use, sale, manufacturing, distribution, furnishing or possession of a controlled substance, drug paraphernalia, or an alcoholic beverage;

(3) The real property has been the site of the illegal use of a firearm; and/or

(4) The real property has been the site of the illegal keeping, managing, or permitting of prostitution.

(B) A letter informing an owner of an incident or condition as stated above has occurred on the real property and of the potential consequences if a similar activity occurs at the real property, has been:

(1) Personally served on the owner; or

(2) Sent by certified mail to the owner and a return receipt card has been received by the Village.

(C) A rebuttable presumption that a public nuisance exists at the real property arises when one of the incidents or conditions occurs or exists and notice of it is given by personal service or certified mail to the owner with an explanation of the potential consequences if similar activities occur at the property within one year, and if one or more specified incidents or conditions occur or are found to exist within one year of the first.

(Ord. 2005-10, passed 11-7-2005; Ord. passed 7-14-2014)

SECTION 94.40 NOTIFICATION TO OWNERS.

The notice of a specified incident or condition provided in Section 94.39, and the notice of a public hearing provided in Section 94.37 shall include a report of each specified incident or condition describing the date, location, persons known to be involved, and the nature of the underlying illegal activity.

(Ord. 2005-10, passed 11-7-2005)

SECTION 94.41 POSTING AND LISTING OF PUBLIC NUISANCES.

(A) Whenever the Village Council declares a real property to be a public nuisance and orders property to be vacated, the Authorized Village Representative shall post a notice so stating at each entrance to any building on the property and at the entrance of each dwelling unit or other portion of the property ordered vacated.

(B) The Village Clerk/Treasurer shall maintain a list of properties that have been declared to be a public nuisance and of the remedy ordered by the Village Council. Any person requesting a copy of the list shall be supplied one at no charge. The list shall be available for public inspection at the Village Clerk/Treasurer's office.

(C) No person other than an authorized Village employee shall tamper with, deface, alter, damage or remove the notice posted by the Authorized Village Representative.
(Ord. 2005-10, passed 11-7-2005) Penalty, see Section 94.99

SECTION 94.42 APPEAL.

(A) An owner of real property aggrieved by any final decision of the Village Council under this Chapter may appeal to the Circuit Court within 21 days of the date of the decision.

(B) The Circuit Court shall consider the appeal on the record made before the Village Council. It is the responsibility of the appealing party to demonstrate error. The Circuit Court shall review the record and determine if the Village Council's decision:

- (1) Complies with State and local law;
- (2) Has not been procured by fraud;
- (3) Is supported by competent, substantial and material evidence on the record as a whole; and
- (4) Involves the reasonable exercise of discretion.

(Ord. 2005-10, passed 11-7-2005; Ord. passed 7-14-2014)

SECTION 94.43 ENTRY INTO OR USE OF VACATED PROPERTY.

No person shall enter or use any real property declared to be a public nuisance and ordered vacated by the Village Council. It shall be an affirmative defense to a prosecution under this section that written permission to enter or use the property was obtained from the Director of Municipal Services.
(Ord. 2005-10, passed 11-7-2005) Penalty, see Section 94.99

TRASH AND DEBRIS

SECTION 94.55 DEFINITIONS.

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

PERSON. Includes any person, legal entity or corporation.

TRASH or DEBRIS. Personal property that is customarily kept or used in a building or home, but that is outside of a building or home; examples include, but are not limited to, the following: kitchen appliances, televisions, clothing, empty cans, food containers, bottles, crockery, utensils and boxes. **TRASH or DEBRIS** also include pieces of iron or other metals, disconnected parts of motor vehicles or machinery, abandoned and/or inoperable motor vehicles, semi-trailers, used lumber, garbage, industrial by-products or other waste.

(Prior Code, Section 100.001) (Ord. 86-5, passed 10-27-1986; Ord. 2001-3, passed 4-9-2001)

SECTION 94.56 UNLAWFUL ACTS.

(A) No person shall store, amass, stockpile, accumulate, place or allow or permit the accumulation, storage or placing of trash or debris on any premises in the Village.

(B) It is not unlawful to accumulate, place, allow or permit the accumulation of trash and debris:

(1) In a licensed junkyard;

(2) In receptacles for not longer than seven days awaiting disposal; or

(3) Temporarily outside of a building or home for a period not to exceed three days.

(Prior Code, Section 100.002) (Ord. 86-5, passed 10-27-1986; Ord. 2001-3, passed 4-9-2001) Penalty, see Section 94.99

NOISE ORDINANCE

SECTION 94.70 NOISE ORDINANCE.

(A) *Restricted generally.* No person shall make, continue, or permit to be made or continued any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the Village limits including, but not limited to, the noises enumerated in this Section.

(B) *Penalty.* In addition to the penalties and remedies otherwise available at law and equity, any person, firm, corporation, trust, partnership or other legal entity, which violates or refuses to comply with any provision of this subchapter shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine of up to \$500, or both.

(C) *Unlawful acts.* Each of the following acts is declared unlawful and prohibited, but this enumeration is not exclusive:

(1) *Animal and bird noises.* The keeping of any animal including, but not limited to, dogs or birds, which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.

(2) *Construction noises.* The erection, excavation, demolition, alteration or repair of any structure, or excavation or repair of any street or highway, other than between the hours of 7:00 a.m. and 9:00 p.m.

(3) *Sound amplifiers.* Use of any loudspeaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle, for any purpose except by speakers in the course of a noncommercial public address. When used by such speakers the loudspeaker, amplifier or other instrument shall be subject to the following restrictions:

(a) Operations are permitted for no more than six hours each day. The permitted six hours of operation shall be between the hours of 11:30 a.m. and 2:30 p.m. and between the hours of 4:30 p.m. and 7:30 p.m.

(b) Sound amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour, except when such truck is stopped or impeded by traffic.

(c) Sound shall not be issued within 100 yards of hospitals, schools, churches or courthouses.

(d) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 300 feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

(e) No sound amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.

(4) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which effectively prevents loud explosive noises.

(5) *Blowers.* The discharge into the open air of air from any noise-creating blower or power fan unless the noise from such blower or fan is muffled sufficiently to deaden such noise.

(6) *Hawking.* The hawking of goods, merchandise or newspapers in a loud and boisterous manner.

(7) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary or unreasonable period of time.

(8) *Musical instrument; electronically amplified sound.* The playing of any musical instrument or permitting any electrically or electronically produced, reproduced or amplified sound to emanate from any vehicle, place or premises so as to be heard more than ___ feet from the vehicle or the property line of such place or premises, or so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or other place of employment or repose. This provision shall not be applicable to community events approved by and subject to resolution of the Village Council.

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

(10) *Whistle or siren.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger or for duly authorized tests.

(D) *Public nuisance.* Notwithstanding any other provision of this subchapter, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance per se, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be commenced by the Village.

(E) *Exceptions.* None of the acts enumerated in this subchapter shall apply to or be enforced against the following:

(1) Any authorized emergency vehicle when responding to an emergency call;

(2) Necessary excavations or repairs of bridges, streets or highways by or on behalf of the Village, County or State during the night, when the public safety, welfare and convenience renders it impossible to perform such work during the day;

(3) The reasonable use of stationary amplifiers or loud speakers in the course of public addresses which are noncommercial in character.

(F) *Variances.* The provisions of this subchapter shall not apply to events, activities or locations which have been granted a variance, as set out in divisions (1) through (8) below, by the Village Council.

(1) The Village Council may grant variances from the provisions of this subchapter subject to the conditions and under the circumstances set out in this section. These variances, to be known as noise variances, shall exclude the event, activity or location for which the permit is issued from the operation and requirements of this subchapter, subject to the provisions for this section.

(2) Any person seeking a variance pursuant to this section shall file an application with the Village Clerk on a form prescribed by the Village and shall pay any administrative fee associated with the application. Upon receiving an application, the Clerk shall submit it to the Authorized Village Representative who shall cause such investigation as the Authorized Village Representative deems necessary. This investigation may include, but is not limited to, consulting with such Village departments as the Authorized Village Representative may deem necessary or desirable. Prior to making a recommendation to the Village Council pursuant to division (4) below, the Authorized Village Representative shall cause notice of the requested noise variance application to be published in a newspaper of general circulation in the Village not less than ten days prior to the public hearing referenced in division (4) below.

(3) The Authorized Village Representative, in addition to such other investigation as he/she may deem necessary shall permit the applicant to offer such evidence as it desires to support the applicant's position that a variance should be granted.

(4) The Authorized Village Representative shall consider all evidence gathered or received in response to the applicant's variance request and, based upon this evidence and the results of the Authorized Village Representative's investigation, shall make a recommendation to the Village Council as to whether a noise variance should be granted, stating the basis in writing for the recommendation. The Authorized Village Representative shall make a recommendation based upon the factors set out in division (5) below. The application and the recommendation of the Authorized Village Representative shall be placed on the agenda of the Village Council. Before deciding whether to grant the noise variance, the Village Council shall schedule and hold a public hearing and shall consider the factors set out in division (5) below. The Village Council shall, by resolution, grant, grant with conditions or deny the variance. If a resolution approving a noise variance is passed, the Village Clerk shall issue a noise variance subject to the terms of this section.

(5) The following factors shall be considered in determining whether to grant the variance:

(a) The balance of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other effects of the granting of the variance.

(b) The number, if any, of previous variances granted to the applicant, or for the same location or activity.

(c) The nearness of any residence, or any other use which would be adversely affected by noise permitted by the variance.

(d) Whether the type of noise to be produced by the event is usual or unusual for the location or area for which the variance is requested.

(e) The density of population of the area in which the event or activity is to take place.

(f) The time of day or night which the activity or event will take place.

(g) The nature of the sound to be produced including, but not limited to, whether the sound will be steady, intermittent or of a repetitive impulse nature.

(6) Neither the Authorized Village Representative nor the Village Council shall consider the communicative content of the activity or event in determining whether to grant or deny a variance. The rights of all interested persons to due process of law and equal protection of law shall not be denied.

(7) Any variances issued shall be subject to such reasonable conditions as the Village Council shall require including, but not limited to, conditions limiting the days of the week for which the variance is valid, the number of days for which the variance is valid, and the hours of the day for which the variance is valid. Such conditions shall be noted on the variance issued to the applicant and noncompliance with any condition of the variance shall terminate the variance and subject the applicant, event or activity to the provisions of this subchapter. The variance shall not be valid unless all conditions thereof are agreed to by the applicant, or its duly authorized officer or agent, in writing.

(8) Any variance issued pursuant to this Section shall be kept at the site of the event or activity for which the variance was obtained. The variance shall be displayed, on request, to any law enforcement officer or Village official. The requirements of this subsection are hereby made express conditions of the granting of the variance and failure to comply with these conditions shall cause the variance to terminate as provided for in division (7) above.

(Ord. 2013-1, passed 5-13-2013)

GARAGE AND YARD SALES

SECTION 94.85 PURPOSE.

It is the intent of this subchapter to regulate and control the holding of garage and yard sales, as they may become nuisances and safety hazards if not so regulated, and so that residential areas do not become commercialized through a proliferation of such sales and similar commercial activity. The Village Council finds that repeated sales of various types of personal property made from residential premises wherein newspaper advertisements, signs, or other means of notification inviting the general public to shop at such residential premises where the property is displayed for sale in the garage, an outbuilding, in the yard area, in the dwelling, or all or a combination of such locations, have become a nuisance and

safety risk to the community. The Council finds that locations where successive sales occur create vehicular traffic problems, detract from the tranquility and privacy of neighborhoods, and provide an outlet to market stolen goods. The Council further finds that this Chapter offers the minimum regulation necessary to protect the health, safety and welfare of this community in such regard. For the purposes of this subchapter, the term *GARAGE SALE* shall include the terms *BASEMENT SALE*, *ATTIC SALE* or other type of so-called residential sale of used tangible personal property such as clothing, household effects, tools, garden implements, toys, recreation equipment or other used or second-hand items customarily found in and about the home and advertised in a manner whereby the public at large is, or can be aware of or invited to, such sale.
(Ord. 2018-03, passed 3-19-2018)

SECTION 94.86 REQUIREMENTS, TIME, MANNER, AND PLACE OF CONDUCTING, ECT.

(A) It shall be unlawful and punishable as a misdemeanor for any person to expose for sale, offer for sale, or sell personal property from residentially zoned or used land except as consistent with the following provisions:

- (1) As a lawfully authorized home occupation pursuant to the Village's adopted zoning ordinance.
- (2) At a garage or yard sale properly authorized and conducted as follows:
 - (a) The personal property exposed for sale, offered for sale, or sold is owned by an occupant of the residential dwelling involved, and may reasonably be considered an isolated, nonrecurring sale of household property, motor vehicles, tools, sporting equipment, or clothing or similar items.
 - (b) For purposes of this Chapter, the occupant or occupants of the residential land involved in any exposure, offer or sale of personal property regulated by this subchapter, is deemed to be the person or persons exposing, offering, or selling such personal property.
 - (c) No more than three non-consecutive garage sales may be conducted from a residential lot within a calendar year.
 - (d) An occupant of residential land desiring to conduct a garage or yard sale from residential land within the calendar year shall apply for a permit through the Village Clerk's office not less than seven days prior to the commencement of the sale.
 - (e) During the days and hours of the sale only, the permitted may place not more than four signs not in excess of four square feet each, upon private property only, advertising the location, dates and time of the permitted garage or yard sale. No sale shall be more than three consecutive days in duration, and no sale shall begin prior to 8:00 a.m. or extend beyond 7:00 p.m.

(f) Except as otherwise provided herein, the garage or yard sale shall be conducted only by the occupant and no merchandise of any nature shall be brought in from any other source in connection with such sale.

(g) By the granting of the permit and the conducting of any garage or yard sale, the permitted consents to an inspection of the personal property exposed for sale, offered for sale or sold, which inspection may be made by any officer, agent or employee of the Village at any time during the hours of the sale.

(3) The Village Council may permit a "block sale" or "Village-wide" sale for three consecutive days twice in any calendar year, upon such terms and conditions as may be necessary to preserve health, safety and welfare. Except as otherwise permitted by the Village Council, such block or Village-wide sale shall comply with the provisions of this subchapter.

(4) Upon application by more than one but less than three persons, such individuals may apply to conduct a joint or cooperative garage sale on a single residential lot designated in the application and, in so doing, may convey their respective personal property to the site of the sale and there offer, display, and sell such property. Such joint or cooperative sale must in all other ways comply with this subchapter. Such joint or cooperative sale shall, for purposes of determining the number of garage sales conducted by an individual during a calendar year, be counted as a garage sale for each individual involved in the cooperative sale and applied against their allowed two individual sales per calendar year.

(5) Upon application of an occupant or occupants and for good cause shown, the Village Council may grant exceptions from the foregoing provisions upon majority vote, or may vary the terms or conditions of any sale, or may impose other or additional conditions or requirements or fees, or may interpret any of the terms or intent of this subchapter, provided that in no instance shall any sale be permitted which creates an unnecessary annoyance or inconvenience to the surrounding neighborhood.

(B) This subchapter shall not apply to a sale specifically authorized by statute or judicial order and conducted strictly in conformity with such statute or order, or conducted under judicial supervision, such as an estate sale.

(Ord. 2018-03, passed 3-19-2018)

SECTION 94.99 PENALTY.

(A) A person who violates any provision of this Chapter for which no specific remedy is prescribed is guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

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(B) A person who violates Sections 94.20 or 94.21 is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$150 for a first violation, \$500 for a second violation and \$700 for a third or subsequent violation. In addition, the court may impose the fines and costs as a lien on the property where the violation occurred.

(C) A person who violates Sections 94.41(C) or 94.42 is guilty of a misdemeanor and shall be subject to following minimum penalties which shall be assessed in addition to any other lawful sentence the court may impose:

(1) For a first violation, a fine of not less than \$175 nor more than \$500.

(2) For a second violation, a fine of not less than \$300 nor more than \$500 and imprisonment of not less than ten days nor more than 90 days.

(3) For a third or subsequent violation, a fine of not less than \$400 nor more than \$500 and imprisonment for not less than 30 days nor more than 90 days.

(D) A person who violates Sections 94.55 or 94.56 is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$50 for a first violation, \$150 for a second violation and \$500 for a third or subsequent violation.

(E) Nothing in this section shall preclude the Village from assessing or collecting costs under Section 94.04 where applicable.

(Ord. 86-5, passed 10-27-1986; Ord. 96-35, passed 12-9-1996; Ord. 97-6, passed 8-25-1997; Ord. 2000-1, passed 1-10-2000; Ord. 2005-10, passed 11-7-2005)

CHAPTER 95: STREETS AND SIDEWALKS

Section

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SIDEWALKS; GENERAL PROVISIONS**SECTION 95.01 DEFINITIONS.**

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

SIDEWALK. The portion of the street right-of-way designed for pedestrian travel.

SUPERINTENDENT. The Superintendent of Public Works of the Village.
(Prior Code, Section 122.001) (Ord. passed 6-6-1961)

SECTION 95.02 SPECIFICATIONS AND PERMITS.

No person shall construct, rebuild or repair any sidewalk except in accordance with the line, grade, slope and specifications established for the sidewalk, nor without first obtaining a written permit from the Superintendent, except that sidewalk repairs of less than 50 square feet of sidewalk may be made without a permit. The fee for the permit shall be set by the Village Council by resolution from time to time.

(Prior Code, Section 122.002) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.03 LINE AND GRADE STAKES.

The Superintendent shall furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the Superintendent. Where it is necessary to replace engineer's stakes disturbed or destroyed without fault on the part of the Village, or its employees, a charge shall be paid in an amount set by the Village Council by resolution from time to time.

(Prior Code, Section 122.003) (Ord. passed 6-6-1961)

SECTION 95.04 SIDEWALK SPECIFICATIONS.

Sidewalks shall not be less than four inches in thickness and expansion paper shall be placed in the joints. All concrete used in sidewalk construction shall 28 days after placement, be capable of resisting a pressure of 2,500 pounds per square inch without failure.

(Prior Code, Section 122.004) (Ord. passed 6-6-1961)

SECTION 95.05 PERMIT REVOCATION.

The Superintendent may issue a stop order to any permittee holding a permit issued under the terms of this subchapter for failure to comply with this subchapter, or the rules, regulations, plans and specifications established for the construction, rebuilding or repair of any sidewalk, and the issuance of the stop order shall be deemed a suspension of the permit. The stop order shall be effective until the next regular meeting of the Village Council, and if confirmed by the Council, at its next regular meeting, the stop order shall be permanent, and shall constitute a revocation of the permit.

(Prior Code, Section 122.005) (Ord. passed 6-6-1961)

SECTION 95.06 APPROVAL OF SPECIFICATIONS.

The line, grade, slope and width of sidewalks, and specifications as to materials and manner of construction not in conflict with this subchapter, shall be established by the Superintendent, and where, under the following sections of this subchapter, the Council orders the construction of any sidewalk, then the Council shall also, by resolution, specify the line, grade, slope, width, materials and manner of construction for the sidewalk ordered built.

(Prior Code, Section 122.006) (Ord. passed 6-6-1961)

SECTION 95.07 ORDERING CONSTRUCTION.

(A) The Village Council may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon the lots and premises.

(B) Upon adoption of a resolution under division (A), the Superintendent shall give notice to the owner of the lot or premises requiring him or her to construct or rebuild the sidewalk within 20 days from the date of the notice. The notice shall be served:

(1) By delivering the notice to the owner personally or by leaving the same at his or her residence, office or place of business with some person of suitable age and discretion;

(2) By mailing said notice by registered or certified mail to such owner at his or her last known address; or

(3) If the owner is unknown, by posting said notice in some conspicuous place on the premises.

(Prior Code, Section 122.007) (Ord. passed 6-6-1961)

SECTION 95.08 CONSTRUCTION BY VILLAGE.

If the owner of any lot or premises shall fail to build any particular sidewalk as described in the notice, and within the time and in the manner required thereby, the Superintendent is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding by

the owner, to cause the sidewalk to be constructed and the expense thereof shall be charged to the premises and the owner thereof, and collected as provided in Section 10 Chapter VII of the Charter. (Prior Code, Section 122.008) (Ord. passed 6-6-1961)

SECTION 95.09 SIDEWALK MAINTENANCE.

No person shall permit any sidewalk within the Village, which adjoins property owned by him or her, to fall into a state of disrepair or to be unsafe.

(Prior Code, Section 122.009) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.10 SIDEWALK REPAIR.

(A) Whenever the Superintendent shall determine that a sidewalk is unsafe for use, notice may be given to the owner of the lot or premises adjacent to and butting upon the sidewalk of the determination which notice shall be given in accordance with division (B). Thereafter, it shall be the duty of the owner to place the sidewalk in a safe condition.

(B) The notice shall specify a reasonable time, not less than seven days, within which the work shall be commenced, and shall further provide that the work shall be completed with due diligence. The notice shall be served:

(1) By delivering the notice to the owner personally or by leaving the same at his or her residence, office or place of business with some person of suitable age and discretion;

(2) By mailing said notice by registered or certified mail to such owner at his or her last known address; or

(3) If the owner is unknown, by posting said notice in some conspicuous place on the premises.

(C) If the owner of the lot or premises shall refuse or neglect to repair the sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this subchapter, the Superintendent shall have the sidewalk repaired.

(D) The cost of repairs hereunder shall be charged against the premises which the sidewalk adjoins and the owner of the premises, and shall be collected as provided in Section 10 of Chapter VII of the Charter.

(Prior Code, Section 122.010) (Ord. passed 6-6-1961)

SECTION 95.11 SIDEWALKS TO BE CLEARED.

(A) The occupant of every lot or premises adjoining any street, or the owner of the lot or premises, if the same are not occupied, shall clear all ice and snow from sidewalks adjoining the lot or premises within the time herein required.

(B) When any snow shall fall or drift upon any sidewalk the snow shall be cleared within 48 hours of the snow fall.

(Prior Code, Section 122.011) (Ord. passed 6-6-1961; Ord. 2014-6, passed 11-17-2014)

SECTION 95.12 FAILURE TO CLEAR.

If any occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining his or her premises within the time limited, or shall otherwise permit ice or snow to accumulate on the sidewalk, he or she shall be guilty of a violation of this subchapter and in addition, the Superintendent may cause the same to be cleared and the expense of removal shall be collectable as provided in Section 10 of Chapter VII of the Charter.

(Prior Code, Section 122.012) (Ord. passed 6-6-1961) Penalty, see Section 10.99

STREET OPENINGS AND OBSTRUCTIONS

SECTION 95.25 DEFINITIONS.

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

STREET. All of the land lying between property lines on either side of all streets, alleys and boulevards in the Village, and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.

SUPERINTENDENT. The Superintendent of Public Works of the Village.
(Prior Code, Section 123.001) (Ord. passed 6-6-1961)

SECTION 95.26 DAMAGE AND OBSTRUCTION PROHIBITED.

No person shall make any excavation in, or cause any damage to any street in the Village, except under the conditions and in the manner permitted in this subchapter. No person shall place any article, thing or obstruction in any street, except under the conditions and in manner permitted in this subchapter, but this provision shall not be deemed to prohibit the temporary obstructions as may be

incidental to the expeditious movement of articles and things to and from abutting premises, nor the lawful parking of vehicles within the part of the street reserved for vehicular traffic. (Prior Code, Section 123.002) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.27 PERMITS AND BONDS.

(A) Where permits are authorized in this subchapter, they shall be obtained upon application to the Superintendent, upon forms as he or she shall prescribe, and there shall be a fee for each permit, in an amount established from time to time by the Village Council by resolution. The permit shall be revocable by the Superintendent for failure to comply with this subchapter, rules and regulations adopted pursuant hereto, and the lawful orders of the Superintendent or his or her duly authorized representative, and shall be valid only for the period of time endorsed thereon.

(B) Application for a permit under the provisions of this subchapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the Village in connection therewith, repair all damage done to the street surface and installations on, over or within the street, including trees, and protect and save harmless the Village from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith.

(C) Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the following amounts, except as otherwise specified in this subchapter:

- (1) On account of injury to, or death of, any person in any one accident: \$1,000,000;
- (2) On account of any one accident resulting in injury to, or death of more than one person: \$2,000,000; and
- (3) On account of damage to property in any one accident: \$1,000,000.

(D) A duplicate executed copy or photostat copy of the original of the insurance policy shall be filed with the Village Clerk/Treasurer.

(E) Where cash deposits are required with the application for any permit hereunder, the deposit shall be in the amount of \$25, except as otherwise specified in this subchapter, and the deposit shall be used to defray all expenses to the Village arising out of the granting of the permit and work done under the permit or in connection therewith.

(F) Three months after completion of the work done under the permit, any balance of the cash deposit unexpended shall be refunded. In any case where the deposit does not cover all costs and expenses of the Village, the deficit shall be paid by the applicant. (Prior Code, Section 123.003) (Ord. passed 6-6-1961; Ord. 2003-2, passed 5-14-2003)

SECTION 95.28 STREET OPENINGS.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the Superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by Section 95.27.

(Prior Code, Section 123.004) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.29 EMERGENCY OPENINGS.

The Superintendent may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this subchapter shall be complied with.

(Prior Code, Section 123.005) (Ord. passed 6-6-1961)

SECTION 95.30 BACKFILLING.

(A) All trenches in a public street or other public place, except by special permission, shall be backfilled with approved granular material to within 12 inches of the surface.

(B) On main thoroughfares, this material shall contain one sack of cement per yard of fill.

(C) The remaining portion shall be filled with road gravel as specified by the Superintendent.

(Prior Code, Section 123.006) (Ord. passed 6-6-1961)

SECTION 95.31 UTILITY POLES.

Utility poles may be placed in the streets as the Superintendent shall prescribe and shall be located thereon in accordance with the directions of the Superintendent. The poles shall be removed or relocated as the Superintendent shall from time to time direct.

(Prior Code, Section 123.007) (Ord. passed 6-6-1961)

SECTION 95.32 MAINTENANCE OF INSTALLATION IN STREETS.

Every owner of, and every person in control of, any estate hereafter maintaining a sidewalk vault, coal hole, manhole or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon, any street which is adjacent to or a part of his or her estate, shall do so only on condition that the maintenance shall be considered as an agreement on his or her part with the Village to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his or her ownership or control thereof, and to indemnify and save harmless the Village against all damages or actions at law that may arise or be brought by

reason of the excavation or structure being under, over or in or upon the street, or being unfastened, out of repair or defective during the ownership or control.

(Prior Code, Section 123.008) (Ord. passed 6-6-1961)

SECTION 95.33 CURB CUTS.

(A) No opening in or through any curb of any street shall be made without first obtaining a written permit from the Superintendent.

(B) Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following.

(1) No single curb cut shall exceed 25 feet nor be less than ten feet.

(2) The minimum distance between any curb cut and a public crosswalk shall be five feet.

(3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet.

(4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise, shall be 45% of the total abutting street frontage up to and including 200 lineal feet of street frontage, plus 20% of the lineal feet of street frontage in excess of 200 feet.

(5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, street or railway signs, signals or other public improvements or installations shall be accomplished without cost to the Village.

(6) All construction shall be in accordance with plans and specifications approved by the Superintendent.

(Prior Code, Section 123.009) (Ord. passed 6-6-1961)

SECTION 95.34 SIDEWALK OBSTRUCTIONS.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to the street, or for any other purpose, without first obtaining a permit from the Superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by Section 95.27.

(Prior Code, Section 123.010) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.35 PEDESTRIAN PASSAGE.

At least six feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians and if the building operations are such that the free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter shall be provided around the obstruction. (Prior Code, Section 123.011) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.36 SAFEGUARDS.

All openings, excavations and obstructions, shall be properly and substantially barricaded and railed off, and at night shall be provided with red warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and parallel to the flow of traffic not over 15 feet apart. (Prior Code, Section 123.012) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.37 SHORING EXCAVATIONS.

All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts that would tend to injure the thoroughfare or subsurface structure of the street. (Prior Code, Section 123.013) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.38 HOUSE MOVING.

(A) No person shall move, transport or convey any building or other similar bulky or heavy object, including machinery, trucks and trailers, larger in width than 14 feet, into, across or along any street, alley or other public place in the Village without first obtaining a permit from the Superintendent.

(B) The person shall specify the route to be used in the movement, and no person shall engage in the movement along a route other than that specified in the permit.

(C) No house moving permit shall be granted until the applicant shall post a cash deposit in the amount of \$50 and file a liability insurance policy as required by Section 95.27. (Prior Code, Section 123.014) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 95.39 REMOVAL OF ENCROACHMENT.

Encroachments and obstructions in the street may be removed and excavations refilled and the expense of the removal or refilling charged to the abutting land owner when made or permitted by him or her or suffered to remain by him or her, otherwise than in accordance with the terms and conditions

of this subchapter. The procedure for collection of the expenses shall be as prescribed in Sections 19, 20 and 21 of Chapter VIII of the Charter.

(Prior Code, Section 123.015) (Ord. passed 6-6-1961)

SECTION 95.40 TEMPORARY STREET CLOSINGS.

(A) The Superintendent shall have authority to temporarily close any street, or portion thereof, when he or she shall deem the street to be unsafe or temporarily unsuitable for use for any reason.

(B) He or she shall cause suitable barriers and signs to be erected on the street, indicating that the same is closed to public travel.

(C) When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over the street except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel.

(D) No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the Superintendent.

(Prior Code, Section 123.016) (Ord. passed 6-6-1961) Penalty, see Section 10.99

CHAPTER 96: TREES

Section

- 96.01 Definitions
- 96.02 Creation/establishment of Village Tree Board
- 96.03 Term of office
- 96.04 Compensation
- 96.05 Duties and responsibilities
- 96.06 Operation
- 96.07 Street tree species to be planted
- 96.08 Spacing
- 96.09 Distance from curb and sidewalk
- 96.10 Distance from street corners and fire plugs
- 96.11 Utilities
- 96.12 Public tree care
- 96.13 Tree topping
- 96.14 Pruning, corner clearance
- 96.15 Dead or diseased tree removal on private property
- 96.16 Removal of stumps
- 96.17 Interference with Village Tree Board
- 96.18 Arborist's license and bond
- 96.19 Review by Village Council

- 96.99 Penalty

SECTION 96.01 DEFINITIONS.

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

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Village, or to which the public has free access as a park.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the Village.
(Ord. 2000-10, passed 11-13-2000)

SECTION 96.02 CREATION/ESTABLISHMENT OF A VILLAGE TREE BOARD.

There is hereby created and established a Village Tree Board for the Village, which shall consist of five members, citizens and residents of this Village, who shall be appointed by the President with the approval of the Council.

(Ord. 2000-10, passed 11-13-2000)

SECTION 96.03 TERM OF OFFICE.

(A) The term of the five persons to be appointed by the President shall be three years, except that the term of two of the members appointed to the first Board shall be for only one year and the term of two members of the first Board shall be for two years.

(B) In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

(Ord. 2000-10, passed 11-13-2000)

SECTION 96.04 COMPENSATION.

Members of the Board shall serve without compensation.

(Ord. 2000-10, passed 11-13-2000)

SECTION 96.05 DUTIES AND RESPONSIBILITIES.

(A) It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. The plan will be presented annually to the Village Council and upon their acceptance and approval shall constitute the official comprehensive Village tree plan for the Village.

(B) The Board, when requested by the Village Council, shall consider, investigate, make finding, report and recommend upon any special matter of question, coming within the scope of its work.

(Ord. 2000-10, passed 11-13-2000)

SECTION 96.06 OPERATION.

The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Ord. 2000-10, passed 11-13-2000)

SECTION 96.07 STREET TREE SPECIES TO BE PLANTED.

(A) The following list constitutes the official street tree species for the Village.

(B) No species other than those included in this list may be planted as street trees without written permission of the Village Tree Board.

(C) The owner of land abutting any street may, upon obtaining prior permission of the Superintendent, prune, spray, plant or remove trees or shrubs in that part of the street abutting his or her land not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree or shrub in any street or park.

(1) Small trees:

- (a) Apricot;
- (b) Flowering Crabapple;
- (c) Pear, Bradford;
- (d) Flowering Peach;
- (e) Plum, Purpleleaf;
- (f) Ivory Silk Lilac; and
- (g) Macho Amur Corktree.

(2) Medium trees:

- (a) Sassafras;
- (b) Pacific Sunset Maple;
- (c) Upright European Hornbeam;
- (d) White Ash;
- (e) Juneberry;
- (f) White Fir;
- (g) Golden Raintree; and
- (h) Sawtooth Oak.

(3) Large trees:

- (a) White Oak;
- (b) Green Mt. Sugar Maple;
- (c) Bald Cypress;
- (d) Cimmaron Green Ash;
- (e) Sterling Silver Linden;
- (f) American Beech;
- (g) White Pine;
- (h) Stellar Dogwood;
- (i) Dawn Redwood; and
- (j) Gingko.

(Ord. 2000-10, passed 11-13-2000)

SECTION 96.08 SPACING.

The spacing of street trees will be in accordance with the three species size classes listed in Section 96.07, and no trees may be planted closer together than the following, except in special plantings designed or approved by a landscape architect or the Tree Board:

(A) Small trees: 20 feet;

(B) Medium trees: 30 feet; and

(C) Large trees: 40 feet.

(Ord. 2000-10, passed 11-13-2000; Ord. 2005-3, passed 5-9-2005)

SECTION 96.09 DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 96.07, and no trees may be planted closer to any curb or sidewalk than the following: small trees: 18 inches; medium trees: two feet; and large trees: three feet.

(Ord. 2000-10, passed 11-13-2000; Ord. 2005-3, passed 5-9-2005)

SECTION 96.10 DISTANCE FROM STREET CORNERS AND FIRE PLUGS.

No street tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted within ten feet of any fireplug. (Ord. 2000-10, passed 11-13-2000) Penalty, see Section 96.99

SECTION 96.11 UTILITIES.

No street trees other than those species listed as small trees in Section 96.07 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility. (Ord. 2000-10, passed 11-13-2000) Penalty, see Section 96.99

SECTION 96.12 PUBLIC TREE CARE.

(A) The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of the public grounds.

(B) The Village Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

(C) This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with Sections 96.07 through 96.11. (Ord. 2000-10, passed 11-13-2000)

SECTION 96.13 TREE TOPPING.

(A) It shall be unlawful as a normal practice for any person, firm or Village department to top any street tree, park tree or other tree on public property.

(B) **TOPPING** is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to a degree so as to remove the normal canopy and disfigure the tree.

(C) Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the Village Tree Board.

(Ord. 2000-10, passed 11-13-2000) Penalty, see Section 96.99

SECTION 96.14 PRUNING, CORNER CLEARANCE.

(A) Every owner of any tree overhanging any street or right-of-way within the Village shall prune the branches so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk.

(B) The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.

(C) The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(Ord. 2000-10, passed 11-13-2000)

SECTION 96.15 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

(A) The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village, when the trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Village.

(B) The Superintendent will notify in writing the owners of the trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with those provisions, the Village shall have the authority to remove the trees and charge the cost of removal as a lien on the property on the owner's property tax notice.

(Ord. 2000-10, passed 11-13-2000) Penalty, see Section 96.99

SECTION 96.16 REMOVAL OF STUMPS.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. 2000-10, passed 11-13-2000) Penalty, see Section 96.99

SECTION 96.17 INTERFERENCE WITH VILLAGE TREE BOARD.

It shall be unlawful for any person to prevent, delay or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this Chapter.

(Ord. 2000-10, passed 11-13-2000) Penalty, see Section 96.99

SECTION 96.18 ARBORIST'S LICENSE AND BOND.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the Village without first obtaining Village approval. (Ord. 2000-10, passed 11-13-2000) Penalty, see Section 96.99

SECTION 96.19 REVIEW BY VILLAGE COUNCIL.

The Village Council shall have the right to review the conduct, acts and decisions of the Village Tree Board. Any person may appeal from any ruling or order of the Village Tree Board to the Village Council who may hear the matter and make final decision. (Ord. 2000-10, passed 11-13-2000)

SECTION 96.99 PENALTY.

A person who violates any provision of this Chapter is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$50 for a first violation, \$150 for a second violation, and \$500 for a third or subsequent violation.

(Ord. 96-35, passed 12-9-1996; Ord. 2000-10, passed 11-13-2000)

CHAPTER 97: SMOKING AND VAPING

Section

- 97.01 Purpose
- 97.02 Definitions
- 97.03 Smoking and vaping prohibited
- 97.04 No smoking signs
- 97.05 Enforcement
- 97.06 Other applicable laws and regulations

- 97.99 Violations and penalties

SECTION 97.01 PURPOSE.

The Village of Howard City has determined that:

(A) Scientific studies, including studies conducted by the Surgeon General of the United States, have concluded that: (1) tobacco smoke is a major contributor to indoor air pollution; (2) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (3) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome, acute respiratory problems, ear infections, and asthma attacks; (4) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; and (5) there is no risk-free level of exposure to secondhand smoke. (See U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.)

(B) The Dr. Ron Davis Smoke-Free Air Act was signed into Michigan law on December 18, 2009 to preserve and improve the health and welfare of the people of Michigan by regulating their exposure to secondhand smoke at locations throughout the State.

(C) The Act prohibits smoking in most public places and places of employment in Michigan beginning May 1, 2010, including, but not limited to enclosed indoor areas owned or otherwise controlled by a local governmental agency.

The Village has enacted this Chapter to further preserve and improve the health and welfare of the people of Michigan by regulating their exposure to secondhand smoke on or near property owned or otherwise controlled by the Village.
(Ord. 2015-6, passed 11-16-2015)

SECTION 97.02 DEFINITIONS.

As used in this chapter:

ELECTRONIC SMOKING DEVICE. Any electronic product not prescribed by a doctor that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, e-cigar, e-pipe, vape pen or e-hookah. **ELECTRONIC SMOKING DEVICE** includes any component, part, or accessory of such a product, whether or not sold separately.

HOOKAH. A water pipe and any associated products which are used to produce fumes, smoke, or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.

SMOKING. Inhaling, exhaling, burning, or possessing any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs, in any manner or in any form.

VAPING. Using an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

VILLAGE PROPERTY. Any vehicle, building, enclosed or unenclosed area within the Village of Howard City owned, leased, occupied, or controlled by the Village or any instrumentality or agency thereof.

(Ord. 2015-6, passed 11-16-2015)

SECTION 97.03 SMOKING AND VAPING PROHIBITED.

Smoking and vaping shall be prohibited on or within any Village property.
(Ord. 2015-6, passed 11-16-2015) Penalty, see Section 97.99

SECTION 97.04 NO SMOKING SIGNS.

A "no smoking" sign(s) or the international "no smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, may be posted on any Village property in a manner prescribed by the Village Council.
(Ord. 2015-6, passed 11-16-2015) Penalty, see Section 97.99

SECTION 97.05 ENFORCEMENT.

(A) The Village's Authorized Officials, as defined in Section 31.10 of the Village's Code of Ordinances ("Code"), shall have the power to enforce the provisions of this Chapter and the orders, rules, and regulations issued hereunder.

(B) The Village's Authorized Officials shall direct a person who is smoking or vaping in violation of this Chapter to extinguish or turn off the product.

(C) If the person does not stop the violation, the Authorized Official may issue a Municipal Civil Infraction Violation Notice as defined in Section 31.01 of the Code ("Violation Notice") and take such other action authorized by law.

(Ord. 2015-6, passed 11-16-2015)

SECTION 97.06 OTHER APPLICABLE LAWS AND REGULATIONS.

Nothing in this Chapter shall be construed to permit smoking or vaping where it is otherwise prohibited by law or regulation.

(Ord. 2015-6, passed 11-16-2015)

SECTION 97.99 VIOLATIONS AND PENALTIES.

(A) A violation of Sections 97.03 or 97.05 shall constitute a Municipal Civil Infraction as defined in Section 31.01 of the Code.

(B) A person liable for a Municipal Civil Infraction shall pay the fines as provided in Sections 10.99 and 31.08 of the Code.

(C) A person may admit responsibility for the infraction and pay the applicable fines to the Municipal Ordinance Violations Bureau ("Bureau") if a Violation Notice was issued.

(D) If an admission of responsibility is not made and the required fines are not paid at the Bureau, the Village or its designee may file a Municipal Civil Infraction Citation as defined in Section 31.01 of the Code in the district court, with a copy of the citation to be served upon the alleged violator at his or her last known address as determined by the Village.

(E) Notwithstanding any other provision herein, a violation of this Chapter is declared to be a public nuisance, which may be abated by the Village by restraining order, preliminary and permanent injunction, or other means provided for by law.

(F) Any person violating any of the provisions of this Chapter shall be liable to the Village for any expense, loss, or damages caused by such violation, including any costs of prosecution as authorized by law. The Village shall bill the person or persons for the costs incurred by the Village caused by the violation.

(G) Each act of violation under this Chapter and every day upon which any such violation shall occur or continue shall constitute a separate offense.

(H) The penalties provided by this Section shall be in addition to any other penalty imposed by any other provision of law or regulation thereunder.
(Ord. 2015-6, passed 11-16-2015)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. GENERAL LICENSING**
- 111. JUNKYARDS**
- 112. PEDDLERS AND TRANSIENT MERCHANTS**
- 113. TELECOMMUNICATIONS PROVIDERS**
- 114. LIQUOR LICENSE REGULATIONS**

CHAPTER 110: GENERAL LICENSING

Section

- 110.01 Licenses required
- 110.02 State licensed businesses
- 110.03 License application
- 110.04 License year
- 110.05 Where certification required
- 110.06 Authorized Village Representative's certificate
- 110.07 Late renewals
- 110.08 Right to issuance
- 110.09 Suspension or revocation
- 110.10 Cause defined
- 110.11 License renewal
- 110.12 Exhibition of license
- 110.13 Exhibition on vehicle and machine
- 110.14 Displaying invalid license
- 110.15 Transferability; misuse
- 110.16 Misuse; automatic revocation

SECTION 110.01 LICENSES REQUIRED.

No person shall engage in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of this Code without first obtaining a license from the Village in the manner provided for in this Chapter.

(Prior Code, Section 15.001) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 110.02 STATE LICENSED BUSINESSES.

The fact that a license or permit has been granted to any person by the State to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt the person from the necessity of securing a license or permit from the Village if the license or permit is required by this Code.

(Prior Code, Section 15.002) (Ord. passed 6-6-1961)

SECTION 110.03 LICENSE APPLICATION.

Unless otherwise provided in this Code, every person required to obtain a license from the Village to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for the license to the Village Clerk/Treasurer upon forms provided by the Clerk/Treasurer, and shall state under oath or affirmation the facts, as may be required for, or applicable to, the granting of the license.

(Prior Code, Section 15.003) (Ord. passed 6-6-1961)

SECTION 110.04 LICENSE YEAR.

(A) Except as provided in division (B), the license year shall begin January 1 of each year and shall terminate at midnight on December 31 of that year. Original licenses shall be issued for the balance of the license year at the full license fee. License applications for license renewals shall be accepted and licenses issued for a period of 15 days prior to the annual expiration date. In all cases where the provisions of this Code permit the issuance of licenses for periods of less than one year, the effective date of the licenses shall commence with the date of issuance thereof.

(B) The license year for junk yards, as defined in Chapter 111, shall begin on June 1 of each year and shall terminate at midnight of May 31 in the following year.
(Prior Code, Section 15.004) (Ord. passed 6-6-1961; Ord. 80-2, passed 1-8-1980)

SECTION 110.05 WHERE CERTIFICATION REQUIRED.

No license shall be granted where the certification of any officer of the Village is required prior to the issuance until the certification is made.

(Prior Code, Section 15.005) (Ord. passed 6-6-1961)

SECTION 110.06 AUTHORIZED VILLAGE REPRESENTATIVE'S CERTIFICATE.

In all cases where the certification of an authorized Village representative is required prior to the issuance of any license by the Village Clerk/Treasurer, the certification shall be based upon a finding that the person making the application for the license is of good moral character.

(Prior Code, Section 15.007) (Ord. passed 6-6-1961)

SECTION 110.07 LATE RENEWALS.

All fees for the renewal of any license which are not paid at the time the fees shall be due, shall be paid as "late fees" with an additional 25% of the license fee required for the license for the first 15 days

that the license fee remains unpaid, and thereafter the license fee shall be required for the license, plus 50% of the fee.

(Prior Code, Section 15.008) (Ord. passed 6-6-1961)

SECTION 110.08 RIGHT TO ISSUANCE.

If the application for any license is approved by the proper officers of the Village, as provided in this Chapter, the license shall be granted and shall serve as a receipt for payment of the fee prescribed for the license.

(Prior Code, Section 15.009) (Ord. passed 6-6-1961)

SECTION 110.09 SUSPENSION OR REVOCATION.

(A) Any license issued by the Village may be suspended by the Village President for cause, and any permit issued by the Village may be suspended or revoked by the issuing authority for cause.

(B) The licensee shall have the right to a hearing before the Village Council on that action of the Village President, provided a written request therefor is filed with the Village Clerk/Treasurer within five days after receipt of the notice of the suspension.

(C) The Council may confirm the suspension or revoke or reinstate the license.

(1) The action taken by the Council shall be final.

(2) Upon suspension or revocation of any license or permit, the fee therefor shall be refunded.

(Prior Code, Section 15.010) (Ord. passed 6-6-1961)

SECTION 110.10 CAUSE DEFINED.

The term **CAUSE**, as used in this Chapter, shall include the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license or permit is granted under the provisions of this Code, or upon any premises or facilities used in connection therewith, which act, omission or condition is:

(A) Contrary to the health, morals, safety or welfare of the public;

(B) Unlawful, irregular or fraudulent in nature;

(C) Unauthorized or beyond the scope of the license or permit granted; or

(D) Forbidden by the provisions of this Code or any duly established rule or regulation of the Village applicable to the trade, profession, business or privilege for which the license or permit has been granted.

(Prior Code, Section 15.011) (Ord. passed 6-6-1961)

SECTION 110.11 LICENSE RENEWAL.

Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application.

(Prior Code, Section 15.012) (Ord. passed 6-6-1961)

SECTION 110.12 EXHIBITION OF LICENSE.

(A) No licensee shall fail to carry any license issued in accordance with the provisions of this Chapter upon his or her person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where the trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, the license shall be exhibited at all times in some conspicuous place in the place of business.

(B) Every licensee shall produce his or her license for examination when applying for a renewal thereof when requested to do so by any authorized Village representative or by any person representing the issuing authority.

(Prior Code, Section 15.013) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 110.13 EXHIBITION ON VEHICLE AND MACHINE.

No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this Chapter tags or stickers as are furnished by the Village Clerk/Treasurer.

(Prior Code, Section 15.014) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 110.14 DISPLAYING INVALID LICENSE.

No person shall display any expired license or any license for which a duplicate has been issued.

(Prior Code, Section 15.015) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 110.15 TRANSFERABILITY; MISUSE.

No license or permit issued under the provisions of this Code shall be transferable unless specifically authorized by the provisions of this Code. No licensee or permittee shall, unless specifically authorized

by the provisions of this Code, transfer or attempt to transfer his or her license or permit to another, nor shall he or she make improper use of the same.

(Prior Code, Section 15.016) (Ord. passed 6-6-1961)

SECTION 110.16 MISUSE; AUTOMATIC REVOCATION.

In addition to the penalties set forth in Section 10.99, any attempt by a licensee or permittee to transfer his or her license or permit to another, unless specifically authorized by the provisions of this Code, or to use the same improperly shall be void and result in the automatic revocation of the license or permit.

(Prior Code, Section 15.017) (Ord. passed 6-6-1961)

CHAPTER 111: JUNKYARDS

Section

- 111.01 Definition
- 111.02 Application
- 111.03 Issuance of license
- 111.04 Revocation and cancellation of license
- 111.05 Location
- 111.06 Fences
- 111.07 Abandonment of premises
- 111.08 Operation

- 111.99 Penalty

SECTION 111.01 DEFINITION.

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

JUNKYARD. Any area of land, including building thereon, which is used primarily for the collecting, storage and/or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof. Two or more motor vehicles stored outside without current license plates for a period of 30 days shall constitute a **JUNKYARD**.
(Prior Code, Section 18.002) (Ord. passed 1-8-1980)

SECTION 111.02 APPLICATION.

Any person, firm or corporation desiring to operate, maintain or establish a junkyard in the Village, shall, before undertaking to operate, maintain or establish the same, procure a license from the Village Clerk/Treasurer for that purpose.
(Prior Code, Section 18.003) (Ord. passed 1-8-1980) Penalty, see Section 111.99

SECTION 111.03 ISSUANCE OF LICENSE.

The Village Clerk/Treasurer, after having been authorized by the Village Council, shall issue the license; provided, that the applicant has complied with all regulations and restrictions as hereinafter provided. Each person, firm or corporation, before carrying on any of the businesses set forth above, shall pay to the Village Clerk/Treasurer a license fee as established from time to time by the Village Council by resolution upon the approval of the application by the Village Council and issuance by the Village Clerk/Treasurer and on June 1 of each year thereafter, subject only to the limitations of the license. The receipt issued by the Village Clerk/Treasurer shall constitute and be deemed to be the license of the applicant for any calendar year in which the receipt is issued; and provided the receipt shall be kept at all times at the principal office of the business.

(Prior Code, Section 18.004) (Ord. passed 1-8-1980)

SECTION 111.04 REVOCATION AND CANCELLATION OF LICENSE.

In the event the Village Council determines upon reasonable investigation that any licensee under this Chapter shall have violated any of the provisions hereof, the Village Council shall cancel and revoke the license of the nonconforming licensee forthwith. The licensee may, at any time thereafter, reapply for a new license under the same conditions and regulations applicable to new applicants.

(Prior Code, Section 18.005) (Ord. passed 1-8-1980)

SECTION 111.05 LOCATION.

No person, firm or corporation licensed under this Chapter, or any other person, shall operate, establish or maintain a junkyard or place for dismantling automobiles within 1,000 feet of a church, school, park, cemetery or zoned residential district, or within 100 feet of the edge of the right-of-way of any traveled street or thoroughfare and within 100 feet of any lot line. No person, firm or corporation shall operate or maintain a place as a junkyard on less than five acres of land.

(Prior Code, Section 18.006) (Ord. passed 1-8-1980) Penalty, see Section 111.99

SECTION 111.06 FENCES.

(A) All junkyards shall be enclosed by a fence or wall at least eight feet in height and the fence or wall shall be the same uniform in height throughout. The fence or wall shall be set along the setback lines of the entire site in order to screen the site from surrounding property.

(B) The fence or wall shall be of sound construction and shall be constructed of the same material on each side.

(C) The fence or wall shall be finished neatly and be painted a uniform color throughout so as to be inconspicuous given due regard to the surroundings.

(Prior Code, Section 18.007) (Ord. passed 1-8-1980) Penalty, see Section 111.99

SECTION 111.07 ABANDONMENT OF PREMISES.

Any person, firm or corporation who may be licensed under this Chapter, or any other person, firm or corporation, who shall cease to operate or maintain a junkyard shall first remove from his or her premises all junk, automobiles, machinery and/or parts of the same and debris of any kind whatsoever, and shall leave the premises in a neat and orderly condition; provided that the person or corporation must comply herewith within 30 days following the last day of regular business conducted by the person, firm or corporation.

(Prior Code, Section 18.008) (Ord. passed 1-8-1980) Penalty, see Section 111.99

SECTION 111.08 OPERATION.

All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced-in area. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.

(Prior Code, Section 18.009) (Ord. passed 1-8-1980) Penalty, see Section 111.99

SECTION 111.99 PENALTY.

A person who violates any provision of this Chapter is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be \$50 for a first violation, \$150 for a second violation and \$500 for a third or subsequent violation.

(Prior Code, Section 18.010) (Ord. passed 1-8-1980; Ord. 96-35, passed 12-9-1996)

CHAPTER 112: PEDDLERS AND TRANSIENT MERCHANTS

Section

Peddlers; Regulations

- 112.01 License required
- 112.02 Fingerprints
- 112.03 Fixed stands prohibited
- 112.04 Practices prohibited
- 112.05 Exempt persons

Transient Merchants

- 112.20 License required
- 112.21 Benefit sales
- 112.22 Sales within enclosures
- 112.23 Off-street parking
- 112.24 Locations allowed

PEDDLERS; REGULATIONS

SECTION 112.01 LICENSE REQUIRED.

No person shall engage in the business of hawking or peddling, or soliciting orders for any goods or merchandise, without first obtaining a license therefor. No license shall be granted except upon certification of the Authorized Village Representative. The license fees shall be established from time to time by the Village Council by resolution.

(Prior Code, Section 16.001) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 112.02 FINGERPRINTS.

No license to peddle shall be granted to any person unless a complete set of fingerprints of the person are on file in the non-criminal identification file of the Authorized Village Representative.

(Prior Code, Section 16.002) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 112.03 FIXED STANDS PROHIBITED.

No licensee shall stop or remain in any one place upon any street, alley or public place longer than necessary to make a sale to a customer wishing to buy. Any peddler using a vehicle, when stopped, shall place his or her vehicle parallel to and within 12 inches of the curb and shall depart from the place as soon as he or she has completed sales with customers actually present.

(Prior Code, Section 16.003) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 112.04 PRACTICES PROHIBITED.

No peddler shall shout or cry out his or her goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

(Prior Code, Section 16.004) (Ord. passed 6-6-1961) Penalty, see Section 10.99

SECTION 112.05 EXEMPT PERSONS.

This Chapter shall not be applicable to farmers or truck gardeners selling or offering for sale any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated; nor to any person under the age of 18 years, when engaged in peddling or soliciting in the neighborhood of his or her residence, on foot and under the direct supervision of any school or recognized charitable or religious organization.

(Prior Code, Section 16.005) (Ord. passed 6-6-1961)

TRANSIENT MERCHANTS**SECTION 112.20 LICENSE REQUIRED.**

(A) No person shall engage in a temporary business of selling goods, wares or merchandise at retail within the Village from any lot, premises, building, room or structure, within any commercial district, without first obtaining a license therefor.

(B) No license shall be granted except upon certification of the Zoning Administrator and Village Clerk/Treasurer.

(C) The fee for the licenses shall be established from time to time by the Village Council by resolution.

(Ord. 2000-8, passed 7-24-2000) Penalty, see Section 10.99

SECTION 112.21 BENEFIT SALES.

Any person selling or offering for sale any goods, wares or merchandise on behalf of and solely for the benefit of any recognized public, charitable or religious purpose or any individual the age of 65 or over who is actively engaged in the sale of his or her goods from the establishment, shall after meeting all other requirements, be granted a license without payment of the fee required by Section 112.20. (Ord. 2000-8, passed 7-24-2000)

SECTION 112.22 SALES WITHIN ENCLOSURES.

Transient merchants are permitted to sell from temporary enclosures or structures if the structures are at least 15 feet off the property line and not occupy more than 25% of the area of the main structure. Temporary structures are permitted on the premises for a period not to exceed 90 days. (Ord. 2000-8, passed 7-24-2000) Penalty, see Section 10.99

SECTION 112.23 OFF-STREET PARKING.

Any transient merchant shall only be located in an area where any clientele of the merchant are provided adequate off-street parking. (Ord. 2000-8, passed 7-24-2000) Penalty, see Section 10.99

SECTION 112.24 LOCATIONS ALLOWED.

No more than one transient merchant shall be allowed for each main use. (Ord. 2000-8, passed 7-24-2000) Penalty, see Section 10.99

CHAPTER 113: TELECOMMUNICATIONS PROVIDERS

Section

- 113.01 Purpose
- 113.02 Definitions
- 113.03 Permit required
- 113.04 Issuance of permit
- 113.05 Construction/engineering permit
- 113.06 Conduit or utility poles
- 113.07 Route maps
- 113.08 Repair of damage
- 113.09 Establishment and payment of maintenance fee
- 113.10 Modification of existing fees
- 113.11 Savings clause
- 113.12 Use of funds
- 113.13 Annual report
- 113.14 Cable television operators
- 113.15 Existing rights
- 113.16 Compliance
- 113.17 Reservation of police powers
- 113.18 Authorized Village officials
- 113.19 Municipal civil infraction

SECTION 113.01 PURPOSE.

The purposes of this Chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety and welfare and to exercise reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act and other applicable law, and to ensure that the Village qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. 2002-4, passed - -2002)

SECTION 113.02 DEFINITIONS.

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

ACT. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Public Act 48 of 2002, being MCL 484.3101 et seq.), as amended from time to time.

PERMIT. A nonexclusive permit issued pursuant to the Act and this Chapter to a telecommunications provider to use the public rights-of-way in the Village for its telecommunications facilities.

VILLAGE. The Village of Howard City.

VILLAGE COUNCIL. The Village Council of the Village of Howard City, or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the **VILLAGE COUNCIL**.

VILLAGE MANAGER. The Village Manager or his or her designee.

(B) All other terms used in this Chapter shall have the same meaning as defined or as provided in the Act, including, without limitation, the following.

AUTHORITY. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to the Act.

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

PERSON. An individual, corporation, partnership, association, governmental entity or any other legal entity.

PUBLIC RIGHT-OF-WAY. The area on, below or above a public roadway, highway, street, alley, easement or waterway. **PUBLIC RIGHT-OF-WAY** does not include a Federal, State or private right-of-way.

TELECOMMUNICATION FACILITIES or **FACILITIES.** The equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes and sheaths, which are used to or can generate, receive, transmit, carry, amplify or provide telecommunication service or signals. **TELECOMMUNICATION FACILITIES** or **FACILITIES** do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934. Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. Section 20.3, and service provided by any wireless, two-way communication device.

TELECOMMUNICATIONS PROVIDER, PROVIDER and **TELECOMMUNICATIONS SERVICES.** Those terms as defined in Section 102 of the Michigan Telecommunications Act, Public Act 179 of 1991, being MCL 484.2102. **TELECOMMUNICATION PROVIDER** does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service

as defined in Section 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. Section 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this Chapter only, a **PROVIDER** also includes all of the following:

- (a) A cable television operator that provides a telecommunications service;
 - (b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way; and
 - (c) A person providing broadband internet transport access service.
- (Ord. 2002-4, passed - -2002)

SECTION 113.03 PERMIT REQUIRED.

(A) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the Village for its telecommunications facilities shall apply for and obtain a permit pursuant to this Chapter.

(B) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with the Act. A telecommunications provider shall file one copy of the application with the Village Clerk/Treasurer, one copy with the Village Manager, and one copy with the Village Attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with the Act.

(C) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contains trade secret, proprietary or confidential information, which is exempt from the State's Freedom of Information Act, Public Act 442 of 1976, being MCL 15.231 et seq., as amended, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(D) *Application fee.* Except as otherwise provided by the Act, an application shall be accompanied by a one-time nonrefundable application fee in the amount of \$500.

(E) *Additional information.* The Village Manager may request an applicant to submit additional information which the Village Manager deems reasonably necessary or relevant. The applicant shall comply with all the requests in compliance with reasonable deadlines for additional information established by the Village Manager. If the Village and the applicant cannot agree on the requirement of additional information requested by the Village, the Village or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(F) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the Village under Section 251 of the Michigan Telecommunications Act, MCL 484.2251, shall satisfy the permit requirements of this Chapter.

(Ord. 2002-4, passed - -2002)

SECTION 113.04 ISSUANCE OF PERMIT.

(A) *Approval or denial.*

(1) The authority to approve or deny an application for a permit is delegated to the Village Manager. Pursuant to Section 15(3) of the Act, the Village Manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit in accordance with Section 113.03(B) for access to a public right-of-way within the Village.

(2) The Village Manager shall notify the MPSC when the Village Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied.

(3) The Village Manager shall not unreasonably deny an application for a permit.

(B) *Form of permit.* If an application for permit is approved, the Village Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(C) *Conditions.* Pursuant to Section 15(4) of the Act, the Village Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and use of the public right-of-way.

(D) *Bond requirement.* Pursuant to Section 15(3) of the Act, and without limitation on division (C) above, the Village Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. 2002-4, passed - -2002)

SECTION 113.05 CONSTRUCTION/ENGINEERING PERMIT.

(A) A telecommunications provider shall not commence construction upon, over, across or under the public rights-of-way in the Village without first obtaining a construction or engineering permit as required under this Code, as amended, for construction within the public rights-of-way.

(B) No fee shall be charged for a construction or engineering permit.

(Ord. 2002-4, passed - -2002)

SECTION 113.06 CONDUIT OR UTILITY POLES.

In accordance with the Act, obtaining a permit or paying the fees required under the Act or under this Chapter does not give a telecommunications provider a right to use conduit or utility poles.
(Ord. 2002-4, passed - -2002)

SECTION 113.07 ROUTE MAPS.

(A) Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the Village, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the Village.

(B) The route maps should be in electronic format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.
(Ord. 2002-4, passed - -2002)

SECTION 113.08 REPAIR OF DAMAGE.

A telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the Village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.
(Ord. 2002-4, passed - -2002)

SECTION 113.09 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the Village set forth in Section 113.03(D), a telecommunications provider with telecommunications facilities in the Village's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.
(Ord. 2002-4, passed - -2002)

SECTION 113.10 MODIFICATION OF EXISTING FEES.

(A) In compliance with the requirements of Section 13(1) of the Act, the Village hereby modifies, to the extent necessary, fees charged to telecommunications providers after November 1, 2002, the effective date of the Act relating to access and use of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority.

(B) In compliance with the requirements of Section 13(4) of the Act, the Village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the Village's boundaries, so that those providers pay only those fees required under Section 8 of the Act.

(C) The Village shall provide each telecommunications provider affected by the fee a copy of this Chapter, in compliance with the requirement of Section 13(4) of the Act.

(D) To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, the imposition is hereby declared to be contrary to the Village's policy and intent, and upon application by a provider or discovery by the Village, shall be promptly refunded as having been charged in error.
(Ord. 2002-4, passed - -2002)

SECTION 113.11 SAVINGS CLAUSE.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 113.10 shall be void from the date the modification was made.
(Ord. 2002-4, passed - -2002)

SECTION 113.12 USE OF FUNDS.

Pursuant to Section 10(4) of the Act, all amounts received by the Village from the Authority shall be used by the Village solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the Village from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the Village under Public Act 51 of 1951.
(Ord. 2002-4, passed - -2002)

SECTION 113.13 ANNUAL REPORT.

Pursuant to Section 10(5) of the Act, the Village Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.
(Ord. 2002-4, passed - -2002)

SECTION 113.14 CABLE TELEVISION OPERATORS.

Pursuant to Section 13(6) of the Act, the Village shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges

the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. 2002-4, passed - -2002)

SECTION 113.15 EXISTING RIGHTS.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this Chapter shall not affect any existing rights that a telecommunications provider or the Village may have under a permit issued by the Village or under a contract between the Village and a telecommunications provider related to the use of the public rights-of-way.

(Ord. 2002-4, passed - -2002)

SECTION 113.16 COMPLIANCE.

(A) The Village declares that its policy and intent in adopting this Chapter is to fully comply with the requirements of the Act, and the provisions of this Chapter should be construed in a manner so as to achieve that purpose.

(B) The Village shall comply in all respects with the requirements of the Act, including, but not limited to, the following:

(1) Exempting certain route maps from disclosure consistent with the Act and State law as provided in Section 113.03(C);

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 113.03;

(3) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the Village, in accordance with Section 113.04(A);

(4) Notifying the MPSC when the Village has granted or denied a permit, in accordance with Section 113.04(A);

(5) Not unreasonably denying an application for a permit, in accordance with Section 113.04(A);

(6) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 113.04(B);

(7) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and use of the public right-of-way;

(8) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 113.04(D):

(9) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 113.05;

(10) Providing each telecommunications provider affected by the Village's right-of-way fees with a copy of this Chapter, in accordance with Section 113.10;

(11) Submitting an annual report to the Authority, in accordance with Section 113.13; and

(12) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 113.14.

(Ord. 2002-4, passed - -2002)

SECTION 113.17 RESERVATION OF POLICE POWERS.

Pursuant to Section 15(2) of the Act, this Chapter shall not limit the Village's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the Village's authority to ensure and protect the health, safety and welfare of the public.

(Ord. 2002-4, passed - -2002)

SECTION 113.18 AUTHORIZED VILLAGE OFFICIALS.

The Village Manager or his or her designee is hereby designated as the authorized Village official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the Municipal Violations Bureau) for violations under this Chapter as provided by the Village Code.

(Ord. 2002-4, passed - -2002)

SECTION 113.19 MUNICIPAL CIVIL INFRACTION.

A person who violates any provision of this Chapter or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to the civil infraction fines and costs as provided for in this Village Code. Nothing in this section shall be construed to limit the remedies available to the Village in the event of a violation by a person of this Chapter or a permit.

(Ord. 2002-4, passed - -2002)

CHAPTER 114: LIQUOR LICENSE REGULATIONS

Section

Application for New License

- 114.01 Application
- 114.02 Restrictions on licenses
- 114.03 Term of license
- 114.04 License hearing
- 114.05 Definitions
- 114.06 No duty to issue
- 114.07 Non-transferable
- 114.08 Exceptions

Objections to Renewal and Request for Revocation

- 114.15 Procedure
- 114.16 Criteria for non-renewal or revocation

Effect

- 114.20 Effect

Administration

- 114.25 Administration

APPLICATION FOR NEW LICENSE

SECTION 114.01 APPLICATION.

(A) Applications for a license to sell beer, wine or spirits for consumption on the premises including associated permits, shall be made to the Village Council in writing, signed by the applicant, if an individual, or by a duly authorized agent, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:

Howard City - Business Regulations

(1) The name, age and address of the applicant in the case of an individual; or, the name and address of the applicant in the case of a co-partnership, plus the names and addresses of each partner; or the name and address of the applicant in the case of a corporation, plus the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the name and address of such person.

(2) In the case of an individual, the citizenship and place of birth of the applicant and, if a naturalized citizen, the date and place of his naturalization.

(3) The nature or kind of business of the applicant, and in the case of a corporation, the purpose for which it was formed.

(4) The length of time the applicant has been in a business of that nature, or, in the case of a corporation, the date of its incorporation.

(5) The location and description of the premises or place of business which is to be operated under such license.

(6) A statement whether applicant has made application for a similar or other on premises license other than described in this application, and the disposition of such application.

(7) A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Chapter or the laws of the State of Michigan.

(8) A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any Ordinances of the Village in the conduct of its business.

(9) The application shall be accompanied by building and site plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, zoning compliance, lighting, refuse disposal facilities, screening, noise control and compliance with this Chapter and the compiled ordinances of the Village.

(10) The application shall be accompanied by payment of such fees as the Village Council may establish by resolution from time to time.

(B) The Council may request such additional information relative to its review and the possible impact of issuing the license or permit as it deems necessary.
(Ord. 2012-5, passed 11-12-2012)

SECTION 114.02 RESTRICTIONS ON LICENSES.

No such license shall be issued to:

- (A) A person whose license, under this Chapter has been revoked for cause.
- (B) A person, whom, at the time of application for renewal of any license issued hereunder, would not be eligible for such license upon a first application.
- (C) A co-partnership, unless each of the members of such co-partnership would qualify to obtain a license.
- (D) A corporation, if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than 5% of the stock of such corporation would not be eligible to receive a license hereunder for any reason.
- (E) A person whose place of business is conducted by a manager or agent unless such manager or agents possesses the qualifications required of the licensee.
- (F) A person, co-partnership or corporation who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or use or sale of alcoholic liquor.
- (G) A person who does not own or have an option to purchase the premises for which a license is sought or does not have a lease therefore for the full period for which the license is issued.
- (H) Any law enforcement official within Montcalm County or any member of the Village Council and no such official shall be interested in any way either directly or indirectly in the manufacture, sale or distribution of alcoholic liquor.
- (I) For premises where there exists a violation of the applicable Building, Electrical, Mechanical, Plumbing or Fire Codes, applicable requirements, applicable public health requirements or any violations of any Ordinances of the Village or State statute or rule or regulations of any agency thereof.
- (J) For premises where it is determined that the premises do not, or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control.
- (K) Where the Village Council determines that the proposed location is inappropriate due to the desirability of establishing a location in developed, commercial area, in preference to isolated, undeveloped areas; the impact on adjacent residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of the inconsistent zoning classification; or accessibility from primary roads or state highways.
- (L) A person whose establishment does not meet the following minimum seating capacity requirements:

(1) All establishments which are not part of a hotel and/or motel operation selling alcoholic beverages for consumption on the premises shall have a restaurant with a dining table capacity for not less than 150 persons, and if a bar or counter space is provided for the dispensing and sale of alcoholic beverages, the bar or counter space will occupy not more than 20% of the seating capacity of the dining room.

(2) In determining the dining table and seating capacity in the preceding division (1), the square footage of the dining area shall provide a minimum of 15 square feet of space per person seated.
(Ord. 2012-5, passed 11-12-2012)

SECTION 114.03 TERM OF LICENSE.

Approval of a license shall be for a period of one year subject to subsequent review by the Village Council to ensure continued compliance with this Chapter. Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six months of the action of the Village Council or the Michigan Liquor Control Commission approving such license whichever last occurs. Any unusual delay in the completion of such remodeling or construction may subject the license to revocation.
(Ord. 2012-5, passed 11-12-2012)

SECTION 114.04 LICENSE HEARING.

The Village Council shall conduct a public hearing prior to making a license determination. Following the hearing, the Council shall submit to the applicant a written statement of its findings and determination. The Council's determination shall be based upon the standards contained in this Chapter; provided, however, that the Village is under no legal obligation to approve a license or permit and that the Council shall at all times retain the right to determine whether issuance or approval of a license or permit is in the best interest of the Village, in the Council's sole and exclusive discretion.
(Ord. 2012-5, passed 11-12-2012)

SECTION 114.05 DEFINITIONS.

For purposes of this Chapter, the following words and terms shall be defined as follows:

APPLICANT. Any person who seeks approval from the Howard City Village Council to sell alcoholic beverages.

HOTEL and/or MOTEL. A building or buildings, which is to be regularly used and kept open as such in a bona fide manner for the commercial feeding and lodging of guests.

PERSON. Any legal entity including, but not limited to, an individual, partnership, association, corporation, business or trust.

PREMISES. All areas used in carrying out the principal functions of the business of the licensee, except such areas as are specifically exempted in other provisions of this Chapter.

RESTAURANT. A dining facility preparing and serving complete dinners and meals, and shall not be construed to mean an establishment selling only sandwiches, appetizers or other short-order foods such as, but not limited to, tacos, pizzas and hamburgers. A restaurant is an establishment serving prepared foods selected by the patron from a menu and which is serviced by a waiter or waitress. (Ord. 2012-5, passed 11-12-2012)

SECTION 114.06 NO DUTY TO ISSUE.

Nothing in this Chapter shall be construed to require the Village to issue a license, permit or to approve the transfer of a license. Whether a license, permit or transfer should be approved shall be determined in the sole discretion of the Village Council, based on its interpretation of the standards in this Chapter. (Ord. 2012-5, passed 11-12-2012)

SECTION 114.07 NON-TRANSFERABLE.

The approvals given any applicant by the Village Council are not transferable without the consent of the Village Council. The location of an establishment for which approval was given shall not be transferred without the consent of the Village Council. (Ord. 2012-5, passed 11-12-2012)

SECTION 114.08 EXCEPTIONS.

The Village Council may waive or modify the requirements of Section 114.02 where the Council finds that an unnecessary hardship would result from application of the requirements. (Ord. 2012-5, passed 11-12-2012)

OBJECTIONS TO RENEWAL AND REQUEST FOR REVOCATION

SECTION 114.15 PROCEDURE.

(A) Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the Village Council shall notice and hold a public hearing to consider the same. The Village Council shall serve the license holder, by first class mail, mailed not less than ten days prior to the hearing, with notice of the hearing, which notice shall contain the following:

- (1) Notice of proposed action;
- (2) Reasons for the proposed action;
- (3) Date, time and place of the hearing; and

(4) A statement that the licensee (or his/her representative) may present evidence and testimony and confront adverse witnesses.

(B) Following the hearing, the Village Council shall prepare and submit to the license holder and the Michigan Liquor Control Commission a written statement of its findings and determination. Formal rules of evidence and procedure need not be followed by the Village Council in the conduct of the hearing.

(Ord. 2012-5, passed 11-12-2012)

SECTION 114.16 CRITERIA FOR NON-RENEWAL OR REVOCATION.

The Village Council may object to the renewal or request revocation of a license upon a determination, that the applicant or licensee has engaged in, or has permitted to occur on or involving a licensed premise, any one or more of the following:

- (A) Violation of any of the restrictions on licenses set forth in this Chapter.
- (B) Maintenance or permitting the existence of a nuisance upon the premises.
- (C) Fraudulent information provided upon original application or application for renewal.
- (D) The consumption of spirits, if licensed to sell only beer or wine, or both beer and wine.
- (E) Dancing or live entertainment open to the public, with or without an admission charge, without a valid permit.
- (F) Disorderly conduct or action which disturbs the peace and good order of the neighborhood.
- (G) Any incidents of prostitution, solicitation for prostitution, or larceny.
- (H) Any gambling activity or the placing or using of any gambling apparatus or paraphernalia therein.
- (I) Any unlawful possession, sale, or use of controlled substances.
- (J) Use of interior lighting which is insufficient to enable a person with average vision to clearly see all unobstructed areas within the premises.

(K) Any violation of any other provision of the Village Code, or any violation of the Michigan or Federal law which is designed to protect the public health, safety or welfare, or any rule or regulation adopted pursuant to any such provision of this code or of such Michigan or Federal law.

(L) Any violation of the Michigan Liquor Control Act or any rule or regulation promulgated by the Michigan Liquor Control Commission.

(M) Nonpayment of any Federal, State of Michigan, or local tax or special assessment.

(N) Nonpayment of bills outstanding or owing to the Village.

(O) Failure by the licensee, or the licensee's agent or employee to fully cooperate with any Federal, State, County or Village official, including Village firefighters acting in the line of duty.
(Ord. 2012-5, passed 11-12-2012)

EFFECT

SECTION 114.20 EFFECT.

Any decision or recommendation as provided for herein shall be sent to the Michigan Liquor Control Commission or agency responsible for issuing State liquor licenses and permits and shall act as a determination by the Village that such State agency take the action sought.
(Ord. 2012-5, passed 11-12-2012)

ADMINISTRATION VALIDITY AND SEVERABILITY

SECTION 114.25 ADMINISTRATION.

This Chapter shall be administered by the Village President or his/her designated agent. The rules, regulations, and standards imposed by this Chapter shall be considered to be the minimum requirements.
(Ord. 2012-5, passed 11-12-2012)

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. DISORDERLY CONDUCT**
- 131. FIRE PREVENTION AND PROTECTION**
- 132. MINORS; CURFEW**
- 133. DRUG PARAPHERNALIA**
- 134. WEAPONS; BOWS AND ARROWS**

Howard City - General Offenses

CHAPTER 130: DISORDERLY CONDUCT

Section

- 130.01 Definition
- 130.02 Acts prohibited

SECTION 130.01 DEFINITION.

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

PUBLIC PLACE. Any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

(Prior Code, Section 60.001) (Ord. passed 6-6-1961)

SECTION 130.02 ACTS PROHIBITED.

It shall be unlawful for any person within the Village to:

- (A) Commit an assault, or an assault and battery on any person;
- (B) Be drunk in any public place or under the influence of any narcotic drug in any public place;
- (C) Engage in any indecent, insulting, immoral or obscene conduct in any public place;
- (D) Brandish or discharge any firearm;
- (E) Fire, discharge, display or possess any fireworks within the Village, except as provided in Section 131.20;
- (F) Engage in peeping in the windows of any inhabited place;
- (G) Swim or bathe in any public place without wearing proper apparel;
- (H) Utter obscene language in any public place;

Howard City - General Offenses

(I) Engage in fortune telling or pretend to tell fortunes for hire, gain or reward;

(J) Engage in public nudity. As used in this Chapter, *PUBLIC NUDITY* means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and the areola. *PUBLIC NUDITY* does not include any of the following:

(1) A woman's breast feeding of a baby, whether or not the nipple or areola is exposed during or incidental to the feeding;

(2) Material as defined in Section 2 of Public Act 343 of 1984, being MCL 752.362, as amended; or

(3) Sexually explicit visual material as defined in Section 3 of Public Act 33 of 1978, being MCL 722.673, as amended.

(K) Print, engrave, sell, offer for sale, give away, exhibit or publish or have in his or her possession for any such purpose, any obscene, lewd, lascivious, indecent or immodest book, pamphlet, paper, picture, cast, statuary, image or representation or other articles of an indecent or immoral nature, or any book, paper, print, circular or writing made up principally of pictures or stories of immodest deeds, lust or crime, or exhibit any such article within the view of any passerby;

(L) Willfully destroy, damage or in any manner deface any property not his or her own, or any public school building, or any public building, bridge, fire hydrant, street light, street sign or parking meter; or mark or post handbills on, or in any manner mar the walls of any public building; or destroy, take or meddle with any property belonging to the Village or remove the same from the building or place where it may be kept, placed or stored, without proper authority;

(M) Insult, accost, molest or otherwise annoy, either by word of mouth, sign or motion, any person in any public place;

(N) Engage in any disturbance, fight or quarrel in a public place;

(O) Collect or stand in crowds, or arrange, encourage or abet the collection of persons in crowds for illegal or mischievous purposes in any public place;

(P) (1) Except as provided herein, to ride, propel, push or otherwise operate a skateboard, roller skates, in-line skates, go-cart or similar device:

(a) Within the Business District (being defined as both sides of Edgerton, including both sidewalks, between Ensley and Lincoln);

(b) In any manner which causes or reasonably could cause an injury to any person, including the person using the device, or in any manner which causes or reasonably could cause any damage or potential damage to any property not owned by the person using the device;

(c) Within any Village parking lot;

(d) On any bench, table, planter, ramp, retaining wall, steps or other structures located on public property of any kind; or

(e) On any public street.

(2) The foregoing shall not apply at facilities specifically designated for the use of skateboards or on any private property where the owner or person in lawful possession has given permission for that use.

(Q) Without proper authority, conduct himself or herself in any public place so as to obstruct the free and uninterrupted passage of the public;

(R) Play any ball game in any public street or sidewalk or otherwise obstruct traffic on any street or sidewalk by collecting in groups thereon, for any purpose;

(S) Engage in any act of prostitution;

(T) Attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor or any other illegal or immoral business or occupation is permitted or conducted;

(U) Solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act;

(V) Knowingly transport any person to a place where prostitution or gambling is practiced, encouraged or allowed for the purpose of enabling the person to engage in gambling or in any illegal or immoral act;

(W) Keep or maintain a gaming room, gaming tables or any policy or pool tickets, used for gaming; or knowingly suffer a gaming room, gaming tables, or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him or her;

(X) Disturb the public peace and quiet by loud, boisterous or vulgar conduct or language;

(Y) Except as permitted at events approved, from time to time, by resolution of the Village Council, create any loud noises or use any loudspeaker, sound amplifier or other electrical or mechanical device intended to increase the volume of sound which can be heard by any person at a distance of 75 feet from the location where the sound originates and which disturbs the quiet, comfort or repose of any person;

Howard City - General Offenses

(Z) Obstruct, resist, hinder or oppose any peace officer in the discharge of his or her duties as such;

(AA) Disturb the peace by permitting any noisy or riotous persons to assemble in any house or building owned, occupied or controlled by him or her;

(BB) Prowl about any alley or the private premises of any other person in the nighttime, without authority or the permission of the owner of the premises; or

(CC) Spit on any sidewalk or on the floor or seat of any public carrier, or any floor, wall, seat or equipment of any place of public assemblage.

(Prior Code, Section 60.002) (Ord. passed 6-6-1961; Ord. 94-5, passed 7-25-1994; Ord. 96-5, passed 5-13-1996; Ord. 98-7, passed 12-14-1998) Penalty, see Section 10.99

CHAPTER 131: FIRE PREVENTION AND PROTECTION

Section

General Provisions

- 131.01 False alarm
- 131.02 Injury to fire equipment
- 131.03 Obstruction of fire hydrants
- 131.04 Fire hydrant; openings
- 131.05 Fire inspection
- 131.06 Waste receptacles and storage
- 131.07 Fire exits
- 131.08 Open fires

Fireworks Provisions

- 131.20 Prohibitions
- 131.99 Penalty

GENERAL PROVISIONS

SECTION 131.01 FALSE ALARM.

No person shall willfully turn in, sound or cause to be communicated to the Village Fire Department, a false alarm of fire.

(Prior Code, Section 141.001) (Ord. passed 6-6-1961) Penalty, see Section 131.99

SECTION 131.02 INJURY TO FIRE EQUIPMENT.

No person shall willfully molest, take for his or her own private use, or damage in any manner, any firefighting equipment or apparatus or anything pertaining to the firefighting equipment or apparatus or anything pertaining to the firefighting system, or drive any vehicle upon or against any hose or equipment of the Fire Department.

(Prior Code, Section 141.002) (Ord. passed 6-6-1961) Penalty, see Section 131.99

SECTION 131.03 OBSTRUCTION OF FIRE HYDRANTS.

No person shall place any obstruction whatever, nor shall any person responsible for an obstruction permit it to remain, within 15 feet of any fire hydrant.

(Prior Code, Section 141.003) (Ord. passed 6-6-1961) Penalty, see Section 131.99

SECTION 131.04 FIRE HYDRANT; OPENINGS.

No person, except authorized Village officers and employees, shall use any fire hydrant except in case of emergency, without first securing permission from the Department of Public Works for the use, and paying or agreeing to pay for the water to be used. In no case shall any wrench or tool be used on any fire hydrant other than a regulation Village hydrant wrench.

(Prior Code, Section 141.004) (Ord. passed 6-6-1961) Penalty, see Section 131.99

SECTION 131.05 FIRE INSPECTION.

The Fire Chief is hereby empowered to enter at any and all reasonable times upon and into any premises, building or structure for the purpose of examining and inspecting the same, to ascertain the condition thereof with regard to fire hazards and the condition, size, arrangement and efficiency of any and all appliances for firefighting. If the inspection shall disclose any fire hazard or any deficiency in firefighting appliances, the Fire Chief shall order the condition remedied. Every order made by the Fire Chief shall be promptly obeyed and complied with.

(Prior Code, Section 141.005) (Ord. passed 6-6-1961)

SECTION 131.06 WASTE RECEPTACLES AND STORAGE.

No person owning or being responsible for any premises shall permit any waste paper, ashes, oil, rags, waste rags, excelsior or any material of a similar nature to accumulate thereon, unless contained in fire-proof receptacles.

(Prior Code, Section 141.006) (Ord. passed 6-6-1961) Penalty, see Section 131.99

SECTION 131.07 FIRE EXITS.

The following rules relative to passageways, stairs and fire exits shall be applicable to all public buildings, places of assembly, commercial and business buildings, hotels, apartment buildings, lodging houses, tourist homes and all other buildings except private dwellings and except as otherwise expressly limited herein to a particular type of building.

(A) No fire escape, stairway, balcony or ladder on any building shall be obstructed, out of repair, or maintained in a hazardous condition. Doors and windows leading to any fire escape shall open easily from the inside.

(B) No combustible material shall be stored, placed or kept under or upon any passageway, stairs or elevator shaft, nor shall the material be stored, placed or kept in any other part of any building in such a position as to obstruct or render hazardous egress therefrom.

(C) All doors hallways and stairways shall be unobstructed at all times.

(D) In all theaters, churches, schools and other places of public assembly, no door, aisle or passageway shall be obstructed with any furniture or article; nor shall any person sit or stand or be permitted to sit or stand in any aisle, or in any exit or passageway; and all exits and the sidewalks leading therefrom shall be unobstructed while the places of public assembly are in use.

(E) No person shall do any act which causes any violation of any of the rules set forth in this section, nor shall any person owning any building or in charge thereof, as agent, employee or otherwise permit any of the rules to be violated.

(Prior Code, Section 141.007) (Ord. passed 6-6-1961) Penalty, see Section 131.99

SECTION 131.08 OPEN FIRES.

No person shall kindle a fire in or upon any street or alley nor within 25 feet of any building, unless the fire is confined in a safe container, and in no case within 15 feet of any building. Every person who shall kindle any fire shall have some competent person constantly in charge of the fire until it is completely extinguished.

(Prior Code, Section 141.008) (Ord. passed 6-6-1961) Penalty, see Section 131.99

Cross-references:

Burning; outdoor furnaces, see Chapter 91

General nuisances, see Chapter 94

FIREWORKS PROVISIONS

SECTION 131.20 PROHIBITIONS.

No person shall:

(A) Discharge, offer for sale or possess any fireworks except the type and under the conditions permitted by the Michigan Fireworks Safety Act ("MFSA") (MCL 28.451 et seq.);

(B) Ignite, discharge or use consumer fireworks, as defined in the Michigan Fireworks Safety Act (MFSA 28.451 et seq.);

(1) On any day other than the day preceding, the day of, or the day after a national holiday;

(2) On public or school property, without the express permission of the Village or a permit from the Village granting permission to do so; or

(3) On church property or the property of another, without express permission from the property owner.

(C) Ignite, discharge or use consumer fireworks, or low-impact fireworks, as defined in the Michigan Fireworks Safety Act (MFSA 28.451 et seq.), while under the influence of alcoholic liquor, a controlled substance or a combination of alcoholic liquor and a controlled substance, as the terms are defined in the Michigan Motor Vehicle Code (MCL 257.1 et seq.); or

(D) Sell consumer fireworks to an individual who is less than 18 years of age.
(Ord. 2012-3, passed 6-11-2012) Penalty, see Section 131.99

SECTION 131.99 PENALTY.

(A) A person who violates any provision of this Chapter for which no specific remedy is prescribed is guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

(B) A person who violates Section 131.20 is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, including a fine of not more than \$500.

(Ord. 2012-3, passed 6-11-2012)

VILLAGE COUNCIL
VILLAGE OF HOWARD CITY
MONTCALM COUNTY, MICHIGAN

At a regular meeting of the Village Council for the Village of Howard City held on February 15, 2021, at Village Hall, 125 E. Shaw Street, Howard City, Michigan, Village Council Member Williams made the motion to adopt the following ordinance, which motion was seconded by the Village Council Member VanWagner:

ORDINANCE NO. 2021-01

AN ORDINANCE TO ADD A NEW
CHAPTER 131, SECTION 131.09 TO THE VILLAGE OF HOWARD CITY CODE OF
ORDINANCES

The Village of Howard City ordains:

Section 1. Addition of Chapter 131, Section 131.09. That Chapter 131 of the Village Code of the Village of Howard City, is amended to add a new Section 131.09 to read in its entirety as follows:

SECTION 131.09 AUTHORIZATION FOR THE COLLECTION OF FEES FOR EMERGENCY FIRE SERVICES

Consistent with Act No. 33 of the Public Acts of 1951, the Village of Howard City hereby authorizes the collection of fees for emergency fire service, which fees shall be as set and adopted by resolution of the Village Council from time to time.

Section 2. Severability. Should any section, clause or phrase of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

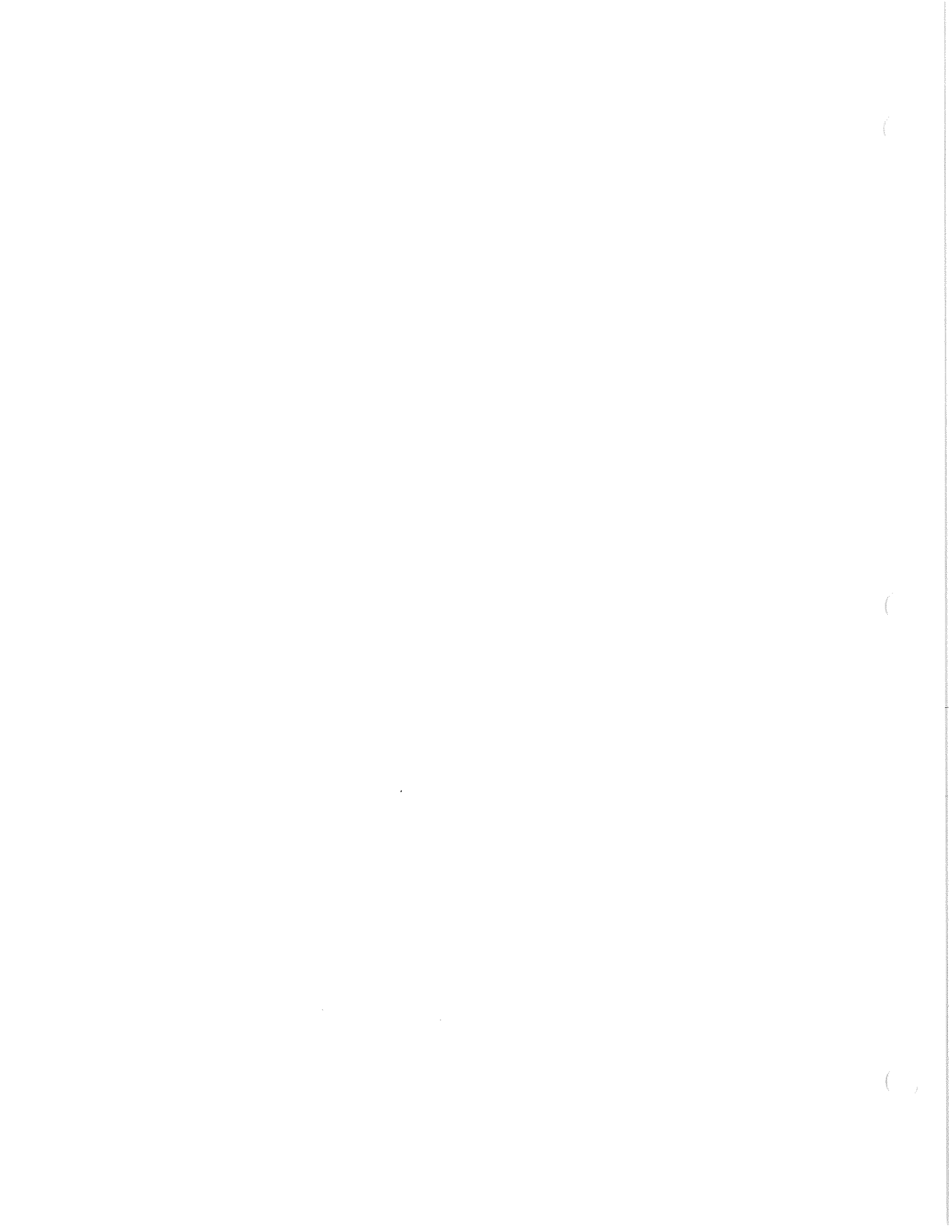
Section 3. Effective Date. This Ordinance shall become effective the day after its publication (or a summary thereof) as provided by law.

The vote to adopt this Ordinance was as follows:

YEAS: Bassett, Hagstrom, MacTavish, Smith, VanWagner, Williams, and Heckman

NAYS: None

ABSENT/ABSTAIN: None

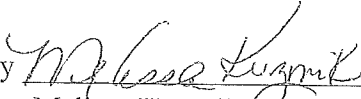


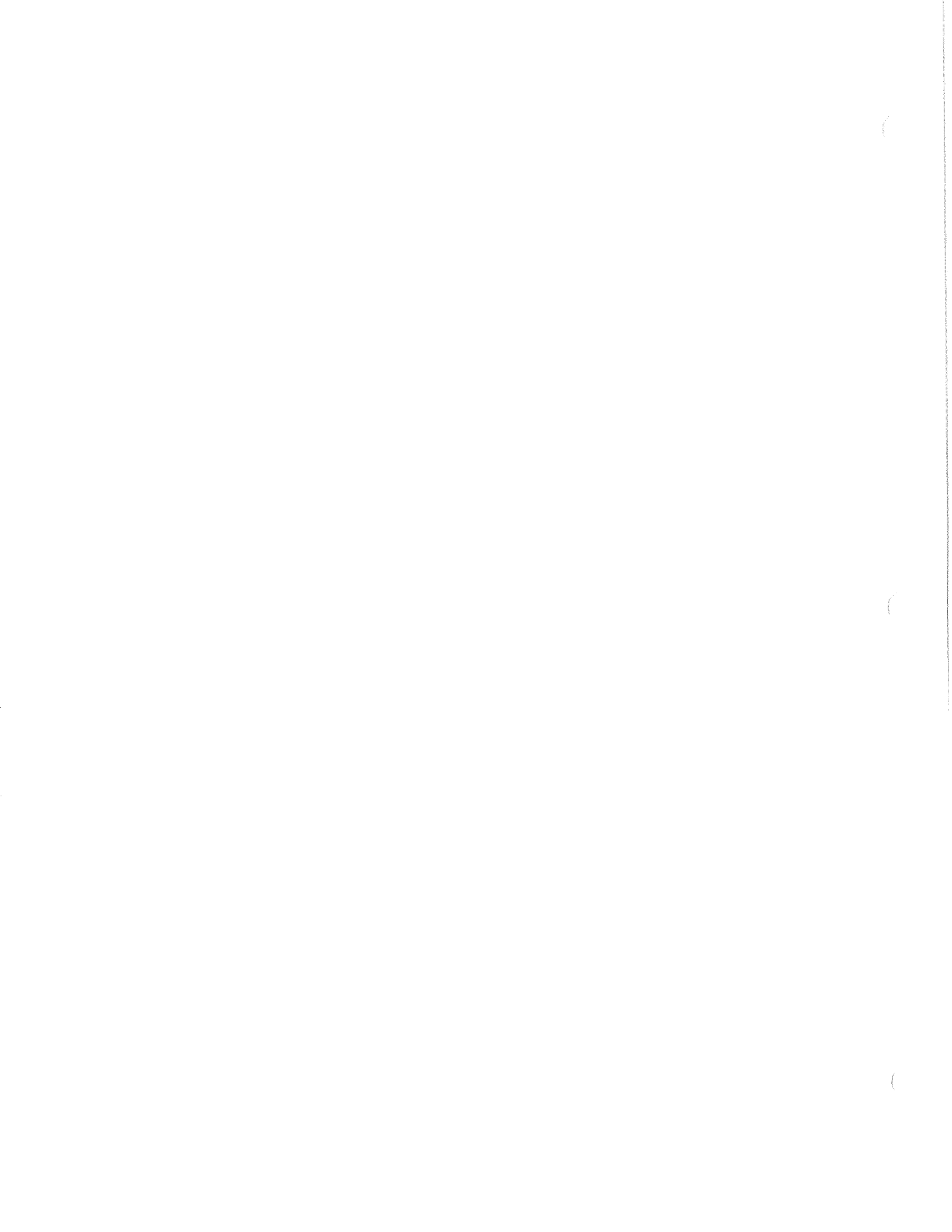
ORDINANCE NO. 2021-01 DECLARED ADOPTED.

CERTIFICATION

I certify that the foregoing is a true copy of an Ordinance adopted by the Village Council of the Village of Howard City at the time, date and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

By 
Melissa Kuzmik, Village Clerk



CHAPTER 132: MINORS; CURFEW

Section

- 132.01 Establishment of curfew
- 132.02 Exceptions
- 132.03 Parents, guardians; responsibility
- 132.04 Violations

- 132.99 Penalty

SECTION 132.01 ESTABLISHMENT OF CURFEW.

It shall be unlawful for a minor to loiter, remain, idle, wander or play or to be found upon the public streets, roads, highways, playgrounds, vacant lots, alleys, public parking lots or private parking lots open to the public, on foot, or to cruise about within the Village without any destination in a vehicle, between the following hours:

(A) If a minor is under the age of 18 years, but at least 16 years, between the hours of 12:00 midnight and 6:00 a.m.; and

(B) If the minor is under 16 years, between the hours of 11:00 p.m. and 6:00 a.m.
(Prior Code, Section 61.001) (Ord. 82-3, passed 9-28-1982; Ord. 95-15, passed 8-14-1995) Penalty, see Section 132.99

SECTION 132.02 EXCEPTIONS.

The curfew set out in Section 132.01 shall not apply to:

- (A) Accompanied by the minor's parent or guardian;
- (B) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (C) In a motor vehicle involved in interstate travel;
- (D) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(E) Involved in an emergency;

(F) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to an authorized Village representative about the minor's presence;

(G) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(H) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(I) Married or had been married or had disabilities of minority removed in accordance with State law.

(Prior Code, Section 61.002) (Ord. 82-3, passed 9-28-1982; Ord. 95-15, passed 8-14-1995)

SECTION 132.03 PARENTS, GUARDIANS; RESPONSIBILITY.

Any parent, guardian or other lawful custodian who permits or suffers a minor to violate Section 132.01 shall be deemed guilty of a misdemeanor and a violation of this Chapter.
(Prior Code, Section 61.003) (Ord. 82-3, passed 9-28-1982; Ord. 95-15, passed 8-14-1995) Penalty, see Section 132.99

SECTION 132.04 VIOLATIONS.

Any minor who violates Section 132.01 hereof shall be deemed guilty of a misdemeanor and a violation of this Chapter.
(Prior Code, Section 61.004) (Ord. 82-3, passed 9-28-1982) Penalty, see Section 132.99

SECTION 132.99 PENALTY.

A person who violates any provision of this Chapter shall be guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.
(Prior Code, Section 61.005) (Ord. 82-3, passed 9-28-1982; Ord. 95-15, passed 8-14-1995)

CHAPTER 133: DRUG PARAPHERNALIA

Section

- 133.01 Purpose
- 133.02 Definitions
- 133.03 Prohibitions
- 133.04 Exceptions
- 133.05 Enforcement

- 133.99 Penalty

SECTION 133.01 PURPOSE.

The purpose of this Chapter is to prohibit the possession, delivery, sale, marketing and advertising of items, paraphernalia, accessories or things which are designed or marketed for use with controlled substances to protect the health, safety and welfare of the citizens of the Village and to discourage the use of controlled substances.

(Ord. 2010-2, passed 2-8-2010)

SECTION 133.02 DEFINITIONS.

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

CONTROLLED SUBSTANCE. Any drug, substance or immediate precursor enumerated in schedules 1 through 5 of Sections 7201 to 7231 of the Public Health Code, Public Act 368 of 1978, as amended, being MCL 333.7201 et seq.

DRUG PARAPHERNALIA. Any equipment, item, product or material, or a combination of equipment, items, products and materials, that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, including, but not limited to, all of the following:

Howard City - General Offenses

(1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance;

(4) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose used, intended for use or designed for use in mixing with, diluting or cutting controlled substances;

(7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body; and

(12) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as the following:

(a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air driven pipes;

(k) Chillums;

(l) Bongs;

(m) Ice pipes or chillers; and

(n) Wired cigarette papers.

(13) A device, commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror;

(14) A device, commonly known as a bullet, that is specifically designed to deliver a measured amount of controlled substances to the user;

(15) A device, commonly known as a snorter, that is specifically designed to carry a small amount of controlled substances to the user's nose; and

(16) A device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.

(Ord. 2010-2, passed 2-8-2010)

SECTION 133.03 PROHIBITIONS.

(A) It is unlawful for any person to deliver, sell, market or possess with intent to deliver, sell or market drug paraphernalia knowing or under circumstances where one reasonably should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,

process, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

(B) It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

(C) It is unlawful for any person to place in any newspaper, magazine, handbill or other publication and advertisement, knowing or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(Ord. 2010-2, passed 2-8-2010) Penalty, see Section 133.99

SECTION 133.04 EXCEPTIONS.

The provisions of this Chapter shall not apply to:

(A) Any person authorized by local, State or Federal law to manufacture, possess or distribute drug paraphernalia;

(B) Any item that, in the normal lawful course of business, is imported, exported, transported or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper or accessory;

(C) Persons suffering from diabetes, asthma or any other medical condition requiring self-injection where the item or items are utilized solely for the purpose of administering a controlled substance lawfully prescribed to that person by a physician; or

(D) An authorized Village representative who, in the course of his or her duties, is required to possess these items in the course of a criminal investigation.
(Ord. 2010-2, passed 2-8-2010)

SECTION 133.05 ENFORCEMENT.

(A) The provisions of this Chapter shall be enforced by the Authorized Village Representative.

(B) In determining whether an item constitutes drug paraphernalia under this Chapter, in addition to all other logically relevant factors, the following may be considered:

(1) Instructions, oral or written, provided with the item concerning its use;

- (2) Descriptive materials accompanying the item which explain or depict its use;
 - (3) National and local advertising concerning its use;
 - (4) The manner in which the item is displayed for sale;
 - (5) Whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
 - (6) Direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;
 - (7) The existence and scope of legitimate uses of the item in the community;
 - (8) Expert testimony concerning its use; and
 - (9) Statements by an owner or by anyone in control of the objects concerning its use.
- (Ord. 2010-2, passed 2-8-2010)

SECTION 133.99 PENALTY.

(A) A person who violates any provision of this Chapter shall be guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

(B) In addition to the penalty imposed in subsection (A) above, any drug paraphernalia used or possessed in violation of this Chapter may be seized and forfeited to the Authorized Village Representative.

(Ord. 2010-2, passed 2-8-2010)

CHAPTER 134: WEAPONS; BOWS AND ARROWS

Section

- 134.01 Bow defined
- 134.02 Areas defined
- 134.03 Permits; application

- 134.99 Penalty

SECTION 134.01 BOW DEFINED.

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

BOW. A device for propelling an arrow from a string drawn, held and released or triggered by hand or finger(s).

(Prior Code, Section 62.001) (Ord. 96-40, passed 12-9-1996)

SECTION 134.02 AREAS DEFINED.

No bow shall be discharged within the Village, except when properly discharged into a non-pierceable backdrop, the minimum dimensions of which shall be eight feet by eight feet. Under no circumstances shall a minor under the age of 18 discharge a bow and arrow within the Village unless under the direct supervision of an individual over 18 years of age. The Village Zoning Administrator shall be responsible to inspect the site to confirm compliance with this section.

(Prior Code, Section 62.002) (Ord. 96-40, passed 12-9-1996) Penalty, see Section 134.99

SECTION 134.03 PERMITS; APPLICATION.

Upon written application to the Village Council or its duly authorized agent, a written permit may be granted to any person for the use of bows within the Village. The application shall contain the name, age and address of the applicant or applicants, a location and the dimensions of the property on which the practice range is proposed to be located, the name of the owner of the property, and other information as will be helpful in assessing the safety of the proposed practice range. If it appears that the practice range can be operated with reasonable safety to the persons using the range and to the public,

and if use of the range otherwise complies with all applicable Village ordinances and State law, and after receiving the affirmative recommendation of the Zoning Administrator and authorized Village representative, a permit shall be granted for the use.
(Prior Code, Section 62.003) (Ord. 96-40, passed 12-9-1996)

SECTION 134.99 PENALTY.

A person who violates any provision of this Chapter shall be guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.
(Prior Code, Section 62.004) (Ord. 96-40, passed 12-9-1996)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDINGS; CODES ADOPTED**
- 151. ADDRESS NUMBERING**
- 152. PROPERTY MAINTENANCE CODE**
- 153. SUBDIVISION CONTROL**
- 154. ZONING CODE**

Howard City - Land Usage

CHAPTER 150: BUILDINGS; CODES ADOPTED

Section

Dangerous Buildings

- 150.01 Dangerous structures
- 150.02 Notice and hearing
- 150.03 Abatement
- 150.04 Emergency abatement

Fire Detectors in Rental Dwellings

- 150.15 Smoke detectors required
- 150.16 Definitions
- 150.17 Installation requirements; owner defined
- 150.18 Certification of change in occupancy
- 150.19 Inspection

Fire Prevention BOCA

- 150.30 Adoption of Fire Prevention Code
- 150.31 Codes on file
- 150.32 Permits; Section F-103
- 150.33 Deletion
- 150.34 Violations; Section 105.5.1
- 150.35 Prosecution of violation; Section F-105.5
- 150.36 Conflicting ordinances

- 150.99 Penalty

Cross-references:

Address numbering provisions, see Chapter 151

Fair Housing, see Chapter 92

Property Maintenance Code, see Chapter 152

Real property nuisances, see Sections 94.35 through 94.43

Subdivision regulations, see Chapter 153

Zoning Code, see Chapter 154

DANGEROUS BUILDINGS**SECTION 150.01 DANGEROUS STRUCTURES.**

No person shall maintain any structure which is unsafe or which is a menace to the health, morals or safety of the public.

(Prior Code, Section 140.001) (Ord. passed 6-6-1961) Penalty, see Section 150.99

SECTION 150.02 NOTICE AND HEARING.

(A) The Village Council may, after notice to the owner and after holding a public hearing thereon, condemn the structure by giving notice to the owner of the land upon which the structure is located, specifying in what respects the structure is a public nuisance and requiring the owner to alter, repair, tear down or remove the same within a reasonable time, not exceeding 60 days, as may be necessary to do or have done the work required by the notice.

(B) The notice may also provide a reasonable time within which the work shall be commenced.
(Prior Code, Section 140.002) (Ord. passed 6-6-1961)

SECTION 150.03 ABATEMENT.

(A) If, at the expiration of any time limit in the notice, the owner has not complied with the requirements thereof, the Superintendent of Public Works shall carry out the requirements of the notice.

(B) The cost of abatement shall be charged against the premises and the owner thereof in accordance with the provisions of Sections 19, 20 and 21 of Chapter VIII of the Charter.
(Prior Code, Section 140.003) (Ord. passed 6-6-1961)

SECTION 150.04 EMERGENCY ABATEMENT.

(A) The Superintendent of Public Works, with the approval of the Village President may abate any public nuisance, if the public safety requires immediate action, without preliminary order of the Council.

(B) Thereafter, the cost of abating the nuisance shall be charged against the premises and the owner thereof in accordance with the provisions of Sections 19, 20 and 21 of Chapter VIII of the Charter.
(Prior Code, Section 140.004) (Ord. passed 6-6-1961)

FIRE DETECTORS IN RENTAL DWELLINGS

SECTION 150.15 SMOKE DETECTORS REQUIRED.

(A) It is the responsibility of the owner of each rental unit within the Village to install smoke detectors in the rental unit, and to maintain the smoke detectors in working order, in compliance with this subchapter.

(B) Smoke detectors shall be capable of sensing visible particles of combustion and providing a suitable audible alarm thereof.

(Prior Code, Section 143.001) (Ord. 81-4, passed 9-22-1981)

SECTION 150.16 DEFINITIONS.

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

RENTAL UNIT. Resident apartment, flat, motel room, hotel room, boarding room or boarding house for which consideration is paid by one person to another for use or occupancy thereof.

SMOKE DETECTOR. Any device for the detection of smoke that is approved by Underwriting Laboratories (UL approved) and carries such a designation on the unit.

(Prior Code, Section 143.001) (Ord. 81-4, passed 9-22-1981)

SECTION 150.17 INSTALLATION REQUIREMENTS; OWNER DEFINED.

(A) At least one smoke detector shall be installed to protect each sleeping area. A ***SLEEPING AREA*** is defined as the area or areas of the family living unit in which the bedrooms (or sleeping rooms) are separated by other use areas (such as kitchens or living rooms, but not bathrooms or closets), they shall be considered as separate sleeping areas for the purpose of this section.

(B) At least one smoke detector shall be installed at the head of each stairway leading up to an occupied area in a manner so as to assure that rising smoke is not obstructed in reaching the detector and that the detector intercepts rising smoke before it reaches the sleeping area.

(C) ***OWNER*** is defined as the person who holds legal title to the premises; however, should a land contract be in existence and recorded with the County Register of Deeds, or should an affidavit or memorandum as to the existence of land contract be recorded with the County Register of Deeds, then the land contract purchaser shall be considered the owner for the purposes of this subchapter.

(Prior Code, Section 143.002) (Ord. 81-4, passed 9-22-1981)

SECTION 150.18 CERTIFICATION OF CHANGE IN OCCUPANCY.

(A) After December 1, 1981, at every change of occupancy of every dwelling unit in the Village, occasioned by or incidental to a sale lease or sublease of a rental unit, it shall be the duty of the grantor thereof (i.e., the seller, lessor or sub-lessor, as the case may be) to certify in writing before occupancy, to the new occupant that all smoke detectors as required by this subchapter are installed and in proper working condition.

(B) Failure to comply with this section shall be punishable as a misdemeanor as is provided herein and shall be evidence of the negligence of or inattention of the grantor.

(C) This section shall not, however, render any lease or contract or sublease void for failure to have certification required hereby.

(Prior Code, Section 143.003) (Ord. 81-4, passed 9-22-1981) Penalty, see Section 150.99

SECTION 150.19 INSPECTION.

The Fire Chief or his or her designee may, at any time, inspect any device or installation which is required by this subchapter.

(Prior Code, Section 143.004) (Ord. 81-4, passed 9-22-1981)

FIRE PREVENTION BOCA**SECTION 150.30 ADOPTION OF FIRE PREVENTION CODE.**

Pursuant to Public Act 33 of 1951 (MCL 41.805) the BOCA Basic Fire Prevention Code, 1984 edition, as amended by annual supplements, is hereby adopted by reference, by the Village, for the purpose of providing fire prevention rules and regulations affecting all buildings, structures and construction within the Village, to ensure public safety, health and welfare insofar as they are dependent upon proper fire prevention procedures ; provided, however, that references in the Fire Prevention Code to *STATE* and *NAME OF STATE* shall mean the State of Michigan; references to *MUNICIPAL CHARTER* shall mean the Village of Howard City Charter; references to *MUNICIPALITY* shall mean the Village of Howard City; and references to *LOCAL ORDINANCES* shall mean the ordinances of the Village.

(Prior Code, Section 142.001) (Ord. 85-2, passed 3-26-1985)

SECTION 150.31 CODES ON FILE.

Printed copies of the BOCA Basic Fire Prevention Code, 1984 edition, and the amendments thereto, herein adopted are available for public use and inspection at the office of the Village Clerk/Treasurer. (Prior Code, Section 142.002) (Ord. 85-2, passed 3-26-1985)

SECTION 150.32 PERMITS; SECTION F-103.

(A) Section F-103.1 of the Code is amended to read in full as follows:

F-103.1 General: It shall be unlawful to engage in any business activity involving the handling, storage or use of hazardous substances, materials or devices or to maintain, store or handle materials; to conduct processes which produce conditions hazardous to life or property; to install equipment used in connection with the activities or to establish a place of assembly without application and notification to the fire official.

(B) Section F-103.2.1 is deleted from the Code.

(C) Section F-103.3 of the Code is hereby amended to read in full as follows:

F-103.3 Action on Application: After application and notification, the fire official or the fire official's designated representative shall make or cause to be made the inspections or tests as are necessary to assure that the use and activities for which application is made complies with the provisions of the Code.

(D) Section F-103.6 is deleted from the Code.

(E) Section F-103.6.1 is deleted from the Code.

(F) Section F-103.7 is deleted from the Code.

(Prior Code, Section 142.003) (Ord. 85-2, passed 3-26-1985)

SECTION 150.33 DELETION.

The following sections of the BOCA Basic Fire Prevention Code, 1984 edition are deleted by the Village: F-600.2; F-800.2; F-900.2; F1000.2; F-1100.2; F-1200.2; F-1300.2; F-1400.2; F-1500.2; F-1600.2; F-1700.2; F1800.2; F-1900.2; F-2100.2; F-2200.2; F-2300.2; F-2400.2; F2500.2; F2600.2; F-2700.2; F2800.2; F-2900.2; F-3000.2; F3100.2; F-3200.2; F-3300.2.

(Prior Code, Section 142.005) (Ord. 85-2, passed 3-26-1985)

SECTION 150.34 VIOLATIONS; SECTION 105.5.1.

Section 105.5.1 of the Code shall read in full as follows:

105.5.1 Penalty for violation. Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this Code, or which erects, constructs, alters or repairs a building or structure in violation of an approved plan or directive of a fire official, shall be responsible for a municipal civil infraction and shall be punished by fines as established from time to time by the Village Council by resolution.

(a) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of a fine for each day.

(b) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a Village ordinance designated as a municipal civil infraction.

(Prior Code, Section 142.006) (Ord. 85-2, passed 3-26-1985; Ord. 96-35, passed 12-9-1996)

SECTION 150.35 PROSECUTION OF VIOLATION; SECTION F-105.5.

If a person fails to comply with a notice of a violation under Section F-105.5 of the Code within the time prescribed by the Fire Official, the Fire Official may take whatever actions are necessary to seek any remedies permitted by law, including but not limited to:

(A) Seeking criminal prosecution for the violation; and/or

(B) He or she may request the legal counsel for the Village to institute the appropriate proceedings at law or equity to restrain, correct or abate the violation or to require the removal or termination of the unlawful (use) of the building or structure in violation of the provision of the Code or of the order or direction made pursuant thereto.

(Prior Code, Section 142.007) (Ord. 85-2, passed 3-26-1985)

SECTION 150.36 CONFLICTING ORDINANCES.

Any ordinances or portions thereof of the Village in conflict herewith are hereby amended or repealed to conform to the BOCA Basic Fire Prevention Code, 1984 edition.

(Prior Code, Section 142.008) (Ord. 85-2, passed 3-26-1985)

SECTION 150.99 PENALTY.

Any person who violates any provision of this Chapter, including any officer of a corporation or partner of a partnership found to be in violation of this Chapter, shall be guilty of a misdemeanor, punishable by imprisonment for up to 90 days or a fine not to exceed \$500, or both, and costs of prosecution as provided in Section 10.99.

(Prior Code, Section 143.005) (Ord. 81-4, passed 9-22-1981)

Howard City - Land Usage

CHAPTER 151: ADDRESS NUMBERING

Section

- 151.01 Title
- 151.02 Purpose
- 151.03 Legal basis
- 151.04 Address Ordinance Administrator
- 151.05 Definitions
- 151.06 Road names
- 151.07 Address numbering provisions
- 151.08 Display of address

- 151.99 Penalty

SECTION 151.01 TITLE.

This Chapter shall be known as the “Village of Howard City Address Ordinance of 2001”, and shall hereinafter be referred to as “this Chapter”.
(Ord. 2001-4, passed 9-24-2001)

SECTION 151.02 PURPOSE.

The purpose of this Chapter is to establish a system of assigning addresses to buildings and public utilities requiring addressing to facilitate the locating of buildings in order to protect the public health and safety by enabling a quicker response time by police, fire, ambulance and other emergency services; and to provide for more efficient delivery of County services such as building inspections, soil evaluations, health inspection, property tax administration, property mapping and other County affairs; and to provide for efficient parcel delivery, and U.S. mail delivery in the Village by:

- (A) Creating a formal numbering system with standards and regulation for assigning addresses;
- (B) Creating a coordinated system with standards for the naming of public roads and private drives;
- (C) Providing for notification of interested parties of assigned address numbers and road names;
- (D) Coordinating this Chapter with other County or municipal ordinances;

(E) Providing minimum standards and regulation for display of addresses;

(F) Providing for the creation of a master record of addresses;

(G) Providing for the enforcement of this Chapter; and

(H) Establishing a process for dealing with pre-existing addressing errors.

(Ord. 2001-4, passed 9-24-2001)

SECTION 151.03 LEGAL BASIS.

This Chapter is enacted pursuant to Public Act 3 of 1895, as amended being MCL 61.1 - 75.12.

(Ord. 2001-4, passed 9-24-2001)

SECTION 151.04 ADDRESS ORDINANCE ADMINISTRATOR.

The Village Council shall appoint a person from an appropriate department to be the Address Ordinance Administrator. The Administrator shall have overall responsibility for administration and coordination of this Chapter including enforcement.

(Ord. 2001-4, passed 9-24-2001)

SECTION 151.05 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, the present tense includes the future and singular usage includes the plural usage.

ADDRESS. The combination of a number and a road name.

ADDRESS NUMBER. A set of numbers.

ADDRESS ORDINANCE ADMINISTRATOR. The person, appointed by the Village Council, who has overall responsibility for administration and coordination of this Chapter, including enforcement. Also known as **ADMINISTRATOR**.

BASE LINE. Continuous east/west line along Edgerton Street.

BUILDING. A combination of material, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals or property.

MERIDIAN LINE. A continuous north/south line along Ensley Street.

MICHIGAN DEPARTMENT OF TRANSPORTATION. Also referred to as **MDOT**.

PERSON. Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

PRINCIPAL BUILDING. The primary or predominant building located on a parcel of land.

ROAD. Any vehicular way which is a State, County or municipal roadway or is shown on an approved and recorded subdivision plat, or is a private drive that serves two or more existing lots.

ROAD NAME. The road prefix, a proper name and a road suffix. No State, federal or County numeric designations such as M-57, Old M-82 or US-131 shall be considered a **ROAD NAME**.

ROAD PREFIX. North, south, east or west and shall appear just before the proper name and shall be abbreviated N., S., E. or W.

ROAD SUFFIX. Consists of Alley, Avenue, Boulevard, Center, Circle, Court, Creek, Drive, Lane, Place, Road, Street, Trail, View, Way and shall appear just after the proper name. The abbreviations used shall comply with United States Postal Service Postal Addressing Standards Publication 28 (1997) Appendix C.

SHALL. Always mandatory.
(Ord. 2001-4, passed 9-24-2001)

SECTION 151.06 ROAD NAMES.

(A) *Approval agency.* The Administrator shall coordinate the naming of newly established public and private roads within the Village. The final decision on public road names shall remain with Village Council. The final decision on private road names shall remain with the Administrator.

(B) *Similar road names.* The Administrator shall not recommend or approve a road name which is the same or similar in spelling or pronunciation to an existing road within the Village.

(C) *Naming of new roads.*

(1) A property owner or plat proprietor shall make application for approval of a proposed road name on a form provided by the Administrator. Upon receipt of a road name application the Administrator shall review the proposed road names in consultation with the County Address Administrator and the County 911 Coordinator.

(2) The Administrator or his or her designee shall notify the applicant and the appropriate final approval agency of the acceptance or rejection of the proposed names along with the rationale for the decision within seven working days.

(D) *Changing existing road names.*

(1) It is the intent of this Chapter to discourage the practice of changing existing road names except in situations where two identical or similar road names exist, or in other circumstances that clearly make the accurate dispatching of emergency vehicles impractical. A road name may also be changed when one road has two commonly used names or where portions of what appears to be the same road have two or more names.

(2) A road name change may be ordered by the appropriate approval agency upon receipt of a written recommendation from the Administrator. Before recommending a change in road name, the Administrator shall consider the official road name as recorded on plats and deeds of adjacent property and the most accurate historical name of the road in question. Disturbance to existing legal documents shall be of primary consideration in determining the single road name when two or more names are commonly used.

(E) *Private drives.*

(1) Private drives, whether pre-existing or created after the adoption of this Chapter, shall be named when two or more addresses served by the private drive exist or are established. If the previous addresses were numbered on the adjoining road they shall be changed to appropriate addresses using the private drive name.

(2) The owners/residents shall be consulted before a name for the private drive, other than the one first proposed, is selected and approved. The selection of a name for a private drive shall be coordinated with the Administrator and 911 Coordinator. In the event the owners/residents cannot be reached, the seven-day notification referred to in division (C)(2) above is hereby waived.

(3) It is the responsibility of the applicant causing the change to occur on the private drive to erect and maintain a suitable sign at the intersection of the private drive and the adjoining public road clearly showing the name of the private drive. After a period of two years or whenever the responsible party ceases to own property abutting the private drive, whichever occurs first, maintenance of the private drive sign shall become the mutual responsibility of those parties benefitting from the sign. Lettering of these signs should be similar to the Village road name signs and shall contrast with the background color of the sign. The lettering shall include the word "Private" or the abbreviation "PVT" to distinguish this road from public roads. Private signs shall be placed so as to comply with standard requirements of the Village and County Road Commission placement of County-owned road signs (distance from road intersection, height of sign and the like).

(4) The party responsible for erecting the private drive sign shall install the required sign within 30 days of notification of the approval of the road name and shall report to the Administrator that the sign is in place immediately after placement.

(Ord. 2001-4, passed 9-24-2001)

SECTION 151.07 ADDRESS NUMBERING PROVISIONS.

(A) *Approval agency.* The Administrator shall have overall jurisdiction over address numbers and shall ensure that an address number does not duplicate the number for any building considered to be along the same road.

(B) *Address numbering system.* The address numbering system, which is structured as follows, shall generally be used except when other existing municipal systems are more appropriate as determined by the Administrator.

(1) Numbers shall start with zero at the base line or the meridian line and increase consecutively from those points.

(2) In both directions from the base line or the meridian line, address numbers shall be evenly spaced. The address numbers shall continue in the same manner by whole numbers for each section of each road. When facing away from the base line or the meridian line in the direction of the road, odd numbers shall be on the left and even numbers shall be on the right.

(3) Roads which are not aligned due north-south or due east-west or that meander shall be numbered as a north-south road if the major portion of the road within the Village runs north-south, or shall be numbered as an east-west road if the major portion of the road within the Village runs east-west.

(4) Once a road has address numbers assigned to buildings then that road shall always be considered a north-south road or an east-west road as determined by the original numbers assigned.

(5) Upon determination of the Administrator, address numbers in common use prior to the adoption of this Chapter may continue to be used if:

(a) The existing address numbers run consecutively in the same direction as the County address system for that side of the base line or the meridian line; and/or

(b) The system is definable and can be administered and maintained for future construction of buildings.

(C) *Changing address numbers.* It shall be the policy of this Chapter to discourage the practice of changing existing addresses or address numbers which are already in use except:

(1) If the existing address number is not in sequence and/or does not run consecutively in the same direction as the Village address system or if the address number fails to observe the odd-even protocol established in division (B) above;

(2) If the existing number is such that the assignment of address numbers for new buildings is not practical and in keeping with the requirements of this Chapter;

(3) When a new road is constructed, or recognized, which results in the most appropriate address for a building to be on the new road rather than the original road such as where a building was previously located on an extended drive which subsequently becomes a private drive;

(4) When an address is duplicated; or

(5) In unusual circumstances where an address threatens the health, safety and/or welfare of the public, the Administrator shall have the authority to assign address(es) as necessary to remedy the problem. In unusual circumstances, where it is preferable that only one numbering system is used to define a segment, or where anomalies occur that are not covered in the current numbering system and threaten the health, safety and/or welfare of the public, the Administrator shall have the authority to assign address(es) as necessary to remedy the problem. The Administrator will provide a sign with the new address number which the landowner will display as directed by the Administrator.

(D) *Notice and enforcement.* The Administrator is responsible for ensuring that the proper notice and enforcement procedures are followed.

(1) When a person submits an application for an address, the department designated by Village Council shall assign an address and provide the person with the following information (the application will be provided by the Administrator):

- (a) The address number;
- (b) The road name;
- (c) The township;
- (d) The section number; and
- (e) The parcel number.

(2) When a person's address is changed pursuant to this Chapter the Administrator shall notify the resident and owner, if different, on a form that contains the following:

- (a) The old address;
- (b) The new address;
- (c) The reason for the change;
- (d) The effective date of the change;
- (e) Right and procedure to appeal (including information in division (D)(4) below; and
- (f) Warning about false indication of compliance.

(3) When a person submits an application for a road name, the Administrator will provide the person with the following information:

- (a) Road name;
- (b) Township name; and
- (c) Section number.

(4) In cases where an existing address is changed, the Administrator shall send a written notice to the affected resident. The notice shall explain the reason for the address change.

(a) The resident shall be requested to voluntarily comply with the address change within a 30-day period of time and to report completion of the change to the Administrator immediately after the change is made, or appeal the change by requesting a hearing as provided for in this Chapter.

(b) An appeal must be filed within 30 days of the postmark on the notice of the address change. Leave to file an appeal after 30 days may be granted by the Administrator upon a finding that the resident was out of the area when the notice was mailed.

(c) If the resident has not properly displayed the new number on completion of 30 days the Administrator shall send a final notice of violation of this Chapter.

(5) Notice of violation:

(a) For violations of this Chapter, the Administrator shall send, by registered mail, a final notice of violation stating the amount of time, which shall not exceed 30 days, during which the resident and/or owner must comply with this Chapter; and

(b) If the violation remains at the end of the prescribed period of time, the Administrator shall issue either a municipal civil infraction violation notice or municipal civil infraction citation, pursuant to Section 151.99 and Chapter 31.

(E) *Master address file.* The Administrator shall keep a master file of assigned addresses and corresponding property identification numbers.
(Ord. 2001-4, passed 9-24-2001)

SECTION 151.08 DISPLAY OF ADDRESS.

(A) All principal buildings shall be required to display an address number in the manner prescribed in this Chapter.

(B) The resident, occupant or owner of the property where an address has been assigned shall display the address number in a manner as will be plainly visible and legible from a vehicle traveling on

the road that is named in the address. The address numbers shall be displayed at a height of at least three feet above grade and not higher than six feet above grade. All numbers shall be Arabic numerals of at least three inches in height (or larger) and of a color that contrasts with the background color of the structure supporting the numbers. When the principal building is located more than 100 feet back from the traveled centerline of the road that is named in the address, or the view of the building is obstructed by trees, shrubs or another building, the address number shall be displayed in one of the following manners:

(1) Attached to a fixed object located within 20 feet of the centerline of the driveway and between ten feet and 20 feet back from the edge of the traveled roadway provided that any sign used to comply with this Chapter must also comply with applicable zoning regulations concerning the location and size of signs; or

(2) On both sides of a mailbox located within 20 feet of the centerline of the driveway on the same side of the road as the principal building or within ten feet of the extended centerline of the driveway on the opposite side of the road provided that the view of both sides of the mailbox is not obstructed by other mailboxes or newspaper delivery boxes. The use of mailboxes to comply with the address number display requirements of this Chapter is subject to the regulations of both the post office and the governmental organization which maintains the road.
(Ord. 2001-4, passed 9-24-2001)

SECTION 151.99 PENALTY.

(A) Any person who violates any provision of this Chapter is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be not less than \$50 nor more than \$500 for each violation. For purposes of the penalty for a repeat offense under this Chapter, a repeat offense means a second or any subsequent violation of the same requirements or provisions committed within any 24-month period. The civil fine for a repeat offense shall be not less than \$100 for a first repeat offense, not less than \$200 for a second repeat offense, and not less than \$500 for a third or subsequent repeat offense.

(B) The Address Ordinance Administrator and his or her designees are authorized to issue municipal civil infraction citations and municipal civil infraction violation notices under this Chapter.

(C) Violation of this Chapter is hereby declared a nuisance per se and adjudication of responsibility for a municipal civil infraction shall not preclude other proceedings to abate the nuisance.

(D) No certificate of occupancy shall be issued by the Village Building Official for a new building that has failed to properly display the address number as assigned in accordance with this Chapter.
(Ord. 2001-4, passed 9-24-2001)

CHAPTER 152: PROPERTY MAINTENANCE CODE

Section

- 152.01 International Property Maintenance Code adopted
- 152.02 Definitions and revisions
- 152.03 Title
- 152.04 Violation; penalties
- 152.05 Means of appeal
- 152.06 Membership of the Board
- 152.07 General definitions

SECTION 152.01 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED.

(A) The International Property Maintenance Code, 2003 edition, published by the International Code Council, Inc., is adopted as the Property Maintenance Code of the Village for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the International Property Maintenance Code, 2003 edition, are hereby referred to, adopted and made a part hereof as if fully set out in this section, with the additions, insertions, deletions and changes, prescribed in this Chapter.

(B) A copy of the International Property Maintenance Code is on file in the office of the Village Clerk/Treasurer.
(Ord. 2005-6, passed 7-25-2005)

SECTION 152.02 DEFINITIONS AND REVISIONS.

(A) Whenever the term *JURISDICTION* or *GOVERNMENTAL UNIT* is used in the International Property Maintenance Code, it shall mean the Village of Howard City. Whenever the term *STATE* is used it shall mean the State of Michigan.

(B) The 2003 International Property Maintenance Code is amended as provided by this Chapter. Unless otherwise indicated, all references to sections, subsections or Chapter numbers appearing in the rest of this Chapter are to the numbers as they appear in International Property Maintenance Code, as amended by this Chapter.
(Ord. 2005-6, passed 7-25-2005)

SECTION 152.03 TITLE.

Section 101.1 is amended to read in its entirety as follows:

101.1 Title.

These regulations shall be known as the "International Property Maintenance Code of the Village of Howard City", hereinafter referred to as "this Code".

(Ord. 2005-6, passed 7-25-2005)

SECTION 152.04 VIOLATION; PENALTIES.

Section 106.4 is amended to read in its entirety as follows:

106.4 Violation Penalties.

Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this Chapter shall be responsible for a municipal civil infraction and shall be punished by fines as established from time to time by the Village Council by resolution.

(a) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of a fine for each day.

(b) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief prescribed by the laws of the State for the abatement of a public nuisance or the violation of a Village ordinance designated as a municipal civil infraction.

(Ord. 2005-6, passed 7-25-2005)

SECTION 152.05 MEANS OF APPEAL.

Section 111.1 is amended to read in its entirety as follows:

111.1 Application for appeal.

Any person affected by a decision of the Code official or a notice or order issued under this section of the Code shall have the right to appeal to the Zoning Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Code

or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means.

(Ord. 2005-6, passed 7-25-2005)

SECTION 152.06 MEMBERSHIP OF THE BOARD.

Sections 111.2 through 111.2.5, inclusive, are hereby deleted in their entirety.

(Ord. 2005-6, passed 7-25-2005)

SECTION 152.07 GENERAL DEFINITIONS.

(A) Section 202.0 is amended by the addition of definitions for the terms “dwelling unit, boarding”, “dwelling unit, efficiency”, “dwelling unit, lodging”, “dwelling unit, multiple-family”, “dwelling unit, rooming”, “dwelling unit, single-family attached”, “dwelling unit, single-family detached”, “dwelling unit, tourist”, “dwelling unit, two-family” and “family”, to be placed in alphabetical order in relation to existing definitions in Section 202, and to read in their entirety as follows.

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

DWELLING UNIT, BOARDING. A rooming dwelling where meals are served.

DWELLING UNIT, EFFICIENCY. A dwelling unit for one individual or small family consisting of one room, exclusive of bathroom, hallway, closets and the like.

DWELLING UNIT, LODGING. A rooming dwelling.

DWELLING UNIT, MULTIPLE-FAMILY. A building or portion thereof, used or designed for use as an apartment for more than two families living independently of each other. This definition does not include mobile homes, single-family attached or two-family dwellings.

DWELLING UNIT, ROOMING. A building containing one or two dwelling units that is approved for use by three or more persons, not meeting the definition of family, per dwelling unit.

DWELLING UNIT, SINGLE-FAMILY ATTACHED. A group of three or more single-family dwelling units which are joined to one another by a common party wall, but not a common floor-ceiling. Each unit shall have its own outside entrance. For the purposes of this Chapter, dwellings such as a semi-attached, row house, patio-house and townhouse shall be deemed a ***SINGLE-FAMILY ATTACHED DWELLING.***

DWELLING UNIT, SINGLE-FAMILY DETACHED. A dwelling unit exclusively for use by one family, which is entirely surrounded by open space or yards on the same lot.

DWELLING UNIT, TOURIST. A building containing less than six guest rooms intended or designed primarily for, or used for the accommodations of transients, whether rented or hired out to be occupied or are occupied for sleeping purposes by guests, whether rent is paid in money or goods, and does not include any hospital, jail, sanitarium, orphanage, prison, detention home or institution in which human beings are housed and detained under legal restraint.

DWELLING UNIT, TWO-FAMILY. A detached building used or designed for use exclusively by two families living independently of each other and each doing their own cooking in the building. It may also be termed a duplex.

FAMILY. One or more persons occupying a dwelling unit as a single non-profit housekeeping unit. More than six persons (excluding the domestic servants), of whom are not related by blood, marriage or adoption, shall not be considered to constitute a **FAMILY**.

(C) Section 202.0 is further amended by amending the existing definitions of “basement”, “dwelling unit”, “structure” and “yard” with the following definitions to read in their entirety as follows. For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASEMENT. The portion of a building which is partly or wholly below finished grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A **BASEMENT** shall not be counted as a story.

DWELLING UNIT. A building, or enclosed portion thereof, designed for occupancy by one family for residential purposes and having independent living, eating, sleeping, cooking and sanitary facilities. A **DWELLING UNIT** shall include both manufactured units (mobile homes and modular homes) and site-built units. Reference to **DWELLING** shall mean **DWELLING UNIT**.

STRUCTURE. Anything constructed or erected, the use of which requires a more or less permanent location on the ground or attachment to something having a permanent location on the ground, excepting utility poles, sewage pumping stations, water pump stations and utility manholes.

YARDS. The open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter, and as defined herein.

(a) **FRONT YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building.

(b) **REAR YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

(c) ***SIDE YARD.*** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the building line of the main building.
(Ord. 2005-6, passed 7-25-2005)

CHAPTER 153: SUBDIVISION CONTROL

Section

General Provisions

- 153.01 Short title
- 153.02 Authority
- 153.03 Scope and purpose
- 153.04 Administration
- 153.05 Definitions

Preliminary and Final Plat

- 153.20 Application
- 153.21 Review process
- 153.22 Review standards
- 153.23 Required improvements; engineering and design

- 153.99 Penalty

GENERAL PROVISIONS

SECTION 153.01 SHORT TITLE.

This Chapter shall be known and may be cited as the "Subdivision Control Ordinance of The Village of Howard City".
(Ord. 2004-6, passed 11-8-2004)

SECTION 153.02 AUTHORITY.

The regulations of this Chapter are adopted pursuant to the Michigan Land Division Act, being MCL 560.101 et seq. and 41.181.
(Ord. 2004-6, passed 11-8-2004)

SECTION 153.03 SCOPE AND PURPOSE.

(A) The approvals and requirements of this Chapter shall apply to the creation, construction or installation of any subdivision within the Village. The approvals and requirements of this Chapter shall also be satisfied prior to the re-platting of any subdivision.

(B) The purpose of this Chapter is to provide regulations dealing with the subdivision or platting of land within the Village, and to further promote and protect the public health, safety and general welfare of the people of the Village by providing for the orderly development of land within the Village. (Ord. 2004-6, passed 11-8-2004)

SECTION 153.04 ADMINISTRATION.

This Chapter shall be administered by the Village Council and Planning Commission in accordance with the procedures of this Chapter and the Land Division Act, as amended. (Ord. 2004-6, passed 11-8-2004)

SECTION 153.05 DEFINITIONS.

The definitions of the Land Division Act, as amended, are hereby included and made a part of this Chapter. For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Michigan Land Division Act, being MCL 560.101 et seq., as amended.

APPLICANT. The proprietor as defined by the Act.

AS-BUILT PLANS. Revised construction plans drawn in accordance with all approved field changes.

BOARD. The Howard City Village Council.

CLERK/TREASURER. The Clerk/Treasurer of the Village of Howard City, or other individuals as the Village Council may appoint to perform various functions pursuant to this Chapter.

COMMISSION. The Howard City Planning Commission.

COUNTY LOCAL ROAD. As defined by the Village, County Road Commission and State law.

COUNTY PRIMARY ROAD. As defined by the Village, County Road Commission and State law.

IMPROVEMENTS. Grading, street surfacing, curbs, gutters, sidewalks, sanitary sewers, storm drainage systems, culverts, bridges, utilities and other additions to the natural state of land which increases its value, utility or habitability.

PLAT. As defined by the Act, as amended.

MASTER PLAN. The Village of Howard City Master Plan.

NATURAL FEATURES AND AMENITIES. Includes, but is not limited to, lakes, ponds, watercourses, floodplains, woodlands and topography of the land.

SOIL EROSION AND SEDIMENTATION CONTROL ACT. Part 91 of the National Resources and Environmental Protection Act, Public Act 451 of 1994, being MCL 324.9101 et seq., as amended.

SUBDIVISION. As defined in the Act, which is a **PLAT**.

TOWNSHIP. Reynolds Township.

VILLAGE ATTORNEY. The legal counsel for the Village of Howard City.

VILLAGE ENGINEER. The professional consulting engineer for the Village of Howard City.

ZONING REGULATIONS or ZONING ORDINANCE. The zoning ordinance of the Village, Chapter 154 of this Code of Ordinances, as amended.
(Ord. 2004-6, passed 11-8-2004)

PRELIMINARY AND FINAL PLAT

SECTION 153.20 APPLICATION.

(A) An application for tentative preliminary plat approval shall be submitted to the Clerk/Treasurer at least 30 days prior to the next regularly scheduled meeting of the Commission.

(B) The application shall consist of the following materials (applications which do not have all of the materials noted below shall be considered incomplete and shall not be accepted):

- (1) A completed application form, supplied by the Village;
- (2) An application fee which may be set by the Board by resolution from time to time; and
- (3) Ten copies of a preliminary plat drawing at a scale of not more than one inch equals 100 feet that complies with the Act and shows, at a minimum, the following:

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(a) A scaled location map showing the location of the proposed preliminary plat within the Village relative to streets, section lines, watercourses and other subdivisions within one mile of the proposed plat;

(b) The names of adjoining subdivisions, or the owners and addresses of abutting parcels of land, if not within a subdivision;

(c) The names, rights-of-way and pavement widths of adjoining and proposed streets, including the location of all driveways within 100 feet of the proposed plat on adjoining streets;

(d) Exterior dimensions of the lot or lots being subdivided;

(e) The location, type and dimensions of any easements or streets crossing the lot or lots being subdivided, if any;

(f) The locations and nature of any natural features and amenities;

(g) The locations, size and dimensions of proposed lots;

(h) The locations, dimensions and use of any land set aside for public or private use, other than that proposed for the plat, if any;

(i) The locations and dimensions of proposed drainage and utility easements;

(j) The location and size of all existing underground utilities;

(k) Site topography at two-foot intervals;

(l) The date of preparation, and the names of the plat, applicant and the firm or individual preparing the plat; and

(m) Scale, north arrow, permanent parcel number and legal description.

(C) (1) In addition to the fee required by division (B) above, the applicant shall also be responsible for all costs associated with the review of the proposed subdivision by the Village, including professional fees for the reviews.

(2) The fees shall be paid in full prior to the granting of any approvals issued by the Village. (Ord. 2004-6, passed 11-8-2004)

SECTION 153.21 REVIEW PROCESS.*(A) Commission review; tentative plat approval.*

(1) The Commission shall conduct at least one public hearing for the purpose of receiving public comments on the proposed plat. Notification of the public hearing shall be the same as that required for special land uses in the zoning regulations, Chapter 154 of this Code of Ordinances.

(2) Following the public hearing, the Commission shall recommend to the Board approval, denial or approval with conditions. The Commission shall state its reasons for the recommendation. The minutes containing the record of the public hearing and the Commission's recommendation shall be forwarded to the Board prior to the Board's consideration of the plat.

(B) Board review; tentative plat approval.

(1) The Board shall not consider the preliminary plat until receiving the recommendation of the Commission.

(2) The Board shall consider the preliminary plat at its next regularly scheduled meeting after receiving the recommendation of the Commission.

(3) The Board shall grant tentative approval, approval with conditions or denial of the preliminary plat within 90 days of filing with the Clerk/Treasurer, stating its reasons in writing for approval, approval with conditions or denial. Those reasons shall be based upon the standards of Section 153.22, and shall be submitted to the applicant.

(C) Tentative preliminary plat approval.

(1) Tentative preliminary plat approval by the Board shall confer upon the applicant approval of the lot sizes, lot orientations and street layout of the proposed plat for a period of one year.

(2) A tentative plat approval may be extended if the extension is applied for in writing prior to the expiration of the tentative plat approval period and is supported by reasonable evidence justifying the extension.

(3) Following tentative approval of the plat the applicant shall submit copies of the plat for the approval of the authorities noted in the Act.

(D) Board Review; final preliminary plat review.

(1) An application for a preliminary plat shall be submitted to the Clerk/Treasurer at least 20 days prior to the next regularly scheduled meeting of the Board.

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(2) The application shall consist of the following materials (applications which do not have all of the materials noted below shall be considered incomplete and shall not be accepted):

(a) The requirements of Section 153.21(B); and

(b) Proof of approval of the plat from each of the authorities having jurisdiction as required by the Act, Sections 112 through 119. These proofs of approval shall include copies of all permits as may be required and issued by these authorities.

(3) The Board shall consider the preliminary plat at its next regularly scheduled meeting after the filing of the application, or within 20 days, whichever occurs first.

(4) The Board shall grant final approval, approval with conditions or denial of the preliminary plat, stating in writing its reasons for approval, approval with conditions or denial. Those reasons shall be based upon the standards of Section 153.22, and shall be submitted to the applicant.

(E) *Final preliminary plat approval.*

(1) Final preliminary plat approval shall confer upon the applicant for a period of two years from the date of approval, the conditional right that the general terms and conditions under which final preliminary plat approval was granted will not be changed.

(2) A final preliminary plat approval may be extended by the Village if the extension is applied for in writing prior to the expiration of the tentative plat approval period and is supported by reasonable evidence justifying the extension.

(F) *Final plat application and review.*

(1) An application for a final plat approval shall be submitted to the Clerk/Treasurer at least 20 days prior to the next regularly scheduled meeting of the Board.

(2) The application shall consist of the following materials (applications which do not have all of the materials noted below shall be considered incomplete and shall not be accepted):

(a) One Mylar copy and three paper copies of the final plat;

(b) Two paper copies of as-built plans for all improvements;

(c) An abstract of the title certified to date, or, at the option of the applicant, a policy of title insurance for examination in order to ascertain whether or not the proper parties have signed the final plat;

(d) Certification of a qualified individual indicating that construction of improvements has been satisfactorily completed, including evidence of inspections; and

(e) Cost estimates for any improvements that have not been completed.

(3) The Board shall consider the final plat at its next regularly scheduled meeting or within 20 days after the filing of the application, whichever occurs first.

(4) The Board shall grant final plat approval provided that the standards of Section 153.22 are met.

(5) In lieu of completion of all or a portion of all improvements and with the specific consent of the Board, final plat approval may be granted, provided that as a condition of the approval, the applicant shall deposit with the Village cash, certified check, irrevocable bank letter of credit, bond or other form of surety in an amount sufficient to guaranty the Village the satisfactory construction, installation, completion and dedication of required improvements.

(a) The amount of the deposit shall represent 125% of the estimated construction costs of completion of the required improvements, as determined by the Village Engineer. The applicant shall be responsible for providing a cost estimate to the Village Engineer for review.

(b) The deposit shall comply with all statutory requirements and shall be satisfactory to the Village Attorney as to form, sufficiency and manner of execution, as set forth in this Chapter.

(c) The Village shall not accept dedication of required improvements, nor release nor reduce the guaranty or surety until:

1. The applicant has certified in a manner approved by the Village Attorney that the improvements have been completed and are free and clear of all liens and encumbrances;

2. The Village Engineer has certified that the required improvements have been satisfactory completed as required by this Chapter; and

3. The applicant shall have provided certification indicating that construction of required improvements has been satisfactorily completed. This certification shall include evidence of inspections as required by the Act.

(d) The guaranty or surety shall be reduced and refunded upon actual completion of required improvements and then only to the ratio that the completed improvement bears to the total improvements for the plat. In no event shall the surety be reduced below 10% of the principal amount before final acceptance of all improvements by the Board.

(e) The County Building Inspector shall not issue building permits for construction of buildings or structures as regulated by the County Building Code, except for signs permitted by the zoning regulations of the Village, Chapter 154 of this Code of Ordinances.
(Ord. 2004-6, passed 11-8-2004)

SECTION 153.22 REVIEW STANDARDS.

(A) *Tentative preliminary plat approval.* The Commission and Board shall grant tentative preliminary plat approval upon reaching the following findings:

(1) That the proposed lots comply with all of the requirements of the Village zoning regulations, Chapter 154 of this Code of Ordinances;

(2) That the design of the streets within the plat provide adequate and safe circulation within the plat and that sufficient consideration has been given to providing access to adjacent vacant parcels within the same zoning district;

(3) That lots are oriented to ensure safety of access to any street, to take best advantage of existing topography, and to preserve existing natural features and amenities;

(4) That the design of the water and sewer within the plat provide adequate and safe service to the plat and that sufficient consideration has been given to the impact of these new services on the entire water and sewer systems;

(5) That the plat conforms to the requirements of this Chapter and any other applicable federal, State or local laws or ordinances;

(6) That the Board has received the recommendation of the Commission regarding the preliminary plat; and

(7) That, to the extent possible and in accordance with the requirements of Section 153.23(A), access to all lots within the plat shall be from new interior streets rather than from perimeter roadways.

(B) *Preliminary plat approval.* The Board shall grant tentative preliminary plat approval upon reaching the following findings:

(1) That the preliminary plat substantially conforms to the tentative preliminary plat approval, including any condition placed on the approval;

(2) That all required reviews have been completed and appropriate documentation of the approvals is provided; and

(3) That the plat conforms to all of the requirements of this Chapter and any other applicable federal, State or local laws or ordinances.

(C) *Final plat approval.* The Village Board shall grant final plat approval upon reaching the following findings:

(1) That the final plat substantially conforms to the preliminary plat approval, including any conditions placed on the approval;

(2) That all required reviews have been completed and appropriate documentation of the approvals is provided;

(3) That the plat conforms to the requirements of this Chapter and any other applicable federal, State or local laws or ordinances; and

(4) That construction of all improvements as required by this Chapter has been completed and financed, or a bond submitted in accordance with the provision of Section 153.21(F).
(Ord. 2004-6, passed 11-8-2004)

SECTION 153.23 REQUIRED IMPROVEMENTS; ENGINEERING AND DESIGN.

(A) Streets and access.

(1) All streets within the plat, and improvements to streets adjoining the plat, shall be constructed to the standards required by the Village.

(2) Any plat shall be designed so that no lots have direct access to any existing perimeter County or State road. Access to lots within the plat shall only be provided by new streets proposed as part of the plat. The Board, upon recommendation of the Planning Commission, may grant direct access to the existing perimeter County or State roads, provided that all of the following conditions are met:

(a) Approval for direct access is obtained from the Village and County Road Commission for each lot;

(b) The entire property under the ownership or control of the applicant, including any portion which is excluded from the plat, has less than 300 feet of lot depth; and

(c) The direct access will be reasonably safe from a traffic standpoint and will be consistent with the goals of the zoning regulations and Master Plan.

(B) Utilities.

(1) Public sanitary sewer and/or water shall be extended at the applicant's expense to serve the proposed plat where an appropriate connection is available within 1,000 feet of the boundary of the plat.

(2) Where the connections are not available, the applicant may either pay for the extension of the utilities, or provide suitable private utility systems, subject to the approval of the County Health Department.

(3) All other utilities shall be installed underground at the applicant's expense. All the utilities shall be placed within private easements provided to the utility agencies, or within dedicated public rights-of-way, as permitted by the agencies governing the rights-of-way.

(4) All utilities shall conform to the construction standards of the Village.

(C) *Sidewalks.*

(1) Sidewalks may be required by the Board under any of the following circumstances at its discretion:

(a) Where other public sidewalks are available on any adjoining road within 500 feet of the boundary of the proposed plat;

(b) Sidewalks may be required within the plat where the length of any portion of a street within the plat exceeds 400 feet from an existing road; or

(c) Where the Board determines that sidewalks are necessary to ensure the safety of pedestrians.

(2) Sidewalks shall be constructed according to the Village's standards.

(D) *Storm drainage.*

(1) All storm drainage systems shall be designed, constructed and maintained to the standards required by the Village, the County Drain Commissioner, the State Department of Natural Resources and any applicable Village ordinance.

(2) The applicant shall demonstrate its intention to comply with the Soil Erosion and Sedimentation Control Act and provide a general description of that intent.

(E) *Existing natural features and amenities.*

(1) To the extent possible, existing natural features and amenities shall be preserved, or where appropriate, replaced within the plat.

(2) Where those features are required to be removed or altered as part of the plat design, the applicant shall certify to the Board:

(a) That the properties of the land which is part of the plat are such that no practical alternative design is possible that would preserve the features;

(b) That the removal or alteration of the features will not have an adverse effect on adjacent properties with respect to drainage, views or other significant environmental effect;

(c) That the removal or alteration of the features complies with all applicable federal, State and local laws and ordinances; and

(d) That financial considerations alone are not used to justify the removal or alteration of the features.

(3) The Board may require the installation of street trees or other landscaping or other action to compensate for the removal or alteration of natural features or amenities; or to provide screening from adjacent properties where deemed appropriate.

(F) *Street lighting.*

(1) Street lighting may be required by the Board.

(2) If required, street lighting shall be installed in accordance with the standards of the Village, or other appropriate agency or utility.

(Ord. 2004-6, passed 11-8-2004)

SECTION 153.99 PENALTY.

(A) Any person who violates any provision of this Chapter is responsible for a municipal civil infraction, and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be not less than \$100 nor more than \$500 for each violation.

(B) For purposes of the penalty for a repeat offense under this Chapter, a repeat offense means a second or any subsequent violation of the same requirements or provisions committed within any 12-month period, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall be considered separate first offenses. The civil fine for a repeat offense shall be not less than \$100 nor more than \$1,000, in the discretion of the court.

(Ord. 2004-6, passed 11-8-2004)

CHAPTER 154: ZONING CODE

Section

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GENERAL PROVISIONS**SECTION 154.001 TITLE, INTENT, SCOPE.**

(A) *Title.* This Chapter shall be known, and may be cited as, the “Village of Howard City Zoning Ordinance”.

(B) *Intent.* This Chapter, enacted under the authority of the City and Village Zoning Act, MCL 125.581 et seq., as administered and enforced under the Michigan Zoning Enabling Act, being MCL 125.3101 et seq., as amended, is intended to ensure that uses of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility needs; and to promote public health, safety and welfare.

(C) *Scope.*

(1) *Interpretation and application.* In its interpretation and application, the provisions of this Chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience or general welfare. It is not intended by this Chapter to impair or interfere with any other existing provision of law or ordinance; however, where this Chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this Chapter shall control.

(2) *Vested rights.* Nothing in this Chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and all rights are hereby declared to be subject to the subsequent amendment, change or modification hereof as may be necessary to the preservation or protection of public health, safety and welfare.

(Ord. passed 12-13-1999)

SECTION 154.002 RULES OF CONSTRUCTION OF LANGUAGE.

The following rules apply to the text of this Chapter.

(A) The particular shall control the general.

(B) The word “person” includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.

(C) The phrase “used for” includes arranged for, designed for, intended for, maintained for or occupied for.

(D) A “building” or “structure” includes any part thereof.

(E) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions “and”, “or”, “either...or”, the conjunctions shall be interpreted as follows.

(1) “And” indicates that all the connected items, conditions, provisions or events shall apply.

(2) “Or,” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.

(3) “Either . . . or” indicates that the connected items, conditions, provisions or events shall apply singularly, but not in combination.

(F) Words used in the present tense shall include the future tense, unless the context clearly indicates the contrary.

(G) Words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.

(H) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

(I) The word “herein” means in this Chapter; the word “regulations” means the regulations of this Chapter; and the words “this Chapter” shall mean “this Chapter and the maps included herein as enacted or subsequently amended”.

(J) In case of any difference of meaning or implication between the text of this Chapter and any caption or illustration, the text shall control.

(K) Terms not herein defined shall have the meaning customarily assigned to them.
(Ord. passed 12-13-1999)

SECTION 154.003 DEFINITIONS.

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

ABUTTING (LOT OR PARCEL). A lot or parcel, which shares a common border with the subject lot or parcel.

ACCESSORY USE, BUILDING OR STRUCTURE. A use, building or structure which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to and located on the same lot as the principal use to which it is related; for example, a private garage or a storage shed.

ADJACENT (LOT OR PARCEL). A lot or parcel, which abuts or is directly across a street right-of-way from any lot or parcel line of the subject lot or parcel.

ADULT BOOKSTORE. A building used for the sale of motion picture films, video cassettes, magazines, posters and other printed material, or tapes, or sex objects for other than contraceptive purposes, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this Chapter, for sale to patrons therein.

ADULT FOSTER CARE FACILITY. A facility which provides supervision, protection or personal care, in addition to room and board, to persons over 18 years of age. An **ADULT FOSTER CARE FACILITY** is other than a home for the aged or nursing home, licensed under Public Act 139 of 1956 or Part 213 of Public Act 368 of 1978, being MCL 333.21301 et seq., , as amended, or a mental hospital for mental patients licensed under Sections 51 and 52 of Public Act 151 of 1923 or Section 137 of Public Act 258 of 1974, being MCL 330.1137, as amended. The **FACILITIES** do not include residences used for the treatment of persons released from or assigned to an adult correctional facility.

ADULT FOSTER CARE FAMILY HOME. A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The **ADULT FOSTER CARE FAMILY HOME** licensee shall be a member of the household, and an occupant of the residence.

ADULT LIVE ENTERTAINMENT THEATER. A building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see-through clothing which permits the view of "specified anatomical areas" individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas" or individuals conducting "specified sexual activities".

ADULT MOTION PICTURE THEATER. A building used for presenting motion picture films, video cassettes, cable television or any other visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this Chapter, for observation by patrons therein.

AGRICULTURE. Raising of crops, animals and animal products, forestry and commonly accepted agricultural operations for commercial purposes including the sale of products grown on the premises.

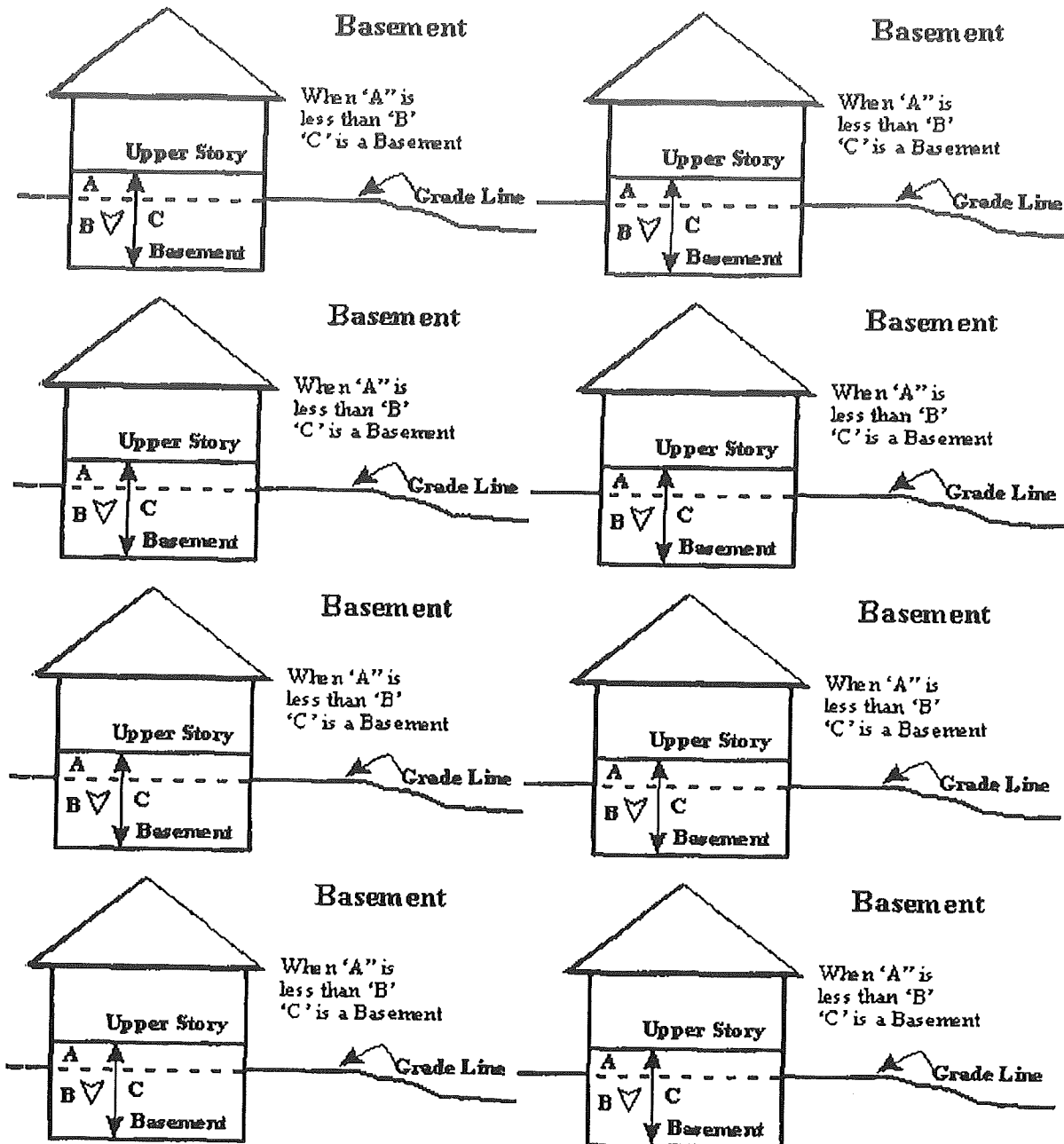
ALLEY. Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic.

ALTERATIONS. Any change, addition or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders.

ATTACHED DWELLING UNIT. See **DWELLING UNIT, ATTACHED.**

AVERAGE GRADE. See **GRADE, AVERAGE.**

BASEMENT. The portion of a building which is partly or wholly below finished grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A **BASEMENT** shall not be counted as a story.



BED AND BREAKFAST ESTABLISHMENT. A use within a detached single-family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

BERM. A mound of earth graded, shaped and improved with landscaping in a fashion so as to be used for visual and/or audible screening purposes.

BLOCK. The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest street and railroad right-of-way, unsubdivided acreage, lake, river or stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

BOARD or ZONING BOARD OF APPEALS or BOARD OF APPEALS. The Zoning Board of Appeals of the Village of Howard City.

BOARDING HOUSE (OR LODGING HOUSE) RESIDENTIAL. A year-round residential dwelling having one or more kitchens and used for the purpose of providing lodging, or both meals and lodging to three or more persons for compensation of any kind. This does not include motels, motor hotels, tourist rooms, mobile homes or recreational vehicles, all of which are deemed to be transient and commercially oriented.

BUFFER STRIP. A strip of land required between certain zoning districts reserved for plant material, berms, walls or fencing to serve as a visual barrier or to block noise, light and other impacts.

BUILDING. Any structure, either temporary or permanent, having a roof supported by columns, walls or any other supports, which is used for the purpose of housing, sheltering, storing or enclosing persons, animals or personal property, or carrying on business activities. This definition includes: mobile homes, tents, sheds, garages, greenhouses and other accessory structures. Truck trailers, truck bodies or bus bodies are not considered as **BUILDINGS**.

BUILDING CODE. The Code or Codes governing the erection and maintenance of buildings as currently in effect within the Village.

BUILDING HEIGHT. In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average heights between the eaves and the ridge of gable, hip and gambrel roofs. The **HEIGHT** of an accessory building shall be determined as the distance between the peak and the ground floor of the accessory building.

BUILDING LINE. A line parallel to the street line formed by the face of the building or touching that part of a building closest to the street. For the purposes of this Chapter, a **MINIMUM BUILDING LINE** is the same as the front setback. See also Sections 154.011 and 154.048.

BUILDING SITE. This term shall be used in connection with site condominiums and shall mean either:

- (1) The area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope and the area around and contiguous to the building envelope; or

(2) The area within the condominium unit (as described above), taken together with any contiguous and appurtenant limited common element.

CAMPGROUND. A use on a parcel or tract of land licensed by the State under the control of a person in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for three or more recreational units which include trailers as defined by this Chapter.

CHILD CARE CENTER or DAY CARE CENTER. A facility, other than a private residence, licensed by the State Department of Social Services, receiving one or more children for care for periods of less than 24 hours per day, and where the parents or legal guardians are not immediately available to the child. **CHILD CARE CENTER** includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. **CHILD CARE CENTER** does not include a Sunday school, a Vacation Bible School or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks, during a 12-month period, or a facility operated by a religious organization where children are cared for not greater than three hours, while persons responsible for the children are attending religious services.

CHURCH. A building, the primary use of which is the regular assembly of persons for religious worship or services, together with accessory uses, such as Vacation Bible School, instruction, counseling, recreation, social events and periodic humanitarian activities together with traditional accessory uses.

CITY AND VILLAGE ZONING ACT. Public Act 207 of 1921, as amended.

CLUB. An organization of persons for special purposes such as sports, arts, sciences, literature, politics or the like, but not operated for profit.

COMMERCIAL STORAGE WAREHOUSE. A building or buildings used primarily as a commercial business for the storage of goods and materials.

COMMON OPEN SPACE. An unoccupied area within a development which is reserved primarily for the leisure and recreational use of all the planned unit development residents and generally owned and maintained in common by them, often through a homeowners association.

CONVALESCENT OR NURSING HOME. A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and medical care. This definition includes assisted living facilities which provide room, board and supervised personal care.

CORNER LOT. See **LOT, CORNER.**

COUNCIL or VILLAGE COUNCIL. The Village Council of the Village of Howard City.

CUL-DE-SAC. A dead-end public or private street, generally short in distance, which terminates in a circular or semi-circular section of street allowing for vehicle turnaround.

DAY CARE CENTER. See **FAMILY DAY CARE HOME** or **GROUP DAY CARE HOME**.

DENSITY. The number of dwelling units situated on or to be developed per net gross acre of land.

DESIGNATED AGENT. A person, firm or corporation acting on behalf of, representing or caring for the property on behalf of the owner.

DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, including customer communication facilities for banks and other uses.

DRIVE-THROUGH RESTAURANT. A restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A **DRIVE-THROUGH RESTAURANT** may or may not also have indoor seating.

DWELLING, ATTACHED. A dwelling unit attached to one or more dwelling units by common major structural elements.

DWELLING, MULTIPLE-FAMILY. A building or portion thereof, used or designed for use as an apartment for more than two families living independently of each other. This definition does not include mobile homes, single-family attached or two-family dwellings.

DWELLING, TWO-FAMILY. A detached building used or designed for use exclusively by two families living independently of each other and each doing their own cooking in the building. It may also be termed a **DUPLEX**.

DWELLING UNIT. A building, or enclosed portion thereof, designed for occupancy by one family for residential purposes and having independent living, eating, sleeping, cooking and sanitary facilities. A **DWELLING UNIT** shall include both manufactured units (mobile homes and modular homes) and site-built units. Reference to **DWELLING** shall mean **DWELLING UNIT**.

DWELLING UNIT, BOARDING. A rooming dwelling where meals are served.

DWELLING UNIT, EFFICIENCY. A dwelling unit for one individual or small family consisting of one room, exclusive of bathroom, hallway, closets and the like.

DWELLING UNIT, LODGING. A rooming dwelling.

DWELLING UNIT, ROOMING. A building containing one or two dwelling units that is approved for use by three or more persons, not meeting the definition of family, per dwelling unit.

DWELLING UNIT, SINGLE-FAMILY ATTACHED. A group of three or more single-family dwelling units which are joined to one another by a common party wall, but not a common floor-ceiling. Each unit shall have its own outside entrance. For the purposes of this Chapter, dwellings such as a semi-attached, row house, patio-house and townhouse shall be deemed a **SINGLE-FAMILY ATTACHED DWELLING**.

DWELLING UNIT, SINGLE-FAMILY DETACHED. A dwelling unit exclusively for use by one family, which is entirely surrounded by open space or yards on the same lot.

DWELLING UNIT, TOURIST. A building containing less than six guest rooms intended or designed primarily for, or used for the accommodations of transients, whether rented or hired out to be occupied or are occupied for sleeping purposes by guests, whether rent is paid in money or goods, and does not include any hospital, jail, sanitarium, orphanage, prison, detention home or institution in which human beings are housed and detained under legal restraint.

EASEMENT. A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

ERECTED. Built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for construction, excavation, fill, drainage and the like.

ESSENTIAL PUBLIC SERVICES. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution system, collection, communication, supply or disposal system (including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, electric substations, gas regulator stations and other similar equipment and accessories in connection therewith), but not including buildings and storage yards, which are reasonably necessary for the furnishing of adequate service by the public utilities or municipal departments or commissions for the public health, safety or general welfare. The term **ESSENTIAL PUBLIC SERVICES** shall not include wireless communication towers, unless located on public property, and used as part of a municipal emergency communications network.

EXCAVATION. Any breaking of ground, except common household gardening and ground care.

FAMILY. One or more persons occupying a dwelling unit as a single non-profit housekeeping unit. More than six persons (excluding the domestic servants), of whom are not related by blood, marriage or adoption, shall not be considered to constitute a **FAMILY**.

FAMILY DAY CARE HOME. A private residence in which the operator permanently resides as a member of the household, registered with the State Department of Social Services, in which at least one minor child, but less than seven minor children, are given care and supervision for periods of less than 24 hours per day. These children shall be unattended by a parent or legal guardian, except children

related to an adult member of the family by blood, marriage or adoption. **FAMILY DAY CARE HOME** includes homes that give care to an unrelated minor child(ren) for more than four weeks during a calendar year.

FLOOD PLAIN. Refers to the 100-year flood plain as identified by the Federal Emergency Management Agency or other governmental agency qualified to make the determination. The **100-YEAR FLOOD PLAIN** is that land which, on the basis of available flood plain information, is subject to a 1% or greater chance of flooding in any given year.

FLOOR AREA, GROSS. The sum of all gross horizontal areas of all floors of a building or buildings measured from the outside dimensions of the outside face of the outside wall. Except where they are utilized for commercial purposes, enclosed porches, courtyards or patios shall not be considered as part of the **GROSS FLOOR AREA**.

FLOOR AREA, USABLE. For the purposes of computing parking, the area used for the sale of merchandise or services, or for use to serve patrons, clients or customers. The floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, stairways and elevator shafts, or for utilities or sanitary facilities, shall be excluded from the computation of **USABLE FLOOR AREA**. **USABLE FLOOR AREA** shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor areas for all floors.

FOSTER FAMILY GROUP HOME. A private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

GARAGE, PRIVATE. An accessory building or portion of a dwelling used primarily for the storage or passenger vehicles by the occupants of the premises.

GARAGE, PUBLIC. A public building used for the care, repair or equipment of automobiles, or where the vehicles are parked or stored for remuneration, hire or sale.

GRADE. The surface of the earth or finished material located immediately adjacent to the structure.

GRADE, AVERAGE. The arithmetic averages of the lowest and highest-grade elevations in an area within five feet of the foundation line of a building or structure.

GRADE, ENTRY. The grade at which the primary entrance to the first story of a building is established.

GRADE, FINISHED. The lowest point of elevation between the exterior wall of the structure and a line five feet from the exterior wall of the structure.

GREENBELT. A strip of land of definite width and location reserved for the planting of shrubs, trees or grasses to serve as an obscuring screen or buffer strip in carrying out the requirements of this Chapter. (See also **BERM** and **BUFFER STRIP**).

GROSS SITE AREA. The total area of a development site, including flood plains, wetlands, water bodies and rights-of-way.

GROUP DAY CARE HOME. A private residence in which the operator permanently resides as a member of the household, licensed under the State Department of Social Services, in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours per day. Children shall be unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. **GROUP DAY CARE HOME** includes a home that gives care to unrelated minor children for more than four weeks during a calendar year.

HEIGHT. The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, height shall be measured from the average grade to the highest point of the roof surface for a flat roof; to the deck line of mansard roofs; and to the midpoint between the eaves and ridge for gable, hip and gambrel roofs.

HOME OCCUPATION. Any occupation conducted within a residential dwelling unit located in a residential district, where the occupation is incidental and subordinate to the use of the dwelling unit for residential purposes.

HOTEL. A series of attached, semi-detached or detached rental units that provide lodging on a temporary basis, and are offered to the public for compensation. The term **HOTEL** shall include tourist cabins and homes, motor courts and motels. A **HOTEL** shall not be considered or construed to be a multiple-family dwelling.

HOUSING FOR THE ELDERLY. A residential facility that provides room, board and supervised care to unrelated, non-transient individuals 60 years of age or older or couples where either the husband or wife is 60 years of age or older. The facility shall be licensed as a "home for the aged" by the State Department of Public Health under Part 213 of the Public Health Code, Public Act 368 of 1978, being MCL 333.21301 et seq., as amended. This does not include a development that contains convalescent or nursing home as licensed under Public Act 139 of 1956, being MCL 331.651 to 331.660, as amended, or a mental hospital licensed under Sections 51 and 52 of Public Act 151 of 1923 or Section 137 of Public Act 258 of 1974, being MCL 330.1137, as amended.

IMPROVEMENTS. Those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety and welfare of the residents of the Village and future users or inhabitants of the proposed project area, including, but not limited to, roadways, lighting, utilities, sidewalks, screening, drainage, parking areas and landscaping.

INOPERABLE VEHICLE. A motor vehicle which is unlicensed, cannot be lawfully operated in its present condition on public streets, or which is not self-propelled.

JUNK. Any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, yard waste and paper.

JUNK YARD. Any area of land including building thereon which is used primarily for the collecting, storage and/or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof. Two or more motor vehicles stored outside without current license plates for a period of 30 days shall constitute a **JUNK YARD**.

KENNEL. Any place on where three or more dogs, cats or other domestic pet animals, six months of age or older, are kept either permanently or temporarily for any reason other than veterinary medicine.

LIVING AREA. The portion of a dwelling that is capable of being occupied. **LIVING AREA** is the sum of the various floors measured from the exterior walls, but excluding basements, attics and garages. Bedrooms located in a basement may be counted toward the required living area, provided each room contains an egress window meeting the Village Building Code requirement.

LOADING SPACE. An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading and unloading merchandise or materials.

LOT. A plat, plot or a parcel of land occupied, or designed to be occupied by one building and the accessory buildings or uses customarily incidental to it, including the open spaces as are arranged and designed to be used in connection with the buildings. A **LOT** may or may not be the land shown on a duly recorded plat. If more than one lot of record is held in common ownership and the lots are contiguous, undeveloped and substandard in size to the minimum lot size in the zoning districts, they shall, for the purpose of this Chapter, be held as one lot or as many lots as to leave no lot substandard. A **LOT** may consist of any of the following, or a combination of any of the following, excluding any portion of property subject to a public easement or right-of-way for highway purposes.

- (1) A platted lot, or a portion of a platted lot;
- (2) A parcel of land described by metes and bounds, or a portion of a parcel of land described by metes and bounds; or
- (3) A building site as defined in this Chapter in connection with a site condominium project.

LOT AREA. The amount of space contained within a lot, typically expressed in square feet or acres.

LOT, CORNER. A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two chords of which form an angle of 135 degrees or less.

LOT COVERAGE. The percentage of a lot that is taken up by building space.

LOT DEPTH. The horizontal distance between the front and rear lot lines, measured along the median between side lot lines.

LOT, FLAG. A lot with access provided to the bulk of the lot by means of a narrow corridor fronting on a public street.

LOT FRONTAGE. The length of the front lot line.

LOT, INTERIOR. A lot other than a corner lot, flag lot or through lot.

LOT LINE. A boundary line of a lot.

LOT LINE, FRONT. The exterior line of right-of-way of a road on which a lot fronts or abuts.

LOT LINE, REAR. Any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

LOT LINE, SIDE. Any lot line other than a front or a rear lot line.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by municipal or County officials, which actually exists as shown, or any part of the parcel held in a record ownership separate from that of the remainder thereof.

LOT WIDTH. The horizontal distance between side lot lines, measured parallel to the front lot line at the minimum required front-yard setback line.

LOT, THROUGH. Any interior lot having frontage on two parallel streets. In the case of a row of **THROUGH LOTS**, all yards of the lots, adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required.

LOT, WATERFRONT. A lot having a property line abutting a shoreline.

MAIN BUILDING. See **PRINCIPAL BUILDING OR STRUCTURE**.

MANUFACTURED HOUSING. A dwelling unit, which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. **MANUFACTURED HOUSING** includes mobile homes and modular housing units.

MASSAGE PARLOR. Any establishment having a fixed place of business where massages are administered for pay, including, but not limited to, massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

- (1) Proof of graduation from a school of massage licensed by the State;
- (2) Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
- (3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation or any other recognized massage association with equivalent professional membership standards; and/or
- (4) A current occupational license from another state.

MASTER PLAN OF THE VILLAGE. A document containing the future development policy and map for the Village, together with supporting documentation as most recently adopted and amended by the Village Planning Commission pursuant to Public Act 285 of 1931, being MCL 125.31 et seq., or the Michigan Planning Enabling Act, Public Act 33 of 2008, being MCL 125.3801 et seq.

MOBILE HOME. A dwelling, transportable in one or more sections which is built on a permanent 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 connected therein and is installed by a State licensed mobile dealer or a State licensed mobile home installer as required by Public Act 419 of 1976, being MCL 125.1101, as amended, or the Mobile Home Commission Act, Public Act 96 of 1987, being MCL 125.2301 et seq., and administrative rules promulgated thereunder.

MOBILE HOME PARK. A parcel or tract of land under the control of a person upon which three or more mobile homes are located. The **PARK** is intended to be used on a continual, residential, non-recreational-specific basis and is offered to the public for that purpose.

MODULAR HOME. A dwelling which consists of prefabricated units transported to the building site upon a separate vehicle or flatbed trailer and having no wheels, metal undercarriage or chassis, as distinguished from a mobile home. The **MODULAR HOME** shall be considered a single-family dwelling under this Chapter, and subject to all requirements thereof.

MOTEL. A building or a group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by, automobile travelers. The term shall include any building or building groups designated as motor lodges, transient cabins or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

MOTOR HOME. A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreation activities and temporary occupancy.

NET BUILDING AREA. Contiguous land excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements.

NONCONFORMING BUILDING OR STRUCTURE. A building or structure, the size, dimensions or location of which was lawful prior to the effective date of the adoption or amendment of this Chapter, but that fails by reason of the adoption or amendment to conform to the present requirements of the zoning district in which it is situated.

NONCONFORMING LOT OF RECORD (SUBSTANDARD LOT). A lot, the area, dimensions or location of which was lawful prior to the effective date of the adoption or amendment of this Chapter, but that fails by reason of the adoption or amendment to conform to the present lot requirements of the zoning district in which it is located.

NONCONFORMING USE. A use or activity that was lawful prior to the effective date of the adoption or amendment of this Chapter, but that fails by reason of the adoption or amendment to conform to the present use regulations of the zoning district in which it is located.

NURSING HOME. A nursing care facility licensed as a "nursing home" by the State Department of Public Health under Article 17 of the Public Health Code, Public Act 368 of 1978, being MCL 333.20101 et seq., as amended. A **NURSING HOME** shall include extended care facility and convalescent home or similar facility as provided in MCL 333.21711, as amended.

OFFSET. The distance between the centerlines of driveways or streets across the street from one another.

OFF-STREET PARKING LOT. A facility providing parking spaces, along with adequate drives, maneuvering areas and aisles, for the parking of more than three vehicles.

ON-PREMISES. Something being located totally within a lot, and not encroaching into any street right-of-way or access easement.

OPEN AIR BUSINESS. Retail sales establishments operated substantially in the open air, including:

(1) Bicycle, utility truck or trailer, motor vehicle, boats or home equipment sales, repair or rental services;

(2) Outdoor display area and sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment;

(3) Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumberyards; and

(4) An *OPEN AIR BUSINESS* may be either a principal or accessory use.

PARKING AREA, SPACE OR LOT. Any on-premises parking lot, together with associated circulation, aisles and access drives.

PERSONAL SERVICE ESTABLISHMENT. A commercial business conducting services that are performed primarily on the premises.

PLANNED UNIT DEVELOPMENT (PUD). A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces and other site features and improvements.

PLANNING COMMISSION or COMMISSION. The Village Planning Commission, established under the Michigan Planning Enabling Act, Public Act 33 of 2008, and Chapter 35 of this Code.

PLAT. A map of a subdivision of land.

PRINCIPAL BUILDING OR STRUCTURE. A building or structure in which is conducted the principal use of the lot upon which it is situated.

PRINCIPAL OR MAIN USE. The primary or predominant use of a lot.

PRIVATE ROAD OR STREET. A private road or street shall be defined as a street which provides access to two or more adjacent properties which is constructed and maintained by the owner or owners, and which is not dedicated for the general public use.

PUBLIC UTILITY. A person, firm or corporation, municipal department, board or commission duly authorized to furnish to the public under federal, State or municipal regulations, gas, steam, electricity, sewage disposal, communication (excluding wireless communications), telegraph, transportation or water.

QUARRY, QUARRYING OPERATION. Any place where stone, sand, gravel, minerals or other natural materials, including topsoil, is removed for the purpose of sale or any other commercial

purposes, other than such as may be incidental to excavating or regarding in connection with or in anticipation of building development or landscaping on the site.

RECREATIONAL VEHICLE OR EQUIPMENT.

(1) A vehicle or equipment used primarily for recreational purposes.

(2) For the purpose of this Chapter, ***RECREATIONAL VEHICLE*** shall mean:

(a) A vehicle primarily designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper;

(b) Boats and trailers designed to transport boats;

(c) Snowmobiles and trailers designed to transport snowmobiles;

(d) Off-road vehicles and trailers designed to transport off-road vehicles;

(e) Pop-up tent and camper trailers; and

(f) Other similar vehicles deemed by the Zoning Administrator to be a recreational vehicle.

(3) This term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for on-street use.

RESIDENTIAL DISTRICTS.

(1) AG/OS Agricultural/Open Space District;

(2) R-1 Single-Family Residential District;

(3) R-2 Single- and Two-Family Residential District;

(4) R-3 Multiple-Family Residential District;

(5) MH Manufactured Home Park District; and

(6) Residential PUD; any planned unit development with a residential use.

RIGHT-OF-WAY. A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of the agency having jurisdiction over the passage.

ROAD FRONTAGE. The length of the lot that borders a public road.

SALVAGE YARD. An open space where waste, surplus, discarded or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including house wrecking and structural steel materials and equipment and automobile wrecking.

SATELLITE DISH ANTENNA. An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

SECONDARY STREET. The secondary street shall be the street on a corner lot which is not fronting on the street which is considered as the street for the determination of the front yard.

SETBACK, REQUIRED. The minimum unoccupied distance between a front, side or rear lot line and the principal and accessory buildings, as required herein.

SIGHT DISTANCE. The length of roadway visible to the driver. The term is generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (such as turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway.

SIGN. Any visual device, including its support structure, whose signage area through the use of text, image, or symbol is designed or used to communicate, advertise, identify, display, direct, or attract attention to a person, place, thing, idea, action, or quality.

SIGNIFICANT NATURAL FEATURE. A natural area as designated by the Planning Commission, Village Council or the State Department of Natural Resources which exhibits unique topographic, ecological, hydrological or historical characteristics such as a wetland, flood plain, river, lake or other unique natural features.

SITE PLAN. A scaled drawing(s) illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions.

SITE PLAN REVIEW. The submission of plans for review, as part of the process of securing a zoning permit.

SPECIAL LAND USE. A use of land that may be permitted within a particular zoning district only if the applicable standards have been met. A **SPECIAL LAND USE** requires that a special land use permit be obtained after review of a site plan and a public hearing before the Village Council.

SPECIFIED ANATOMICAL AREAS.

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; and/or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STATE LICENSED RESIDENTIAL FACILITY (SIX OR FEWER PERSONS). A structure constructed for residential purposes that is licensed by the State pursuant to the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979, being MCL 400.701 et seq., as amended) or the Child Care Organizations Act (Public Act 116 of 1973, being MCL 722.111 et seq., as amended), which provides resident services or care for six or fewer persons under 24-hour supervision for persons in need of that supervision or care. A ***STATE LICENSED RESIDENTIAL FACILITY (SIX OR FEWER PERSONS)*** as defined by this section shall not include an establishment commonly described as an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home or a hotel or rooming house that does not provide or offer to provide foster care.

STORY. The portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF. An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purpose of this Chapter, the usable floor area is only that area having at least five feet clear height between floor and ceiling.

STREET, PRIVATE. An undedicated, privately controlled and maintained right-of-way designed and maintained in compliance with the provisions of this Chapter which provides access to abutting property.

STREET, PUBLIC. A public dedicated right-of-way other than an alley, which affords the principal means of access to abutting property.

STRUCTURAL CHANGES OR ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof.

STRUCTURE. Anything constructed or erected, the use of which requires a more or less permanent location on the ground or attachment to something having a permanent location on the ground, excepting utility poles, sewage pumping stations, water pump stations and utility manholes.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the

first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the State Register of Historic Places.

TRUCK TERMINAL. A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks, are parked or stored.

VARIANCE. A relaxation or modification of the requirements of this Chapter as authorized by the Zoning Board of Appeals under the provisions of this Chapter, the City and Village Zoning Act, or the Michigan Zoning Enabling Act, Public Act 110 of 2006, being MCL 125.3101 et seq.

VEHICLE REPAIR. Any major activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines or trailers; collision services such as body, frame or fender straightening and repair; overall painting and rust proofing; and refinishing or steam cleaning.

VEHICLE REPAIR SHOP OR GARAGE. Building and premises where the primary use is vehicle repair, involving general repair, rebuilding or reconditioning of engines or vehicles, collision services (including body repair and frame strengthening), painting or upholstering; or vehicle steam cleaning and undercoating or minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding two tons capacity.

VEHICLE SERVICE STATION. Building and premises for the primary purpose of the retail sales of gasoline, oil, grease, batteries, tires and other operational fluids and accessories for the automobile, and the installation of the commodities, and for other minor vehicle repair not to include auto refinishing, body work, dismantling of vehicles for the purpose of reuse or resale of parts, or storage of vehicles other than those for immediate repair or service.

VEHICLE WASH. A building or portion thereof, the primary purpose of which is that of washing motor vehicles.

VILLAGE. Village of Howard City, Montcalm County, Michigan

VILLAGE COUNCIL. The Village of Howard City Council.

WASTE DUMPSTER. A container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having capacity of at least one cubic yard.

WETLANDS. Any land area meeting the definition of wetlands as most currently recognized by the State Department of Natural Resources or other governmental unit having jurisdiction over wetland regulation within the Village.

WIRELESS COMMUNICATIONS TOWER, COMMERCIAL. A structure designed and constructed to support one or more antennas used for licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

YARDS. The open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter, and as defined herein.

(1) **FRONT YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building.

(2) **REAR YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

(3) **SIDE YARD.** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the building line of the main building.

ZERO LOT LINE. The location of a building on a lot in a manner so that one or more of the building's sides rest directly on a lot line.

ZONING ACT. The Michigan Zoning Enabling Act, Public Act 110 of 2006, being MCL 125.3101 et seq.

ZONING ADMINISTRATOR. The person designated by the Village Council to administer and interpret the provisions of this Chapter.

ZONING BOARD OF APPEALS (ZBA). The Zoning Board of Appeals of the Village of Howard City.

ZONING PERMIT. A permit signifying compliance with the provisions of this Chapter as to use, activity, bulk and density.
(Ord. passed 12-13-1999; Ord. 2020-1, passed 2-17-2020)

SECTION 154.004 NONCONFORMING LOTS, BUILDINGS, STRUCTURES AND USES.

(A) Intent.

(1) It is recommended that there exist in zoning districts certain lots, buildings and structures, and uses which were lawful before this Chapter was passed or amended, which would be prohibited, regulated or restricted under the terms of this Chapter. It is the intent of this Chapter to permit legal

nonconforming lots, buildings and structures and uses to continue until they are removed, but not to encourage their survival.

(2) Nonconforming lots, buildings and structures and uses are declared by this Chapter to be incompatible with permitted uses in the districts in which they are located. It is the intent of this Chapter that these nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district.

(3) Nothing in this Chapter shall be deemed to require a change in the plans, construction or designated use of any buildings on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and upon which actual building construction has been diligently conducted.

(B) *Nonconforming lots of record.*

(1) Where a residential lot of record in existence at the time of the adoption or amendment of this Chapter does not meet the minimum requirements for lot width or lot area, the lot of record may be used for any purposes permitted by the district in which the lot is located.

(2) If two or more lots of record or combination of lots and portions of lots of record in existence at the time of the passage of this Chapter, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Chapter, and no portion of the parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Chapter.

(C) *Nonconforming uses.*

(1) No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Chapter.

(2) No part of any nonconforming use shall be moved unless the movement eliminates the nonconformity as determined by the Zoning Administrator.

(3) If a nonconforming use is abandoned for any reason for a period of more than one year, any subsequent use shall conform to the requirements of this Chapter. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:

(a) Utilities, such as water, gas, telephone service and electricity to the property, have been disconnected;

(b) The property, buildings and grounds, have fallen into disrepair (including, but not limited to, broken windows, boarded up entryways and/or unmaintained lawn/landscaped area);

- (c) Signs or other indications of the existence of the nonconforming use have been removed;
- (d) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;
- (e) Other actions, which in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use;
- (f) Garbage removal service to the property has been discontinued;
- (g) The property owner or the lessee file a change of address with the U.S. postal service and/or with the Village;
- (h) A residential property owner or lessee no longer qualifies as an elector of the Village;
- (i) The property is utilized for a new use;
- (j) The property is altered in a way that is incompatible with the nonconforming use;
- (k) Notices advertising the availability of the property are published or posted; and/or
- (l) The ownership of the property changes.

(D) *Nonconforming buildings and structures.*

(1) Where a lawful building or structure exists at the effective date of this Chapter, or an amendment thereto, that does not comply with the requirements of this Chapter because of restrictions such as lot area, coverage, width, height or yards, the building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(a) No building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by 50% or less of the distance required by this Chapter. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

(b) Should a nonconforming building or structure be destroyed to an extent of more than 50% of its replacement value (defined as two times the current state equalized value), exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Chapter.

(c) Should a nonconforming building or structure be moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this Chapter.

(2) None of the provisions of this section are meant to preclude normal repairs and maintenance on any nonconforming building or structure that would prevent strengthening or correcting of any unsafe condition of the building or structure.

(E) *Acquisition.* The Village may acquire, through purchase of condemnation, private nonconforming buildings, structures or land. The Village Council may make this purchase of private property in the manner provided for by law.

(Ord. passed 12-13-1999; Ord. 2005-11, passed 11-7-2005)

SECTION 154.005 ACCESSORY BUILDINGS, STRUCTURES AND USES.

(A) *Accessory buildings; general.*

(1) Where an accessory building is attached to a main building, it shall conform to all regulations of this Chapter applicable to the main building.

(2) Accessory buildings shall not be located in any front yard, unless otherwise permitted by this Chapter.

(3) Accessory buildings shall not be permitted on a lot or parcel which does not have a main building.

(B) *Accessory uses; general.*

(1) Accessory uses are permitted only in connection with, incidental to and on the same lot with a main use which is permitted in the particular zoning district. No accessory use may be placed on a lot without a main use.

(2) An accessory use must be in the same zoning district as the main use on a lot.

(3) No accessory use shall be occupied or utilized unless the main structure to which it is accessory is occupied or utilized.

(4) Accessory uses shall not be permitted in the front yard.

(5) Permitted storage of recreational vehicles, motor vehicles and/or motorized equipment shall be allowed as an accessory use, if the storage meets all other Village ordinances and does not occur within required setbacks for accessory structures and meet limitations for lot coverage.

(C) *Residential accessory buildings and structures.* Accessory buildings shall be permitted within any Residential District or AG/OS District provided that the following restrictions are met.

(1) The combined floor area of all accessory buildings shall be based on the lot size, as outlined in the chart below:

Howard City - Land Usage

<i>Lot Size</i>	<i>Maximum Square Footage of All Accessory Structures</i>
Less than 1 acre	The gross ground floor area of the principal structure, or 1,200 square feet, whichever is less
1.01 acres through 5 acres	Two times the gross ground floor area of the principal structure
5.01 acres through 10 acres	Three times the gross ground floor area of the principal structure
10.01 acres or greater	Four times the gross ground floor area of the principal structure

(2) The total area occupied by the principal building and all accessory buildings shall not exceed the maximum lot coverage permitted in each district.

(3) No detached accessory building shall be located closer than ten feet to any other building on the lot.

(4) No detached accessory building shall be located closer than five feet to any side or rear lot line.

(5) No accessory building shall exceed 20 feet in height.

(6) No accessory building shall be erected or placed on a lot unless a main building has been erected, placed or established on the same lot.

(7) Accessory buildings in excess of 100 square feet must be designed, constructed and finished so that the exterior appearance is compatible with that of the main building.

(8) These restrictions shall not apply to farm buildings used in conjunction with a bona fide farm operation.

(D) *Other district accessory buildings and structures.* Accessory buildings shall be permitted within any nonresidential district provided that the following restrictions are met.

(1) Detached accessory buildings shall meet all setback requirements for the zone district in which they are located.

(2) No detached accessory building shall be located nearer than ten feet to any main building.

(3) No accessory building shall exceed the permitted height for main buildings in the district in which it is located.

(Ord. passed 12-13-1999; Ord. 2000-7, passed 6-12-2000)

SECTION 154.006 FENCES.

(A) Fences in residential districts shall not exceed six feet in height, measured from the surface to the uppermost portion of the fence.

(B) Fences erected within the front yard in any district shall not exceed four feet in height. Fences within the front yard shall be of a type which is not more than 25% solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed and constructed with common industry standards for fence materials and a minimum of 14 gauge.

(C) Fences in residential districts or enclosing residential uses shall not contain barbed wire or be electrified except in relation to agricultural operations. Fences typically used for agricultural purposes, as determined by the Zoning Administrator, are not allowed within a residential district.

(D) Fences in commercial and industrial districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence shall not be nearer than six feet from the surface of the ground. The total height of fences in any nonresidential district shall not exceed eight feet.

(E) Fences shall not be erected within any public right-of-way or easement in any district.

(F) Fences shall not be erected or maintained in any district in a way so as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines 25 feet from the point of intersection.

(G) Fences shall not be erected within two feet from a sidewalk, where the sidewalk is within the public right-of-way.

(H) All fences shall be installed with the finished side facing the neighboring properties and support posts shall be placed on the unfinished side.

(I) No fence shall be constructed of a material that is of a low strength so as to be likely to collapse under the weight of a 100 pounds.

(Ord. passed 12-13-1999; Ord. 2000-11, passed 11-13-2000; Ord. 2005-8, passed 10-10-2005)

SECTION 154.007 REQUIRED ACCESS.

Any lot created shall have frontage upon a public or private street equal to that required by the zone district in which it is located.

(Ord. passed 12-13-1999)

SECTION 154.008 MAIN BUILDING OR USE.

(A) No more than one principal building or use may be located on a parcel, except for groups of related multiple-family dwellings or industrial or commercial buildings, or uses contained within a single, integrated complex; provided, however, that before any use in an industrial or commercial complex may operate, it must be reviewed and approved by the Village for conformity to this section.

(B) In determining whether a use conforms with the section, the Zoning Administrator shall consider:

(1) The nature of the proposed use;

(2) Whether additional zoning approvals are required before the use may lawfully operate in the Village; and

(3) Whether the use will share parking, signage, access and other similar features with other uses in the complex in order to form a unified function and appearance.

(C) The Zoning Administrator may elect to submit the review and approval of any particular use to the Planning Commission for its determination as to the use's compliance with the standards of this section.

(Ord. passed 12-13-1999; Ord. 2002-3, passed 10-21-2002)

SECTION 154.009 PROJECTIONS INTO YARDS.

(A) Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than two feet into a required front, rear or side yard.

(B) An open, unenclosed and uncovered porch, paved terrace, deck, balcony or window awning may project no further than ten feet into a required front yard, no further than 15 feet into a required rear yard, and shall not project into a required side yard. In no case shall a porch, deck, balcony or awning be placed closer than five feet to any front or rear lot line, with the exception of the C-1 Neighborhood Commercial District where the porch, deck, balcony or awning may extend to the lot line.

(C) Any porch, terrace, deck or balcony which is enclosed shall meet the minimum setback requirements of the main building or accessory building to which it is attached.

(Ord. passed 12-13-1999)

SECTION 154.010 ESSENTIAL PUBLIC SERVICES.

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district, it being the intention thereof to exempt the erection, construction, alteration or

maintenance from the application of this Chapter. See definitions for *ESSENTIAL PUBLIC SERVICES* and *PUBLIC UTILITY* as set forth in Section 154.003.

(Ord. passed 12-13-1999)

SECTION 154.011 BUILDING HEIGHT EXCEPTIONS.

(A) The building height restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, broadcast transmission towers and antennas, water tanks, public monuments, church spires and penthouses or roof structures housing necessary mechanical appurtenances, subject to Section 154.005.

(B) Individual, privately owned, non-commercial, television aerials and amateur radio and wireless masts are exempt to a height of 100 feet.

(Ord. passed 12-13-1999)

SECTION 154.012 REQUIRED AREA OR SPACE.

(A) No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Chapter. If already less than the minimum requirements of this Chapter, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Chapter. Lots or yards created after the effective date of this Chapter shall comply with the requirements of this Chapter.

(B) Accessory buildings or structures, including, but not limited to, porches enclosed by walls, or garages, attached to a dwelling unit or other main building in a substantial manner, such as by a wall or roof, shall be deemed a part of the main building, for the purpose of determining compliance with the provisions of this Chapter concerning required yards.

(Ord. passed 12-13-1999)

SECTION 154.013 SINGLE-FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS.

Any single-family dwelling on a lot, whether constructed and erected or a manufactured home, shall be permitted only if it complies with all of the following requirements.

(A) If the dwelling unit is a manufactured home, the manufactured home must either be new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Dept. of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or used and certified by

the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and found, on inspection by the Building Inspector or his or her designee, to be in excellent condition and safe and fit for residential occupancy.

(B) The dwelling unit shall comply with all applicable Building, Electrical, Plumbing, Fire, Energy and other similar codes which are or may be adopted by the Village; provided, however, that where a dwelling unit is required by law to comply with any federal or State standards or regulations for construction, and where the standards or regulations for construction are different from those imposed by Village Codes, then and in that event the federal or State standard or regulation shall apply. Appropriate evidence of compliance with the standards or regulations shall be provided to the Building Inspector.

(C) The dwelling unit shall comply with all restrictions and requirements of this Chapter, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yard and maximum building height requirements of the zoning district in which it is located.

(D) If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed.

(E) The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, the foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of the materials and type as required by the Building Code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism.

(F) If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the State Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks.

(G) The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of 20 feet.

(H) Storage area shall be provided, with an area equal to 10% of the square footage of the dwelling or 80 square feet, whichever is less. This storage area may consist of a basement, closet area, attic or attached garage in a main building, or in a detached accessory building which is in compliance with all other applicable provisions of Section 154.036.

(I) Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight inches between the first floor entry of the dwelling unit and the adjacent grade.

(J) The pitch of the main roof of the dwelling unit shall not be less than three feet of rise for each 12 feet of horizontal run, and shall have not less than a six-inch overhang.

(K) The exterior finish of the dwelling unit shall not cause reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.

(L) The dwelling unit shall be so placed on the lot that the portions nearest the principal street frontage are at least 30 feet in dimension parallel to the street.

(M) The dwelling unit shall have no less than two exterior doors, with one being in either the rear or the side of the dwelling unit.

(Ord. passed 12-13-1999)

SECTION 154.014 ILLEGAL DWELLINGS.

The use of any portion of a garage or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. Basements shall not be used for sleeping purposes, unless adequate ingress and egress is provided per the requirements of the Village Building Code and other applicable regulations. In no case, shall any living space located in a basement be counted toward the required floor area for the district in which it is located.

(Ord. passed 12-13-1999)

SECTION 154.015 CONSTRUCTION BUILDINGS AND STRUCTURES.

Construction buildings and structures, including trailers, incidental to construction work on a lot, may be placed on the lot, subject to the following restrictions.

(A) Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot.

(B) No construction building or structure shall be used as a dwelling unit.

(C) A permit shall be issued by the Zoning Administrator prior to installation of a construction building or structure.

(D) Construction buildings and structures shall be removed from the lot within 15 days after an occupancy permit is issued by the Building Inspector for the permanent structure on the lot, or within 15 days after the expiration of a building permit issued for construction on the lot.

(Ord. passed 12-13-1999)

SECTION 154.016 PERMITTED FRONT SETBACK REDUCTIONS.

(A) Where the established front yards for existing main buildings in the vicinity of, and in the same zoning district as, a subject lot are less than the required front yard for the zoning district of the subject

lot, the required front yard for the subject lot shall be the average front yard of existing main buildings on the same side of the street and entirely or partially within 200 feet of the side lot lines of the subject lot, subject to divisions (B) and (C) below.

(B) The front yard reduction permitted in division (A) above shall only be permitted if there are two or more lots occupied by main buildings within the area described for computing the average front yard.

(C) In no case shall the front yard setback resulting from the application of these provisions, be less than 15 feet.

(Ord. passed 12-13-1999)

SECTION 154.017 KEEPING OF ANIMALS.

(A) In all districts other than the AG/OS Agricultural/Open Space District, the keeping of domestic animals such as horses and cattle shall be permitted, provided that the number of the animals shall not exceed one animal for the first three acres of lot area and one additional animal for each one additional acre of land area and that any building in which the animals may be kept shall be at least 100 feet from any other property or street line.

(B) This provision is not intended to restrict the keeping of ordinary household pets.
(Ord. passed 12-13-1999)

SECTION 154.018 WATER AND SANITARY SEWER SERVICE.

No structure for human occupancy shall, after the effective date of this Chapter, be erected, altered or moved upon any lot or premises and used in whole or part for dwelling, business, industrial or recreation purposes unless provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human, domestic, commercial and industrial waste. The installations and facilities shall conform with the minimum requirements for the facilities set forth by the State Health Department, the County Health Department and the subdivision regulations, Building Code and water and sewer ordinances of the Village.

(Ord. passed 12-13-1999)

SECTION 154.019 CORNER LOTS.

(A) *A corner lot shall have two front lot lines.* A principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line.

(B) *General provisions.*

(1) The required front setback shall be measured from both the principal and secondary front lot lines. For a corner lot with three front setbacks, the remaining setback shall be a rear setback.

(2) The remaining setbacks shall be a rear and a side setback. The rear setback shall be measured from the rear lot line, which in the case of a corner lot, shall be the lot line opposite the principal front lot line.

(3) The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line.

(C) *Commercial and industrial zoning districts.* For a corner lot which is completely within any nonresidential zoning district, the setback along the secondary street(s) shall not be less than 30 feet. All other setbacks shall comply with the minimum setback requirements of the zoning district within which the lot is located.

(Ord. passed 12-13-1999)

SECTION 154.020 REQUIRED GREENBELTS/BUFFERS.

(A) In order to provide protective screening for residential areas adjacent to or near nonresidential areas, a landscaped greenbelt shall be provided by the nonresidential property owners.

(B) The greenbelt shall be a strip of at least ten feet in width which is planted and maintained with evergreens, such as spruce, pines or firs at least five feet in height and 15 feet on-center, or a hedge of evergreens at least four feet in height, situated so as to provide an effective sound and visual buffer.

(C) The portion of the greenbelt not covered by the trees or hedges shall be planted with grass or other living material and kept in a healthy growing condition, neat and orderly in appearance.

(D) Any shrubs, bushes or other plants which project into or across adjacent land may be trimmed back to the property owned by the adjacent property owner.

(E) The greenbelt shall be provided along the property line separating the nonresidential use from the adjacent residential district.

(F) Where it is determined by the Village Council that insufficient area is available to provide the required greenbelt, a six-foot high, sight-obscuring fence may be substituted.

(Ord. passed 12-13-1999)

SECTION 154.021 HOME OCCUPATIONS.

(A) Home occupations shall be approved by the Zoning Administrator, who may issue an approval upon receipt of a letter from the applicant stating his or her intent to comply with the requirements of this section.

(B) No persons other than members of the immediate family residing on the premises shall be engaged in the occupation.

(C) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 20% of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(D) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation, other than one sign, not exceeding four square feet in area, non-illuminated and mounted flat against the wall of the main building.

(E) The home occupation shall be operated entirely within the principal dwelling and not within any detached accessory building or structure.

(F) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in the required front yard.

(G) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises. (Ord. passed 12-13-1999) Penalty, see Section 154.99

SECTION 154.022 WIRELESS COMMUNICATIONS TOWERS.

(A) Commercial wireless communications towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on the lot where approved pursuant to the provisions of this Chapter.

(B) A privately owned, non-commercial tower may be erected as an accessory use in any district, provided the tower does not exceed 100 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.

(C) Whether an accessory or principal use, any tower requires special use approval. (Ord. passed 12-13-1999)

SECTION 154.023 PRIVATE STREETS AND DRIVEWAYS.

(A) *Purpose.* The Village determines that it is in the best interest of the community to regulate the construction, improvement, extension, relocation and use of private streets and driveways. These provisions have been enacted to assure that:

- (1) Proposed private streets and driveways will not be detrimental to the public health, safety or general welfare;
- (2) Proposed private streets and driveways will not adversely affect the long term development policies of the Village;
- (3) Private streets and driveways will be designed and constructed with adequate width, surface and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance and other safety vehicles; and
- (4) Private streets and driveways will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands and the natural environment of the Village.

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

CONDOMINIUM ACT. The Michigan Condominium Act, Public Act 59 of 1978, being MCL 559.101 et seq., as amended.

CONDOMINIUM PROJECT. A plan or project consisting of not less than two condominium units established in conformance with the Condominium Act.

CONDOMINIUM UNIT. The portion of the condominium project designed and intended for separate ownership and use, as described in the master deed of the condominium project.

FRONTAGE. The continuous linear distance of that portion of a parcel abutting upon a public street right-of-way, or private road easement.

MASTER DEED. The condominium document recording the condominium project to which is attached as exhibits and incorporated by reference the approved by-laws for the project and the approved condominium plan for the project.

PARCEL. A tract of land which can be legally described with certainty and is capable of being located by survey.

PRIVATE DRIVEWAY. An improved or unimproved path or road extending a minimum of 150 feet from a public right-of-way or private road easement to a single building, dwelling or structure, intended to provide ingress and egress primarily for occupants thereof.

PRIVATE STREET. An undedicated, privately controlled and maintained easement designed and maintained in compliance with the provisions of this Chapter that provides the means of access to two or more abutting parcels or lots. The term **ROAD** shall be synonymous with the terms **STREET, AVENUE, PLACE, WAY, DRIVE, LANE, BOULEVARD, HIGHWAY** or other thoroughfare.

ROAD SUPERINTENDENT. The Village of Howard City Department of Public Works.

SOIL EROSION AND SEDIMENTATION CONTROL ACT. Part 91 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, being MCL 324.9101 et seq., as amended.

(C) *Frontage and access.*

(1) All parcels utilizing a private street shall have frontage on the approved private road for a distance equal to or greater than the minimum lot width required for the district in which the parcel is located.

(2) All private streets shall have direct access to a public road.

(D) *Permits.*

(1) No individual, association, corporation or entity, either public or private, shall construct, upgrade or extend a private street after the effective date of this Chapter without first having obtained a private road permit from the Village Council.

(2) The Zoning Administrator shall not issue zoning permits for construction of any building or structure on lots or condominium units served by a private street until construction of the private street as approved by the Village Council has been completed.

(3) A driveway permit shall be obtained from the Road Superintendent prior to issuance of any zoning permit.

(4) A soil erosion and sedimentation control permit shall be obtained from the County Drain Commission, as may be required by the Soil Erosion and Sedimentation Control Act being MCL 282.101 - 282.125.

(5) All other required State permits shall be obtained.

(6) The Village Council may elect to have all design and construction plans reviewed by the attorney of the Village, the engineer or planner prior to consideration of the application for the private street permit.

(E) *Application.* The application for a private street shall be submitted and processed under the following procedures.

(1) An application shall be submitted through the Zoning Administrator and shall contain the following:

(a) An application form and fee as established by the Village Council;

(b) A detailed written description of the development to be served by the private street;

(c) Ten copies of a site plan, drawn to scale, prepared by a registered engineer, showing a general location sketch, the precise location, grade, route, elevation, dimensions and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public street which the private street is to intersect. The plan may be prepared by a registered surveyor, rather than a registered engineer, if the proposed private street is to serve five or fewer parcels, main buildings and the like, and the Planning Commission waives the requirement in writing;

(d) A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street;

(e) The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity and television cable to be located within the private street easement or within 20 feet of either side thereof. Copies of the instruments describing and granting the easements shall be submitted with the application;

(f) The location of any lakes, streams, wetlands and drains within the proposed easement or within 100 feet thereof; and

(g) The location of any other buildings and structures located, or to be located, within 100 feet of the private street right-of-way:

1. A location sketch showing the property to be served by the private street and the general vicinity within a one-half-mile radius of the site; and

2. A copy of the maintenance agreement or restrictive covenant, as described in division (H)(4) below.

(2) Review procedures will be as follows.

(a) The application, along with all other required information, shall be forwarded to the Planning Commission at its next scheduled meeting, and to the Village Fire Chief and other staff or planning, engineering or legal consultants as the Planning Commission deems necessary.

(b) The Planning Commission shall hold a public hearing on the application, after establishing a date for the hearing, and providing notice of the hearing in a newspaper of general circulation in the Village and to all property owners within 300 feet of the subject property not less than 15 days before the hearing.

(c) The Planning Commission shall consider the request based on the standards of division (G) below, as well as the design requirements of division (F) below, comments from staff and consultants, and all other relevant provisions of this Chapter. The Planning Commission shall make a recommendation to the Village Council to approve, approve with conditions or deny the request.

(d) The Village Council shall then review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports of the Planning Commission, and shall approve, approve with conditions or deny the request, and state the basis for the decision and any conditions which should be imposed.

(e) No petition for private road approval, which has been disapproved, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

(F) *Design requirements.*

(1) The construction of private streets shall conform to the Village's construction standards for local roads, excepting pavement width and grade requirements and as otherwise provided in this Chapter, as follows.

(a) No private street shall extend for a distance of more than 1,320 feet in length from the nearest public street right-of-way, as measured along the centerline of the private street, without a second direct access thereto being available from another public street.

(b) All private streets shall have a recorded permanent right-of-way and easement with a minimum width of at least 66 feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.

(c) The area in which the private street is to be located shall have a minimum cleared width of 28 feet, which clearing shall always be maintained.

(d) Pavement width shall be 20 feet and paved with bituminous aggregate.

(e) Any private street which terminates at a dead-end shall have a means for vehicle turn around either by use of a cul-de-sac, with a minimum radius of 40 feet, or by a continuous loop private street system, both of which must be constructed in accordance with the standards set forth in this section.

(f) The road surface shall have a minimum crown of 0.02 foot per foot from the centerline of the private street to the outside edge thereof.

(g) A road shoulder at least two feet wide, composed of six inches of compacted gravel, shall be provided on each side of the private road surface and shall slope one-half inch per foot from the outside edge of the road surface to the toe of the slope.

(h) The maximum longitudinal road grade shall not exceed 6%, provided that the Village Council may allow up to a 10% grade if the applicant produces written justification, satisfactory to the Village Engineer, that an increase in the road grade will not adversely affect public safety and the design of the road system(s) and the Village Engineer approves thereof in writing.

(i) The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Village Engineer. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than 300 feet, as measured along the right-of-way line thereof.

(j) The private street shall be constructed with the storm water runoff, culverts and drainage contours as is required by the Village Council and the County Drain Commission to ensure adequate drainage and runoff.

(k) The method and construction technique to be used in the crossing of any natural stream, wetland or drainage course shall satisfy the requirements of the Village Engineer and any other agency having jurisdiction thereof.

(l) The private street shall be given a name and street signs and shall be installed in accordance with the standards and approval of the Road Superintendent. The private street addresses shall be posted in a conspicuous place at the entrance to the private street (at the intersection with the public road) in letters at least three inches high. Private streets serving two or more dwellings shall have a standard stop sign where the private street abuts the public street.

(2) The construction of private driveways shall conform to the Village's construction standards for local roads, excepting pavement width and grade requirements and as otherwise provided in this Chapter, as follows.

(a) No private driveway shall extend for a distance of more than 1,320 feet in length from the nearest public street right-of-way, as measured along the centerline of the private driveway, without a second direct access thereto being available from another public street.

(b) All private driveways shall have a minimum width of at least 33 feet.

(c) The area in which the private driveway is to be located shall have a minimum cleared width of 28 feet, which clearing shall always be maintained.

(d) The driveway surface shall have a minimum crown of 0.02 foot per foot from the centerline of the private drive to the outside edge thereof.

(e) A drive shoulder at least one foot wide, shall be provided on each side of the private drive surface and shall slope one-half inch per foot from the outside edge of the drive surface to the toe of the slope.

(f) The maximum longitudinal drive grade shall not exceed 6%, provided that the Village Council may allow up to a 10% grade if the applicant produces written justification, satisfactory to the Village, that an increase in the road grade will not adversely affect public safety and the design of the road system(s) and the Village approves thereof in writing.

(g) The layout of the private driveway and the intersections of the private drive with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Village.

(h) The private driveway shall be constructed with the storm water runoff, culverts and drainage contours as is required by the Village and the County Drain Commission to ensure adequate drainage and runoff.

(i) The method and construction technique to be used in the crossing of any natural stream, wetland or drainage course shall satisfy the requirements of the Village and any other agency having jurisdiction thereof.

(j) The private drive shall be installed in accordance with the standards and approval of the Road Superintendent. The private drive address shall be posted in a conspicuous place at the entrance to the private driveway (at the intersection with the public road) in letters at least three inches high.

(G) Approval standards.

(1) Prior to approving a private street or driveway permit application, the Village Council shall determine the following:

(a) The proposed private street will not be detrimental to the public health, safety or general welfare;

(b) The proposed private street will not adversely affect the use of land;

(c) The private street is designed and constructed with width, surface and grade to assure safe passage and maneuverability of private and public safety vehicles;

(d) That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands and natural environment of the Village; and

(e) That it is not practical to construct a public street by reason of steep slopes, excessive cul-de-sac length or other non-financial constraint.

(2) The Village Council may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.

(H) *Maintenance and repairs.*

(1) Private streets shall be maintained in a manner that complies with the provisions of this section.

(2) All driveways and private streets shall be continuously maintained in a way so that they will not constitute a danger to the health, safety and welfare of the inhabitants of the Village and are readily accessible to, and usable by emergency vehicles in all types of weather.

(3) All costs for maintenance and repair of the private street or drive shall be the responsibility of the property owners (if less than five lots) or a property owners association (if five or more lots) served by the private street.

(4) The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Village Council with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein (if less than five lots) or a property owners association (if five or more lots) which shall provide that the private street shall be regularly maintained, repaired and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid. The applicant(s) agree, by filing an application for and receiving a permit under this Chapter, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that the agreement shall be recorded and shall run with the land. A copy of the agreement shall be furnished to the Village Council prior to the issuance of the permit.

(I) *Performance guarantee.* The Village Council may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of Section 154.117(B).

(J) *Inspections/certificate of compliance.*

(1) Upon completion of construction of the private street or driveway, the Village Zoning Administrator or his or her designee shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit and this Chapter.

(2) The applicant(s), at the applicant's expense, shall provide the Village with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit.

(3) If the completed private street or driveway does not satisfy the requirements of the permit or this Chapter, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this Chapter.

(4) No building permit shall be issued to construct any dwelling or other building on a parcel or lot to be served by a private street or drive until the Zoning Administrator determines the street or drive is in full compliance with the approved plans, specifications, conditions, permit and this Chapter.

(K) *Fees.* Fees for the permits required hereunder shall be set by the Village Council from time to time by resolution. Additionally, the Village Council may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Village Attorney, Engineer, planner or other professional review the private street plans, specifications and maintenance agreements, and to do the necessary inspections.

(L) *Indemnification.* The applicant(s)/owner(s) of the private street agree that by applying for or securing a permit to construct the private street they shall indemnify and will hold the Village harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair and replace the private street.

(Ord. passed 12-13-1999; Ord. 2001-1, passed 2-12-2001)

SECTION 154.024 MEDICAL MARIHUANA DISPENSARIES.

(A) (1) For purposes of this section, the phrase *MEDICAL MARIHUANA DISPENSARY* shall mean any business, facility, association, cooperative, location or operation, whether fixed or mobile, where medical marihuana (also commonly known as marijuana or cannabis) is made available to, sold, used, grown, processed, delivered or distributed by or to one or more of the following:

(a) A primary care giver (i.e., a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs, as provided for in the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended);

(b) A qualifying patient (i.e., a person who has been diagnosed by a physician as having a debilitating medical condition, as provided for in the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended); and/or

(c) Members of the public.

(2) A medical marihuana dispensary shall also include any place, location, facility or operation, whether fixed or mobile, where medical marihuana is smoked or consumed by three or more persons at one time. A medical marihuana dispensary shall not include the dispensation of medical marihuana by a primary care giver personally dispensing to not more than five qualified patients in strict accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended, so long as the lawful amount of medical marihuana is delivered to the qualifying patient where the qualifying patient resides and it is done in full compliance with this Chapter as well as all other applicable Village ordinances and applicable State and federal laws, rules and regulations.

(B) No medical marihuana dispensary shall be commenced, conducted, operated or utilized in any zoning district or on or from any property within the Village. Any person, firm, corporation, trust, partnership or other legal entity who shall commence, conduct, operate or utilize a medical marihuana dispensary within the Village shall be guilty of a criminal misdemeanor punishable by up to 90 days in jail and/or a fine of up to \$500, as well as any other fines, costs or penalties imposed by law. (Ord. 2010-4, passed 2-14-2011)

ZONING DISTRICTS; GENERALLY

SECTION 154.035 DISTRICTS ESTABLISHED.

For the purposes of this Chapter, the Village is hereby divided into the following zoning districts:

<i>Current District Designation</i>		<i>Previous Ordinance Designation</i>	
AG/OS	Agricultural/Open Space District	Ag/OS	Agriculture/Open Space District
R-1	Single-Family Residential District	R-1	Low Density Residential District
R-2	Single- and Two-Family Residential District	R-2	Medium Density Residential District
R-3	Multiple-Family Residential District		
MH	Manufactured Home Park District	MH	Mobile Home Development District
C-1	Neighborhood Commercial District	NC	Neighborhood Commercial District
C-2	Highway Commercial District	HC	Highway Commercial District
I	Industrial District	I	Industrial District
PUD	Planned Unit Development District		

(Ord. passed 12-13-1999)

SECTION 154.036 DISTRICT BOUNDARIES.

(A) *Boundaries.* The boundaries of the districts listed in Section 154.035 are hereby established as shown on the Village zoning ordinance map, which is part of this Chapter.

(B) *Interpretation of district boundaries.* Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply.

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(1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow the centerlines.

(2) Boundaries indicated as approximately following platted lot lines or Village limits shall be construed as following the lot lines or Village limits.

(3) Boundaries indicated as following the river shall be construed to be the center of the river.

(4) Boundaries indicated as parallel to or extensions of features indicated in divisions (B)(1) through (3) above, shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

(5) Where physical or natural features existing on the ground differ from those shown on the Zoning Map, or in other circumstances not covered by this section, the Zoning Administrator shall interpret the district boundaries.

(6) For the sake of map clarity, various districts may not cover public rights-of-way. It is intended that the district boundaries extend to the center of any public right-of-way.
(Ord. passed 12-13-1999)

SECTION 154.037 ZONING OF ANNEXED AREAS.

Whenever any area is annexed to the Village, one of the following rules shall apply:

(A) Land zoned previous to annexation shall be a district of the class to which it most nearly conforms under this Chapter. The Planning Commission shall recommend the classification to the Village Council, who shall determine by resolution the zoning classification into which the property will be placed; or

(B) Land not zoned prior to annexation shall be automatically classified as an AG/OS District until a zoning map for the area has been adopted by the Village Council. The Planning Commission shall recommend the appropriate zoning districts for that area within three months after the Village Council shall have referred the matter to the Commission.

(Ord. passed 12-13-1999)

SECTION 154.038 ZONING OF VACATED AREAS.

Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the district to which it attaches. If a vacated area is bordered by two different districts, the area is divided along a line halfway between them according to the adjacent zone, unless the Village Council shall otherwise designate.

(Ord. passed 12-13-1999)

SECTION 154.039 AG/OS AGRICULTURAL/OPEN SPACE DISTRICT.

(A) *Intent.* This district is applied to large parcels of land currently committed to active or inactive agriculture. Some land is also open space. The AG/OS zone is reserved for future development and is therefore not intended for uses other than cropland farming, very low (gross) density, single-family residences and other rural uses requiring large tracts of land, but of a non-intensive nature. This zoning objective is deemed necessary in order to prevent moderate to heavy development from proceeding without careful site and facility planning.

(B) *Permitted uses.* No land and/or buildings in the AG/OS District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- (1) General and specialized cropland farming, together with farm dwellings, buildings and other installations useful to the farms;
- (2) Single-family detached dwellings;
- (3) Family day care homes;
- (4) State licensed residential family care facilities;
- (5) Private non-commercial and public recreation areas or community recreation centers;
- (6) Accessory buildings, structures and uses; and
- (7) Site condominiums for single-family homes.

(C) *Special land uses.* Land and/or buildings in the AG/OS District may be used for the following purposes, when approved by the Planning Commission, in accordance with the requirements of Sections 154.075 through 154.080:

- (1) Utility and public service buildings, without storage yards;
- (2) Riding stables;
- (3) Churches (including schools and day care centers);
- (4) Golf courses or country clubs;
- (5) K-12 schools, provided the schools are not operated as commercial enterprises;
- (6) Bed and breakfast establishments;
- (7) Cemeteries;

(8) Kennels;

(9) Airports; and

(10) Commercial radio and television and wireless communication towers.

(D) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements.

(1) Site plan review is required for all special land uses and site condominiums for single-family homes in accordance with Section 154.060.

(2) Parking is required in accordance with Section 154.061.

(3) Signs are permitted in accordance with the requirements of Section 154.062.

(4) Setbacks, height, area and lot dimensions shall comply with the district regulations set forth in Section 154.048.

(5) No structure shall have an open or covered stairway outside the regular framework of the house, except those which provide access to patios, exterior decks and other similar features.
(Ord. passed 12-13-1999)

SECTION 154.040 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent.* This district is intended to provide a low-density, single-family residential living environment and to foster stable, high quality neighborhoods consistent with the Village's small town character. At the same time the regulations for this district recognize the need to preserve existing housing stock, allow infill development within older subdivisions, and provide housing that is affordable for the present and future residents of the Village. Nonresidential uses are only allowed to the extent that they serve to further the creation of stable residential neighborhoods.

(B) *Permitted uses.* No land and/or buildings in the R-1 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

(1) Single-family detached dwellings;

(2) Family day care homes;

(3) State licensed residential family care facilities;

(4) Accessory buildings, structures and uses; and

(5) Site condominiums for single-family homes.

(C) *Special land uses.* Land and/or buildings in the R-1 District may be used for the following purposes, when approved by the Planning Commission, in accordance with the requirements of Sections 154.075 through 154.080:

- (1) Utility and public service buildings, without storage yards;
- (2) Private non-commercial and public recreation areas or community recreation centers;
- (3) Churches (including schools and day care centers);
- (4) K-12 schools, provided the schools are not operated as commercial enterprises;
- (5) Bed and breakfast establishments; and
- (6) Cemeteries.

(D) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements.

- (1) Site plan review is required for all special land uses and site condominiums for single-family homes in accordance with Section 154.060.
- (2) Parking is required in accordance with Section 154.061.
- (3) Signs are permitted in accordance with the requirements of Section 154.062.
- (4) Setbacks, height, area and lot dimensions shall comply with the district regulations set forth in Section 154.048.
- (5) No structure shall have an open or covered stairway outside the regular framework of the house, except those which provide access to patios, exterior decks, garages and other similar features. (Ord. passed 12-13-1999)

SECTION 154.041 R-2 SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent.* This district is intended to provide a moderate density, single- and two-family residential living environment and to foster stable, high quality neighborhoods while providing for additional variety in housing opportunities and choices. At the same time the regulations for this district recognize the need to preserve existing housing stock, allow infill development within older subdivisions, and provide housing that is affordable for the present and future residents of the Village. Nonresidential uses are only allowed to the extent that they serve to further the creation of stable residential neighborhoods.

(B) *Permitted uses.* No land and/or buildings in the R-2 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

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(1) Any permitted use in the R-1 District; and

(2) Two-family dwellings, including conversions of existing single-family detached dwellings to two-family dwellings, provided all applicable requirements for living area, lot size and setbacks are met.

(C) *Special land uses.* Land and/or buildings in the R-2 District shall be used for the purposes set forth in Section 154.040(C), as amended, being the special land uses allowed in the R-1 District, when approved by the Planning Commission, in accordance with the requirements of Sections 154.075 through 154.080.

(D) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements.

(1) Site plan review is required for all special land uses in accordance with Section 154.060.

(2) Parking is required in accordance with Section 154.061.

(3) Signs are permitted in accordance with the requirements of Section 154.062.

(4) Setbacks, height, area and lot dimensions shall comply with the district regulations set forth in Section 154.048.

(5) No structure shall have an open or covered stairway outside the regular framework of the house, except those which provide access to patios, exterior decks and other similar features.
(Ord. passed 12-13-1999)

SECTION 154.042 R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent.* Consistent with the Village's goal to provide a mix of housing styles, types and densities to accommodate the residential needs of all groups, this district is intended to provide areas for two-family and multiple-family residential living environment to provide for additional variety in housing opportunities and choices. The R-3 District should also provide high-quality residential dwellings. The regulations for this district recognize the need to provide affordable housing opportunities. Nonresidential uses are only allowed to the extent that they serve to further this end.

(B) *Permitted uses.* No land and/or buildings in the R-3 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

(1) Any permitted use in the R-2 District; and

(2) Multiple-family dwellings.

(C) *Special land uses.* Land and/or buildings in the R-3 District may be used for the following purposes, when approved by the Planning Commission, in accordance with the requirements of Sections 154.075 through 154.080:

- (1) Any special land use permitted in the R-2 District;
- (2) Housing for the elderly; and
- (3) Commercial day care.

(D) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements.

- (1) Site plan review is required for all special land uses and multiple-family dwellings in accordance with Section 154.060.
- (2) Parking is required in accordance with Section 154.061.
- (3) Signs are permitted in accordance with the requirements of Section 154.062.
- (4) Setbacks, height, area and lot dimensions shall comply with the district regulations set forth in Section 154.048.
- (5) No structure shall have an open or covered stairway outside the regular framework of the house, except those which provide access to patios, exterior decks and other similar features.
(Ord. passed 12-13-1999)

SECTION 154.043 MH MANUFACTURED HOME PARK DISTRICT.

(A) *Intent.* Consistent with the Village's goal to provide a mix of housing styles, types and densities to accommodate the residential needs of all groups, the Manufactured Home Park District is intended to provide regulations for manufactured home residential developments to provide for additional variety in housing opportunities and choices.

(B) *Permitted uses.* No land and/or buildings in the MH District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- (1) Manufactured homes located in a State-licensed manufactured home park;
- (2) Manufactured home parks in accordance with the requirements of division (E) below;
- (3) Family day care homes;

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(4) State licensed residential family care facilities; provided that the facility is not located closer than 1,500 feet from an existing or proposed similar State licensed residential facility, including group care facilities, but not including State licensed residential facilities caring for four or less minors; and

(5) Accessory buildings, structures and uses.

(C) *Special land uses.* Land and/or buildings in the MH District shall be used for the following purposes, when approved by the Planning Commission, in accordance with the requirements of Sections 154.075 through 154.080:

(1) Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires and underground utility systems; and

(2) State licensed residential group home care facilities.

(D) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements.

(1) Site plan review is required for manufactured home parks and all special land uses in accordance with Section 154.060.

(2) Parking is required in accordance with Section 154.061.

(3) Signs are permitted in accordance with the requirements of Section 154.062.

(E) *Licensed manufactured home parks.*

(1) All manufactured home parks shall comply with the applicable requirements of the Mobile Home Commission Act, Public Act 96 of 1987, being MCL 125.2301 et seq., as amended.

(2) The parking of more than one manufactured home on a single parcel of land shall be illegal in the Village, irrespective of the requirements of any other ordinance of the Village, unless the parcel or parcels of land shall have been approved as a licensed manufactured home park under the provisions of this section.

(3) All applications to establish a Manufactured Home Park Zoning District must be approved by the Village Council, upon the recommendation of the Planning Commission, in accordance with the provisions of this Chapter.

(4) The business of selling new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home park may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a new or used manufactured home by a resident of the manufactured home development, provided the development permits the sale.

(Ord. passed 12-13-1999)

SECTION 154.044 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT.

(A) *Intent.* This district is intended to accommodate uses which can provide office, personal services and convenience (day-to-day) commercial goods to the residents of the Village within a central district. The uses established in this district are intended to be of a low intensity nature, of appropriate scale and appearance, and are to be generally compatible with most other uses, including residential uses. In order to promote revitalization and re-use of the Village Center, the C-1 zone provides for conversion of some second-floor spaces into residential uses.

(B) *Permitted uses.* No land and/or buildings in the C-1 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

(1) Offices for professional, executive, administrative and medical activities, but not including veterinary offices;

(2) General retail businesses catering to the needs of the community such as, but not limited to, grocery stores, pharmacies, furniture stores, clothing, dry goods, notions, sporting goods or hardware;

(3) Personal service establishments performing services on the premises, including barber and beauty shops, travel agencies, photographic studios and other similar uses as determined by the Zoning Administrator;

(4) Indoor recreational and entertainment facilities, such as theaters, bowling lanes, billiard parlors, skating rinks and similar uses as determined by the Zoning Administrator;

(5) Commercial schools including, but not limited to, dance, music, trade, martial arts;

(6) Restaurants, excluding drive-ins;

(7) Health and physical fitness salons;

(8) Banks, credit unions, post office, municipal building, libraries, museums and other similar uses as determined by the Zoning Administrator;

(9) Child care centers; and

(10) Accessory buildings, structures and uses.

(C) *Special land uses.* Land and/or buildings in the C-1 District shall be used for the following purposes when approved by the Planning Commission, in accordance with the requirements of Sections 154.075 through 154.080;

(1) Funeral homes;

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(2) Offices and showrooms of plumbers, electricians, decorators or similar trades;

(3) Vehicle service stations;

(4) Second or third story dwelling units in the same building with commercial uses that occupy the first floor; provided that no other dwelling units shall be allowed in the C-1 District; and

(5) Business establishments with a drive-through window such as a pharmacy, convenience store or bank, but not including drive-in restaurants.

(D) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements.

(1) Site plan review is required for all permitted uses and special land uses in accordance with Section 154.060.

(2) Parking is required in accordance with Section 154.061.

(3) Signs are permitted in accordance with the requirements of Section 154.062.

(4) Setbacks, height, area and lot dimensions shall comply with the district regulations set forth in Section 154.048.

(5) The outdoor storage of goods or materials is prohibited.

(Ord. passed 12-13-1999; Ord. 2005-11, passed 11-7-2005)

SECTION 154.045 C-2 HIGHWAY COMMERCIAL DISTRICT.

(A) *Intent.* This district is intended to accommodate uses which can provide office, personal services, convenience (day-to-day), and comparison commercial goods for visitors to and residents of the Village. It will be established primarily in high traffic, arterial locations.

(B) *Permitted uses.* No land and/or buildings in the C-2 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

(1) Any permitted use in the C-1 District; and

(2) Any retail business whose principal activity is the sale of merchandise within an enclosed building.

(C) *Special land uses.* Land and/or buildings in the C-2 District shall be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Sections 154.075 through 154.080:

- (1) Any special land use permitted in the C-1 District;
- (2) Vehicle repair;
- (3) Vehicle wash establishments;
- (4) New and used vehicle sales facilities, including vehicle repair;
- (5) Hotels and motels;
- (6) Utility and public service buildings, without storage yards;
- (7) Open-air businesses and outdoor display areas;
- (8) Plant nurseries and greenhouses;
- (9) Veterinary hospitals and clinics;
- (10) Drive-through restaurants;
- (11) Building supply and equipment establishments; and
- (12) Commercial storage facilities.

(D) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements.

- (1) Site plan review is required for all permitted uses and special land uses in accordance with Section 154.060.
- (2) Parking is required in accordance with Section 154.061.
- (3) Signs are permitted in accordance with the requirements of Section 154.062.
- (4) Setbacks, height, area and lot dimensions shall comply with the district regulations set forth in Section 154.048.
(Ord. passed 12-13-1999)

SECTION 154.046 I INDUSTRIAL DISTRICT.

(A) *Intent.* This district is intended to accommodate wholesale, warehousing, manufacturing, storage and other industrial-related uses.

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(B) *Permitted uses.* No land and/or buildings in the I District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right; provided that the I District is not located within a designated renaissance zone, otherwise all uses shall be subject to special approval in accordance with the requirements of Sections 154.075 through 154.080:

(1) Office buildings for executive, administrative, professional, accounting, drafting and other similar professional activities, as determined by the Zoning Administrator;

(2) Banks, credit unions, savings and loan associations and other similar uses as determined by the Zoning Administrator, including those with drive-through facilities;

(3) Research and development facilities, including production activities;

(4) Wholesale establishments;

(5) The manufacture, compounding, processing, packaging, warehousing or treatment of the products as foodstuffs (excepting slaughterhouses or other similar uses), cosmetics, apparel pharmaceuticals, pottery or other ceramic products, musical instruments, toys, furniture, fixtures, wood products, printing and publishing, molded rubber products, electrical appliances, electronic instruments, signs, light sheet metal products, hardware, tool, die, gauge and machine shops; excluding stamping operations;

(6) Laboratories (experimental, film or testing);

(7) Dry-cleaning and laundry establishments performing cleaning operations on the premises, excluding retail/service operations;

(8) Trade or industrial schools;

(9) Utility and public service buildings, including storage yards;

(10) Contractor's showrooms and storage yards;

(11) Child care centers;

(12) Metal fabrication; and

(13) Accessory buildings, structures and uses.

(C) *Special land uses.* Land and/or buildings in the I District shall be used for the following purposes, when approved by the Planning Commission, in accordance with the requirements of Sections 154.075 through 154.080:

(1) The manufacture, compounding, processing, packaging or treatment of products requiring stamping press operations;

- (2) Lumber and planing mills;
- (3) Metal plating, buffing and polishing;
- (4) Commercial storage warehouses;
- (5) Vehicle repair;
- (6) Recycling centers;
- (7) Adult bookstores, adult live entertainment theaters, adult motion picture theaters and massage parlors to the extent otherwise permitted by the Village Code;
- (8) Junk yards;
- (9) Truck terminals;
- (10) Outdoor storage of products and materials;
- (11) Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris;
- (12) Production, refining or storage of petroleum or other flammable liquids;
- (13) Municipal water and wastewater treatment facilities;
- (14) Dog kennels;
- (15) Veterinary hospitals and clinics;
- (16) Commercial radio and television and wireless communication towers; and
- (17) Billboards.

(D) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements.

- (1) Site plan review is required for all permitted uses and special land uses in accordance with Section 154.060.
- (2) Parking is required in accordance with Section 154.061.
- (3) Signs are permitted in accordance with the requirements of Section 154.062.
- (4) Setbacks, height, area and lot dimensions shall comply with the district regulations set forth in Section 154.048.

(5) All industrial activities shall be conducted wholly within a completely enclosed building, except for loading and unloading operations, on-site parking of vehicles, and outdoor storage as specifically permitted by subsection(C)(10) above.
(Ord. passed 12-13-1999)

SECTION 154.047 PUD PLANNED UNIT DEVELOPMENT DISTRICT.

(A) *Intent.* Planned unit developments in the Village may be established as distinct zoning districts when approved by the Village Council in accordance with the procedures specified herein. It is the intent of this district to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; to encourage useful open space; and to create better living, working and shopping environments. In order to accomplish these objectives, this subchapter permits the relaxation of the conventional requirements found in other zoning districts. The use of land and the construction and use of buildings and other structures as planned unit development shall be in conformance with the procedures, standards, requirements and conditions for eligibility contained in this subchapter.

(B) *Qualifying conditions.* Any development which fails to meet the following qualifying conditions, at a minimum, shall not be considered for the PUD District.

(1) The PUD site shall be not less than five acres in area. If the PUD is to contain a mixture of residential and nonresidential uses, the minimum required area shall be ten acres. Recreational amenities such as golf courses and health clubs, and ancillary commercial activities such as club houses and pro shops, shall not be considered nonresidential uses for purposes of this section.

(2) All PUDs shall be served by public water and sanitary sewer facilities or a private community system approved by the Village Council, the County Health Department and other agencies, as appropriate.

(3) The tract of land for which a PUD application is received must be in either one ownership or the subject of an application filed jointly by the owners of all properties.

(4) The proposed uses of the PUD must be consistent with the Village Master Plan for the subject property.

(C) *Permitted uses.* Any use permitted by right or special approval in any district shall be permitted within a PUD, subject to compliance with the qualifying conditions and other applicable regulations of this section. The minimum area and setback requirements of the conventional zoning districts shall not be applicable to a PUD. Dimensional requirements shall be established by the applicant in conformity with all applicable standards and requirements of this section.

(D) *Optional pre-application conference.*

(1) A pre-application conference may be held with the Planning Commission for the purpose of determining the eligibility of the request for consideration as a PUD.

(2) A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time with the Planning Commission. As part of the pre-application conference, the applicant shall submit seven copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

(3) The Planning Commission shall advise the applicant of the conformance of the PUD concept with the intent and objectives of PUD in the Village, whether it qualifies under the minimum requirements of division (B) above, and whether the general concept is consistent with the Village's Master Plan. In no case, shall any representations made by the Planning Commission be construed as an endorsement of the PUD or an approval of the concept.

(E) *PUD application and preliminary development plan.* Applicants seeking approval of a PUD District shall submit a complete application for review and a preliminary development plan to the Zoning Administrator who shall schedule a date and time for a public hearing and Planning Commission review. The application shall include the following:

(1) A completed application form, supplied by the Zoning Administrator;

(2) Payment of a fee, as established by the Village Council;

(3) A narrative statement describing:

(a) The objectives of the PUD and how it relates to the intent of the PUD District, as described in division (A) above;

(b) The relationship of the PUD to the Village Master Plan;

(c) Phases of development and approximate time frame for each phase;

(d) Proposed deed restrictions, covenants or similar legal instruments to be used within the PUD;

(e) Anticipated start and completion of construction; and

(f) Location, type and size of areas to be dedicated for common open space.

(4) Twelve copies of a preliminary development plan. If the PUD is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the following:

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- (a) Name of development, applicant's name, name and address of firm and individual who prepared the plan, scale and north arrow;
- (b) Property lines, dimensions of all property lines and size of the PUD (and individual phases) in acres;
- (c) Existing zoning and land use of all abutting properties;
- (d) Existing natural features on the site including water, stands of trees, drainage ways, flood plains, wetlands, steep slopes and similar features;
- (e) Existing buildings on the site;
- (f) Proposed uses and their approximate locations;
- (g) Right-of-way and pavement edges of existing streets abutting the PUD;
- (h) Approximate locations of proposed access drives and streets within the PUD;
- (i) Proposed method of providing water, sanitary sewer and storm water drainage facilities;
- (j) Layout and typical dimensions of proposed lots;
- (k) Approximate phases of development; and
- (l) Proposed residential density by area or phase.

(F) *Notice and public hearing for PUD.*

- (1) Upon receipt of an application for PUD approval, the Zoning Administrator shall cause notice to be given, in accordance with the requirements of Section 154.118. The notice shall:
 - (a) Describe the nature of the proposed PUD;
 - (b) Describe the property which is the subject of the PUD application, by both legal description and street address;
 - (c) State the time, date and place of the public hearing; and
 - (d) State when and where written comments will be received concerning the application.
- (2) Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application.

(G) *Planning Commission recommendation.* Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the conformance with the Village Master Plan, compatibility with surrounding uses, consistency with the intent and qualifying conditions of this Chapter, and conformance with the standards of division (K) below; and shall make a recommendation to the Village Council to approve, approve with conditions or deny the PUD zoning. In its recommendation to the Council, the Planning Commission shall include the reasons for the recommendation, specifically citing appropriate standards and sections of this Chapter and identify those specific conditions, if any, it considers necessary.

(H) *Village Council action.* After receiving the recommendation of the Planning Commission and following the standards of division (K) below, the Village Council shall review the application package, preliminary development plan, the record of the Planning Commission proceedings, and the recommendation. The Council shall then make its findings as to approval, approval with conditions or denial. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the final development plan to the Village Council. At a time as preliminary approval is granted by the Village Council and all conditions, if any, are accepted in writing by the applicant, the property shall be considered to be rezoned to PUD.

(I) *Final development plan application.* Within 12 months of the Village Council's approval of the PUD District and the preliminary development plan, the applicant shall submit a request for final PUD approval. The application shall consist of the following:

- (1) A completed application form, supplied by the Zoning Administrator;
- (2) Payment of a fee, as established by the Village Council;

(3) A written response to the findings, review comments and conditions, if any, from the Planning Commission's review of the preliminary development plan and a narrative explanation of the changes made to the Plan in response to those items; and

(4) A site plan containing all of the information required in Section 154.060(C)(2). For developments consisting of three or more phases, a plan meeting the requirements of division (E)(4) above may be submitted for the overall PUD and a detailed plan as required for final development plan may be submitted for the first phase. Each subsequent phase shall be reviewed in the same manner.

(J) *Planning Commission review of final development plan.*

(1) The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and the conditions, if any, of the PUD District approval. If it is determined that the final plan is not in substantial conformance to the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of divisions (F) through (H) above.

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(2) If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the criteria of division (K) below.

(3) The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions or deny the final development plan.

(4) The decision of the Planning Commission may be appealed to the Village Council which shall review the record of the proceedings, along with all materials submitted, and shall make its decision in accordance with the standards of division (K) below.

(K) *Standards for approval.* A final PUD shall be approved only if it complies with each of the following standards.

(1) The proposed PUD complies with all qualifying conditions of division (B) above.

(2) The uses and residential densities to be conducted within the proposed PUD are consistent with the Village's Master Plan designation for the subject site.

(3) The proposed PUD is compatible with surrounding uses of land, the natural environment and the capacities of public services and facilities affected by the development.

(4) The proposed PUD will not contain uses or conditions of use that would be injurious to the public health, safety or welfare of the community.

(5) The proposed project is consistent with the spirit and intent of the PUD District, as described in division (A) above and represents a development opportunity for the community that could not be achieved through conventional zoning. All setbacks, lot areas and other dimensional standards throughout the PUD shall be sufficient to ensure a healthy, safe and attractive environment. The proposed PUD meets all the review standards of Section 154.060(D).

(L) *PUD agreement.* Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Village in recordable form, setting forth the applicant's obligations with respect to the PUD. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Village Council. The agreement shall also establish the remedies of the Village in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant. All documents shall be executed and recorded in the office of the County Register of Deeds.

(M) *Changes to an approved PUD.* Changes to an approved PUD shall be permitted only under the following circumstances.

(1) The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.

(2) Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design, density and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

(a) Reduction of the size of any building and/or sign;

(b) Movement of buildings and/or signs by no more than ten feet;

(c) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;

(d) Changes in floor plans, of up to 5% of the total floor area, which do not alter the character of the use or increase the amount of required parking;

(e) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design; and

(f) Changes required or requested by the Village, the County or other State or federal regulatory agency in order to conform to other laws or regulations.

(3) A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application.

(N) *Time limit for approved PUD District.* Each development shall be under construction within one year after the date of approval of the PUD final development plan, except as noted in this section.

(1) The Village Council following review by the Planning Commission may grant one extension of up to an additional one-year period if the applicant applies for the extension prior to the date of the expiration of the PUD and provided that:

(a) The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and

(b) The PUD requirements and standards, including those of this Chapter and Master Plan, that are reasonably related to the development have not changed.

(2) Should neither of the provisions of division (N)(1) above be fulfilled, or an extension has expired without construction underway, the Planning Commission may initiate proceedings to remove the PUD zoning designation, as provided in Section 154.118.

(Ord. passed 12-13-1999)

SECTION 154.048 DISTRICT REGULATIONS.

(A) *Conformity.* Unless specified elsewhere in this Chapter, all uses, structures and buildings on all zoning lots shall conform to the schedule of regulations and accompanying footnotes below the table.

District Regulations

<i>Districts</i>	<i>Area⁽¹⁾ (Sq. Ft.)</i>	<i>Width (Ft.)</i>	<i>Yard Setbacks (Ft.)⁽²⁾</i>				<i>Height</i>		<i>Coverage (%)</i>
			<i>Front</i>	<i>One Side</i>	<i>Total</i>	<i>Rear</i>	<i>Feet</i>	<i>Stories</i>	
AG/OS Agricultural/ Open Space	1 acre	125	30	20	50	100	35	2-1/2	none
R-1 Single-Family Residential	12,000 ⁽³⁾	100 ⁽³⁾	30	7	18	25	35	2-1/2	35
R-2 Single- and Two-Family Residential	12,000 ⁽³⁾	80 ⁽⁵⁾	25	5	13	25	35	2-1/2	40
R-3 Multi-Family Residential	Requirements for single and two-family dwellings are same as for R-2 District								
	40,000 ⁽⁴⁾ ₍₆₎	100	25 ⁽⁷⁾	10 ⁽⁷⁾	20 ⁽⁷⁾	25 ⁽⁷⁾	35	2-1/2	40
MH Manufactured Home Park	See Section 154.043								
C-1 Neighborhood Commercial	none	none	30 ⁽¹²⁾	⁽⁸⁾	none	⁽⁸⁾	35	2-1/2	none
C-2 Highway Commercial	30,000	150	50 ⁽⁹⁾	⁽⁸⁾	none	50 ⁽¹⁰⁾	25	2	none
I Industrial	2 acres	200	50 ⁽⁹⁾	20 ⁽¹⁰⁾	50	35 ⁽¹⁰⁾	45	3	none
Footnotes are an integral part of these district regulations, and should be read in conjunction with the above schedule. For additional regulations applicable to single-family dwellings outside manufactured home parks, see Section 154.013.									

(B) *Footnotes to district regulations.*

(1) All dwellings shall contain a minimum living area in accordance with the following:

Single-family	900 square feet
Two-family	750 square feet

Multi-family	
1-bedroom	500 square feet
2-bedroom	600 square feet
3-bedroom	750 square feet
4-bedroom	900 square feet

(2) Where a rear yard abuts the side yard of an adjacent lot, the side yard on the street side shall meet the minimum front yard setback requirements.

(3) Lots served by public sanitary sewer may be reduced to a minimum area of 9,000 square feet and a minimum width of 80 feet in the R-1 District and 7,500 square feet and a minimum width of 70 feet in the R-2 District.

(4) All lots shall be served by public water and sanitary sewer facilities.

(5) All two-family dwellings shall have a minimum lot area of 25,000 square feet and a minimum width of 110 feet. Lots served by public sanitary sewer may be reduced to a minimum area of 12,000 square feet and a minimum width of 100 feet.

(6) A maximum of seven dwelling units per net acre shall be permitted. Net acreage shall be the total site area, exclusive of any dedicated public right-of-way or private easement for either interior or abutting streets. No building shall exceed an overall length of 180 feet. There shall be a minimum distance between ends of contiguous buildings equal to the height of the taller building or 25 feet, whichever is greater.

(7) In no case shall the minimum required setback be less than the height of the building.

(8) No setback shall be required, unless a side or rear yard abuts a residential district, in which case a buffer shall be provided in accordance with Section 154.020.

(9) The first 20 feet of the required front yard shall not be used for parking or aisles and shall be landscaped.

(10) If the side or rear yard abuts a Residential District, the minimum required setback distance shall be increased as necessary to meet the requirements of Section 154.020.

(11) The required front setback area applies to the edge of the parking area, as well as any building or structure and shall be landscaped.

(12) A lesser front yard setback may be permitted where the majority of the buildings in the same zoning district, located on the same side of the block and within 300 feet of the subject property,

have a lesser setback. In that case, the setback shall be no less than the average setback established by the above conditions.

(Ord. passed 12-13-1999)

SITE DEVELOPMENT REQUIREMENTS

SECTION 154.060 SITE PLAN REVIEW.

(A) *Purpose.* The purpose of this subchapter is to consider and evaluate the applicant's planned objectives in the utilization of land within the regulations of this subchapter.

(B) *Uses subject to site plan review.* A zoning permit for any proposed use or building or any other improvement requiring a site plan shall not be issued until a site plan has been reviewed and approved under the following procedure.

(1) The following uses shall be subject to site plan review in accordance with the provisions of this section.

(a) All uses within the R-3, C-1, C-2 and I Districts, except the following:

1. One and two-family dwellings;
2. Temporary buildings and uses; and
3. Accessory uses or structures.

(b) Special land uses in any zone district.

(c) Site condominiums in any district; subdivisions as defined by local ordinance or State law.

(2) All site plans not reviewed under subsection (B)(1)(a)1. through 3. shall be subject to review by the Zoning Administrator. The review shall be limited to ensuring that the proposed use conforms to the applicable setbacks, yards, parking and other specific zoning requirements.

(C) *Application and review procedures.*

(1) *Application procedures.*

(a) An application for site plan review shall be submitted at least 30 days prior to the next scheduled Planning Commission meeting through the Zoning Administrator, who will review the

application materials to ensure that the requirements of subsection (C)(1)(d) below, are met, then transmit it to the Planning Commission.

(b) Copies of the site plan may be forwarded from the Zoning Administrator to one or more appropriate agencies, departments or consultants, including, but not limited to, the following:

1. Fire;
2. Building inspections;
3. Planning; and
4. School district.

(c) Review comments shall be submitted by the departments and consultants to the Planning Commission for consideration prior to the meeting at which the request is to be considered.

(d) An application for site plan review shall consist of the following:

1. A completed application form, as provided by the Village;
2. Ten copies of the site plan;
3. Payment of a fee, in accordance with a fee schedule, as determined by Village Council resolution;
4. A legal description, including the permanent parcel number, of the subject property and a boundary survey map; and
5. Other materials as may be required by this section or the Planning Commission.

(2) *Site plan review procedures.* Site plans shall be professionally prepared by a registered engineer, surveyor, architect landscape architect or community planner and shall include the following:

(a) Small-scale sketch of properties, streets and use of land within one-quarter mile of the subject property;

(b) A site plan at a scale of not more than one inch equals 100 feet, showing the existing and proposed arrangement of:

1. Existing adjacent streets and proposed streets and existing curb cuts within 100 feet of the property;

2. All lot lines with dimensions;
3. Parking lots and access points;
4. Proposed buffer strips, fencing or screening;
5. Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, flood plains, hills and similar natural assets;
6. Location of all existing and proposed signs on the property;
7. Existing and proposed buildings, including existing buildings or structures within 100 feet of the boundaries of the property;
8. General topographical features including existing contours at intervals no greater than two feet;
9. Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space;
10. Dwelling unit densities by type, if applicable;
11. Proposed method of providing sewer and water service, as well as other public and private utilities;
12. Proposed method of providing storm drainage;
13. Written description of the computation for required parking;
14. Name, address and phone number of the applicant; and
15. Name, address, phone number and professional seal of the individual responsible for preparing the plan.

(c) The Planning Commission shall review the site plan, along with any comments submitted by agencies, departments or consultants, and make the recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this section and this Chapter.

1. To this end, the Commission may request from the applicant any additional graphic or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan.

2. The material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests and other pertinent information.

(d) The Planning Commission shall approve, deny or approve with conditions based on the requirements of this Chapter, and specifically, the standards of subsection (D)(1) below.

(e) No petition submitted for site plan review which has been denied shall be resubmitted for a period of one year from the date of denial, except as may be permitted by the Zoning Administrator after learning of new and significant facts or conditions which might result in a favorable action upon resubmittal.

(D) Site plan review standards.

(1) All site plans shall be approved, approved with conditions or denied based on the purposes, objectives and requirements of this Chapter, and specifically, the following considerations when applicable.

(a) The relationship of uses proposed will not adversely affect the public health, safety or welfare. Uses and structures located on the site shall be planned to take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Chapter.

(b) Safe, convenient, uncongested and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed in accordance with applicable standards to promote safe and efficient traffic operations within the site and at ingress/egress points.

(c) The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the Village.

(d) Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Chapter. The Planning Commission may require that landscaping, buffers and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

(e) Satisfactory assurance shall be provided that the requirements of all other applicable ordinances, codes and requirements of the Village will be met.

(f) The general purposes and spirit of this Chapter and the Master Plan of the Village shall be maintained.

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(2) All buildings and structures are accessible to emergency vehicles.

(E) *Approved plans and amendments.*

(1) Upon approval of the site plan, the Village Clerk/Treasurer shall sign three copies thereof. One signed copy shall be made a part of the Village's files; one copy of the site plan shall be forwarded to the Building Official for issuance of a building permit; and one copy shall be returned to the applicant.

(2) Each development shall be under construction within one year after the date of approval of the site plan, except as noted in this section.

(a) The Zoning Administrator may grant one extension of up to an additional one year period if the applicant applies for the extension prior to the date of the expiration of the site plan and provided that:

1. The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and

2. The site plan requirements and standards, including those of this Chapter and Master Plan, that are reasonably related to the development have not changed.

(b) Should neither of the provisions of subsection (E)(2)(a) above be fulfilled, or an extension has expired without construction underway, the site plan approval shall be null and void.

(c) Amendments to an approved site plan may occur only under the following circumstances:

1. The holder of a valid site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.

2. Minor changes, requested by the applicant, may be approved by the Zoning Administrator upon certification in writing to the Village Council that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the Council. In considering the determination, the Zoning Administrator shall consider the following to be a minor change:

a. Reduction of the size of any building and/or sign;

b. Movement of buildings and/or signs by no more than ten feet;

c. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent;

d. Changes in floor plans, of up to 5% of the total floor area, which do not alter the character of the use or increase the amount of required parking;

e. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design; and/or

f. Changes required or requested by the Village, or other State or federal regulatory agency in order to conform to other laws or regulations.

3. Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor; a new site plan shall be submitted and reviewed as required by this subchapter.

(Ord. passed 12-13-1999; Ord. 2010-3, passed 4-12-2010)

SECTION 154.061 OFF-STREET PARKING AND LOADING.

(A) General requirements.

(1) Except for the C-1 District, off-street parking for all nonresidential zone districts and uses shall be either on the same lot or within 300 feet of the building or use it is intended to serve, measured from the nearest public entrance of the building to the nearest point of the off-street parking lot. In the C-1 District parking shall be provided on the same lot as the use, unless the property adjoins or has access to a community parking lot, a common parking area maintained by participating property owners or has access to on-street parking.

(2) The storage of merchandise or products, motor vehicles displayed for sale or the repair of vehicles is prohibited in any off-street parking lot.

(3) Residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage or combination thereof and shall be located on the premises they are intended to serve. The parking spaces shall occupy no greater than 33% of the required front yard.

(4) Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere, in compliance with this section.

(5) Off-street parking existing at the effective date of this Chapter, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use

(6) Two or more buildings or uses may collectively provide the required off-street parking.

(7) The Village Council may defer construction of the required number of parking spaces if the following conditions are met:

(a) Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this Chapter for parking area design and other site development requirements; and

(b) Alterations to the deferred parking area may be initiated by the owner or required by the Zoning Administrator, and shall require the approval of an amended site plan, submitted by the applicant accompanied by evidence documenting the justification for the alteration.

(8) Parking of semi-trucks, including the tractor and trailers, and commercial vehicles exceeding one ton shall be prohibited in any residential district or on any residential property.

(B) Parking lot design standards.

(1) Minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

<i>Parking Pattern</i>	<i>Two-Way Aisle Width</i>	<i>One-Way Aisle Width</i>	<i>Width</i>	<i>Length</i>
Parallel parking	18 feet	12 feet	9 feet	25 feet
30-75 degree angle	24 feet	12 feet	9 feet	21 feet
76-90 degree angle	24 feet	15 feet	9 feet	20 feet

(2) Minor adjustments of the dimensions prescribed in this section may be authorized by the Zoning Administrator if consistent with generally recognized design standards for off-street parking facilities.

(3) All parking lots shall be hard surfaced with a pavement having an asphalt or concrete binder, and be properly maintained at all times. The lots shall be properly striped so as to designate spaces, aisles and circulation routes.

(4) All parking lots shall be constructed so as to permit proper drainage and prevent ponding or storage of water within the lot. Drainage shall be in accordance with the requirements of the Village and the County Drain Commission.

(5) All parking lots shall be provided with adequate lighting. Parking lot lighting shall be shielded so as to prevent light from spilling onto adjacent residential districts or uses.

(6) No permit will be issued for major changes to an existing parking lot unless the parking lot is made to comply with the requirements of this Chapter. A major change consists of one or more of the following:

(a) Replacement or alteration of existing drainage elevations or structures affecting more than 50% of the existing parking lot;

(b) Any expansion or addition of a parking lot equal to or greater than 25% of the area of the existing parking lot;

(c) Reconstruction of the parking lot, including the removal of existing pavement or drainage structures, which affects more than 25% of the existing parking lot; and/or

(d) Any other change which, in the opinion of the Zoning Administrator, constitutes a major change.

(C) *Off-street parking requirements.*

(1) Required off-street parking spaces are noted in the table below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use which the Planning Commission or Zoning Administrator considers similar in type.

(2) When units of measurement determining the number of required off-street parking spaces results in the requirement of a fractional space, that fraction shall require one parking space.

(3) The minimum number of off-street parking spaces shall be determined in accordance with the following table:

<i>Use</i>	<i>Parking Space per Unit of Measurement</i>
<i>Residential</i>	
Single-family dwellings	Two for each dwelling unit
Two-family dwellings	Two for each dwelling unit
Multiple-family dwellings	Two for each dwelling unit plus one additional space for each two units
Housing for the elderly	One space for each two dwelling units, plus one for each employee, plus one space for each five dwelling units to be marked as visitor spaces
<i>Institutional</i>	
Group day care homes and group foster care homes	One space for each four clients, plus one space for each employee
Theaters, assembly areas, auditoriums, gymnasiums	Two spaces for each five seats or each ten feet of pew length, or one space for each three persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
New churches and any subsequent additions approved after the adoption date of this Chapter	One space for each four seats in the main unit of worship, or one space per each eight feet of pew length, whichever is less
Existing churches and any subsequent additions approved after the adoption date of this Chapter	One space for each eight seats in the main unit of worship, or one space per each 16 feet of pew length, whichever is less

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<i>Use</i>	<i>Parking Space per Unit of Measurement</i>
Schools, elementary and middle	One and one-half spaces for each classroom, plus amount required for auditorium or gymnasium seating
Schools, secondary and institutions of higher learning	One space for each eight students, plus one and one-half spaces for each classroom, plus amount required for auditorium or gymnasium seating
<i>Commercial</i>	
Assembly halls without fixed seats	One space for each three persons allowed within the maximum occupancy load established by any applicable codes or ordinances
Beauty/barber shop	Three spaces for each chair
Bowling alleys	Four spaces for each bowling lane plus required spaces for each accessory use
Funeral homes and mortuary establishments	One space for each 50 square feet of usable floor area
Furniture, appliance and household goods retail sales	One space for each 1,000 square feet of usable floor area
Hotels and motels	One space for each guest room, plus required spaces for any accessory uses
Open-air business	One space for each 200 square feet of indoor usable area, plus one space for each 1,000 square feet of outdoor display area
Personal service establishments	One space for each 50 square feet of usable floor area
Restaurants with drive-through facilities	One space for each 100 square feet of usable floor area, or one space for each two persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants - without drive-through facilities	One space for each 100 square feet of usable floor area, or one space for each two persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Retail stores not otherwise specified	One space for each 200 square feet of usable floor area
Vehicle service stations	One space for each service stall, plus one space for each pump island, plus one space for each maximum number of employees on the premises at any one time
Vehicle wash (automatic)	One space for each employee

<i>Use</i>	<i>Parking Space per Unit of Measurement</i>
Vehicle wash (self service)	One space per each five stalls
Video rental stores	One space for each 100 square feet of usable floor area, plus one space for the maximum number of employees on the premises at any one time
<i>Offices</i>	
Banks, credit unions, savings and loan associations and other similar uses	One space for each 150 square feet of usable floor area, plus three spaces for each non-drive through automatic teller machine
Offices not otherwise specified	One space for each 300 square feet of usable floor are
Medical and dental offices and clinics	One space for each 75 square feet of waiting room area, plus one space for each examining room, dental chair or similar use area
<i>Industrial</i>	
Manufacturing, processing and research establishments	Two space for each 1,000 square feet of gross floor area, plus those spaces required for offices located on the premises
Warehouses and wholesale	One space for each 1,000 square feet of gross floor area, plus those spaces required for offices located on the premises

(D) *Off-street loading requirements.*

(1) On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the lot adequate space for standing, loading and unloading. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.

(2) In the C-1 and C-2 Districts all loading spaces shall be located in the side or rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from off-street parking requirements.

(3) I District:

(a) In the I District at least one loading space shall be provided. All loading spaces shall be at least ten feet by 50 feet, or a minimum of 500 square feet in area. A minimum 14-foot clearance height shall be provided; and

(b) Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.

(4) Where an alley exists in the rear yard, loading requirements may be computed from the center of the alley.

(5) All dedicated loading spaces shall be provided with a pavement having an asphalt or portland cement binder so as to provide a permanent, durable and dustless service.

(E) *Recreational vehicles.* Any owner or lessee of a recreational vehicle, as defined in this Chapter, may park or store the vehicle on a lot in any zoning district, subject to the following.

(1) The recreational vehicle shall be maintained in a clean, well-kept state so as not to detract from the appearance of the surrounding area. The vehicle shall meet all the other applicable requirements of this or any other Village ordinance.

(2) If the recreational vehicle is equipped with liquefied gas containers, the containers shall meet the standards of either the Interstate Commerce Commission or the Federal Department of Transportation or the American Society of Mechanical Engineers, as the standards exist on the date of passage hereof.

(3) At no time shall the parked recreational vehicle be occupied or used for living, sleeping or housekeeping purposes, except as provided in subsection (E)(4) below.

(4) It shall be lawful for only non-paying guests at a residence in R-1 Single-Family Residential District to occupy one recreational vehicle, parked subject to the provision of this Chapter, for sleeping purposes only, for a period not exceeding 168 consecutive hours. The total number of days during which a recreational vehicle may be occupied under this subsection shall not exceed 30 days in any calendar year.

(Ord. passed 12-13-1999; Ord. 2000-6, passed 6-12-2000)

SECTION 154.062 SIGNS.

(A) *Intent.*

(1) This Section is intended to protect and further the health, safety and welfare of the residents of the Village; to maintain and improve the appearance of the Village; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians and motorists; and to promote economic development.

(2) This Section is intended to be interpreted in a content neutral fashion.

(B) *Key terms.*

(1) *Sign.* Any visual device, including its support structure, whose signage area through the use of text, image, or symbol is designed or used to communicate, advertise, identify, display, direct, or attract attention to a person, place, thing, idea, action, or quality.

(2) All signs are either permanent or temporary.

(a) *Permanent sign.* A sign which by its design, construction, structure, and common usage indicates that its intended duration is of a permanent nature. A permanent sign can display a temporary or rotating message.

(b) *Temporary sign.* A sign which by its design, construction, structure, and common usage indicates that its intended duration is of a temporary nature. A temporary sign does not include a permanent sign displaying a temporary or rotating message.

(3) All signs are categorized as one of the following:

(a) *Government sign.* A sign constructed, placed, or maintained by the Federal Government, State of Michigan, Village of Howard City, or any entity thereof.

(b) *Commercial sign.* A sign which relates solely to the economic interests of the speaker and its audience.

(c) *Non-commercial sign.* A sign which is neither a government sign nor a commercial sign.

(4) All signs are further categorized as one of the following:

(a) *Flag sign.* A sign whose signage area is constructed of cloth or other similar material, without a rigid structural frame, and attached by one end to a pole, rope, or other structure in a manner that allows for the free movement of the signage area.

(b) *Freestanding sign.* A sign whose signage area is supported by a pole, pylon, brace, or other similar structure that exceeds six inches. A freestanding sign is not attached to any building.

(c) *Ground sign.* A sign whose signage area rests completely on the ground or is supported by a pole, pylon, brace, base, foundation, or other similar structure that does not exceed six inches. A ground sign is not attached to a building.

(d) *Projecting sign.* A sign attached to the face of a building and extending outward more than 12 inches from the face of the building. A projecting sign includes a sign attached to an awning or marquee.

(e) *Roof sign.* A sign whose signage area rests completely on a roof or is supported by poles, pylons, braces, or other similar structure that is attached to a roof.

(f) *Wall sign.* A sign attached to the face of a building and extending outward no more than 12 inches from the face of the building.

(g) *Window sign.* A sign affixed to a window or other similarly transparent portion of a structure or an interior sign intended to be viewed from outside the structure.

(C) *Permit required.*

(1) Unless specifically exempt by this Section, no person can erect, replace, or structurally alter any sign without obtaining a permit.

(2) Unless specifically permitted by this Section, no person can erect, replace, or structurally alter any sign in a public right of way without obtaining a permit.

(D) *Exemptions.*

(1) Government signs are exempt from the requirements of this Section.

(2) Interior signs are exempt from the requirements of this Section.

(3) A sign with a signage area under 20 in² is exempt from the requirements of division (C)(1).

(4) A sign complying with Table 1 is exempt from the requirements of division (C)(1).

Table 1

Zoning District	Type	Minimum Number Authorized	Maximum Number Authorized	Individual Sign Maximum Signage Area	Maximum Height	Location	Additional
AG/OS	Temporary Ground or Freestanding	3 per property	1 per 10 ft. of property frontage	1,296 in ²	6 ft.	2 ft. from any property line	-
	Temporary Window	-	Signage cannot cover more than 25% of the window area	432 in ²	-	-	-

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Zoning District	Type	Minimum Number Authorized	Maximum Number Authorized	Individual Sign Maximum Signage Area	Maximum Height	Location	Additional
	Temporary Wall	-	Signage cannot cover more than 10% of the wall area	1,296 in ²	12 ft.	2 ft. from any other unit	Minimum of 2 ft. between signs
	Temporary/ Permanent Flag	1 per unit	1 per 10 ft. of building frontage	5,760 in ²	25 ft.	-	-
R-1	Temporary Ground or Freestanding	3 per property	1 per 10 ft. of property frontage	576 in ²	4 ft.	5 ft. from any property line	Minimum of 5 ft. between signs
	Temporary Window	-	Signage cannot cover more than 25% of the window area	432 in ²	-	-	-
	Temporary Wall	-	Signage cannot cover more than 15% of the wall area	864 in ²	10 ft.	2 ft. from any other unit	Minimum of 5 ft. between signs
	Temporary Flag	1 per unit	1 per 10 ft. of building face frontage	2,160 in ²	10 ft.	-	Minimum of 5 ft. between signs
R-2	Temporary Ground or Freestanding	3 per property	1 per 10 ft. of property frontage	576 in ²	4 ft.	5 ft. from any property line	Minimum of 5 ft. between signs
	Temporary Window	-	Signage cannot cover more than 25% of the window area	432 in ²	-	-	-

Howard City - Land Usage

Zoning District	Type	Minimum Number Authorized	Maximum Number Authorized	Individual Sign Maximum Signage Area	Maximum Height	Location	Additional
	Temporary Wall	-	Signage cannot cover more than 15% of the wall area	864 in ²	10 ft.	2 ft. from any other unit	Minimum of 5 ft. between signs
	Temporary Flag	1 per unit	1 per 10 ft. of building face frontage	2,160 in ²	10 ft.	-	Minimum of 5 ft. between signs
R-3	Temporary Ground or Freestanding	3 per property	1 per 10 ft. of property frontage	576 in ²	4 ft.	5 ft. from any property line	Minimum of 5 ft. between signs
	Temporary Window	-	Signage cannot cover more than 25% of the window area	432 in ²	-	-	-
	Temporary Wall	-	Signage cannot cover more than 15% of the wall area	864 in ²	10 ft.	2 ft. from any other unit	Minimum of 5 ft. between signs
	Temporary Flag	1 per unit	1 per 10 ft. of building face frontage	2,160 in ²	10 ft.	-	Minimum of 5 ft. between signs
MH	Temporary Ground or Freestanding	3 per property	1 per 10 ft. of property frontage	576 in ²	4 ft.	5 ft. from any property line	Minimum of 5 ft. between signs
	Temporary Window	-	Signage cannot cover more than 25% of the window area	432 in ²	-	-	-

Zoning District	Type	Minimum Number Authorized	Maximum Number Authorized	Individual Sign Maximum Signage Area	Maximum Height	Location	Additional
	Temporary Wall	-	Signage cannot cover more than 15% of the wall area	864 in ²	10 ft.	2 ft. from any other unit	Minimum of 5 ft. between signs
	Temporary Flag	1 per unit	1 per 10 ft. of building face frontage	2,160 in ²	10 ft.	-	Minimum of 5 ft. between signs
C-1	Temporary Ground or Freestanding	2 per unit	1 per 10 ft. of property frontage	864 in ²	6 ft.	5 ft. from any property line	Minimum of 5 ft. between signs
	Temporary Window	-	Signage may not cover more than 50% of window space	864 in ²	-	-	-
	Temporary Wall	-	Signage cannot cover more than 25% of the wall area	2,160 in ²	15 ft.	2 ft. from any other unit	Minimum of 2 ft. between signs
	Temporary/Permanent Flag	1 per unit	1 per 10 ft. of property frontage	5,760 in ²	25 ft.	-	-
C-2	Temporary Ground or Freestanding	2 per unit	1 per 10 ft. of property frontage	864 in ²	6 ft.	5 ft. from any property line	Minimum of 5 ft. between signs

Howard City - Land Usage

Zoning District	Type	Minimum Number Authorized	Maximum Number Authorized	Individual Sign Maximum Signage Area	Maximum Height	Location	Additional
	Temporary Window	-	Signage may not cover more than 50% of the window area	864 in ²	-	-	-
	Temporary Wall	-	Signage cannot cover more than 25% of the wall area	2,160 in ²	15 ft.	2 ft. from any other unit	Minimum of 2 ft. between signs
	Temporary/Permanent Flag	1 per unit	1 per 10 ft. of display side building face frontage	5,760 in ²	25 ft.	-	-
I	Temporary Ground or Freestanding	2 per unit	1 per 10 ft. of property frontage	864 in ²	6 ft.	5 ft. from any property line	Minimum of 5 ft. between signs
	Temporary Window	-	Signage may not cover more than 50% of the window area	864 in ²	-	-	-
	Temporary Wall	-	Signage cannot cover more than 25% of the wall area	2,160 in ²	15 ft.	2 ft. from any other unit	Minimum of 2 ft. between signs
	Temporary/Permanent Flag	1 per unit	1 per 10 ft. of display side building face frontage	5,760 in ²	25 ft.	-	-

Zoning District	Type	Minimum Number Authorized	Maximum Number Authorized	Individual Sign Maximum Signage Area	Maximum Height	Location	Additional
PUD	Temporary Ground or Freestanding	2 per unit	1 per 10 ft. of property frontage	864 in ²	6 ft.	5 ft. from any property line	Minimum of 5 ft. between signs
	Temporary Window	-	Signage may not cover more than 50% of the window area	864 in ²	-	-	-
	Temporary Wall	-	Signage cannot cover more than 25% of the wall area	2,160 in ²	15 ft.	2 ft. from any other unit	Minimum of 2 ft. between signs
	Temporary/Permanent Flag	1 per unit	1 per 10 ft. of display side building face frontage	5,760 in ²	25 ft.	-	-

(5) Regardless of Zoning District, the following signs are exempt from the requirements of division (C)(1), and do not count towards any calculations made pursuant to Table 1:

(a) A sign reasonably spaced with a signage area no larger than 324 inches that warns of a danger or hazard; or

(b) A sign required by law.

(6) A sign exempt from permitting pursuant to this division (D) must comply with all other applicable requirements of the Village Zoning Ordinance.

(E) *Prohibited signs.* The following signs are prohibited:

(1) A sign that obstructs free access or egress to or from any building, exit discharge, driveway, sidewalk, or alley;

(2) A sign that stimulates or could be confused with the lighting of an emergency vehicle or traffic signal. No sign located in the same line of vision as a traffic control system can have flashing, oscillating, or intermittent red, yellow, or green illumination;

(3) A sign that obstructs or impairs a person's vision at any intersection, driveway, alley, parking lot, or loading area; or

(4) A sign that by its location or condition is unsafe.

(F) *General requirements.*

(1) *A clear vision area.* In order to ensure an adequate sight line for motorists, bicyclists, and pedestrians, a minimum clear vision area must be maintained between the height of 24 inches and 72 inches above the ground within a triangular area measured 25 feet back from intersection of a right-of-way.

(2) *Design and construction.* In order to promote an overall unified aesthetic, a sign must be designed to be compatible with the character of the surrounding building materials and landscaping. A sign cannot be constructed from materials that are inappropriate for its reasonably inferred longevity.

(3) *Principal use.* A freestanding or ground sign with a signage area over 31,600 inches must be a principal use and receive approval as a special land use.

(4) *Illumination:*

(a) A sign can be illuminated, but only by steady, stationary, and shielded light sources that are directed solely at the sign or are internal to it.

(b) Use of glaring undiffused lighting, including a bare bulb, strobe, or flame, is prohibited.

(c) Lighting cannot project onto an adjoining property or thoroughfare.

(d) Underground wiring is required for all light sources not attached to a building.

(5) *General design, construction, and maintenance.*

(a) A sign must be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect.

(b) A sign must be constructed in a manner consistent with the applicable building code provisions and cannot be constructed from materials that are inappropriate for the proposed location and longevity of the sign.

(c) A sign must be reasonably maintained in terms of safety and aesthetics.

(d) A sign including any cables, guy wires, or supports, must have a minimum clearance of four feet from any electric fixture, streetlight, or other public utility poles or standards.

(6) *Right-of-way.* No temporary sign can be in a right-of-way for a period longer than 14 consecutive days.

(G) *Sign specific requirements.*

(1) *Commercial sign.* A commercial sign cannot be displayed in a R-1, R-2, R-3, or MH zoning district for more than five consecutive days without a permit.

(2) *Freestanding sign.* A freestanding sign cannot exceed a height of 25 feet.

(3) *Ground sign.* A ground sign cannot exceed a height of eight feet.

(4) *Permanent commercial sign.* A permanent commercial sign erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located is prohibited.

(5) *Projecting sign.*

(a) A projecting sign cannot extend above the roof line of the building to which it is affixed.

(b) A projecting sign cannot cover more than 40% of the marquee face to which it is affixed.

(c) A projecting sign cannot cover more than 50% of the awning face to which it is affixed.

(6) *Roof sign.* A roof sign cannot extend more than 12 feet from the top of the peak of the roof to which it is affixed.

(7) *Temporary freestanding sign.* No temporary freestanding sign larger than 2,160 in² can be displayed for more than 14 consecutive days without a permit. This restriction applies to temporary signs as a category and is not to be restricted in its application to a specific sign.

(8) *Temporary ground sign.* No temporary ground sign larger than 2,160 in² can be displayed for more than 14 consecutive days without a permit. This restriction applies to temporary signs as a category and is not to be restricted in its application to a specific sign.

(9) *Wall sign.*

(a) A wall sign cannot extend beyond the edge of the wall to which it is affixed.

(b) A wall sign cannot extend above the roof line of the building to which it is affixed.

(H) *Digital sign requirements.*

(1) Digital signs are only allowed in accordance with the following:

Zoning District	Structure Type	Additional Requirements
AG/OS	Per SLUP	SLUP
R-1	-	-
R-2	-	-
R-3	-	-
MH	-	-
C-1	Ground	-
C-2	Ground, Freestanding	-
I	Ground	-
PUD	Ground, Freestanding	SLUP

(2) A digital sign must comply with the following regulations:

(a) Except for signs with a signage area of 432 in² or less, the digital portion of a sign cannot consist of more than 75% of allowable signage area.

(b) A digital sign cannot have any flashing, blinking, scrolling, alternating, sequentially lighted, animated, rolling, shimmering, sparkling, bursting, dissolving, twinkling, fade-in/fade-out, oscillating, moving text or images, or simulated movement of text or images.

(c) A digital sign cannot exceed a maximum illumination of 3,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 325 nits (candelas per square meter) between dusk to dawn as measured from the face of the sign at maximum brightness.

(d) A digital sign cannot be of such intensity or brilliance that it could interfere or distract a motorist or be of such intensity or brilliance that it could interfere with the effectiveness of an official traffic sign, device, or signal.

(e) Dwell time must be at least ten seconds and a change of message must be accomplished within one second.

(f) A digital sign must be equipped with a brightness control sensor that allows for the brightness to be adjusted manually or automatically.

(g) Prior to the issuance of a permit for a digital sign, the applicant must provide the Zoning Administrator a certificate from the manufacturer of the sign stating that the illumination settings for the sign complies with the maximum illumination requirements of this Section.

(h) A broken or malfunctioning digital display must be repaired within seven days. If a digital display is not repaired within seven days, it must be turned off until the repair is made.

(i) A digital sign cannot have a white background.

(j) A digital sign must be operated in a manner that minimizes lighting on a residential home.

(k) Within 60 days of the effective date of this Section, a digital sign legally in existence must comply with the illumination requirements of this Section.

(I) *Units of measurement.*

(1) *Building face frontage.* The area as measured within a single continuous perimeter composed of any straight-line geometric figure which encloses the extreme limits of a building's permanent and stationary sides which are generally perpendicular to the ground. Building face frontage excludes the roof of a building or structure.

(a) For buildings with multiple tenants, the building face frontage for each tenant is equal to the external section of the wall corresponding to the tenant.

(b) When used to calculate the number of permissible signs the only applicable building face frontage is the general side upon which the sign in question is to be attached or displayed.

(2) *Property frontage.* The area measured by the continuous linear distance of that portion of a parcel abutting upon a right-of-way, or private road easement. When used to calculate the number of permissible signs the only applicable property frontage is the general frontage upon which the sign in question is to be displayed.

(3) *Signage area.* The area as measured within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

(a) The area of sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back and are of equal size, the area of the two back-to-back faces shall be counted as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.

(b) When a sign does not have a distinguishable border, panel, or background, the calculation for sign area will be measured by enclosing the most protruding edges of the sign elements within a parallelogram or rectangle.

(4) *Sign height.* The height of a sign is measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less. Sign height will not be measured from an area of the ground that has been built up or constructed in a manner that would have the effect of allowing a higher sign height than permitted by this Section (e. g., the height of a sign erected on a berm will be measured from the finished grade adjacent to the berm).

(5) *Window area.* The area measured within a single continuous perimeter composed of any straight-line geometric figure which encloses the extreme limits of a single window or other similarly transparent face of a building, or such windows other transparent faces that are separated only by an opaque portion of the building smaller than 12 inches in width.

(J) *Administration.*

(1) *Permitting.*

(a) An application for a permit required under this Section must be submitted to the Zoning Administrator.

(b) An application must be submitted in the manner required by the Zoning Administrator.

(c) The Zoning Administrator can charge an application fee for each sign application as authorized by the Village Council.

(d) The Zoning Administrator must either grant or deny an application within 15 days of it being properly filed.

(2) *Authority of Zoning Administrator.*

(a) The Zoning Administrator can mandate the form and manner of any application under this Section including application timelines and required documentation.

(b) The Zoning Administrator can categorize signs and make determinations necessary for permitting and enforcement under this Section.

(c) The Zoning Administrator will grant a permit as required by division (C)(1) of the proposed sign:

1. Complies with the Village Zoning Ordinance;
2. Complies with other applicable State and Village laws, ordinances, rules, and regulations;
3. Is harmonious with the intent of this Section;
4. Is harmonious with the intent of the zoning district for the proposed location;
5. Is harmonious and appropriate in appearance with the existing or intended character of the general vicinity, compatible with adjacent uses of land, and will not change the essential character of the area of the proposed location;
6. Does not negatively impact the general safety and welfare of the Village; and
7. Is structurally appropriate.

(K) Definitions.

(1) Terms not defined below are defined in accordance with the Village Zoning Ordinance.

(2) For the purpose of this Section, the following definitions apply unless the context clearly indicates or requires otherwise:

AWNING. A retractable or fixed shelter attached to a building that projects from the exterior wall of a building for the purpose of protecting doorways and windows from rain and sunlight exposure.

BUILDING. A structure enclosing a space with its walls, a wall, fence, or other similar structure generally perpendicular to the ground, but excluding windows.

COMMERCIAL SIGN. A sign which relates solely to the economic interests of the speaker and its audience.

DIGITAL SIGN. A sign with a signage area using LCD, LED, projection, or other similar technology.

DWELL TIME. The interval of change between each individual message on a digital sign. Dwell time does not include one second or less required to change a message.

FLAG SIGN. A sign whose signage area is constructed of cloth or other similar material, without a rigid structural frame, and attached by one end to a pole, rope, or other structure in a manner that allows for the free movement of the signage area.

FREESTANDING SIGN. A sign whose signage area is supported by a pole, pylon, brace, or other similar structure that exceeds six inches. A freestanding sign is not attached to any building.

GOVERNMENT SIGN. A sign constructed, placed, or maintained by the Federal Government, State of Michigan, Village of Howard City, or any entity thereof.

GROUND SIGN. A sign whose signage area rests completely on the ground or is supported by a pole, pylon, brace, or other similar structure that does not exceed six inches. A ground sign is not attached to a building.

INTERIOR SIGN. A sign which is not visible from outside the space in which it is located and is primarily directed at persons within the space in which the sign is located.

INCLUDING. Including but not limited to.

MARQUEE. A permanent structure constructed of rigid materials that projects from the exterior wall of a building.

NON-COMMERCIAL SIGN. A sign which is neither a government sign nor a commercial sign.

PERMANENT SIGN. A sign which by its design, construction, structure, and common usage indicates that its intended durational use is of a permanent nature. A permanent sign can display a temporary or rotating message.

PROJECTING SIGN. A sign attached to the face of a building and extending outward more than 12 inches from the face of the building. A projecting sign includes a sign attached to an awning or marquee.

ROOF SIGN. A sign whose signage area rests completely on a roof or is supported by poles, pylons, braces, or other similar structure that is attached to a roof.

SIGN. Any visual device, including its support structure, whose signage area through the use of text, image, or symbol is designed or used to communicate, advertise, identify, display, direct, or attract attention to a person, place, thing, idea, action, or quality.

SIGNAGE AREA. Area as measured and described pursuant to division (I)(3).

TEMPORARY SIGN. A sign which by its design, construction, structure, and common usage indicates that its intended durational use is of a temporary nature. A temporary sign does not include a permanent sign displaying a temporary or rotating message.

WALL SIGN. A sign attached to the face of a building and extending outward no more than 12 inches from the face of the building.

WINDOW AREA. Area as measured and described pursuant to division (I)(5).

WINDOW SIGN. A sign affixed to a window or other similarly transparent portion of a structure or an interior sign intended to be viewed from outside the structure.
(Ord. passed 12-13-1999; Ord. 2015-4, passed 3-23-2015; Ord. 2020-1, passed 2-17-2020)

SPECIAL LAND USES

SECTION 154.075 APPLICATION PROCEDURES.

Application for a special land use permit shall be made to the Zoning Administrator and shall include the following:

(A) Ten copies of a site plan containing the information required by Section 154.060(C)(2);

(B) A completed application form;

(C) Payment of an application fee, which shall be non-refundable, as established from time to time by resolution of the Village Council; and

(D) Completed site plans.

(Ord. passed 12-13-1999)

SECTION 154.076 NOTIFICATION, HEARING AND REVIEW PROCEDURES.

(A) Upon receipt of an application for a special land use permit, the Zoning Administrator shall cause notice to be given of a special land use public hearing, as follows:

(1) One notice shall be published in a newspaper of general circulation, not less than 15 days before the hearing; and

(2) Written notice shall be sent by mail or personal delivery to the applicant, to all property owners within 300 feet of the boundary of the subject property and to the occupants of all structures within 300 feet of the subject property, not less than 15 days before the date of the hearing.

(B) Following notice, the Planning Commission shall hold a public hearing on the special land use permit application.

(C) The Planning Commission shall make a recommendation to the Village Council to approve, approve with conditions or deny the special use permit request, based upon review and consideration of materials submitted with the application, comments received at the public hearing, and the applicable standards of this subchapter.

(D) The Village Council, in making its decision, shall consider the request, the Planning Commission recommendation and the applicable standards of this Chapter. If it finds that the request meets all required standards, Council shall approve the special land use request.

(Ord. passed 12-13-1999)

SECTION 154.077 GENERAL STANDARDS FOR APPROVAL.

(A) The Planning Commission and the Village Council shall approve, or approve with conditions, a special land use permit request only upon a finding that all of the following general standards for approval are complied with.

(1) The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity,

will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.

(2) The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, including, but not limited to streets, police and fire protection, drainage structures, refuse disposal, water and sewer facilities and schools.

(3) The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.

(4) The use will be compatible with the natural environment and will be designed to encourage conservation of natural resources and energy.

(5) The site plan proposed for the use demonstrates compliance with the special land use specific design standards contained in Section 154.080.

(B) The decision of the Village Council shall be incorporated in a statement of conclusions specifying the basis of the decision and any conditions imposed. The decision and statement of conclusions, including conditions imposed on any approval, shall be kept and made a part of the Council minutes.

(C) No request for special land use approval which has been denied shall be resubmitted for one year following the disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

(Ord. passed 12-13-1999)

SECTION 154.078 CONDITIONS OF APPROVAL.

(A) The Planning Commission may recommend and the Council may impose reasonable conditions in conjunction with approval of a special land use permit which are deemed necessary to ensure compliance with the general standards for approval in Section 154.077 and the specific design standards of Section 154.080.

(B) Conditions shall be imposed in a manner in accordance with the Zoning Act.
(Ord. passed 12-13-1999)

SECTION 154.079 APPROVAL TERM AND EXPIRATION.

A special land use permit, including conditions imposed, is attached to and shall run with the land for which the permit is granted, and shall be binding upon subsequent owners and all occupants of the subject land.

(Ord. passed 12-13-1999)

SECTION 154.080 SPECIAL LAND USE; SPECIFIC DESIGN STANDARDS.

The following special land uses shall be subject to the requirements of the district in which located, in addition to all the applicable conditions, standards and regulations as are cited in this section. The following uses have those conditions, standards or regulations.

(A) *Adult bookstores, adult live entertainment, adult motion picture theater and massage parlors.*

(1) The lot or parcel on which the use is located shall not be closer than 1,000 feet from any residential use or zoning district, school, church or park, measured from lot line to lot line.

(2) The use is not located within a 1,000-foot radius of two other such uses, measured from lot line to lot line.

(3) Parking spaces shall be provided at the ratio of one space per person permitted by the maximum occupancy load established by local, County, State, Fire, Health or Building Codes.

(B) *Banks, credit unions, savings and loan associations and other similar uses, as determined by the Zoning Administrator, having drive-through facilities.*

(1) Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of four stacking spaces for each drive-through teller operation, whether personal or automatic, shall be provided.

(2) Parking areas shall have a front yard setback of 20 feet and side and rear yard setbacks of ten feet.

(3) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(C) *Bed and breakfast establishments.*

(1) The establishment shall be directly serviced by public water and sanitary sewer services.

(2) The establishment shall be located on property with direct access to a public street.

(3) No such use shall be permitted on any property where there exists more than one other bed and breakfast establishment within 750 feet, measured between the closest property lines.

(4) The uses shall only be established in a single-family detached dwelling.

(5) Parking shall be located to minimize negative impacts on adjacent properties.

(6) The number of guest rooms in the establishment shall not exceed three, plus one additional guest room for each 10,000 square feet or fraction thereof by which the lot area of the use exceeds one acre, not to exceed seven guest rooms in any case.

(7) Exterior refuse storage facilities beyond what might normally be expected for a single-family detached dwelling shall be prohibited.

(8) Signs for bed and breakfast establishments shall comply with the requirements of the zone district in which the use is located.

(9) The establishment shall contain the principal residence of the operator.

(10) Accessory retail or service uses to a bed and breakfast establishment shall be prohibited, including, but not limited to, gift shops, antique shops, restaurants, bakeries and so forth.

(11) Meals shall be served only to the operator's family, employees and overnight guests.

(D) *Bus passenger waiting stations.*

(1) A vehicle waiting/drop off area of not less than ten spaces shall be provided on-site.

(2) Passenger loading areas must be lighted. Lighting shall be shielded to prevent light from spilling onto any residential district or use.

(E) *Churches.*

(1) Minimum lot width shall be 200 feet.

(2) Minimum lot area shall be two acres; plus an additional 15,000 square feet for each 100 seating capacity or fraction thereof in excess of 100.

(3) The property location shall be such that at least one side of the property abuts and has access to a collector or arterial street.

(4) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(F) *Commercial storage warehouses.*

(1) Minimum lot area shall be two acres.

(2) A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-family detached dwelling in the R-3 District.

(3) Parking and circulation:

(a) One parking space shall be provided for each ten storage cubicles, and shall be equally distributed throughout the site;

(b) Two parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises;

(c) One parking space shall also be required for every 20 storage cubicles, up to a maximum of ten spaces, to be located adjacent to the rental office, for the use of customers; and

(d) All driveways, parking, loading, storage and vehicular circulation areas shall be paved.

(4) A greenbelt or buffer shall be provided in accordance with Section 154.020.

(G) *Funeral homes and mortuary establishments.*

(1) Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.

(2) Minimum lot area shall be one acre and minimum lot width shall be 150 feet.

(3) An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

(4) No waiting lines of vehicles shall extend off-site or onto any public street.

(5) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(H) *Group day care homes.*

(1) A drop-off/pickup area shall be provided for motorists off the public street, which permits vehicles to exit the property without backing into the street.

(2) Fencing no less than four feet nor more than six feet in height shall be provided around all outdoor areas accessible to children.

(3) There shall be a contiguous open space of a minimum of 1,200 square feet provided on the subject parcel. The open space shall not be located within a required front yard setback area. This requirement may be waived by the Planning Commission if public open space is available within 500 feet of the subject parcel, measured from the nearest lot line of the use to the nearest lot line of the public open space.

(I) *Hotels and motels.*

(1) Minimum lot area shall be two acres and minimum lot width shall be 200 feet.

(2) Parking areas shall have a front yard setback of 20 feet and side and rear yard setback of ten feet.

(3) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(J) *Housing for the elderly.*

(1) All dwelling units in the building shall have a minimum of 450 square feet per unit.

(2) Retail and service uses may be permitted on the site if the uses are accessory to the elderly housing use. All the uses shall be within the principal residential structure. No exterior signs of any type are permitted.

(3) The allowable density of the zoning district may be increased by no more than 50% for all nursing care units licensed by the State and no more than 25% for non-licensed nursing care and supportive care units.

(4) All medical waste facilities shall be secured and meet the requirements of the State Department of Health.

(5) Walkways shall be provided from the main building entrances to the sidewalk along the adjacent public street.

(6) The maximum height may be increased by one story for each additional 40 feet the building is set back from all required yards.

(K) *Kennels.*

(1) For kennels, the minimum lot size shall be two acres for the first four animals and an additional one-third acre for each additional animal.

(2) Buildings in which animals are kept, runs and/or exercise areas shall not be located nearer than 100 feet to any residential district boundary and shall not be located within any required yard area.

(L) *Lumber and planing mills.* The principal and accessory buildings and structures shall not be located within 500 feet of any residential use or district property line.

(M) *Lumberyards.*

(1) The lot area used for parking, display or storage shall be paved and shall be graded and drained so as to dispose of all surface water.

(2) Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

(3) Stacking of materials shall be limited to a height no greater than eight feet.

(4) Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use property line.

(N) *Manufacture, compounding, processing, packaging or treatment of products requiring stamping press operations.* The principal and accessory buildings and structures shall not be located within 500 feet of any residential use or district property line.

(O) *Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris.*

(1) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(2) The principal and accessory buildings and structures shall not be located within 1,000 feet of any residential use or district.

(P) *Metal plating, buffing and polishing.* The principal and accessory buildings and structures shall not be located within 300 feet of any residential use or district property line.

(Q) *Open air businesses.*

(1) Minimum lot area shall be two acres and minimum lot width shall be 200 feet.

(2) The lot area used for parking, display or storage shall be paved and shall be graded and drained so as to dispose of all surface water.

(3) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(4) Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use property line.

(5) Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

(6) Stacking of materials shall be limited to a height no greater than eight feet.

(R) *Private noncommercial and public recreation areas or community recreation centers.*

- (1) The use shall be located on property with direct access to a public street.
- (2) Any outdoor activity areas shall be set back a minimum of 50 feet from any residential use or district.
- (3) Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential use or district.
- (4) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(S) *Production, refining or storage of petroleum or other flammable liquids.*

- (1) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.
- (2) The principal and accessory buildings and structures shall not be located within 1,000 feet of any residential use or district.

(T) *Recycling centers.*

- (1) A six-foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper and other debris from blowing off the premises.
- (2) The principal and accessory buildings and structures shall not be located within 200 feet of any residential use or district property line.

(U) *Residential dwelling units, in the same building with commercial uses in the C-1 District only.*

- (1) No commercial uses, including storage, shall be located on the same floor of the building as the dwelling unit.
- (2) Two on-site parking spaces shall be required for each dwelling unit.
- (3) Access to dwelling units shall be from outside of the building.
- (4) No dwelling unit shall be located on the ground floor of the building.
- (5) No dwelling unit shall be located on the basement level of the building.
- (6) No dwelling unit shall be located in an accessory structure or building.
- (7) No dwelling unit shall be located over a garage.

(V) *Restaurants, exclusive of drive-through facilities.*

(1) Parking areas shall have a front yard setback of 20 feet and side and rear yard setbacks of ten feet.

(2) Access driveways shall be located no less than 75 feet from the centerline of the intersection of any street or any other driveway.

(W) *Restaurants with drive-through facilities.*

(1) Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility.

(2) In addition to parking space requirements, at least three parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.

(3) Parking areas shall have a front yard setback of 50 feet and side and rear yard setbacks of ten feet.

(4) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(X) *Salvage yards, junk yards.*

(1) Requests for a special land use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destinations of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary State, County and local laws.

(2) The site shall abut and have suitable access to a collector or arterial street to ensure safe, direct transport of salvage to and from the site.

(3) Any outdoor storage area shall be completely enclosed by a fence or wall at least eight feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two non-transparent gates not exceeding 24 feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. The fence or wall shall be continuously maintained in good condition and shall contain only approved signs.

(4) Stored materials shall not be stacked higher than eight feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall; however, movable equipment used on the site may exceed the wall on fence height.

(5) The fence or wall enclosing the storage area shall meet the applicable building setback requirements; provided all fences shall be set back a minimum of 300 feet from any residential use or district boundary and 100 feet from any right-of-way line.

(6) A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.

(7) Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.

(8) All portions of the storage area shall be accessible to emergency vehicles.

(9) Vehicles or vehicle bodies shall be stored in rows with a minimum of 20-foot wide continuous loop drives separating each row of vehicles.

(10) All batteries shall be removed from any vehicle, and all radiators and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.

(11) Vehicle parts shall not be stored, loaded, unloaded or dismantled outside the fence enclosing the salvage yard.

(12) The property shall be a minimum size of at least five acres.

(13) A greenbelt in accordance with the requirements of Section 154.020 shall be provided along all property lines.

(14) In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.

(15) The Planning Commission may impose other conditions which have a reasonable relationship to the health, safety and general welfare of the Village. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.

(Y) *Site condominiums.*

(1) The minimum lot size, width and setbacks shall conform to the requirements of the zoning district in which the project is located.

(2) The minimum floor area per unit shall conform to the requirements of the zoning district in which the project is located.

(3) All developed sites shall be required to use Village utilities.

(4) Sidewalks shall be constructed on all sides of site condominium lots abutting a public street, in accordance with Village standards. The Village Council may waive the requirement for a sidewalk when, in the opinion of the Council, no good purpose would be served by the sidewalk for site plan condominium projects of four or more sites.

(5) All site condominium lots shall have access to and frontage on a public street.

(Z) Truck terminals.

(1) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(2) Trucks and trailers parked overnight shall be set back from the front lot line a minimum of 100 feet.

(3) The principal and accessory buildings and structures shall not be located within 200 feet of any residential use or district.

(4) The lot area used for parking, display or storage shall be paved and shall be graded and drained so as to dispose of all surface water.

(5) Lighting for parking areas or outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use.

(6) Any vehicle or equipment stored outside of an enclosed building shall not be located within any required front or side yard.

(7) Equipment and/or running vehicles must be placed at such a distance or enclosed to allow noise no greater than 65 dB at the property line.

(AA) Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires and underground utility systems.

(1) Any such buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.

(2) Any such building shall comply with the yard setback requirements of the district in which it is located.

(BB) *Vehicle repair.*

(1) Inoperative vehicles left on the site shall be stored within an enclosed building or in a fenced in area six feet in height.

(2) Minimum lot area shall be one acre and minimum lot width shall be 250 feet.

(3) All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.

(4) Inoperative vehicles left on the site shall be stored within an enclosed building or in a fenced in area six feet in height. The fence shall be continuously maintained in good condition.

(5) Storage of vehicle components and parts, trash, supplies or equipment outside of a building is prohibited.

(6) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(7) Where adjoining residentially zoned or used property, a solid wall or fence, six feet in height shall be erected along any common lot line. The fence or wall shall be continuously maintained in good condition.

(8) Stacking of materials shall be limited to a height no greater than eight feet.

(CC) *Vehicle service stations.*

(1) Minimum lot area shall be 15,000 square feet and minimum lot width shall be 120 feet.

(2) Pump islands shall be a minimum of 15 feet from any public right-of-way or lot line.

(3) All equipment and activities associated with vehicle service operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.

(4) Storage of vehicle components and parts, trash, supplies or equipment outside of a building is prohibited.

(5) If retail sales of convenience goods are conducted on the premises, parking for the uses shall be computed and provided separately for that use.

(6) Canopy roofs shall be permitted to encroach into any required yard, provided that a minimum setback of five feet is maintained, and further provided that the fascia of the canopy is a minimum of ten feet above the average grade.

(7) Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(8) No more than two curb openings shall be permitted along any street frontage. Curb openings shall not exceed a maximum width of 30 feet.

(9) Where adjoining residentially zoned or used property, a solid wall or fence, six feet in height shall be erected along any common lot line. The fence or wall shall be continuously maintained in good condition.

(10) Outdoor lighting shall be shielded to prevent light from spilling onto any residential district or use or distracting to motorists.

(DD) *Vehicle wash establishment, either self-serve or automatic.*

(1) Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of 15 stacking spaces for an automatic wash facility shall be provided. For self-service establishments, each stall shall have at least two stacking spaces at the entrance and one space at the exit.

(2) Vacuuming activities, if outdoors, shall be located in the rear yard and at least 100 feet from any residential use or district property line. Wash bays for self-service establishments shall be located at least 50 feet from any residential use or district property line.

(3) Should self-service wash bays be located with openings facing an adjacent street, they shall be screened and the screening shall be continuously maintained in good condition.

(4) Only one access driveway shall be permitted on any single street. Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.

(5) Where adjoining residentially zoned or used property, a solid wall or fence six feet in height shall be erected along any common lot line. The fence or wall shall be continuously maintained in good condition.

(6) Outdoor lighting shall be shielded to prevent light from spilling onto any residential district or use or distracting motorists.

(EE) *Veterinary hospitals and veterinary clinics.* Runs, exercise areas, pens or other outdoor areas where animals are kept shall meet the requirements for kennels, as provided in this subchapter.

(FF) *Radio, television and commercial wireless communication towers (excluding towers which meet the criteria of Section 154.022(B)).*

(1) The minimum lot size shall be the same as that of the district in which the tower is located.

(2) The tower shall be set back from all lot lines a minimum distance equal to one-half the height of the tower. All other buildings, structures and guy wires shall meet the minimum setback requirements of the zoning district.

(3) In residential districts, the towers shall not exceed 100 feet in height, unless located on publicly owned land.

(4) A security fence at least six feet in height shall be constructed around the tower and supports.

(5) Where possible, joint use of tower facilities shall be required for multiple users in order to minimize the number of separate towers and individual locations throughout the Village. As a condition of approval, the applicant shall agree to permit future users to share the tower facility.

(6) Unless, located on the same site or tower with another user, no new tower shall be erected within a one-mile radius of an existing radio, television or cellular communications tower.

(7) Where the effect of any of the provisions of this Chapter would be to prevent or preclude the operation of amateur radio antennas, the Village Council may approve the use if the applicant demonstrates that the requirements would interfere with the reasonable accommodation of amateur radio communications.

(8) No signs, except warning or other cautionary signs, shall be permitted on the site. (Ord. passed 12-13-1999; Ord. 2005-11, passed 11-7-2005)

ZONING BOARD OF APPEALS

SECTION 154.095 MEMBERSHIP.

(A) *Composition and terms.* The Village Council shall act as the Zoning Board of Appeals for the Village. Terms of office shall coincide with the member's term of service on the Village Council.

(B) *Rules of procedure.* The Zoning Board of Appeals may establish rules to govern its procedures as the Zoning Board of Appeals and may select officers as it deems appropriate and necessary.

(C) *Conflicts*. Members of the Zoning Board of Appeals shall comply with all applicable laws and regulations with respect to conflicts of interest.
(Ord. passed 12-13-1999; Ord. passed 8-17-2020)

SECTION 154.096 MEETINGS.

(A) *Meetings*. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at times as the Zoning Board of Appeals may determine. All hearings conducted by the Zoning Board of Appeals shall be open to the public. The Village Clerk/Treasurer or representative shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact; and shall also keep records of its hearings and other official action. The Zoning Board of Appeals shall not conduct business unless a majority of the members are present; except that five members must be present to hear and decide any request for a use variance as further set forth herein. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(B) *Hearings*. Following receipt of a written request for a variance, a written request seeking an interpretation of the Zoning Ordinance, or an appeal of an administrative decision, the Zoning Board of Appeals shall conduct a public hearing on the request and give notice of the hearing as provided in Section 154.076(A). At the hearing, a party may appear personally or by agent or attorney. The Zoning Board of Appeals shall decide the appeal or request within a reasonable time. The Zoning Board of Appeals shall make no decision regarding a variance except after a public hearing is conducted.
(Ord. passed 12-13-1999; Ord. passed 8-17-2020)

SECTION 154.097 JURISDICTION.

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Chapter, but does have power to act on those matters where this Chapter provides for an administrative review, interpretation and to authorize a variance as defined in this section and the laws of the State. The Zoning Board of Appeals shall not have the authority to hear appeals from a decision made in respect to any special land use, planned unit development or rezoning. The powers of the Zoning Board of Appeals include:

(A) *Hearing of appeals*. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal and/or interpretation made by the

Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this Chapter;

(B) *Granting of variances.* A variance from the specific requirements of this Chapter may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this subchapter; and

(C) *Granting of temporary uses and buildings.*

(1) The Zoning Board of Appeals may permit, upon proper application, temporary uses or buildings not otherwise permitted in the district, not to exceed 12 months and to provide up to a 12 month extension when appropriate.

(2) The Zoning Board of Appeals, in granting permits for temporary uses and buildings, shall do so under the following conditions:

(a) The granting of the temporary use or building shall in no way constitute a change in the basic uses permitted in the district nor on the property where the temporary use or building is permitted;

(b) The granting of the temporary use or building shall be issued in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit;

(c) All setbacks, land coverage, off-street parking, lighting and other requirements shall be made at the discretion of the Zoning Board of Appeals;

(d) The use or building shall be in harmony with the general character of the district;

(e) No temporary permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as provided for in this Chapter; and

(f) Prior to granting a temporary permit the Board may seek the review and recommendation of the Planning Commission.

(Ord. passed 12-13-1999)

SECTION 154.098 DECISIONS.

(A) *Procedure.* An appeal may be taken by a person aggrieved, or by an officer, department or board of the Village. The appeal shall be taken within 21 days, as prescribed by the rules of the Zoning Board of Appeals, by the filing with the officer or body from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for the appeal.

(B) *Filing.* The party from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken. These papers shall include a completed application form and site plan, including the following, unless determined to be inapplicable to the request and specifically waived by the Zoning Board of Appeals:

(1) Project information, including:

- (a) The applicant's name;
- (b) Name of the development;
- (c) The preparer's name;
- (d) North arrow;
- (e) Complete and current legal description and size of property in acres; and
- (f) Small-scale location sketch of sufficient size and scale.

(2) Existing features:

- (a) Property lines and dimensions;
- (b) Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site;
- (c) Lot lines and all structures on the property and within 100 feet of the site's property lines; and
- (d) Location of any access points on both sides of the street within 100 feet of the site along streets where access to the site is proposed.

(3) Proposed construction:

- (a) Building footprints, setbacks, floor plans and elevations showing height and materials for all proposed structures, including any residential units, with the acreage allotted to each use;
- (b) Location and dimensions of parking spaces;
- (c) Details of site circulation and access design, including:
 - 1. Indication of street right-of-way and pavement widths and pavement type;
 - 2. Names of abutting public streets, proposed access driveways and parking areas, and existing and proposed pedestrian/bicycle paths; and

3. Written verification of access easements or agreements, if applicable.

(C) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.

(D) *Decisions.* The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance; except that a concurring vote of two-thirds of the membership shall be necessary to grant a use variance.

(E) *Record of actions.* For each decision of the Zoning Board of Appeals, a record shall be prepared. The record shall include, at a minimum, the following items:

- (1) Description of the applicant's request;
- (2) The Zoning Board of Appeal's motion and vote;
- (3) A summary or transcription of all relevant material and evidence presented at hearing; and
- (4) Any conditions attached to an affirmative decision.

(F) *Appeals to Circuit Court.* The decision of the Zoning Board of Appeals shall be final; however, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court.

(1) Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Act.

(2) The court may affirm, reverse or modify the decision of the Zoning Board of Appeals, or may remand the decision to the Zoning Board of Appeals for further hearings or action.

(G) *Re-submission.* No variance request which has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within a one-year period from the date of the original application unless the Board finds that at least one of the following conditions exist:

(1) That the conditions involving all of the reasons for the original denial have been significantly altered; and/or

(2) That new conditions or circumstances exist which change the nature of the original request.
(Ord. passed 12-13-1999)

SECTION 154.099 CONDITIONS OF APPROVAL.

(A) The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance or any other decision which they are required to make.

(B) Conditions shall be imposed in a manner in accordance with the Zoning Act and related to the standards by which the decision is reached.
(Ord. passed 12-13-1999)

SECTION 154.100 VARIANCE PROCEDURES.

(A) *Authority for variances.* The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Chapter where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Chapter relating to the construction, equipment or alteration of buildings or structures so that the spirit of this Chapter shall be observed, public safety secured and substantial justice done.

(B) *Granting of non-use variances.* A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;

(2) That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for the conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this Chapter would involve practical difficulties;

(3) That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance;

(4) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood;

(5) The variance will not impair the intent and purpose of this Chapter; and

(6) That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

(C) *Granting of use variances.*

(1) A use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:

(a) That the building, structure or land cannot be reasonably used for any of the uses permitted by right or special approval in the zone district in which it is located;

(b) That the condition or situation of the specific piece of property or the intended use of the property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for the conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this Chapter would cause unnecessary hardship; and

(c) That the proposed use will not alter the essential character of the neighborhood.

(2) Prior to Zoning Board of Appeals hearing on a request for a use variance, the Planning Commission shall consider the request and forward a report to the Zoning Board of Appeals. For this report the Planning Commission shall consider the Master Plan, the ability of the property owner to use the property for a use already permitted under the existing zoning classification, the effect of the request on the essential character of the neighborhood, and other factors as the Planning Commission may deem relevant.

(Ord. passed 12-13-1999)

SECTION 154.101 FEES.

The Village Council may prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. The fee shall be paid to the Village Clerk/Treasurer at the time the application for the appeal or variance is filed.

(Ord. passed 12-13-1999)

ADMINISTRATION**SECTION 154.115 ZONING ADMINISTRATOR.**

(A) Except where herein otherwise stated, the provisions of this Chapter shall be administered by the Zoning Administrator, or other official or officials as may be designated by the Village Council.

(B) The Zoning Administrator shall have the power to:

(1) Issue zoning permits;

(2) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this Chapter;

(3) Issue and serve appearance tickets on any person with respect to any violation of this Chapter where there is reasonable cause to believe that the person has committed such an offense;

(4) Perform other functions necessary and proper to enforce and administer the provisions of this Chapter; and

(5) Revoke a zoning permit issued in error.

(Ord. passed 12-13-1999)

SECTION 154.116 PERMITS.

(A) *Zoning permits.*

(1) No building, structure or commercial sign shall be erected, altered, moved or substantially repaired unless a zoning permit shall have been first issued for the work.

(2) No zoning permit shall be issued for the erection, alteration or use of any building or structure or for the use of any land which is not in accordance with all provisions of this Chapter.

(3) No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a zoning permit is first obtained for the new or different use. Regardless of the issuance of a building permit, a property owner must still comply with all provisions of this Chapter.

(B) *Building permits and certificates of occupancy.*

(1) No building permit for the construction, erection, alteration, repair or moving of any building or structure shall be issued until a zoning permit for the work has been issued by the Zoning Administrator.

(2) No building or structure which is hereafter erected or altered shall be occupied or used unless and until a certificate of occupancy shall have been issued for the building or structure. (Ord. passed 12-13-1999)

SECTION 154.117 ENFORCEMENT.

(A) *Violations.* See Section 154.999.

(B) *Performance guarantees.*

(1) As a condition of approval of a private street, site plan review, special land use or planned unit development, the Planning Commission or Village Council, whichever is designated as the approving authority, may require a financial guarantee of a sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed development. The features or components, hereafter referred to as "improvements", may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities and similar items.

(2) Performance guarantees shall be processed in the following manner.

(a) Prior to the issuance of a zoning permit, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the Zoning Administrator. The amount of the performance guarantee shall be 100% of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.

(b) The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Village.

(c) Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a zoning permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Chapter and other applicable ordinances of the Village.

(d) The Zoning Administrator, upon the written request of the obliger, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.

(e) When all of the required improvements have been completed, the obliger shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obliger shall be

released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.

(f) A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

(Ord. passed 12-13-1999)

SECTION 154.118 AMENDMENTS.

(A) The Village Council is authorized and empowered to cause this Chapter to be amended, supplemented or changed. Proposals for amendments may be initiated by the Council, the Planning Commission or by petition of one or more owners of property in the Village affected by the proposed amendment.

(B) The procedure for amending this Chapter shall be as follows.

(1) Each petition shall be submitted to the Zoning Administrator, accompanied by a fee as established by the Village Council, and then referred to the Clerk/Treasurer to set a hearing date and publish notices.

(2) The Planning Commission shall conduct a public hearing, the notice of which shall be given as provided in Section 154.076(A) not less than 15 days prior to the date of the hearing.

(3) The Planning Commission shall make a recommendation to the Village Council to approve or deny the proposed amendment, along with its findings.

(4) The Village Council may hold a public hearing or additional hearings if it considers it necessary or if otherwise required. Notice of such public hearing(s) shall be given as provided in Section 154.076(A) not less than 15 days prior to the date of the hearing. The Village Council shall grant a hearing on a proposed ordinance amendment to an interested property owner who requests a hearing by certified mail sent to the Village Clerk/Treasurer.

(5) No petition for rezoning, which has been disapproved, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

(Ord. passed 12-13-1999; Ord. 2000-9, passed 8-14-2000)

SECTION 154.119 FEES.

(A) The Village Council shall by resolution establish fees for the administration of this Chapter, including all proceedings and matters that may arise hereunder.

(B) A listing of current fees shall be available for review by the public during Village office hours at the Village Hall. The fees may be changed from time to time by resolution of the Village Council.

(C) The applicant shall pay all applicable fees upon the filing of any application, any proposed site plan or any other request or application under this Chapter and as to which a fee is prescribed.

(D) In addition to regularly established fees, the Village Council in its discretion may also require an applicant to submit to the Village (prior to Village review of an application or proposed site plan) an amount of money determined by the Village to be a reasonable estimate of the fees and costs which may be incurred by the Village in reviewing and acting upon any application or related matters.

(E) The Village shall not charge fees or assess costs to the applicant for the time expended by Village employees (except when authorized under appropriate provision of the Freedom of Information Act, MCL 15.231 et seq.) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Village during and in connection with the review process and other related proceedings, whether or not the application is granted, either in whole or in part.

(F) The costs and expenses to be charged or assessed to the applicant, for reimbursement of the Village's reasonable costs and expenses, may include, but shall not be limited to, Village Attorney fees, Village engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Village, costs and fees for studies and reports pertaining to the matters in question, special meeting costs and other reasonable costs and expenses.

(G) The monies shall be retained by the Village for reimbursement of the costs and expenses. Any monies paid or deposited by an applicant which are not used or spent by the Village shall be refunded. (Ord. passed 12-13-1999)

SECTION 154.999 PENALTY.

(A) Any person who violates any provision of this Chapter, or who violates, disobeys, omits, neglects or refuses to comply with any condition or requirement of any permit, certificate, plan, agreement, variance or other approval or authorization granted under this Chapter is responsible for a municipal civil infraction and shall be subject to the penalties set forth in Section 10.99 and Chapter 31 of this Code, except that the civil fine shall be not less than \$50 for a first offense, not less than \$150 for a first repeat offense and not less than \$500 for a second or subsequent repeat offense.

(B) The Zoning Administrator and other Village officials authorized under Chapter 31 of this Code may issue municipal civil infraction citations or municipal civil infraction notices for violations of this Chapter.

(C) Any building erected, moved, altered, razed or converted, or any use of land which is begun or changed subsequent to the effected date of this Chapter, or its amendment, that is in violation of any

provision of this Chapter or any condition or requirement of any permit, certificate, plan, agreement, variance or other approval or authorization granted under this Chapter, is hereby declared to be a nuisance per se, and shall be abated by a court of competent jurisdiction.

(D) The rights and remedies provided are cumulative and are in addition to any other remedies provided by law.

(Ord. passed 12-13-1999)

TABLE OF SPECIAL ORDINANCES

Table

- I. ZONING CHANGES**
- II. AGREEMENTS**

Howard City - Table of Special Ordinances

TABLE I: ZONING CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
97-4	5-12-1997	Rezones the real property incorporated by reference from AG/OS (Agricultural/Open Space) to I (Industrial)
Res. 2017-3	7-17-2017	Establishing an Industrial Development District

Howard City - Table of Special Ordinances

TABLE II: AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	8-12-1996	Contract with County Sheriff to enforce the village's ordinances; the village to pay \$1 annually therefor
Res. 2012-3	2-27-2012	Approving purchase contract, note agreement and related matters
Res. 2013-1	5-13-2013	Authorizing the performance of additional services for compensation
Res. 2014-1	1-20-2014	Adopting a proposal for police services by the Montcalm County Sheriff's Department for the Village of Howard City
Res. 2015-1	1-19-2015	Authorizing the performance of additional services for compensation
Res. 2015-5	5-18-2015	Source water protection policy and administrative procedures
Res. 2016-1	1-18-2016	Committing funds to the Shaw Street Trail with water and safety improvements
Res. 2016-2	1-18-2016	Approving purchase contract, note agreement and related matters
Res. 2017-1	1-16-2017	Assigning residential waste service agreement to Granger Waste Services
2019-1	12-16-2019	Granting to Consumers Energy Company an electric franchise in the Village for a period of 30 years
Res. 2020-2	9-21-2020	Village is authorized to enter into a payment plan agreement with Village residents in order to bring past-due water/sewer bills to current status

Howard City - Table of Special Ordinances

PARALLEL REFERENCES

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REFERENCES TO MICHIGAN COMPILED LAWS

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15.231 et seq.	113.03, 154.119
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28.451 et seq.	131.20
41.181	153.02
41.805	150.30
61.1 et seq.	70.20
61.1 - 75.12	32.01, 151.03
66.2	70.22
66.3a	10.01
123.161 through 123.167	50.01
125.1101	154.003
125.1651 et seq.	30.03
125.1651 through 125.1680	30.02, 30.36
125.1664	30.36
125.1667	30.36
125.2301	154.003
125.2301 et seq.	154.024
125.31 et seq.	154.003
125.3101 et seq.	154.001, 154.003
125.3101 - 125.3702	35.20
125.3801 et seq.	35.20, 154.003
125.3801 - 125.3885	35.20
125.51 - 125.55	35.22
125.581 et seq.	154.001
125.651 et seq.	35.01
125.657	35.04
247.655	73.01
257.1 to 257.923	73.03
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257.301 to 257.329	73.01
282.101 through 282.117	153.05
282.101 - 282.125	154.023

Howard City - Parallel References

<i>MCL Section</i>	<i>Code Section</i>
324.81101 et seq.	51.02, 73.01
324.81129	73.01
324.82101 et seq.	74.08
324.9101 et seq.	153.05, 154.023
330.1137	154.003
331.651 to 331.660	154.003
333.21301 et seq.	154.003
333.21711	154.003
333.26421 et seq.	154.024
333.7201 et seq.	133.02
400.701 et seq.	154.003
484.2102	113.02
484.2251	113.03
484.3101 et seq.	113.02
559.101 et seq.	154.023
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2.002	33.02
2.003	33.03
2.004	33.04
2.005	33.05
2.006	33.06
3.001	31.01
3.002	31.02
3.003	31.03
3.004	31.04
3.005	31.05
3.006	31.06
3.007	31.07
3.008	31.08
3.009	31.09
3.010	31.99
4.001	31.10
15.001	110.01
15.002	110.02
15.003	110.03
15.004	110.04
15.005	110.05
15.007	110.06
15.008	110.07
15.009	110.08
15.010	110.09
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15.012	110.11
15.013	110.12
15.014	110.13
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16.005	112.05
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18.003	111.02
18.004	111.03
18.005	111.04
18.006	111.05
18.007	111.06
18.008	111.07
18.009	111.08
18.010	111.99
20.001	30.01
20.002	30.02
20.003	30.03
20.004	30.04
20.005	30.05
20.006	30.06
20.007	30.07
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20.009	30.09
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47.002	74.02
47.003	74.03
47.004	74.04
47.005	74.05
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88.001	90.30
88.004	90.31
89.001	90.01
89.002	90.02
89.005	90.03
89.006	90.04
89.007	90.05
89.008	90.06
89.009	90.07
89.010	90.08
89.011	90.09
89.012	90.10
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115.005	52.05
115.006	52.06
115.007	52.07
115.008	52.08
115.009	52.09
116.001	52.25
116.002	52.26
116.003	52.27
116.004	52.28
116.005	52.29
116.006	52.30
116.007	52.31
116.008	52.99
116.009	52.32
116.012	52.33
117.001	52.45
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117.003	52.47
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117.005	52.49
117.006	52.50
117.007	52.51
117.008	52.52
117.011	52.53
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118.003	53.03
118.004	53.04
118.005	53.05
118.006	53.06
118.007	53.07
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118.009	53.09
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120.001	50.01
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