

CHAPTER 52: WATER

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WATER RATES

52.01 PAYMENT REQUIRED

- (A) Every person, firm or corporation, private, public or municipal, within the village limits, who or which are serviced by the Water Department of the village shall pay for this service the rate and fees hereinafter provided.
- (B) Every person, firm or corporation, private, public or municipal, outside the village limits, who or which are serviced by the Water Department of the village, shall pay for this service the rate and fees hereinafter provided.

(Ordinance 89, passed 10-15-80)

52.02 VILLAGE RATES

- (A) The rates to be charged for water service furnished by the system within the village limits shall be charged as under Resolution as adopted by Council from time to time.
(Ord. 89, passed 10-15-80; Am. Ord. 115, passed 11-9-89; Am. Ord. 132, passed 9-10-92; Am. Ord. 152, passed 6-13-96, Am. Ord. 169, passed 1-29-98; Am. Ord. 192, passed 5-21-02)

52.03 RATES OUTSIDE VILLAGE

- (A) The rates to be charged for water service furnished by the system outside the village limits shall be charged as under Resolution as adopted by Council from time to time.
(Ord. 89, passed 10-15-80; Am. Ord. 115, passed 11-9-89; Am. Ord. 124, passed 5-9-91; Am. Ord. 132, passed 9-10-92; Am. Ord. 192, passed 5-21-02)

52.04 TESTING CHARGES

Effective with the April 1995 billing, the third quarter billing, the Federal Clean Water Testing Charge of \$5.00 will be discontinued. The Village, by affirmative vote of the Village Council, may add the cost of any other testing, except routine monthly testing, required by a local, state or federal law or regulation in connection with the operation of the water system or the sewer system to each water bill in the same manner as the regular billing.

(Ord. 89, passed 10-15-80; Am Ord. 132, passed 9-10-92; Am. Ord. 133, passed 11-12-92; Am. Ord. 137, passed 1-95)

52.05 COMMERCIAL/INDUSTRIAL METERS

- (A) Effective 5-21-02, the rates for water service shall be set under Resolution as adopted by Council from time to time.
- (B) Residential rental units will not be charged the commercial/industrial meter charger per meter size.

(Ord. 89, passed 10-15-80; Ord. 155, passes 7-11-96; Am. Ord. 156, passes 12-12-96; Am. Ord. 192, passed 5-21-02)

52.06 NEW SERVICE

§52.06. **NEW SERVICE**. For new water services within the Village limits of the Village of Quincy, there shall be a charge payable in advance upon application as follows:

- (A) (1) 1 inch or smaller - \$1000
- (2) Any service above one-inch the charge shall be \$1,000 plus time and materials.
- (B) All taps outside the Village limits shall be twice the amount provided for in subdivision (A) of this Section.

§ 52.07 METERS AND WATER LINES.

(A) From and after the effective date of this section, all water meters necessary to replace worn out materials shall be purchased by and remain the property of the village and the property owners where the same is installed shall be considered as leases thereof and shall be liable for all damage thereto for any reason whatsoever except for reasonable wear and tear. From and after the effective date of this section, the village shall maintain all water meters.

(B) From and after the effective date of this section, the village shall maintain and repair all water lines from the main lines to the property line.

(Ord. 89, passed 10-15-80)

§ 52.08 BILLING.

(A) Effective with the April, 1995, billing, third quarter billing, service charge of \$6.00 per billing shall be added to each bill for water service hereunder, which charge shall be due and payable in the same manner as the regular billing. Billings for water service hereinbefore provided for shall be sent to each person charged therefor by the fifth day of the month following the close of each quarter; that is, by January 5, April 5, July 5, and October 5, and shall be payable at net until the tenth day of the following month (the due date), that is, by February 10, May 10, August 10 and November 10. Quarters shall consist of the following months: January, February, March; April, May, June; July, August, September; October, November, December. A service charge of 10% of the total amount due shall be added on each water service bill which is not paid by the due date. Failure to receive a water bill shall not be grounds for avoiding the 10% additional charge.

(B) All water rates and charges will be pro-rated from the effective date of water turn on until the end of the water billing cycle from the beginning of the water billing cycle until the effective date of turn

Water

off. The billing cycle is to be broken into thirds consisting of 30 days for each of the first two-thirds and the final third to terminate at the next meeting reading. This cycle shall begin at the date of the previous meter reading. A meter not being turning on or off during a quarter shall be charged the entire rates and charges.

(Ord. 89, passed 10-15-80; Am. Ord. 136, passed 7-8-93; Am. Ord. 137, passed 7-8-93; Am. Ord. 156, passed 12-12-96)

52.09 SHUT-OFF OF WATER SUPPLY; FEES

It shall be the duty of the Superintendent of Public Works to cause the water to be shut off from any service where the service bill has not been paid in full by the third Wednesday of the month following the date of issue, that is in February, May, August, and November. Notice shall be given to each resident regarding the shut off date at the time of billing and notice of shut off will be mailed to each residence, whom has not paid their account in full, five (5) business days prior to the shut off date. Any account subject to shut off for nonpayment, will be charged, in addition to the 10% service charge, a fee for turning water back on by multiplying the water base (minimum) rate by 1.5 times.

(Ord. 89, passed 10-15-80; Am. Ord. 137, passed 7-8-93; Am. Ord. 138, passed 9-9-93; Am. Ord. 152, passed 6-13-96; Am. Ord. 156, passed 12-12-96; Am. Ord. 192, passed 5-21-02)

LIEN

52.20 LIEN AS SECURITY

The village shall have as security for the collection of any water rates or any assessments, charges, or rentals due for the use or consumption of water and/or the use of sewer system services supplied to any house or other building or any premises, lot or lots, or parcels of land, a lien upon the house or other building and upon the premises or lots, or parcel of parcels of land upon which the house or other building is situated or to which the water ad/or sewer system service was supplied.

(Ord. 121, passed 2-8-90)

§ 52.21 EFFECTIVE DATE; ENFORCEMENT.

(A) The lien shall become effective immediately upon the distribution of the water or provision of the sewage system service to the premises or property supplied as aforesaid, but shall not be enforceable for more than three years after it becomes effective.

(B) The lien created by this subchapter shall be enforced by the village in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

(C) The official records of the Water Department of the village shall constitute notice of the pendency of such a lien.

(Ord. 121, passed 2-8-90)

§ 52.22 PRIORITY OF LIEN.

The lien created by this subchapter shall have priority over all other liens except taxes or special assessments, whether or not the other liens accrued or were recorded before the accrual of the water and/or sewage system lien created by this subchapter. Provided however, that the provisions of this subchapter shall not apply in any instance where a lease has been legally executed, containing a provision that the lessor shall not be liable for payment of water or sewage system bills accruing subsequent to the filing of the affidavit hereinafter provided for. Provided further, that an affidavit with respect to the execution of a lease containing this provision shall be filed with the Village Clerk, and 20 days notice shall be given by the lessor of any cancellation change or termination of the lease.

(Ord. 121, passed 2-8-90)

§ 52.23 DISCONTINUATION OF SERVICE.

The village may discontinue the water service from the premises which the above lien has accrued whenever any person shall fail to pay the rates, assessments, charges or rentals herein referred to, or may institute suit for the collection of same in any court of competent jurisdiction, but the attempt to collect water rates, assessments, charges or rentals by any process shall not invalidate or waive the lien upon the premises.

(Ord. 121, passed 2-8-90)

CROSS-CONNECTIONS**§ 52.35 STATE CROSS-CONNECTION RULES ADOPTED BY REFERENCE.**

(A) The village adopts by reference the water supply cross-connection rules of the Michigan Department of Public Health, being R 325.11401 to R 325.11407 of the Michigan Administrative Code,

as filed with the Michigan Secretary of State on January 12, 1978, copies of which are on file in the Village Clerk's office.

(B) This subchapter does not supersede the State Plumbing Code but is supplementary to it.
(Ord. 120, passed 2-8-90)

§ 52.36 INSPECTION; FREQUENCY.

(A) It shall be the duty of the Village Department of Streets and Water to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of its inspections and re-inspections based on potential health hazards involved shall be as established by the Department of Streets and Water and as approved by the Michigan Department of Public Health.

(B) The representative of the village, being the Superintendent of the Street and Water Department, or his designee, shall have the right to enter, at any reasonable time, upon any property served by a connection to the public water supply system of the village for the purpose of inspecting the piping system or systems thereof for cross-connections. On request the owner, lessees or occupants of any property so served shall furnish to the Superintendent of the Street and Water Department any pertinent information regarding the piping system or systems on the property. The refusal of this information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.
(Ord. 120, passed 2-8-90)

§ 52.37 DISCONTINUATION OF SERVICE FOR VIOLATIONS.

The Street and Water Department is authorized and directed to discontinue water service after ten days notice to any property wherein any connection in violation of this subchapter exists, and to take any other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. The notice shall either be delivered in person to the property owner or be sent by certified mail. Water service to the property shall not be restored until the cross-connection or connections violating this subchapter have been eliminated.

(Ord. 120, passed - -)

§ 52.38 PROTECTION FROM CONTAMINATION; LABELING.

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

(Ord. 120, passed - -)

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TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. SNOWMOBILES AND ALL-TERRAIN VEHICLES**
- 72. PARKING**
- 73. PARKING SCHEDULES**

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CHAPTER 70: GENERAL PROVISIONS

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Uniform Traffic Code

- 70.01 Uniform Traffic Code adopted by reference
- 70.02 References in code
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- 70.10 Motor Carrier Safety Act adopted by reference

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UNIFORM TRAFFIC CODE

§ 70.01 UNIFORM TRAFFIC CODE ADOPTED BY REFERENCE.

The Uniform Traffic Code for cities, townships and villages promulgated by the Director of State Police and published in the Michigan Administrative Code and amendments as published in the annual

supplement to thereto, in accordance with M.C.L.A. 257.951 through 257.954 and 257.953, is hereby adopted by reference into this chapter as if set forth in full herein.

(Ord. 101, passed 8-11-87)

§ 70.02 REFERENCES IN CODE.

References in the Uniform Traffic Code for Michigan cities, townships and villages to "governmental unit" shall mean the Village of Quincy.

(Ord. 101 passed 8-11-87)

§ 70.03 CHANGES IN CODE.

The following sections and sub-sections of the Uniform Traffic Code for cities, townships and villages are hereby amended or deleted as set forth and additional sections and sub-sections are added as indicated.

(A) *Section 5.15. Operating under influence.*

(1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this village, if either of the following applies:

(a) The person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance.

(b) The person has a alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this village by a person who is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and controlled substance, who has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whose ability to operate the motor vehicle is visibly impaired due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.

(3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city, when, due to the consumption of an intoxicating liquor, a controlled substance, or a combination of an intoxicating liquor and a controlled substance, the person's

ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) If a person is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this village if the person has any bodily alcohol content. As used in this subsection "any bodily alcohol content" means either of the following:

(a) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.

(5) A person, whether licensed or not, shall not operate a vehicle in violation of subsection (4) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a misdemeanor punishable as follows:

(a) Community service for not more than 60 days.

(b) A fine of not more than \$500.

(c) Imprisonment for not more than 93 days. In the judgment of sentence under this section, the court may, unless the vehicle is ordered forfeited under Section 5.15(1) order vehicle immobilization as provided in Section 5.15(k).

(6) If a person is convicted for violating subsection (1), the person is guilty of a misdemeanor punishable by one or more of the following:

(a) Community service for not more than 45 days.

(b) Imprisonment for not more than 93 days.

(c) A fine of not less than \$100 or more than \$500.

(7) A person who is convicted of violating subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$100 or more than \$500, or both.

(8) A person who is convicted of violating subsection (3), is guilty of a misdemeanor punishable by one or more of the following:

(a) Community service for not more than 45 days.

(b) Imprisonment of not more than 93 days.

(c) A fine of not more than \$300.

(9) If a person is convicted of violating subsection (4), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by one or more of the following:

1. Community service for not more than 45 days.
2. A fine of not more than \$250.

(b) If the violation occurs within seven years of one or more prior convictions, the person may be sentenced to one or more of the following:

1. Community service for not more than 60 days.
2. A fine of not more than \$500.
3. Imprisonment of not more than 93 days.

(10) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the Code of Criminal Procedure as authorized by 1927 PA 175, M.C.LA. 760.1 through 776.22, or ordinance duly adopted by the village.

(11) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(12) If a person is charged with a violation of a subsection (1), (3), or (5), or Section 5.15(i), the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (4) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.

(13) Except as otherwise provided in subsection (15), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(14) Except as otherwise provided in subsection (15), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation

of subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

(15) A special verdict described in subsections (13) and (14) is not required if a jury is instructed to make a finding solely as to either of the following:

(a) Whether the defendant was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(16) If a jury or court finds under subsection (13), (14), or (15) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an intoxicating liquor, the court shall do both of the following:

(a) Report the finding to the secretary of state.

(b) On a form or forms prescribed by the state court administrator, forward to the department of state police a record that specifies the penalties imposed by the court, including any term of imprisonment, and any sanction imposed under Sections 5.15(1) or 5.15(k).

(17) Except as otherwise provided by law, a record described in subsection (16)(b) is a public record and the department of state police shall retain the information contained on that record for not less than seven years.

(18) In a prosecution for a violation of subsection (4), the defendant bears the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.

(Am. Ord. 188, passed 6-20-01)

(B) *Amendments to Uniform Traffic Code Section 5.15a.*

(1) A peace officer, without a warrant, may arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vehicle involved in the accident in this state while in violation of Section 5.15(1) or (3).

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this city, and that the person by

the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis:

(a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15c(1) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(c) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of subsections 5.15c, 5.15d, 5.15e and 5.15f for the purposes of chemical tests described in those sections.

(d) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance or both in a driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 5.15c(1) shall be advised of all of the following:

(i) That if he or she takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer one of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under this act and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that he or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.

(ii) That if he or she refuses the request of a police officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order.

(iii) That his or her refusal of the request of a police officer to take a test described in subparagraph (i) shall result in the suspension of his or her operator's or chauffeur's license or operating privilege, and in the addition of six points to his or her driver record.

(c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures shall not attach to a qualified person who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.

(d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 5.15c(1). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer one of the chemical tests described in this subsection within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample.

(e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample shall be admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(4) The provisions of subsection (3) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had a blood alcohol content of 0.10% or more by weight of alcohol.

(5) If a chemical test described in subsection (3) is administered, the results of the test shall be made available to the person charged or the persons attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least two days before the day of trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(6) Except in a prosecution relating solely to a violation of section 5.15(1)(b), the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall give rise to the following presumptions:

(a) If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor, and that the defendant was not under the influence of intoxicating liquor.

(b) If there was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) due to the consumption of intoxicating liquor.

(c) If there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(7) A person's refusal to submit to a chemical test as provided in subsection (3) shall be admissible in a criminal prosecution for a crime described in section 5.15c(1) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

(Ord. 101, passed 8-11-87; Am. Ord. 130, passed 12-18-91)

(C) *Amendments to Uniform Traffic Code section 5.15b.* Section 5.15b of the Uniform Traffic Code, as adopted by ordinance No. 101, as amended, is hereby amended to read as follows:

(1) A person arrested for a misdemeanor violation of section 5.15(1) or (3) shall be arraigned on the citation, complaint, or warrant not more than 14 days after the date of arrest or, if an arrest warrant is reissued, not more than 14 days after the reissued arrest warrant is served.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 5.15(1) or (3). The pretrial conference shall be held not more than 35 days after the date of the person's arrest for the violation or, if an arrest warrant is reissued, not more than 35 days after the date the reissued arrest warrant is served. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than one adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. The court shall, except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, finally adjudicate, by a plea of guilty or nolo contendere, or the entry of a verdict, or by other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 5.15(1) or (3), within 77 days after the person is arrested for the violation or, if an arrest warrant is reissued, not more than 77 days after the date the reissued arrest warrant is served.

(3) Before accepting a plea of guilty or nolo contendere under section 5.15(1), (2) or (3), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state pursuant to state statute.

(4) Before imposing sentence, other than court-ordered license sanctions, for a violation of section 5.15 (1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(5) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the Michigan driving record of the person, except those convictions which, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following licensing sanctions.

(a) For a conviction under section 5.15(1):

(i) If the court finds that the person has no prior convictions within seven years for a violation of section 5.15(1) or (3) or former section 5.15(1) or (2) or former section 5.15b, or any local ordinance substantially corresponding to this section or the former section 5.15(1) or (2) or former section 5.15(b), or of a law of this state or another state substantially corresponding to this section or the former section 5.15(1) or (2) or former section 5.15(b), the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than six months or more than two years. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension, except that a restricted license shall not be issued during the first 30 days of the period of suspension.

(ii) If the court finds that the person has one prior conviction within seven years for a violation of section 5.15(3) or former section 5.15b, or any local ordinance substantially corresponding to section 5.15(3) or former section 5.15b, or of a law of this state or another state substantially corresponding to section 5.15(3) or former section 5.15b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than six months or more than two years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the period of suspension, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that the person has one or more prior convictions within seven years for a violation of section 5.15(1) or former section 5.15(1) or (2), or any local ordinance substantially corresponding to section 5.15(1) or the former section 5.15 (1) or (2), or of a law of this

state or another state substantially corresponding to this section or the former section 5.15(1) or (2), or that the person has two or more prior convictions within ten years for a violation of section 5.15(1) or (3) or former section 5.15(1) or (2) or former section 5.15b, or any local ordinance substantially corresponding to section 5.15(1) or (3) or the former section 5.15(1) or (2) or former section 5.15b, or of a law of this state or another state substantially corresponding to section or the former Section 5.15(1) or (2) or former section 5.15b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(b) For a conviction under section 5.15(3):

(i) If the court finds that the convicted person has no prior conviction within seven years for a violation of section 5.15(1) or (3), or former section 5.15(1) or (2) or former section 5.15b; or any local ordinance substantially corresponding to section 5.15(1) or (3) or the former section 5.15(1) or (2) or former section 5.15b, or of a law of this state or another state substantially corresponding to section 5.15(1) or (3) or the former section 5.15(1) or (2) or former section 5.15b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than one year. The court may order the secretary of state to issue to the person a restricted license during all or a specified portion of the period of suspension.

(ii) If the court finds that the person has one prior conviction within seven years for a violation of section 5.15(1) or (3) or former section 5.15(1) or (2) or former section 5.15b, or any local ordinance substantially corresponding to section 5.15(1) or (3) or the former section 5.15(1) or (2) or former section 5.15b, or of a law of this state or another state substantially corresponding to section 5.15(1) or (3) or the former Section 5.15(1) or (2) or former Section 5.15b, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than six months or more than two years. The court may order the secretary of state to issue to the person a restricted license during all or any portion of the suspension period, except that a restricted license shall not be issued during the first 60 days of the period of suspension.

(iii) If the court finds that the person has two or more prior convictions within ten years for a violation of section 5.15(1) or (3) or former sections 5.15(1) or (2) or former section 5.15b; or any local ordinance substantially corresponding to section 5.15(1) or (3) or the former section 5.15(1) or (2) or former section 5.15b, or of a law of this state or another state substantially corresponding to section 5.15(1) or (3) or the former section 5.15(1) or (2) or former section 5.15b, the court shall order the secretary of state to revoke the operator's or chauffeur's license of the person and shall not order the secretary of state to issue a restricted license to the person.

(6) A restricted license issued pursuant to an order under subsection (5) shall permit the person to whom it is issued to do one or more of the following:

- (a) Drive to and from the person's residence and work location.
- (b) Drive in the course of the person's employment or occupation.

(c) Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.

(d) Drive to and from the person's residence and the court probation department or a court-ordered community service program, or both.

(e) Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

(7) The court may order that the restricted license issued pursuant to subsection (5) include the requirement that the person shall not operate a motor vehicle unless the vehicle is equipped with a functioning ignition interlock device. The device shall be set to render the motor vehicle inoperable if the device detects a blood alcohol content of 0.02% or more by weight of alcohol in the person who offers a breath sample. The court may order installation of an ignition interlock device on any motor vehicle that the person owns or operates, the costs of which shall be borne by the person whose license is restricted.

(8) The court shall not order the secretary of state under subsection (5) to issue a restricted license that would permit a person to operate a truck or truck tractor, including a trailer, that hauls hazardous materials.

(9) The court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds pursuant to testimony taken in open court or pursuant to statements contained in a sworn affidavit on a form prescribed by the state court administrator, that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education treatment, court-ordered community service program, or educational institution, and does not have any family members or other individuals able to provide transportation.

(10) The court order issued under subsection (5) and the restricted license shall indicate the permitted destination of the person, the approved route or routes if specified by the court, and permitted times of travel.

(11) As used in this section, **WORK LOCATION** means, as applicable, either the specific place of places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

(12) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 5.15(1) or (3), the person shall surrender to the court his or her operator's or chauffeur's license or permit. The court shall immediately destroy the license or permit and forward an abstract of conviction with court-ordered license sanctions to the secretary of state. Upon receipt of, and pursuant to, the abstract of conviction with court-ordered license sanctions, the secretary of state shall suspend or revoke the person's license and, if ordered by the court and the person is otherwise eligible for a license, issue to the person a restricted license stating the limited driving privileges indicated on the abstract. If the judgment and sentence is appealed to circuit

court, the court may, ex parte, order the secretary of state to stay the suspension, revocation, or restricted license issued pursuant to this section pending the outcome of the appeal.

(D) *Amendments to Uniform Traffic Code section 5.15c.* Section 5.15c of the Uniform Traffic Code, as adopted by ordinance No. 101, as amended, is hereby amended to read as follows:

(1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood if the person is arrested for a violation of section 5.15(1) or (3).

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 5.15a(3).

(E) *Amendments to Uniform Traffic Code section 5.15d.* Section 5.15d of the Uniform Traffic Code, as adopted by Ordinance No. 101, as amended, is hereby amended to read as follows:

(1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 5.15a(3), a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

(F) *Amendments to Uniform Traffic Code section 5.15e.* Section 5.15e of the Uniform Traffic Code, as adopted by Ordinance No. 101, as amended, is hereby amended to read as follows:

(1) Upon receipt of the report made pursuant to section 5.15d, the secretary of state shall immediately notify the person in writing, mailed to his or her last known address, that the report has been received and that within 14 days of the date of the notice the person may request a hearing as provided in section 5.15f.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

(G) *Amendments to Uniform Traffic Code section 5.15f.* Section 5.15f of the Uniform Traffic Code, as adopted by Ordinance No. 101, as amended, is hereby amended to read as follows:

(1) If a person who refuses to submit to a chemical test pursuant to section 5.15d does not request a hearing within 14 days of the date of notice pursuant to section 5.15e, the secretary of state shall suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for a period of six months, or for a second or subsequent refusal within a period of seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of six months, or for a second or subsequent refusal within a period of seven years, for one year.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in M.C.L.A. 257.322; MSA 9.2022. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (a) through (d). Not less than five days notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 5.15d, and if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the city where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses and grant a reasonable request for an adjournment. Not more than one adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest and shall, except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, be finally adjudicated within 77 days after the date of arrest. The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1).

(b) Whether the person was placed under arrest for a crime described in section 5.15c(1).

(c) If the person refused to submit to the test upon the request of the officer whether the refusal was reasonable.

(d) Whether the person was advised of the rights under section 5.15a(3).

(3) The hearing officer shall make a record of proceedings held pursuant to subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.286 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to M.C.L.A. 257.323; MSA 9.2023, the hearing officer shall transmit to the court in which the petition was filed, not less than ten days before the matter is set for review, the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether or not the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened.

A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(4) After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for a period of six months, or for a second or subsequent refusal within seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of six months, or for a second or subsequent refusal within seven years, for one year. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in M.C.L.A. 257.323; MSA 9.2023. If after the hearing the person who requested the hearing prevails, the peace officer who filed the report under section 5.15d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in M.C.L.A. 257.323; MSA 9.2023.

(5) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he or she has a license to operate a motor vehicle.

(H) *Amendments to Uniform Traffic Code section 5.15g.* Section 5.15g of the Uniform Traffic Code, as adopted by Ordinance No. 357, as amended by Ordinance Nos. 376, 397, 439 and 456, is hereby amended to read as follows:

(1) If a person refuses a chemical test offered pursuant to section 5.15a(6) or submits to the chemical test if performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:

(a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle, and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.

(b) Except as provided in subsection (2), immediately do all of the following:

(i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under Section 5.15(d) to the secretary of state.

(ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.

(iii) Destroy the person's driver's license or permit.

(2) If a person submits to a chemical test offered pursuant to Section 5.15(a)(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available,

the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of the arrest.

(3) A temporary license or permit issued under this section is valid for one of the following time periods:

(a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to Section 5.15(f), whichever occurs earlier, the prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.

(b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.

(4) As used in this section, "unlawful blood content" means any of the following, as applicable:

(a) If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) If the person tested is not a person described in subsection (a) or (b), 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
(Am. Ord. 130, passed 12-18-91; Am. Ord. 188, passed 6-20-01)

(I) *Amendments to Uniform Traffic code section 5.15h.* Section 5.15h of the Uniform Traffic Code, as adopted by Ordinance No. 101, as amended, is hereby amended to read as follows:

(1) A person, whether licensed or not, whose blood contains 0.04 % or more but not more than 0.07% by weight of alcohol shall not operate a commercial motor vehicle within the village.

(2) A police officer may, without a warrant, arrest a person if the police officer has reasonable cause to believe that the person was, at the time of the accident, the driver of a commercial motor vehicle involved in the accident and was operating the vehicle in violation of this section.

(3) A person who is convicted of a violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$300, or both, together

with costs of the prosecution. As part of the sentence, the court shall order the secretary of state to suspend the vehicle group designations on the person's operator's or chauffeur's license for one year or, if the vehicle was carrying hazardous material required to have a placard pursuant to 49 CFR 100 to 199, for 3 years. The court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle.

(Ord. 101 passed 8-11-87; passed 2-8-90; Am. Ord. 130, passed 12-18-91; Am. Ord. 135, passed 1-21-93)

(J) *Amendments to Uniform Traffic Code section 5.16b.* Section 5.16b of the Uniform Traffic Code, as adopted by Ordinance No. 101, as amended, is hereby amended to read as follows:

(1) Except as provided in subsection (2) a person shall not transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway or within the passenger compartment of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this city.

(2) A person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in this city, if the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is enclosed or encased, and the container is not readily accessible to the occupants of the vehicle.

(3) A person who violates this section is guilty of a misdemeanor.

(4) This section does not apply to a passenger in a chartered vehicle authorized to operate by the Michigan department of transportation.

(Am. Ord. 130, passed 12-18-91)

(K) *Section 5.62(a).*

(1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided by M.C.L.A. 257.212 of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this village.

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this village by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows: For a first violation, by imprisonment for not more than 93 days or a fine or not more than \$500, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the Secretary of State upon notification by a peace officer.

(4) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the Secretary of State and shall furnish the record to the court. The driving record of the person may be obtained from the Secretary of State's computer information network.

(5) This does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(6) A person whose vehicle group designation is suspended or revoked and who has been notified as provided by M.C.L.A. 257.212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of those conditions existing is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than three days or more than 93 days or a fine of not more than \$100, or both.

(7) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

(L) *Section 5.62(b).*

(1) When a peace officer detains the driver of a motor vehicle for a violation of a law of this state or local ordinance for which vehicle immobilization is required, the peace officer shall do all of the following:

(a) Immediately confiscate the vehicle's registration plate and destroy it.

(b) Issue a temporary vehicle registration plate for the vehicle in the same form prescribed by the Secretary of State for temporary registration plates issued under M.C.L.A. 257.226a or 257.226b.

(c) Place the temporary vehicle registration plate on the vehicle in the manner required by the Secretary of State.

(d) Notify the Secretary of State through the law enforcement information network in a form prescribed by the Secretary of State that the registration plate was confiscated and destroyed, and a temporary plate was issued.

(2) A temporary vehicle registration plate issued under this section is valid until the charges against the person are dismissed, the person pleads guilty or nolo contendere to those charges, or the person is found guilty of or is acquitted of those charges.

(M) *Section 5.62(c).*

(1) A court shall order a vehicle immobilized under Section 5.15(k) by the use of any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle. If a vehicle is immobilized under this section, the court may order the vehicle stored at a location and in a manner considered appropriate by the court. The court may order the person convicted of violating Section 5.15 or a suspension, revocation, or denial under M.C.L.A. 257.904 to pay the cost of immobilizing and storing the vehicle.

(2) A vehicle subject to immobilization under this section may be sold during the period of immobilization, but shall not be sold to a person who is exempt from paying a use tax Section 3(3)(a) of the Use Tax Act, 1937 PA 94, M.C.L.A. 205.93 without a court order.

(3) A defendant who is prohibited from operating a motor vehicle by vehicle immobilization shall not purchase, lease, or otherwise obtain a motor vehicle during this immobilization period.

(4) A person shall not remove, tamper with, or bypass or attempt to remove, tamper with, or bypass a device that he or she knows or has reason to know has been installed on a vehicle by court order by vehicle immobilization or operate or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized.

(5) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100 or both.

(6) To the extent that a local ordinance regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, the local ordinance is preempted.

(7) If a peace officer stops a vehicle that is being operated in violation of an immobilization order, the vehicle shall be impounded pending an order of a court of competent jurisdiction.

(8) The court shall require the defendant or a person who provides immobilization services to the court under this section to certify that a vehicle ordered immobilized by the court is immobilized as required.

(Am. Ord. 189, passed 6-20-01)

(N) *Section 5.63a. License restrictions: violation punishable as misdemeanor.*

(1) A person shall not drive a motor vehicle in violation of the restrictions imposed on his or her license by the secretary of state or by the courts, of this state.

(2) The violation of this section is punishable as a misdemeanor.

(O) *Section 5.97a(2).*

The driver of a vehicle that overtakes or meets a school bus which has stopped and which is displaying two alternately flashing red lights located at the same level shall bring the vehicle to a stop not less than ten feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. The driver of the school bus, before resuming motion, shall deactivate flashing lights, shall permit stopped traffic to proceed and shall, when resuming motion, proceed in a manner that will allow congested traffic to disperse by keeping the bus as near to the right side of the road as can be done with safety.

(P) *Section 5.97a(7).* Deleted.

(Ord. 101, passed 8-11-87)

(Q) *Section 5.101. Safety belt usage.*

(1) This section shall not apply to a driver or passenger of:

(a) A motor vehicle manufactured before January 1, 1965.

(b) A bus.

(c) A motorcycle.

(d) A moped.

(e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.

(f) A motor vehicle which is not required to be equipped with safety belts under federal law.

(g) A commercial or United States Postal Service vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services.

(h) A motor vehicle operated by a rural carrier of the United States Postal Service while serving his or her rural postal route.

(2) This section shall not apply to a passenger of a school bus.

(3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this village shall wear a properly adjusted and fastened seat belt, except that a child less than four years of age shall be protected as required in section 5.102. Each driver of a motor vehicle transporting

a child four years of age or more but less than 16 years of age in the front seat of the motor vehicle shall secure the child in a properly adjusted and fastened safety belt.

(4) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.

(5) Failure to wear a safety belt in violation of this section may be considered evidence by negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, that negligence shall not reduce the recovery for damages by more than 5%.

(6) A person who violates this section is responsible for a civil infraction.

(7) Points shall not be assessed under M.C.L.A. 257.320a for a violation of this section.

(8) This section shall not apply after April 1, 1989, if, on that date or at any time thereafter, the United States government requires the installation of passive passenger restraints in new automobiles, whether that requirement is by statute, administrative rule, court decision, or in any other way.

(R) Section 5.102. Child restraint systems.

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

(a) Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 CFR 571.213.

(b) Any child one year of age or more but less than four years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213.

(a) Any child one year of age or more but less than four years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, unless the child is secured by a safety belt provided in the motor vehicle.

(2) This section does not apply to a nonresident driver transporting a child in this state or to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under M.C.L.A. 257.710b or federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed under M.C.L.A. 257.320a for a violation of this section. An abstract required under M.C.L.A. 257.732 shall not be submitted to the secretary of state regarding a violation of this section.

(6) The secretary of state may exempt by rules promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

(Ord. 101, passed 8-11-89; Am. Ord. 118, passed 2-8-90)

(S) Section 5.100. Production of evidence of insurance.

(1) The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the streets and highways of the Village of Quincy or the operator of a motor vehicle shall produce, pursuant to subsection (2) hereof, upon the request of a police officer, evidence that the motor vehicle is insured under Chapter 31 of the Insurance Code of 1956, Act 218 of the Public Acts of 1956, as amended, being M.C.L.A. 500.3101 to 500.3179. An owner or operator of a motor vehicle who fails to produce evidence of insurance under this subsection when requested to produce that evidence, or who fails to have motor vehicle insurance for the vehicle as required under Chapter 31 of Act 218 of the Public Acts of 1956, is responsible for a civil infraction.

(2) A certificate of insurance, if issued by an insurance company, which certificate states that security which meets the requirements of Sections 3101 and 3102 of Act 218 of the Public Acts of 1956, as amended, being M.C.L.A. 500.3101 and 500.3102, is in force shall be accepted as *prima facie* evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person named on the policy, policy declaration, or a declaration certificate, whose operating of the vehicle would cause the liability coverage of that insured to become void.

(3) If an owner or operator of a motor vehicle is determined to be responsible for a violation of subsection (1) hereof, the court in which the civil infraction determination is entered may require the person to surrender his or tier operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of Sections 3101 and 3102 of Act 218 of the Public Acts of 1956, being M.C.L.A. 500.3101 and 500.3102 as amended, is submitted to the court. If the person submits proof to the court that the vehicle has insurance meeting the requirements of Sections 3101 and 3102 of Act 218 of the Public Acts of 1956, in addition to the civil fine and costs provided by this ordinance, the court shall assess a fee of \$25. If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license. The court shall immediately destroy the license and shall forward to the secretary of state an abstract of the court record as required by M.C.L.A. 257.732. Upon receipt of the abstract, the secretary of state shall suspend the person's license, beginning with the date on which a person is determined to be responsible of the civil infraction, for a period of 30 days or until proof of insurance which meets the requirements of Sections 3101 and 3102 of Act 218 of the Public Acts of 1956, being M.C.L.A. 500.3101 and 500.3102 as amended, is

submitted to the secretary of state, whichever occurs later. A person who submits proof of insurance to the secretary of state under this subsection shall pay a service fee of \$10 to the secretary of state. The person shall not be required to be examined as set forth in M.C.L.A. 257.320c.

(4) An owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500, or both.

(5) Points shall not be entered on a driver's record pursuant to M.C.L.A. 297.320a for a violation of this section.

(6) This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign county or province.

(T) *Safety belt required; enforcement.*

(1) This section shall not apply to a driver or passenger of:

(a) A motor vehicle manufactured before January 1, 1965;

(b) A bus;

(c) A motorcycle;

(d) A moped;

(e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons;

(f) A motor vehicle which is not required to be equipped with safety belts under federal law;

(g) A commercial or United States postal service vehicle which makes frequent stops for the purpose of pick up or delivery of goods or services;

(h) Any motor vehicle operated by a rural carrier of the United States postal service while serving his or her rural postal route.

(2) This section shall not apply to a passenger of a school bus.

(3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required in division (U) below.

(4) Each driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts for use, and all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all front seat passengers comply with subsection (3), then the driver of the motor vehicle transporting a child four years of age or more but less than 16 years of age for which there is not an available safety belt is in compliance with this subsection, if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pick-up truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.

(5) Failure to wear safety belts in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of the motor vehicle. However, such negligence shall not reduce the recovery for damages by more than 5%.

(6) Enforcement of this section by state or local law enforcement agencies may be accomplished as a primary or secondary violation action.

(7) A person who violates this section is responsible for a civil infraction.

(8) Points shall not be assessed for violation of this section.

(U) *Mandatory child restraints.*

(1) Except as provided in this section, or as otherwise provided by law, a rural, promulgated pursuant to Act 306 of the Public Acts of 1969, as amended, being M.C.L.A. 24.201 through 24.315, as amended, or pursuant to federal regulate, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

(a) Any child less than one year of age, in a child restraint system which meets the standards prescribed in 49 CFR 571.213 except as provided in subsection (6);

(b) Any child one year of age or more but less than four years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213 except as provided in subsection (6);

(c) Any child one year of age or more but less than four years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection (6).

(2) This section does not apply to any child being nursed.

(3) This section does not apply if the motor vehicle being driven as a bus, school bus, taxicab, moped, motorcycle or other motor vehicle not required to be equipped with safety belts under federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed for violation of this section.

(6) The Secretary of State may exempt, by rules promulgated pursuant to Act 306 of the Public Acts of 1969, as amended, a class of children from the requirements of this section, if the Secretary of State determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem or body size. The Secretary of State may specific alternate means of protection for children exempt and under this subsection.

(Ord. 101, passed 8-11-89; Am. Ord. 169, passed 2-19-98; Am. Ord. 180, passed - -)

MOTOR CARRIER SAFETY ACT

§ 70.10 MOTOR CARRIER SAFETY ACT ADOPTED BY REFERENCE.

The Motor Carrier Safety Act of 1963, as amended, by the State of Michigan, is hereby adopted by reference. The Motor Carrier Safety Act of 1963, as amended, may be modified by the subsequent sections of this section.

(B) The Village Clerk shall publish this section in the manner required by law and shall at the same time publish a supplementary notice setting forth the purpose of the Uniform Traffic Code and of the fact that a complete copy of the code is available at the office of the Clerk for inspection by the public at all times.

(Ord. 181, passed - -)

RECOVERY OF COSTS OF EMERGENCY RESPONSES

§ 70.15 PURPOSE.

The village finds that when a significant number of traffic arrests and traffic accidents in this village involve drivers who are 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. As a result of these determinations, a greater operational and/or financial burden is placed upon the village police, Street Department, firefighting and rescue services, or other village services, by persons who

are operating motor vehicles while under the influence of alcoholic beverages and/or controlled substances.

(Ord. 161, passed 4-10-97)

§ 70.16 DEFINITIONS.

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

EMERGENCY RESPONSE. This shall apply to either of the following.

(1) Providing, sending and/or utilizing public service, police, firefighting and rescue services by the village to an accident involving a motor vehicle where one or more of the drivers were operating a motor vehicle while under the influence of an alcoholic beverage or controlled substances or the combined influence of an alcoholic beverage and controlled substance.

(2) The making of a traffic stop or arrest by a police officer when the driver was operating a motor vehicle while under the influence of an alcoholic beverage or controlled substances or the combined influence of an alcoholic beverage and controlled substance.

EXPENSE OF EMERGENCY RESPONSE. The cost associated with the occurrence of an **EMERGENCY RESPONSE** as set forth in this section, whichever is applicable. The expenses of making an **EMERGENCY RESPONSE**, as set forth in this section, shall include the cost connected with the administration, provision and analysis of chemical tests and the videotaping of the driver, if applicable. These costs shall be set by Council resolution.

(Ord. 161, passed 4-10-97)

§ 70.17 LIABILITY, PRESUMPTION.

(A) Any person who, while under the influence of an alcoholic beverage or any controlled substances, or the combined influence of an alcoholic beverage and any controlled substances operates a motor vehicle, which operation results in emergency response, shall be responsible and/or liable for the expenses of the emergency response.

(B) For the purposes of this subchapter, it shall be presumed that a person was operating a motor vehicle under the influence of an alcoholic beverage if chemical analysis of the driver's blood, urine or breath indicates that the amount of alcohol in the driver's blood, urine or breath was in excess of 0.07%, except in the case of an individual under the age of 21, in which case it will be presumed that the individual (under the age of 21) was operating a motor vehicle under the influence of an alcoholic beverage if the chemical analysis of the driver's blood, urine or breath indicates that the amount of alcohol in the driver's blood, urine or breath was in excess of .02%

(Ord. 161, passed 4-10-97) Penalty, see section § 70.99

§ 70.18 INTERPRETATION.

This subchapter shall be construed to be a responsibility and liability of a civil nature on the part of the driver and shall not be construed to conflict, contravene or enlarge or reduce any judge under the Uniform Traffic Code on a driver for operating a motor vehicle while under the influence of an alcoholic beverage and/or controlled substances.

(Ord. 161, passed 4-10-97)

TRUCKS AND TRUCK TRAFFIC**§ 70.30 DEFINITIONS.**

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

COMMERCIAL VEHICLE. All motor vehicles used for transportation of passengers for hire, goods, wares, or merchandise, weighing five tons or more, without load, or being more than 22 feet in overall length, or having more than two axles.

TRAILER. All vehicles, being more than 16 feet in overall length, designed for carrying property or persons and for being drawn by a motor vehicle.

TRUCK. All commercial vehicles and trailers.
(Ord. 167, passed 12-11-97)

§ 70.31 EXCEPTIONS.

This subchapter shall not apply to trucks making actual deliveries to or pickups from any premises, or to trucks engaged in the removal of refuse or garbage, trucks engaged in street construction or maintenance, or trucks engaged in utility operation within the village.

(Ord. 167, passed 12-11-97)

§ 70.32 TRUCK ROUTE.

Except as permitted in § 70.31, the operation and parking of trucks is prohibited in residential districts, except for trucks for which a valid permit is held by the operator pursuant to § 70.34. No other use of village roads is authorized for use by truck traffic except as provided herein. Trucks may only travel upon the following designated streets unless otherwise specifically provided in this subchapter.

(A) State Highway US 12.

- (B) North and South Main Street.
- (C) Arnold Street, Cole Street.
- (D) Berry Street, Taylor Street.
- (E) Church Street between US 12 and Cole Street.
- (F) Brown Street.
- (G) West Street, Elmer Street, Depot Street.
- (H) East Liberty Street to Elementary.

(I) Fulton Street to Jefferson Street to Middle School
(Ord. 167, passed 12-11-97) Penalty, see § 70.99

§ 70.33 SIGNS.

Signs shall be posted that direct all trucks as defined in this subchapter to travel only upon designated roadways and streets within the village. All traffic control devices shall comply with mandates set forth according to the *Michigan Manual of Uniform Traffic Control Devices* as issued by the Michigan Department of Transportation.

(Ord. 167, passed 12-11-97)

§ 70.34 RESIDENTIAL TRUCK PERMITS.

(A) Any person who is a resident of the village may apply to the Village Ordinance Committee for a residential truck parking permit. Only one permit will be allowed per address.

(B) Every holder of a parking permit must possess a valid Michigan commercial drivers license and be the operator of the truck. All trucks must be operable and being used for employment purposes by the operator.

(C) Application for a permit shall be obtained at the Village Office. Every permit shall expire one year from the date of issue. Applications shall contain the following information.

- (1) Address of the location the truck will be parked.
- (2) Copy attached of the operator's license.
- (3) Copy of truck registration.

(4) Proof of residence, such as voter's registration, tax bill or utility bill.

(D) There will be no fee for application. The application shall be submitted to the Village Ordinance Committee and will be reviewed at the next regularly scheduled ordinance meeting. The Village Ordinance Committee will then approve or deny the permit.

(E) Permit holders shall use the most direct route to their residence from the established truck route.

(Ord. 167, passed 12-11-97) Penalty, see § 70.99

§ 70.35 REVOCATION OF PERMIT.

(A) No operator of a truck, as defined in § 70.30, shall cause annoyance or public inconvenience to any person by means of any of the following offenses.

(1) *Level one offenses.*

- (a) An offensive odor being emitted from their vehicle.
- (b) Disturbing any peace by noise from their vehicle.
- (c) Excessive idling (20 minutes).
- (d) Illegal parking.

(2) *Level two offense.* Committing any moving traffic offense while driving a truck in the village.

(3) *Level three offense.* Three or more complaints of level one offenses in any consecutive 12-month period.

(B) All complaints of violations of this subchapter will be reported on a Quincy Police Department complaint form and a copy submitted to the Village Ordinance Committee and Citizen Representative for review. The registered operator and owner of the truck will be notified of all complaints via first-class mail, and the date, time and location of the meeting of the Village Ordinance Committee, at which time the complaint shall be reviewed. At the meeting, the permit holder shall be given an opportunity to address the committee and present witnesses and other evidence. The committee shall determine if an offense, as defined in division (A) of this section, has occurred, and if revocation is warranted pursuant to division (C) of this section.

(C) The Village Ordinance Committee may revoke any permit of any operator of any truck who ceases to meet the requirements of divisions (A) and (B) of this section or has three level one offenses within any consecutive 12-month period. The Village Ordinance Committee shall revoke a parking

permit for all level two offenses. Any resident who has a permit revoked is no longer eligible for a permit for a period of one year.

(D) Upon a decision by the Village Ordinance Committee to revoke a residential truck parking permit, the owner and operator will be notified by certified mail.

(E) A permit holder shall have the right to appeal any decision of the Village Ordinance Committee to the Village Council within 21 days after receipt of the notice of the decision by filing a written notice of appeal with the Village Clerk.

(Ord. 167, passed 12-11-97) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) The operation or parking of a truck in a residential area without a permit except as may be otherwise permitted by §§ 70.30 through 70.35, shall be a civil infraction. Any person found responsible for such a civil infraction shall be punished by a fine of not more than \$500 and the costs of prosecution. Each day a violation occurs constitutes a separate violation.

(Ord. 167, passed 12-11-97)

CHAPTER 71: SNOWMOBILES AND ALL-TERRAIN VEHICLES

Section

- 71.01 Definitions
- 71.02 Regulations and restrictions
- 71.03 Exceptions to regulations
- 71.04 Equipment required
- 71.05 Unattended vehicles

§ 71.01 DEFINITIONS.

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

ALL-TERRAIN VEHICLE or **A.T.V.** A self-propelled vehicle designed for travel on land or water.

OPERATE. To control the operation of a snowmobile or A.T.V.

OPERATOR. A person who operates or who is in actual control of a snowmobile or A.T.V.

SNOWMOBILE. Any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under M.C.L.A. 257.1 through 257.923.

(Ord. 75, passed 11-2-70)

§ 71.02 REGULATIONS AND RESTRICTIONS.

(A) *Regulations.* It shall be unlawful for any person to operate a snowmobile or A.T.V. under the following circumstances.

(1) On private property of another without the express permission to do so by the owner or occupant of the property.

(2) On public school grounds, park property, playgrounds or recreational areas without express provision or permission to do so by the public authority.

(3) 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.

(4) In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any person.

(5) Failing to yield the right of way to motor vehicle and pedestrian traffic.

(6) During unauthorized hours. Snowmobiles and A.T.V.'s shall only be driven between the hours of 8:00 a.m. and 10:00 p.m. on Sunday through Thursday, and between 8:00 a.m. and 11:00 p.m. on Friday and Saturday.

(7) On any sidewalk within the village.

(8) Without having the snowmobile or A.T.V. registered as provided for by Michigan statute, except that this provision shall not apply to the operation of a snowmobile or A.T.V. on the private property of the owner by the owner or a member of his immediate family.

(9) Within the right-of-way of any public street within the village unless the operator shall have a valid driver's license, and at no time is it permissible to operate in the traveled portion of the street, except as contained in the exceptions in § 71.03.

(B) *Restriction of operation.* The Village Council may, by resolution, prohibit the operation of snowmobiles or A.T.V.'s within the right-of-way of the public roads or streets or other village property within the village, when in their opinion the public safety and welfare so requires.

(C) *Traffic regulations.* Each person operating a snowmobile or A.T.V. shall directly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the village authorized to direct or regulate traffic.
(Ord. 75, passed 11-2-70) Penalty, see § 10.99

§ 71.03 EXCEPTIONS TO REGULATIONS.

No person shall operate a snowmobile or A.T.V. upon the main travel portion of any roadway as defined in Public Act 300 of 1949, section 55, being M.C.L.A 257.55, or on a highway or street within ten feet of the roadway, with the following exceptions.

(A) Properly registered snowmobiles or A.T.V.'s may cross public highways, except limited access highways, as defined in M.C.L.A. 257.26, and freeways, as defined in M.C.L.A. 257.18A, if the crossing can be made in safety and it does not interfere with the free movement of vehicular traffic

approaching from any direction on the highway. The snowmobile or A.T.V. operator shall yield the right-of-way to all vehicular traffic from any roadway.

(B) Snowmobiles and A.T.V.'s may be operated on highways and village road systems which are not maintained for winter wheel vehicular traffic by removal of snow.

(C) Snowmobiles or A.T.V.'s may be operated on a street or highway during a period of emergency when so declared by a police agency having jurisdiction, when travel by conventional automotive equipment is not possible,

(D) Snowmobiles or A.T.V.'s may be operated on the highways within the restrictions set forth herein for the purpose of crossing bridges and culverts.

(E) Snowmobiles or A.T.V.'s may be operated on county highways not having ten or more feet of traversable right-of-way, outside the traveled portion of the roadway as far off the roadway as possible.

(F) Snowmobiles or A.T.V.'s may be operated on a street or highway for a special snowmobile or A.T.V. event of limited duration, which is conducted according to a prearranged schedule under permit from the governmental unit having jurisdiction.

(G) Whenever it is impractical to gain immediate access to an area adjacent to a public highway where a snowmobile or A.T.V. is to be operated, the vehicle may be operated adjacent and parallel to the highway for the purpose of gaining access to the area of operation. This shall apply to the operation of a snowmobile from the point where the vehicle is unloaded from a motorized conveyance to and from the area where the snowmobile is to be operated when loading and unloading cannot be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on the highway. Loading or unloading must be accomplished with due regard to safety at the nearest possible point to the area of operation.

(H) 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 and A.T.V.'s are used. The Parks and Recreation Director shall have the authority to designate village park areas that he shall deem available for the use of snowmobiles or A.T.V.'s.

(Ord. 75, passed 11-2-70) Penalty, see § 10.99

§ 71.04 EQUIPMENT REQUIRED.

All snowmobiles or A.T.V.'s 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, cut-out, by-pass or similar device on the vehicle.

(B) Adequate brakes in good working condition and at least one headlight and one taillight. (

(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.

(Ord. 75, passed 11-2-70) Penalty, see § 10.99

§ 71.05 UNATTENDED VEHICLES.

It is unlawful for the owner or operator to leave or allow a snowmobile or A.T.V. to be or remain unattended on public property while the motor is running or with the keys for starting the vehicle left in the ignition.

(Ord. 75, passed 11-2-70) Penalty, see § 10.99

CHAPTER 72: PARKING

Section

Parking Prohibitions and Limits

- 72.01 Parking limits and areas authorized
- 72.02 Parking prohibited during certain hours
- 72.03 Truck and tractors restricted in parking lots

Parking Meter Zones

- 72.15 Authority of Village Council
- 72.16 Parking meters; fees

Semi-truck Parking

- 72.30 Parking prohibited in certain areas
- 72.31 Truck parking lot
- 72.32 Permit; fees

Parking Violations

- 72.45 Parking Violations Bureau
- 72.46 Violation notices; payment

- 72.99 Penalties

PARKING PROHIBITIONS AND LIMITS

§ 72.01 PARKING LIMITS AND AREAS AUTHORIZED.

(A) The Chief of Police, with the approval of the Village Council, shall have the authority to establish motor vehicle parking time limits and parking areas on the public streets and parking lots within the village.

(B) The parking areas shall be designated by signs setting forth the maximum parking time limits and the days and hours the time limits are effective.

(C) Parking of vehicles between the sidewalk and normal curb line of any street is prohibited unless a parking area thereon shall be so designated by signs or markings by the Police Department.

(D) Parking contrary to parking control signs or markings in any village parking lot is prohibited. (Ord. 80, passed 6-3-75)

(E) No person shall block any alley nor park in any alley which is used by the public at any time, and trucks shall not be allowed to stand in any public alley except for a reasonable period while in the actual process of being loaded or unloaded. (Ord. 64, passed 4-5-66)

Penalty, see § 72.99

§ 72.02 PARKING PROHIBITED DURING CERTAIN HOURS.

(A) No person shall park any motor vehicle on any parking lot maintained by the village for a continuous period of more than 48 hours. (Ord. 55, passed 9-8-60)

(B) No automobile or other vehicle shall be parked on any street or alley in the village between the hours of 2:00 a.m. and 6:00 a.m. of any day.

(C) Any vehicle parked in violation of this section may be removed and impounded on the order of the Chief of Police in accordance with the provisions of ordinance No. 44 of the village. In case of the impoundment of any vehicle as herein provided, the owner shall pay, in addition to the fines levied, the costs of impounding and storage of the vehicle before the same may be released.

#44 Repealed by Ord. 80 on 1-12-84

(D) A sign or signs shall be placed at the village limits and all streets or highway entrances to the village calling attention to such prohibited parking as herein provided.

(E) The owner of any vehicle impounded for the violation of this section shall pay, in addition to such fines as may be levied, the cost of impounding and storage of the vehicle before the vehicle may be released.

(Ord. 61, passed 12-3-63; Am. Ord. 80, passed 6-3-75) Penalty, see 72.99

§ 72.03 TRUCKS AND TRACTORS RESTRICTED IN PARKING LOTS.

(A) No person shall park a truck or tractor at anytime on any parking lot maintained by the village if that motor vehicle shall have a capacity of more than three-fourths of a ton.

(B) The Chief of Police of the village shall have authority to designate the places for parking on any parking lot maintained and operated by the village and shall have authority to control traffic in the

parking lots by appropriate signs or markings; the driver, operator, or person in charge of any vehicle who disregards any signs or markings may be punished as provided herein.

(C) No motor vehicle which exceeds 24 feet in length; and no combination of motor vehicle, truck, tractor, semi-trailer, bus or other vehicle which in combination exceeds 24 feet in length, shall be parked in any parking lot owned or operated by the village during any day, except Friday, from the hours of 7:00 a.m. to 6:00 p.m., and on Friday from 7:00 a.m. to 9:00 p.m. The vehicles, or combinations of vehicles, mentioned in this section may be prohibited from parking in such lots at any other times as may be determined by the Chief of Police, upon notice thereof being posted by him in such lots. (Ord. 80, passed 6-3-75)

Penalty, see 72.99

PARKING METER ZONES

§ 72.15 AUTHORITY OF VILLAGE COUNCIL.

The Village Council by motion or resolution may designate parking meter zones and the days, part days, and hours of the day when a fee is required to be deposited in the meters, and amount of the fee. (Ord. 80, passed 6-3-75)

§ 72.16 PARKING METERS; FEES.

(A) It shall be unlawful to tamper with, open willfully, break or destroy any meter, or to insert anything other than a lawful coin of the United States in the meters.

(B) The fee required to be deposited in any meters that have heretofore or shall thereafter be installed is hereby levied as a police regulation to cover the cost of providing parking spaces, parking meters, and the installation and maintenance thereof, cost of administration, enforcement, regulation, inspection and operation of parking meters, zones, and parking spaces, and the cost of acquiring, regulating and maintaining parking areas and zones.

(Ord. 80, passed 6-3-75) Penalty, see § 72.99

SEMI-TRUCK PARKING**§ 72.30 PARKING PROHIBITED IN CERTAIN AREAS.**

No tractor or tractor-trailer combination parking shall be permitted on any street or between street and sidewalk, or sidewalk designated area line.

(Ord. 140, passed 10-14-93) Penalty, see § 72.99

§ 72.31 TRUCK PARKING LOT.

Tractor-trailer parking is to be in the "Truck Parking Lot" in the section north-east of the U.S. 12 and Main Street intersection. The area is for village residents first. The rest, if any, will go to non-residents.

(Ord. 140, passed 10-14-93) Penalty, see § 72.99

§ 72.32 PERMIT; FEES.

(A) Permits for the "Truck Parking Lot" will be issued to tax-payers with the longest continuous residence first. Every driver shall park in a designated space and display a permit in the windshield. The permit by number will be registered at the Village Office.

(B) Any resident who moves out of the residence area will forfeit his or her permit.

(C) The fee for a resident spot shall be \$100 per year; for a non-resident spot, \$150 per year.
(Ord. 140, passed 10-14-93) Penalty, see § 72.99

PARKING VIOLATIONS**§ 72.45 PARKING VIOLATIONS BUREAU.**

(A) A parking violations bureau is hereby established as a part of the Police Department of the village.

(B) The Parking Violations Bureau may erect, install and control, penalty collection boxes or containers for the collection of penalties for parking violations of motor vehicles within the village.
(Ord. 80, passed 6-3-75)

§ 72.46 VIOLATION NOTICES; PAYMENT.

(A) Parking violation notices may be affixed to each violating vehicle or shall be given to the operator thereof, together with a number coin envelope numbered to correspond with the number on the parking violation notice.

(B) The operator or owner of the violating vehicle may elect to pay a penalty, in lieu of a fine, for the parking violation by depositing the amount of the penalty as fixed herein, in the envelope provided, and leaving same with the Parking Violations Bureau at the Village Office.

(C) If a parking violation notice is given, the following penalties, in lieu of a fine, may be paid for overtime parking, provided the same are paid within 24 hours of the violation. In the event that penalties are not paid within 24 hours, the penalty shall be \$1.00 for each hour or fraction thereof of overtime parking, and the penalty shall be paid at the office of the Parking Violations Bureau.

- (1) For the first hour or fraction thereof of overtime parking - \$0.50.
- (2) For each succeeding hour of overtime parking - \$0.50.
- (3) Other parking violation - \$1.00.

(D) In the event the owner or operator of a motor vehicle on which is placed a parking violations notice does not elect to pay a penalty, in lieu of fine, within 48 hours of the time of the alleged violation, complaint may be signed and warrant requested in district court. Failure of the Police Department to give, or an owner or operator of a vehicle to receive a parking violation notice, shall not prevent issuance of warrant for overtime parking violation.

(Ord. 80, passed 6-3-75) Penalty, see § 72.99

§ 72.99 PENALTY.

(A) Violation of the provisions of §§ 72.01(A) through (D), 72.02, 72.03(C) and 72.15 and 72.16 of this chapter may be penalized by a fine not exceeding \$100, or by imprisonment not exceeding 90 days, or by both fine and imprisonment. (Ord. 80, passed 6-3-75)

(B) Any person who parks any motor vehicle or conveyance in violation of § 72.01(E) shall be punished by a fine of not less than \$1 and not more than \$50, or imprisonment in the county jail not exceeding five days or both fined and imprisoned. (Ord. 64, passed 4-5-66)

(C) The driver, operator or person who permits any vehicle to be parked or operated in violation of § 72.03(A) or (B) shall be punished by fine of not less than \$1 and not more than \$50 or by imprisonment in the county jail not exceeding five days or by both fine and imprisonment. (Ord. 55, passed 9-8-60)

(D) A violation of §§ 72.45 through 72.47 of this chapter shall be a misdemeanor, punishable by a fine not to exceed \$500, or by imprisonment for not more than 90 days, or both fine and imprisonment in the discretion of the court. Each day a violation shall continue shall constitute a separate offense.
(Ord. 140, passed 10-14-93)

CHAPTER 73: PARKING SCHEDULES

Schedule

- I. Parking prohibited at all times
- II. Parking time limited

SCHEDULE I. PARKING PROHIBITED AT ALL TIMES.

(A) No person shall park a motor vehicle or any other conveyance at any time in the following locations.

<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Chicago Street	From Arnold Street west to 100 feet west of West Street	58	12-8-61
Chicago Street	From Depot Street east on Chicago Street to a point 250 feet east of Brown Street	58	12-8-61
Depot Street	East side of Depot Street	64	4-5-66

(B) Any person who parks any motor vehicle or conveyance in violation of this schedule shall be punished by a fine of not less than \$1 or more than \$50 or by imprisonment in the county jail not exceeding five days or by both fine and imprisonment.

(Ord. 58, passed 12-8-61; Ord. 64, passed 4-5-66)

SCHEDULE II. PARKING TIME LIMITED.

(A) No person shall park a motor vehicle or other conveyance in the village for a continuous period in excess of two hours from 8:00 a.m. to 5:00 p.m. any day except Sundays, legal holidays, and other days observed as legal holidays in the following places.

<i>Street</i>	<i>Location</i>	<i>Ord. No</i>	<i>Date Passed</i>
Chicago Street	From Depot Street west to a point 100 feet west from the intersection of Maiden Lane	64	4-5-66
Depot Street	West side of the street	64	4-5-66
Main Street	From the railroad track on North Main, south on Main Street to Jefferson Street	64	4-5-66
North parking lot	From a line west of a line drawn north from the east side of the hotel, with the exception of the north part of the lot, which is reserved for truck parking	64	4-5-66
Post Office parking lot	In the center lane of the lot used for parking	64	4-5-66
South parking lot	On the north and west sides of the lot	64	4-5-66

(B) Any person who so parks any motor vehicle or conveyance in violation of this schedule shall be punished by a fine of not less than \$1 and not more than \$50 or imprisonment in the county jail not exceeding five days or both by subject fine and imprisonment.

(Ord. 64, passed 4-5-66)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. FIRE PREVENTION

92. NUISANCES

93. PARKS AND RECREATION

94. STREETS AND SIDEWALKS

95. TREES

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CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Short title
- 90.02 Duty to keep animal under control
- 90.03 Responsibility for damages
- 90.04 Barking dog
- 90.05 Vicious animals

Licenses and Permits; Requirements

- 90.15 Dog License required
- 90.16 Livestock permit; requirements

Impoundment and Confinement

- 90.30 Impounding of animals
- 90.31 Confinement for rabies; release
- 90.32 Unclaimed animals
- 90.33 Duty to notify authorities
- 90.34 Quarantine
- 90.35 Destruction of vicious animals

GENERAL PROVISIONS

§ 90.01 SHORT TITLE.

This chapter shall be described as the Animal Control Chapter of the village, and it shall be deemed sufficient in any proceeding to refer to the same by number and by this short title.
(Ord. 117, passed 12-14-89)

§ 90.02 DUTY TO KEEP ANIMAL UNDER CONTROL.

It shall be unlawful for any owner of a dog to allow the dog to stray beyond his premises unless the dog is under the reasonable control of a person, or for any owner to allow any dog to leave his premises under any condition, unless the dog has been immunized against rabies, provided nothing herein shall be interpreted to prevent an owner taking his dog to the offices of a veterinarian, for purposes of having the dog immunized. For purposes of this section, a dog shall be deemed to be under "reasonable control" when the dog is on a leash or in an enclosed vehicle or container.

(Ord. 117, passed 12-14-89) Penalty, see § 10.99

§ 90.03 RESPONSIBILITY FOR DAMAGES.

Every owner of a dog or other animal shall be liable for damages for any and all injuries to person or property caused by any dog or other animal, to be determined and collected in appropriate civil proceedings. Nothing in this chapter shall be construed to impose any liability upon the village, its agents or employees, for damages caused by any dog or other animal.

(Ord. 117, passed 12-14-89) Penalty, see § 10.99

§ 90.04 BARKING DOG.

No person shall harbor or keep any dog which by loud, frequent or habitual barking, yelping or howling, shall cause a disturbance.

(Ord. 117, passed 12-14-89) Penalty, see § 10.99

§ 90.05 VICIOUS ANIMALS.

No person shall own or harbor a fierce or vicious dog, or other animal, or one that has been bitten by any animal known to have been afflicted with rabies. All animals found to be vicious shall be destroyed, unless otherwise disposed of by the owner.

(Ord. 117, passed 12-14-89) Penalty, see § 10.99

LICENSES AND PERMITS; REQUIREMENTS**§ 90.15 DOG LICENSE REQUIRED.**

It shall be unlawful for any person to own, possess or harbor any dog six months old or over in the village unless the dog is licensed as provided by law, or to own, harbor or possess any dog six months old or over that does not at all times bear a collar or harness with suitable tag attached as hereinafter provided. Every person in possession of any dog who shall suffer the dog to remain about his premises

for the space of five days shall be deemed the owner thereof. The term **DOG** as used in this chapter shall include both male, female, and unsexed.

(Ord. 117, passed 12-14-89) Penalty, see § 10.99

§ 90.16 LIVESTOCK PERMIT; REQUIREMENTS.

No person shall keep any horses, cows, hogs, sheep, rabbits, poultry, goats or other farm animals, or any wild animals, without first obtaining a permit from the Village Council. The Council shall cause an inspection to be made of the premises to ascertain that suitable barns, stables, pens or enclosures are orderly. Persons to whom permits are issued shall be responsible for keeping the buildings or enclosures clean. No persons shall at any time maintain any such barns, stables, pens, or enclosures, nor any horses, cows, hogs, sheep, rabbits, poultry, goats or any farm animals or any wild animals in such condition as to cause the same to create offensive odor or be dangerous to the public health. No farm or wild animals shall be permitted to stray beyond the premises of the owner of the animals. **WILD ANIMAL** refers to animal, whether tame or not, that is not a farm or other domesticated animal.

(Ord. 117, passed 12-14-89) Penalty, see § 10.99

Cross-references:

Animals crossing sidewalk, see § 94.01

Using trees as hitching posts, see § 95.09

IMPOUNDMENT AND CONFINEMENT

§ 90.30 IMPOUNDING OF ANIMALS.

It shall be the duty of the Chief of Police or any police officer to take up, seize and place, or impound any animals found running at large in the village not under the control of the owner or keeper contrary to the provisions of this chapter. The Police Department is authorized to assist or call upon the Branch County Dog Warden in executing the provisions of this chapter.

(Ord. 117, passed 12-14-89)

§ 90.31 CONFINEMENT FOR RABIES; RELEASE.

(A) *Confining animal for observation.* Any person who shall have in his or her possession an animal which has contracted rabies, or which has been subjected to the same, or which is suspected of having rabies, or which has bitten any person, shall upon the demand of the Police Department or of the Branch County Animal Control Officer, produce and surrender up the dog to the Police Department or Animal Control Officer, to be held in a licensed kennel of a licensed veterinarian, for treatment and observation for a period of ten days. In lieu of delivering up of the animal as aforesaid, the person shall

have the option of delivering the animal to an approved kennel, there to be held for treatment and observation for the ten-day period, and shall furnish to the Police Department written evidence that the dog has been so delivered.

(B) *Release of animals.* No animal shall be released from the Branch County Dog Warden or from a licensed kennel under the provisions of division (A) of this section, unless the owner or his authorized agent shall pay the regular charge for the confinement.

(Ord. 117, passed 12-14-89) Penalty, see § 10.99

§ 90.32 UNCLAIMED ANIMALS.

All animals placed in the custody of the Animal Control Officer not claimed and released within 72 hours after being impounded shall be disposed of by the Animal Control Officer in accordance with applicable law; provided, that animals impounded having been exposed to rabies or any animal that has attacked a person shall be kept until the time, and under the conditions as shall be required by the Police Department or the District Health Department. Provided further, that the 72-hour period shall not commence until the animal owner, if known, is in receipt of personal telephone, or certified mail notice that the animal has been confined. The village shall reimburse the Dog Warden's expense for certified mail.

(Ord. 117, passed 12-14-89)

§ 90.33 DUTY TO NOTIFY AUTHORITIES.

It shall be the duty of any person owning or harboring an animal which has been attacked or bitten by another animal showing symptoms of rabies, to immediately notify the Police Department or Animal Control Officer that the person has the animal in his possession, and the person shall comply with all lawful orders and requirements of the Police Department and the Animal Control Officer.

(Ord. 117, passed 12-14-89) Penalty, see § 10.99

§ 90.34 QUARANTINE.

The Chief of Police of the village is hereby authorized to require that any dog be quarantined, or that quarantine be established in the village for any defined period, when in his opinion these measures are necessary in order to protect the health of the inhabitants of the village.

(Ord. 117, passed 12-14-89)

§ 90.35 DESTRUCTION OF VICIOUS ANIMAL.

(A) (1) A summons can be issued on a sworn complaint to the district court that any one of the following facts exist.

- (a) An animal, licensed or unlicensed, has attacked or bitten a person without provocation.
- (b) An animal, licensed or unlicensed, has destroyed the property or habitually caused damage by trespassing on the property of a person who is not the owner of the animal.
- (c) An animal, licensed or unlicensed, has shown vicious habits or has molested a person when such person was lawfully on public or private property.

(2) The district court, magistrate or judge shall issue a summons against the owner of the animal commanding him or her to appear before the court and show cause why the dog should not be destroyed or confined. The issuance of a summons under this section shall not preclude confinement of the animal under § 90.31.

(B) The aforesaid summons shall be made returnable not less than two nor more than six days from the date thereof and shall be served at least two days before the time of appearance mentioned therein. Upon the return day fixed in the summons, the court shall proceed to determine whether the animal has at any time attacked or bitten a person without provocation; or whether it has destroyed the property or has habitually caused damage by trespassing on the property of another who is not the owner of the animal; or has shown vicious habits or has molested a person while that person was lawfully on public or private property. If the court so finds, the court shall either order the dog confined to the premises of the owner or order the Chief of Police or Animal Control Officer to cause the dog to be destroyed. The court also shall order payment of the cost of the proceeding against the owner, as well as the costs of confinement of the animal if the animal has been confined under § 90.31 of this chapter. Nothing in this section shall preclude the imposition of any applicable penalties.

(Ord. 117, passed 12-14-89)

CHAPTER 91: FIRE PREVENTION

Section

Burning of Combustible Materials

- 91.01 Definitions
- 91.02 Open fires
- 91.03 Burning of leaves
- 91.04 Incinerators
- 91.05 Bonfires and campfires; conditions
- 91.06 Burning of household waste

Smoke Detectors

- 91.20 Definitions
- 91.21 Smoke detectors required; responsibility
- 91.22 Alternative systems
- 91.23 Conformity of equipment
- 91.24 Types of smoke detectors; conditions

BURNING OF COMBUSTIBLE MATERIALS

§ 91.01 DEFINITIONS.

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

BONFIRE and **CAMPFIRE**. A fire which is kindled for a civic, social or athletic event and which is made from wood, trees, branches, kindling, wood chips, boxes, compressed wood or any other wood products. A **BONFIRE** or **CAMPFIRE** is a type of **OPEN FIRE** as defined in this section.

COMBUSTIBLE WASTE MATTER. Magazines, books, trimming from trees, pasteboard boxes, paper, sawdust, paper packing material, wood shavings or boxes that are rapid burning and would not smolder.

FLAMMABLE MATERIAL. Any material that will readily ignite from common sources of heat or any material that will ignite at a temperature of 600°F or less.

INCINERATOR. An industrial or commercial structure or portion thereof, container, device or other appliance designed, used or intended to be used for the disposal of combustible waste material, flammable material or rubbish by burning.

OPEN FIRE. A fire made from any combustible waste material, flammable material or rubbish, which fire is kindled and maintained in whole or in part in the open air.

REFUSE. All manner of same including, but not limited to ashes, rags, disposable diapers, discarded clothing, discarded furniture, discarded appliances, tin cans, tin ware, bottles, broken glass, waste paper, motor vehicles or automobiles or trucks which are unlicensed and which are in an inoperable condition, or motor vehicles which although licensed are abandoned, or motor vehicles which although licensed are dismantled, partly dismantled and/or in an inoperable condition and which remain in dismantled, partly dismantled and/or in an inoperable condition for 90 days or more. The word **REFUSE** shall further include all types of automotive or motor vehicle parts or components for which no storage in a building is provided. The words **REFUSE**, **TRASH**, **RUBBISH** and **DEBRIS** shall be considered synonymous terms for the purposes of this chapter.

(Ord. 129, passed 11-14-91)

§ 91.02 OPEN FIRES.

(A) *Open fires prohibited.* Except as permitted in division (B) of this section, no person shall do either of the following.

(1) *On public property.* Kindle or maintain any open fire or authorize any open fire to be kindled or maintained on or in any public street, alley, road or other public place.

(2) *On private property.* Kindle or maintain any open fire or authorize any open fire to be kindled or maintained on any private property. During construction or demolition of buildings or structures, no waste materials or rubbish shall be disposed of by burning on the premises or in the immediate vicinity thereof.

(B) *Exceptions.* Division (A) (1) and (2) of this section shall not apply to the following.

(1) The burning of wood, charcoal, coke or other accepted fuel for the preparation of food in any form, in an approved container or utensil manufactured for food preparation, while being used in a safe and sanitary manner.

(2) The use of approved gaseous or liquid-fired salamanders commonly employed in conjunction with building and construction operations, when used in accordance with accepted safety standards.

(3) Roofers, tanners, plumbers or other mechanics pursuing a business requiring the use of fire, or fires for the purpose of boiling tar, pitch or oil used in the regular course of an appropriate business or trade, while being used in a safe and sanitary manner and conforming to all other applicable codes.

(4) Open burning that is specifically permitted in writing by the Fire Chief for Fire Department and Civil Defense purposes after a determination by the Fire Chief that the open burning will occur under the following circumstances.

- (a) The area is adequately protected by fire fighters or Fire Department trainees.
- (b) The fire will be of short duration.
- (c) The atmosphere is relatively free of pollutants.

(5) Fires deemed necessary in times of disaster or emergency pursuant to the Fire Chief's emergency order.

(6) Bonfires or campfires pursuant to § 91.05.

(7) Burning of combustible waste matter as permitted under § 91.06.

(Ord. 129, passed 11-14-91) Penalty, see § 91.99

§ 91.03 BURNING OF LEAVES.

(A) The burning of leaves in the village is prohibited, with the following exceptions.

(1) During an emergency, the Village Council may authorize the burning of leaves.

(2) The Village Council may establish a specific time period for the burning of leaves. Notice of the time period and hours shall be published in a newspaper of general circulation in the village and shall be posted in the Village Hall.

(B) The following conditions, requirements and safeguards shall apply to the burning of leaves.

(1) The burning of leaves is permitted on private property only with the consent of the owner or person in charge of the property.

(2) The burning of leaves is permitted on public rights-of-way, except upon sidewalks, roadway traffic lanes, parking areas, paved areas, streets, curbs or gutters.

(3) No person shall burn leaves or authorize the burning on any private property, unless the location of the burning is more than 50 feet from any structure, and adequate provisions are made to prevent the fire from spreading to within 50 feet of any structure.

(4) A fire resulting from the burning of leaves shall be constantly attended by a competent adult of 18 years or older until the fire is extinguished. The person shall have a garden hose connected to a water supply or other fire extinguishing equipment readily available for use.

(5) The burning of leaves is prohibited when atmospheric conditions make such a fire hazardous or when the wind velocity is more than ten miles per hour as established by the National Weather Service.

(Ord. 129, passed 11-14-91) Penalty, see § 91.99

§ 92.04 INCINERATORS.

No person shall install, alter, operate or construct a commercial or industrial incinerator or any other refuse-burning equipment for commercial or industrial use (or allow the same to be done), without first obtaining a permit therefor from the Department of Natural Resources, Air Quality Division.

(Ord. 129, passed 11-14-91) Penalty, see § 91.99

§ 91.05 BONFIRES AND CAMPFIRES; CONDITIONS.

Bonfires and campfires are subject to the following conditions.

(A) *Location.* No person shall kindle or maintain any bonfire or campfire or authorize any bonfire to be kindled or maintained on any private or public land, unless the location of the fire is not less than fifteen feet from any structure and adequate provisions are made to prevent the fire from spreading to within fifteen feet of any structure.

(B) *Attendants.* A bonfire or campfire shall be constantly attended by a competent adult until the fire is extinguished.

(C) *Safety.* The Fire Chief may prohibit any and all bonfires and campfires when atmospheric conditions or circumstances make such a fire hazardous or when, in the opinion of the Fire Chief, the bonfire or campfire would constitute a fire hazard or will endanger the life or property of any person.

(Ord. 129, passed 11-14-91) Penalty, see § 91.99

§ 91.06 BURNING OF HOUSEHOLD WASTE.

The burning of combustible waste matter is permitted in residential districts of the village between the hours of 9:00 a.m. and 7:00 p.m. under the following conditions.

(A) Burning shall be permitted only at private residential properties, and not at multiple-family, commercial or industrial sites, whether on the ground or in a container. Containers must be constructed of steel, brick, or masonry and have proper venting at the base and screening over the top.

- (B) The burning shall at all times be supervised by a competent adult until the fire is extinguished.
- (C) The burning container shall be at least 15 feet from any building, structure or flammable material.
- (D) Fires shall include paper products and/or brush, such as tree limbs from a storm. Fires must be rapid burning and not allowed to smolder.
- (E) No substance or waste matter shall be burned which discharges a dangerous, noxious or poisonous gas, ash or smoke.
- (F) Burning of household paper wastes will not be allowed after December 31, 1993.

(Ord. 129, passed 11-14-91) Penalty, see § 91.99

Cross-reference:

Garbage; disposal of refuse, see § 50.02

SMOKE DETECTORS

§ 91.20 DEFINITIONS.

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

DWELLING. A single or multi-family unit, including single-family, multi-family, guest house, lodging house, boarding house, suite or single room of a hotel or motel providing living facilities for one or more persons, including permanent or temporary provisions for living, sleeping, cooking, eating, and sanitation.

JURISDICTION. The governmental unit which has adopted this subchapter under due legislative authority.

OCCUPANCY. The purpose for which a building, a part thereof, is used or intended to be used. The term shall also include the building, room, or enclosed space that houses such use.

OCCUPANCY CLASSIFICATION. The various use groups as classified in the applicable building code.

OWNER. Any person who alone, jointly or severally with others shall have legal title to any building, structure, or premises with or without accompanying actual possession thereof and shall include the duly authorized agent or attorney, a purchaser, devisee, fiduciary, and any person having a vested or contingent interest in the property in question.

(Ord. 112, passed 8-10-89)

§ 91.21 SMOKE DETECTORS REQUIRED; RESPONSIBILITY.**(A) Requirements.**

(1) It shall be the responsibility of the owner of each new and existing dwelling as hereinafter described to install smoke detectors in each unit. It is the responsibility of the owner to inform the renter of the smoke detector ordinance. Prior to renting any unit, the owner shall inspect each smoke detector in the rental unit and insure that the detector is in working condition. The owner shall further check the power system for each detector to make sure that it is in good operating condition.

(2) The maintenance and weekly testing of each detector shall be the responsibility of the occupant of the dwelling unit, except in hotel, motel, or short stay transit units where testing shall be the responsibility of the occupant/renter to notify the owner of a defective or inoperable smoke detector. The occupant/renter shall be responsible, however, for the replacement of batteries which wear out during the renter's occupancy.

(3) In multi-unit dwellings, it shall be the responsibility of the owner to check all smoke detectors in common areas once per month to make sure that the detector is in working condition and the power to the smoke detector is sufficient to permit operation.

(4) Smoke detectors shall be capable of sensing visible or invisible particles of combustion and providing a suitable audible alarm thereof. Failure to install smoke detectors as and where required will subject the property owner to penalties of up to 90 days in jail and/or up to a \$500 fine.

(B) Protection of sleeping areas.

(1) 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 located. Where bedrooms or rooms ordinarily used for sleeping 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.

(2) At least one smoke detector shall be installed at the head (top) of each stairway leading up to an occupied area in such a manner 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) Power supplies. In new construction, all smoke detectors shall be wired directly (hard wired) to the building's main electrical power supply that is not controlled by a switch other than the main power supply. Other smoke detectors may be alarms which meet the requirements of § 91.24. (Ord. 112, passed 8-10-89) Penalty, see § 10.99

§ 91.22 ALTERNATIVE SYSTEMS.

As an alternative to self-contained smoke detectors, an approved fire detection system may be installed and maintained. Each fire detection system must be individually approved and a permit issued therefor by the Fire Chief or his designee.

(Ord. 112, passed 8-10-89) Penalty, see § 10.99

§ 91.23 CONFORMITY OF EQUIPMENT.

All devices, combinations of devices, and equipment to be installed in conformity with this subchapter shall be labeled or listed by a national testing laboratory for the purpose for which they are intended.

(Ord. 112, passed 8-10-89) Penalty, see § 10.99

§ 91.24 TYPES OF SMOKE DETECTORS; CONDITIONS.

(A) Except in new construction, electric plug-in smoke detectors may be used and operated from a wall plug provided that the plug is fitted with a plug restraining device and providing that the wall outlet power supply is not controlled by a switch other than the main power supply.

(B) Battery-type smoke detectors may be used, providing that the batteries are mounted to assure that the following conditions are met.

(1) All power requirements are met for at least one year's life.

(2) A distinctive audible trouble signal is given before the battery is incapable of operating (from aging, terminal corrosion, and the like) the device(s) for alarm purposes.

(3) For a unit employing a lock-in alarm feature, automatic transfer is provided from the alarm to a trouble condition.

(4) The unit is capable of producing an alarm signal for at least four minutes at the battery voltage at which a trouble signal is normally obtained followed by seven days of trouble signal operation.

(5) The audible trouble signal is produced at least once every minute for seven consecutive days.

(6) The monitored batteries meeting these specifications are clearly identified on the unit near the battery compartment.

(Ord. 112, passed 8-10-89) Penalty, see § 10.99

§ 91.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no penalty is specifically provided, shall be subject to the provisions of § 10.99.

(B) Whoever violates or fails to comply with any of the provisions of §§ 91.01-91.06, or any rule or regulation adopted or issued pursuant hereto, shall be fined not more than \$500 and costs of prosecution, or imprisoned not more than ninety days, or shall reimburse the village for the reasonable costs of control, investigation and/or suppression of illegal fires, or shall be subject to all the aforementioned penalties.

(1) The imposition of one penalty for a violation of or noncompliance with any of the provisions of §§ 91.01-91.06 shall not excuse the violation or noncompliance or permit it to continue, and whoever so violates or fails to comply is required to correct or remedy the violation or noncompliance within a reasonable time. When not otherwise specified, a separate offense shall be deemed committed each day during or on which violation or noncompliance occurs or continues.

(2) The Fire Chief may collect a fee, based on costs incurred by the village, when the Fire Department is called upon to investigate or extinguish a fire which has been kindled or maintained in violation of §§ 91.01-91.06. The fee shall be charged to the occupants of the premises where the violation occurs. The fee shall be not less than \$25, except that if a similar violation occurs on the same premises within any 90 day period, the minimum fee to be charged for a second and any succeeding violation shall not be less than \$50. Charges for Fire Department services under this chapter which remain unpaid for a period of 30 days or more may be placed as a lien on the premises where the violation occurred; provided however, no lien shall be placed on the premises until the owner has been served with a notice to show cause before the Council as to why a lien should not be placed on the premises. Following a show cause hearing, the Village Council may waive a lien if it appears that the owner of the premises has cooperated with the village in the collection of Fire Department fees.

(Ord. 129, passed 11-14-91)

CHAPTER 92: NUISANCES

Section

- 92.01 Definitions
- 92.02 Commissioner of noxious weeds; duties
- 92.03 Owner responsibility

§ 92.01 DEFINITIONS.

For the purpose of this act, **NOXIOUS WEED** shall include the following.

- (A) Canada thistle (*circium arvense*).
- (B) Dodders (any species of *cuscutal*).
- (C) Mustards (Charlock, Black Mustard and Indian Mustard, species of *Brassica* or *Sinapis*).
- (D) Wild carrot (*Daucus Carota*).
- (E) Bindweed (*Convolvulus Arvensis*).
- (F) Perennial Sowthistle (*Sonchus Arvensis*).
- (G) Hoary Alyssum (*Berteroa Incana*).
- (H) Ragweed (*Ambrosia Clatior L.*).
- (I) Poison Ivy (*Rhus Toxicodendron*).
- (J) Poison Sumac (*Toxicodendron Vernix*).
- (K) Any other plant which in the opinion of the Village Council is regarded as a common nuisance.

(Ord. 77, passed 7-12-71)

§ 92.02 COMMISSIONER OF NOXIOUS WEEDS; DUTIES.

(A) The Superintendent of Public Works of the village shall by virtue of that office be known as the Commissioner of Noxious Weeds, and shall perform the duties of Commissioner as provided herein. The Village Clerk shall report the name and address of the person so appointed to the State Department of Agriculture within ten days after making the appointment.

(B) The Commissioner of Noxious Weeds shall diligently inquire concerning the introduction and existence of noxious weeds in the village, and if any are found growing therein, he shall take charge of all such growing and take care that they do not go to seed or otherwise spread, or become a detriment to the public health, and he shall carefully seek and learn, so far as practicable, the best methods of their destruction, and he shall persistently apply in proper time any remedy or treatment as shall be best calculated to prevent their spread and to eradicate the same.

(C) In case any owner, occupant, or person having charge of lands in the village who has been notified as provided in § 92.03 shall refuse or fail to destroy any noxious weeds or cause the same to be destroyed, it shall be the duty of the Commissioner to enter upon the lands and to destroy the noxious weeds or cause the same to be destroyed. Express power to so enter upon the lands and destroy the noxious weeds is conferred upon the Commissioner. Any expense incurred in the destruction shall be paid by the owner, occupant or person having charge of the lands, and the village shall have a lien against the lands for the expense, which lien shall be enforced in the manner now provided by law for the enforcement of mechanics liens.

(Ord. 77, passed 7-12-71)

§ 92.03 OWNER RESPONSIBILITY.

(A) It shall be the duty of all owners, occupants or persons having charge of any land within the village on which noxious weeds are found growing, to destroy the same before they reach a seed-bearing stage and to prevent the weeds from perpetuating themselves, or to prevent the weeds becoming a detriment to public health. The Commissioner shall notify the owner, occupant or person in charge of any lands upon which noxious weeds are found growing in writing of that fact. The notice shall be in the following form.

*Village of Quincy
Noxious Weed Notice*

To owners, occupants or possessors of land known as lot no. _____ of _____ or no. _____. Notice is hereby given that noxious weeds are found growing upon the above described property in the Village of Quincy. These weeds should be cut down or destroyed by spraying with _____ within five (5) days from the date of this notice.

In case you fail or refuse to comply with this notice the undersigned Commissioner of Noxious Weeds will enter upon your land and destroy or spray said weeds. The expense incurred by the

Village of Quincy in destruction or spraying of said weeds will constitute a lien against the above described lands and will be enforced as provided by law.

The penalty for failure to comply with this notice may subject you to a fine of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars.

Commissioner of Noxious Weeds

(B) Failure of the Commissioner to give this notice shall not constitute defense to any action to enforce the payment of any penalty provided for or debt created under the provisions of this chapter.
(Ord. 77, passed 7-12-71) Penalty, see § 10.99

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CHAPTER 93: PARKS AND RECREATION

Section

- 93.01 Damage to park property prohibited
- 93.02 Littering prohibited
- 93.03 Alcoholic beverages
- 93.04 Skateboards, roller skates, and motor vehicles
- 93.05 Additional rules

§ 93.01 DAMAGE TO PARK PROPERTY PROHIBITED.

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, fire places, or other public property within or pertaining to the parks.

(Ord. 91, passed 11-9-82) Penalty, see § 10.99

§ 93.02 LITTERING PROHIBITED.

(A) *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.

(B) *Household refuse.* No person shall place or deposit any household waste, refuse or garbage in or around public waste containers in parks or public grounds.

(Ord. 91, passed 11-9-82) Penalty, see § 10.99

§ 93.03 ALCOHOLIC BEVERAGES.

No person shall bring into or drink in any village park any alcoholic beverage.

(Ord. 91, passed 11-9-82) Penalty, see § 10.99

§ 93.04 SKATEBOARDS, ROLLER SKATES AND MOTOR VEHICLES.

Skateboards, roller skates or other similar devices, and all motor vehicles are prohibited in all public parks of the village except on designated streets and parking lots.

(Ord. 91, passed 11-9-82) Penalty, see § 10.99

Cross-references:

Snowmobile or all-terrain vehicle operation prohibited in parks. See § 71.02.

Designated park areas available for snowmobile and A.T.V. use. See § 71.03(H)

§ 93.05 ADDITIONAL RULES.

The Village Council shall adopt by resolution any additional rules and regulations pertaining to the conduct and use of parks and public grounds as are 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.

(Ord. 91, passed 11-9-82)

CHAPTER 94: STREETS AND SIDEWALKS

Section

- 94.01 Driving on sidewalks; riding animals on sidewalks
- 94.02 Awnings and overhangs
- 94.03 Obstructions prohibited
- 94.04 Bicycles on sidewalks
- 94.05 New sidewalks construction; procedures.

Cross-reference:

Building numbering and access lanes, see §§ 150.01-150.05

§ 94.01 DRIVING ON SIDEWALKS; RIDING ANIMALS ON SIDEWALKS.

(A) It shall be unlawful for any person or persons to drive or operate any motor car or other vehicle upon any sidewalk in the village, except for the purpose of crossing the same, provided that this section shall not apply to the riding of bicycles or tricycles outside of the business district of the village, provided the rider of the bicycle or tricycle shall comply with the rules as established by the Village Council in relation thereto. This section shall not apply to invalid or wheel chairs.

(B) It shall be unlawful for any person or persons to ride, drive or lead any horse, horses, cattle, mules, sheep or swine upon any sidewalk, except for the purpose of crossing the same, within the limits of the village, or to allow any animal or animals to stand or remain upon any sidewalk within the village.

(Ord. 1, passed 1-25-27) Penalty, see § 10.99

Cross-reference:

Snowmobiles and all-terrain vehicles prohibited on sidewalks. See § 71.02

§ 94.02 AWNINGS AND OVERHANGS.

(A) It shall be unlawful for any person or persons to build, maintain, keep, or continue any wood, timber, or board balcony, porch, shed or awning into or over any street, sidewalk or alley within the limits of the village without first having obtained the permission of the Village Council.

(B) No awning or cloth or canvas used as awning shall be permitted to be hung or placed within less than seven feet above the sidewalk.

(Ord. 1, passed 1-25-27) Penalty, see § 10.99

§ 94.03 OBSTRUCTIONS PROHIBITED.

(A) No person or persons shall be permitted to erect, maintain, keep or construct any lamps, signs, goods, chattels, wares, articles or substance other than awnings so that the same shall project or extend from the walk in front of his, her or their store building, except where the sidewalk is nine feet or more in width, and then not to exceed three feet from the wall of the building.

(B) It shall be unlawful for any person or persons to place or cause to be placed upon any sidewalk, street, lane or alley within the limits of the village, any boxes, casks, trunks, barrels, firewood, logs, timber, rubbish or any other obstruction, provided that this section shall not be construed to prohibit merchants or traders from occupying the sidewalk in front of their place of business to the space of three feet, as provided in division (A) of this section, for the purpose of displaying their wares, nor shall it be construed to prevent the moving of goods, wares and merchandise, firewood or other articles across any sidewalk.

(C) It shall not be lawful for any person or persons to place or cause to be placed any stone, brick, timber, planks, lumber or other material in or upon any street, alley, sidewalk or other public place in the village, except for the purpose of building or repairing, and not for that purpose except by permission first obtained from the Chief of Police, and no material shall be permitted to remain after the completion of the building or repair for a longer time than five days. While the building material is in the street or alley, the owner of the material shall cause to be kept displayed at all times suitable signals or lights to warn those using the streets of the obstruction, which signals shall be kept upon the material in conspicuous places during the entire time that the material remains in the street.

(D) Nothing in this section shall be construed to prevent any person or persons from crossing any sidewalks for the purpose of going from the street onto any lands or premises or returning from any lands or premises to the street in the village.

(Ord. 1, passed 1-25-27) Penalty, see § 10.99

§ 94.04 BICYCLES ON SIDEWALKS.

It shall be unlawful for any person to ride any unicycle, bicycle, tricycle or any other pedal-powered vehicle upon the sidewalks of the village between sunset and sunrise without a light being displayed thereon.

(Ord. 1, passed 1-25-27; Am. Ord. 114, passed 8-10-89) Penalty, see § 10.99

§ 94.05 NEW SIDEWALK CONSTRUCTIONS; PROCEDURES.

(A) All crosswalks shall be constructed and kept in repair by the village under the direction of the Public Works Department of the village at the time, in the manner, in the places and of the material as

the Village Council shall by resolution, from time to time direct. The expense of the crosswalks shall be paid from the street fund of the village.

(B) The Village Council may at any time, whenever is necessary to do so, by resolution, authorize, direct and require that sidewalks shall be constructed, rebuilt or repaired on or along either or both sides of any street or streets, or any part of any street or streets within the limits of the village. The resolution shall specify the points of terminus and width of the walk or walks, the grade, the kind of materials to be used therefor, and if constructed of gravel and cement, the proportion of each to be used, and the manner of construction thereof, together with a description of the premises in front of or adjacent to which the sidewalk is to be constructed, rebuilt or repaired.

(C) Whenever the Common Council shall, by resolution, order any sidewalk to be constructed, rebuilt or repaired, the Village Council, or its designee, shall proceed to make out a statement in writing, and making the sidewalk ordered to be constructed, rebuilt or repaired, the name or names of the owners of the parcels, and this shall be set forth in a statement to be filed with the Village Clerk.

(D) The Zoning and Sidewalk Coordinator, or such individual as the village may from time to time designate, will mark all sidewalks that need to be repaired in the early fall of each year. After these sidewalks have been marked, the Zoning or Sidewalk Coordinator, or such individual as the village may designate shall notify the owner of any lot that the sidewalk fronts or is adjacent to the sidewalk is to be constructed, rebuilt or repaired, by letter by April 15 of each year explaining that the sidewalk is in need of construction, rebuilding or repair. The letter shall include the following:

- (1) The property address of the sidewalk in need of construction, rebuilding or repair;
- (2) A list of possible contractors;
- (3) The deadline by which the resident, owner is to have the work done by his or her own contractor;
- (4) Notation that if the repairs are not made, then the village will schedule a contractor to make the repairs, and the owner of the residence will be billed for the repairs along with administration costs of 15%.

(E) A copy of every notice so served shall be made and placed on file with the village.

(F) The Zoning and Sidewalk Coordinator, or any designee the village may choose, shall make a report, signed by the Coordinator or designee, indicating those individuals who have chosen to construct, rebuild or repair the sidewalk themselves or with their own contractor, and those individuals who have failed to respond.

(G) At the time of the filing of that report by the Coordinator, the Village Council shall cause to be constructed, rebuilt or repaired, such walk or walks, according to the provisions of the earlier resolution, for those properties where the owner has failed to repair on their own.

(H) The Street Committee shall proceed to cause the construction, rebuilding or repair of those sidewalks, according to the specifications determined, and shall keep an account of all material used, and work performed, and the value thereof, and any other expenses connected with the project. The Council shall verify that account. That account shall also indicate the premises in front of, or adjacent to which such sidewalks have been constructed, rebuilt or repaired, and indicate the expenses that were incurred for each parcel. It shall also indicate the name of the owner or person responsible for expenses. At the time that such report is presented to the Council, or at any meeting, notice of that charge shall be sent to the property owner. Notation that if the repairs are not made, then the village will schedule a contractor to make the repairs, and the owner of the residence will be billed for the repairs along with administration costs of 15%.

(I) (1) Payment shall be due from each property owner on the sidewalks that were constructed at the direction of the Council, no later than April 1st of the year following which the work was completed on the sidewalk.

(2) If payment is not received by April 1 following the year in which the sidewalk work was completed, the Village Council, shall, by special resolution, levy the cost against the parcel as a special assessment. It shall be the duty of the Clerk to report the determination and the decision of the Council to the Board of Assessors of the village for assessment, which report shall be made within 30 days from the determination of the Council.

(J) Upon receiving the report, the Board of Assessors shall proceed to make assessment in the same manner as the making of special assessments generally, and all subsequent proceedings in the levying, collecting and enforcement of the assessment shall be in the same manner as prescribed for the levying, collection and enforcement of other special assessments in the village, as provided for in the Charter of the village.

(K) The Village Council may, by resolution, direct that construction, rebuilding or repairs of sidewalks in the village may be made by the Department Public Works of the village and the expense thereof be paid out of the Street Fund of the village, if the Village Council so determines.

(L) The Village Council may, from time to time, publish or develop a procedure for sidewalk construction, rebuilding or repair, in conformance with this section.

(Ord. 1, passed 1-25-27; Am. Ord. 114, passed 8-10-89; Am. Ord. 184, passed 11-11-00) Penalty, see § 10.99

CHAPTER 95: TREES

Section

General Provisions

- 95.01 Definitions
- 95.02 Street tree species list
- 95.03 Planting and spacing of trees
- 95.04 Public tree care
- 95.05 Tree topping
- 95.06 Private tree care; owner responsibilities
- 95.07 Removal of tree stumps
- 95.08 Wood rights
- 95.09 Injury to trees, improper use
- 95.10 Interfering with Tree Board
- 95.11 Arborists; license and bond

Tree Board

- 95.25 Establishment
- 95.26 Term; compensation
- 95.27 Duties, responsibilities and operation
- 95.28 Review by Village Council

GENERAL PROVISIONS

§ 95.01 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.

PRIVATE TREES. Trees, shrubs, bushes and all other woody vegetation growing within sidewalks or sidewalk lines on privately owned property or within private property boundaries of the village.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines and outside of sidewalks or sidewalk lines on either side of all streets, avenues, roads or ways within the village.

(Ord. 94, passed 7-10-84)

§ 95.02 STREET TREE SPECIES LIST.

The following list constitutes the official street tree species for the village. No species other than those included in this list may be planted as a street tree without the written permission of the Village Council through a recommendation from the Tree Board. The village will be responsible for the replacement of trees under the recommendations of the Tree Board. Trees other than these species may be planted within private property boundaries by village residents without the prior consent of the Village Council.

<i>Small Trees</i>	<i>Medium Trees</i>	<i>Large Trees</i>
Apricot	Ash Green	Silver Maple
Flowering Crabapple	Hackberry	Sugar Maple
Golden Raintree	Honeylocust (Thornless)	Oak, Bur
Pear, Bradford	Linden or Basswood	Sycamore
Redbud	Mulberry, Red (Fruitless, male)	London Plantree
Soapberry	English Oak	
Lilac, Jap. Tree	Red Oak	
Peach, Flowering	Pagodatree, Japanese	
Purpleleaf Plum	Mountain Ash	
	Pecan	
	Birch, River	
	Osageorange (Male Thornless)	
	Persimmon	

(Ord. 94, passed 7-10-84)

§ 95.03 PLANTING AND SPACING OF TREES.

(A) *Spacing.* The spacing of street trees will be in accordance with the three species size classes listed in § 95.02, and no trees may be planted closer together than the following.

- (1) Small trees: 30 feet.
- (2) Medium trees: 40 feet.
- (3) Large trees: 50 feet; except in special plantings designed or approved by a landscape architect.

(B) *Distance from curb and sidewalk.* The distance trees may be planted from curbs or curblines and sidewalks or sidewalk lines will be in accordance with the three species size classes listed in § 95.02, and no trees may be planted closer to any curb or curbline, or sidewalk or sidewalk line than the following.

- (1) Small trees: 2 feet.
- (2) Medium trees: 3 feet.
- (3) Large trees: 4 feet.

(C) *Distance from street corners and fireplugs.* No street tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersection with curbs or curblines. No street tree shall be planted closer than ten feet from any fireplug.

(D) *Utilities.* No street trees other than those species listed as small trees in § 95.02 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. 94, passed 7-10-84) Penalty, see § 10.99

§ 95.04 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 insure public safety or to preserve or enhance the symmetry and beauty of public grounds.

(B) The Village Council, upon recommendation of the Tree Board, may remove or cause to be removed any tree or part thereof which is in an unsafe condition or which by its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insects or other pests. 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 §§ 95.02 and 95.03(D) of this chapter.

(Ord. 94, passed 7-10-84)

§ 95.05 TREE TOPPING.

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. ***TOPPING*** is defined as the severe cutting back of limbs or stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. 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 section at the determination of the Village Tree Board and the Village Council.

(Ord. 94, passed 7-10-84) Penalty, see § 10.99

§ 95.06 PRIVATE TREE CARE; OWNER RESPONSIBILITIES.

(A) *Pruning, corner clearance.* Every owner of any private tree overhanging any street or right-of-way within the village shall prune the branches so that such 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. The owners shall remove dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. 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 lamp or interferes with visibility of any traffic-control device, sign or the normal traffic flow on a village street, avenue, road or highway.

(B) *Removal of dead or diseased trees on private property.* 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 diseases which constitute a potential threat to other trees within the village. The Village Tree Board will recommend to the Council in writing, notify the owners of the trees, and provide those owners with a copy of this chapter when those conditions exist. Removal shall be done by the property owners at their own expense within 60 days after the date of service of the notice. In the event of failure of owners to comply with this section, the village shall have the authority to remove the trees, or cause them to be removed, and the cost of removal shall be assessed against the real property and shall appear on the next property tax notice.

(C) *Disposal of logs and brush.* Logs and brush created by the removal of non-diseased private trees are the responsibility of the property owner and shall be removed within ten calendar days after the cutting of the private tree. If removal is not done within ten calendar days, the removal will be done by the Village Street Department and billed to the homeowner, business, or industry at a cost of no less than \$10. Fees for removal are based on the cost of equipment, existing rental and labor charges. If the owner of the property does not pay within 60 days of the village cleaning up the debris, the total fee will be assessed to the property. The village may designate the last two weeks in May and the first two weeks in September as brush clean-up weeks. The village will, free of charge, pick up shrubs, bushes, limbs, and other woody vegetation on or around property lines near the roadside.

(Ord. 94, passed 7-10-84; Am. Ord. 153, passed 6-13-96) Penalty, see § 10.99

§ 95.07 REMOVAL OF TREE 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. All brush shall be removed by the Street Department. All stumps shall be removed at the cost to the village.

(Ord. 94, passed 7-10-84)

§ 95.08 WOOD RIGHTS.

Whenever any tree, or any part thereof, is topped, pruned, cut or removed pursuant to the terms of this chapter, the wood from the tree shall first be offered to the property owner on whose property the tree is located at the cost of removal. In the event that the property owner elects not to keep the wood, then, within seven days, the wood is to be advertised for sale, by sealed bids, for village residents only. Bids will be taken on the entire tree before it is felled. Tree to be removed seven days after tree is felled. All trees shall be paid for within 48 hours of the notice of acceptance of the bid, or the bidder shall be disqualified and the next highest bid received will be accepted. Any variance to this section requires approval of the Village Tree Board and/or Village Council.

(Ord. 94, passed 7-10-84) Penalty, see § 10.99

§ 95.09 INJURY TO TREES; IMPROPER USE.

(A) *Injury to trees.* No person or persons shall cut into, tear down, break over or otherwise injure or destroy any street or park trees within the village except by and with the consent or order of the Village Council.

(B) *Using trees as hitching posts.* No person or persons shall hitch any horse, mule, cattle, team or any animal whatsoever at all to any street or park tree within the village.

(Ord. 94, passed 7-10-84) Penalty, see § 10.99

§ 95.10 INTERFERING WITH TREE BOARD.

It shall be unlawful for any person or persons to prevent 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 by this chapter or by the Village Council.

(Ord. 94, passed 7-10-84) Penalty, see § 10.99

§ 95.11 ARBORISTS; 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 applying for and procuring a

permit from the Village Office. There is no license fee for this permit; however, it shall be applied for annually in advance of doing the work. No permit shall be required of any public service company or village employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage, indemnifying the village or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. 94, passed 7-10-84) Penalty, see § 10.99

TREE BOARD

§ 95.25 ESTABLISHMENT.

There is hereby created and established a Tree Board for the village, which shall consist of five members. The membership of the committee shall consist of the Superintendent of the Board of Public Works, two Council members, and two members at large. The President of the village shall appoint two members from the Village Council and two members from the community at large. The two members at large shall be approved by the Village Council.

(Ord. 94, passed 7-10-84)

§ 95.26 TERM; COMPENSATION.

(A) *Term.* The term of office for the members of the Tree Board shall be two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the Village Council for the unexpired portion of the term.

(B) *Compensation.* Members of the Board shall receive no compensation for serving on this board.

(Ord. 94, passed 7-10-84)

§ 95.27 DUTIES, RESPONSIBILITIES AND OPERATION.

(A) *Duties and responsibilities.* It shall be the responsibility of the Tree Board to study, investigate, counsel, develop and/or update annually, and submit to the Village Council 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 Board may request the Village Council for approval to call in an outside consultant or forester to assist in final determination. The Board cannot and shall not hire or contract any outside consultant without prior approval of the Village Council. The plan will be presented annually to the Village Council and upon their acceptance and approval shall constitute the official comprehensive Village Tree Plan. The Board, when requested by the Village Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(B) *Operation.* The Board shall choose its own officers and keep a journal of its proceedings which shall be filed by the Village Clerk. A majority of its members shall be constituted as a quorum for the transaction of business.

(Ord. 94, passed 7-10-84)

§ 95.28 REVIEW BY THE VILLAGE COUNCIL.

The Village Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal any order or decision of the Tree Board to the Village Council, who may hear the matter and render a final decision.

(Ord. 94, passed 7-10-84)

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