

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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DOGS

' 90.01 LICENSE REQUIRED.

(A) It shall be unlawful for any person to own, maintain, keep or harbor any dog within the village without first procuring a license therefor as prescribed by state law.

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(B) Application for a license shall be made to the County Treasurer and shall state the breed, sex, age, color and markings of the dog, and the name and address of the applicant and the last known previous owner.

(C) The application shall be accompanied by a certificate of a licensed veterinarian showing that the dog has been vaccinated against rabies.

(D) Collar and display of license required: each person owning, possessing or harboring any dog shall provide the dog or cat with a substantial collar of durable material, to which the license tag is securely attached. The collar and tag shall be worn at all times. No tag shall be used on the collar of any dog other than the dog or specified on the license, and no person shall remove the collar or tag from any dog without the consent of the owner or the party to whom the license is issued.
(1957 Code, ' 35-101) (Ord. 6308, passed 5-22-1979) Penalty, see ' 90.99

' 90.02 IMPOUNDING DOGS; DISPOSITION.

It shall be the duty of the Village Police Department or County Animal Control to seize and impound any dog found anywhere in the village contrary to the provisions of this chapter. Before the impounded dog shall be released to its owner or other authorized person if any costs were incurred, payment of a sum of money as a fee plus cost of maintenance as per a schedule adopted by the Village Council from time to time and posted in the office of the Village Police Department. If the county animal shelter has the dog, a said sum to be paid to the County Animal Control for its care and maintenance per their schedule shall be paid to them. If the village has the dog, it shall be taken to the county animal shelter if it has to be held overnight because the village doesn't have the facilities to maintain animals overnight.

(1957 Code, ' 35-102) (Ord. 6308, passed 5-22-1979) Penalty, see ' 90.99

' 90.03 POLICE DEPARTMENT; RECORDS REQUIRED.

The Village Police Department or County Animal Control shall maintain a complete record of all dogs impounded under the provisions of this subchapter and the disposition of the same.

(1957 Code, ' 35-103) (Ord. 6308, passed 5-22-1979)

' 90.04 REPORT TO POLICE DEPARTMENT REQUIRED.

If any person is bitten by a dog, it shall be the duty of that person, or the owner or custodian of the dog having knowledge of the same, to report same to the Village Police Department or County Animal Control within 12 hours thereafter. If the owner or custodian of any dog has any reason to believe or

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suspect that such dog has become infected with rabies, it shall be the duty of that person to report the same to the County Animal Control within 12 hours thereafter.

(1957 Code, ' 35-104) (Ord. 6308, passed 5-22-1979)

' 90.05 QUARANTINE; PROCEDURE.

In the event of any report to it as set forth in ' 90.04, the Village Police Department or County Animal Control shall seize such dog and deliver it to the County Animal Shelter. The Animal Shelter shall hold such dog in quarantine until a laboratory analysis by a licensed veterinarian is made to determine whether the dog is infected.

(1957 Code, ' 35-105) (Ord. 6308, passed 5-22-1979)

' 90.06 RUNNING LOOSE PROHIBITED.

It shall be unlawful for the owner, or any other person having the possession, care, custody or control thereof, to permit any dog, to run at large upon the public streets, walks, parks or other public places or private property other than the animal owner, within the village, unless such dog shall be attached to a leash of sufficient strength to restrain such dog.

(1957 Code, ' 35-106) (Ord. 6308, passed 5-22-1979) Penalty, see ' 90.99

' 90.07 ANNOYING DOGS PROHIBITED.

It shall be unlawful for any person to own, harbor or keep any dog which shall cause annoyance or disturbance to persons in the village by frequent and habitual barking, howling or yelping.

(1957 Code, ' 35-107) (Ord. 6308, passed 5-22-1979) Penalty, see ' 90.99

' 90.08 VICIOUS DOGS PROHIBITED.

It shall be unlawful for any person to suffer or permit a vicious, fierce or dangerous dog to go unconfined and unrestrained on such person=s premises, or to run at large in the village.

(1957 Code, ' 35-108) (Ord. 6308, passed 5-22-1979) Penalty, see ' 90.99

' 90.09 DOG EXCRETA.

(A) Any person owning or having charge of any dog shall be responsible for the removal of any

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excreta deposited by such dog on public thoroughfares, sidewalks, parks or any public property whatsoever, or upon any private property.

(B) Any person owning or having charge of a dog, whether or not on a leash, which deposits excrement on public or private property, other than the property of the animal's owner or keeper, shall, upon being made aware of such fact, immediately remove such excrement and dispose of it in a sanitary method on property owned or possessed by such person.

(C) No person owning or having charge of a dog shall cause or permit such dog to be on public or private property, not owned or possessed by such person, unless such person has in his or her immediate possession an appropriate device for the scooping of excrement and an appropriate depository for the transmission of excrement to a receptacle located on property owned or possessed by such person.

(1957 Code, ' 35-109) (Ord. passed 11-18-1996) Penalty, see ' 90.99

CATS

' 90.20 LICENSE REQUIRED; APPLICATION; DISPLAY.

(A) Upon application to the Village Clerk or Police Department giving the full name and residence of the applicant, the Village Clerk or his or her duly authorized representative shall issue a license to the applicant and a tag of some durable material stamped or engraved with the number of the license, the year it is issued, and the words "Animal License, Village of Shepherd, Michigan."

(B) Before the Village Clerk or Police Department shall deliver a license and tag as above provided for, the applicant therefor shall pay a one-time fee, to the Village Clerk the charges of \$10.

(C) Collar and display of license required: each person owning, possessing or harboring any cat shall provide the cat with a substantial collar of durable material, to which the license tag is securely attached. The collar and tag shall be worn at all times. In case of loss, duplicate tags may be issued by the Village Clerk or his or her authorized representative at a cost of \$3 to the applicant upon proof of loss by the applicant. No tag shall be used on the collar of any cat other than the cat specified on the license, and no person shall remove the collar or tag from any cat without the consent of the owner or the party to whom the license is issued.

(1957 Code, ' 35-113) Penalty, see ' 90.99

' 90.21 POLICE DEPARTMENT; RECORDS REQUIRED.

The Village Police Department or County Animal Control shall maintain a complete record of all

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cats impounded under the provisions of this subchapter and the disposition of the same.
(1957 Code, ' 35-115)

' 90.22 RUNNING LOOSE PROHIBITED.

It shall be unlawful for the owner, or any other person having the possession, care, custody or control thereof, to permit any cat, to run at large upon the public streets, walks, parks or other public places or private property other than the animal owner, within the village.
(1957 Code, ' 35-116) Penalty, see ' 90.99

' 90.23 ANNOYING CATS PROHIBITED.

It shall be unlawful for any person to own, harbor or keep any cat which shall cause annoyance or disturbance to persons in the village.
(1957 Code, ' 35-117) Penalty, see ' 90.99

' 90.24 CAT EXCRETA.

(A) Any person owning or having charge of any cat shall be responsible for the removal of any excreta deposited by such cat on public thoroughfares, sidewalks, parks or any public property whatsoever, or upon any private property.

(B) Any person owning or having charge of a cat, whether or not on a leash, which deposits excrement on public or private property, other than the property of the animal's owner or keeper, shall, upon being made aware of such fact, immediately remove such excrement and dispose of it in a sanitary method on property owned or possessed by such person.

(C) No person owning or having charge of a cat shall cause or permit such cat to be on public or private property, not owned or possessed by such person, unless such person has in his or her immediate possession an appropriate device for the scooping of excrement and an appropriate depository for the transmission of excrement to a receptacle located on property owned or possessed by such person.
(1957 Code, ' 35-118) Penalty, see ' 90.99

' 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

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(B) Fines for violations of this chapter shall be as set forth by the county.
(1957 Code, ' 35-110)

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CHAPTER 91: STREETS AND SIDEWALKS

Section

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STREET AND BUILDING NUMBERING

' 91.01 TITLE.

There is hereby created, and this subchapter shall be know and cited as the AVillage of Shepherd Street and Building Numbering Ordinance.@
(Ord. passed 5-20-2002)

' 91.02 PURPOSE.

The purpose of this subchapter, as included in the preamble which is incorporated by reference into this subchapter, is to establish a village-wide street and building numbering system in a uniform and logical manner; and to provide for a central point to issue and control numbering, and to provide rules and guidelines to facilitate enforcement thereof.
(Ord. passed 5-20-2002)

' 91.03 DEFINITIONS.

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

NUMBER(S). House number, assigned premises number, assigned number, number, street number and/or assigned house number, shall mean the number assigned to consecutive intervals along a street.

PREMISES. Any lot or single parcel of land owned by any person, entity, firm or corporation, public or private, improved with any building(s) whether occupied or not.

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(Ord. passed 5-20-2002)

' 91.04 ASSIGNED NUMBER MAP.

(A) The Village Street Department, in accordance with the Shepherd Tri-Township Fire Department, Isabella County and the United State=s Postmaster, shall create and maintain an accurate map(s) of all streets within the village and shall make assigned numbers available for each interval along the streets.

(B) Said map(s) shall be the official repository of said street numbering assignments and shall be available for public inspection at the village offices during regular business hours.

(Ord. passed 5-20-2002)

' 91.05 ASSIGNED NUMBER CHANGES.

(A) Existing or previously assigned or displayed street numbers which do not comply with this subchapter may be changed either: at the request of the property owner or his or her agent(s), but only upon approval of the village; or such change may be initiated by the village.

(B) When a change is initiated by the village the property owner shall be notified in writing 30 days prior to the time the new number shall become the assigned number for the interval of the property in question.

(Ord. passed 5-20-2002)

' 91.06 ASSIGNMENT OF NUMBERS.

(A) The record owner of the premises shall be responsible for compliance with all the terms of this subchapter.

(B) The village shall, upon application by the record owner of any premises, assign a number that complies with the ordinance, or the village shall, in accordance with the provisions of this subchapter, assign and/or cause to be displayed an assigned number for a lot or premises.

(C) The Village Enforcement Officer shall have the authority to enter upon any premises for the purpose of affixing a proper number upon any premises.

(Ord. passed 5-20-2002) Penalty, see ' 91.99

' 91.07 NUMBERING SYSTEM.

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(A) Numbers shall be affixed to or inscribed on all dwelling houses and other buildings in regular series, now or hereafter erected on any street or way in the village, in accordance with the map mentioned above. Numbers shall be not less than three inches in height and shall be of a contrasting color to the surface to which they are attached. Numbers shall be prominently displayed on the house or building in such a manner as to be seen from the street at all times without difficulty.

(B) The primary location for numbers shall be near the door facing the street or way that provides the principal approach to the house or building.

(1) On houses or buildings obscured from the street by trees or other obstructions and houses or buildings which have a setback in excess of 150 feet from the traveled way, numbers shall be securely displayed at a distance not more than 20 feet from the edge of the traveled way.

(2) Property owners shall be notified in writing of their assigned house number in accordance with the map set forth above.

(Ord. passed 5-20-2002) Penalty, see ' 91.99

' 91.08 PROHIBITED ACTIONS.

It shall be unlawful:

(A) For any person to knowingly affix or display or to allow to be affixed or displayed on any premises owned by such person, any number other than the number assigned for such premises under " 91.04 through 91.06;

(B) For any person to remove, deface or obstruct the view of any number from or on any premises, except for the purpose of painting, cleaning or work upon the structure, in which case the number shall be reaffixed and displayed as soon as reasonably possible; and

(C) For any person to obstruct or interfere with the Enforcement Officer in the performance of his or her official duties.

(Ord. passed 5-20-2002) Penalty, see ' 91.99

' 91.09 NOTICE OF VIOLATION.

(A) Upon finding a violation of this subchapter, the Enforcement Officer shall first issue a written warning notice directed to the record owner of the real estate.

(B) If the building is not property numbered within 30 days, the Enforcement Officer may file a complaint or issue an appearance ticket pursuant.

(Ord. passed 5-20-2002) Penalty, see ' 91.99

Shepherd - General Regulations**' 91.10 ENFORCEMENT OFFICER.**

The Enforcement Officer for this subchapter shall be the Village Police Chief.
(Ord. passed 5-20-2002)

SIDEWALKS**' 91.25 CROSSWALKS.**

All crosswalks shall be constructed and kept in repair by the village under the direction of the DPW Superintendent at such time, in such manner, in such places and of such material as the Council shall from time to time by resolution direct.
(Ord. passed 10-15-2018)

' 91.26 SIDEWALKS.

All sidewalks shall be constructed of Portland cement upon a proper foundation and at least four inches in thickness, except at driveways where they shall be six inches.
(Ord. passed 10-15-2018)

' 91.27 RESOLUTION.

(A) The Council may at any time 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 part of any street or streets, under the direction of the DPW Superintendent.

(B) Such resolution shall specify the points of terminus and the width of such sidewalk. No person shall construct or repair any sidewalk except in accordance with the lines, grade, slope and specifications established by the DPW Superintendent and without first procuring a permit from the Division of Public Works. Permits shall be prominently displayed on the construction site.
(Ord. passed 10-15-2018)

' 91.28 NOTICE.

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(A) Within five days after the passing of such resolution the DPW Superintendent shall direct the Clerk to, by certified mail, to give notice to the owner or occupant of the abutting premises to repair within 30 days. This notice will indicate the timeline for notifying the village as to if the village is to complete the work or if the resident will complete the work.

(B) There is also a timeline on when the resident must have the sidewalk work completed if they so choose to do the work.

(C) The village will invoice the resident if the village completes the work. This invoice will specify payment details along with any penalties.

(D) Such notice in such manner to be given to the owner of any lot or premises in front of or adjacent to which the sidewalk is to be constructed or rebuilt, and said notice to be in such form as to require such person or persons to construct or rebuild such sidewalk or such portion thereof as may be ordered in front of or adjacent to the several parcels of land so owned by the said owner within 30 days from the date of such notice. This notice shall also describe the type of construction and give such data with regard to specifications as in keeping with proper construction practices.

(Ord. passed 10-15-2018) Penalty, see ' 91.99

' 91.29 CONSTRUCTION.

(A) Upon receipt of said notice, the owner, owners or agent of such owner or owners may in writing direct the Council to construct said sidewalk or repair the same and agree with the Council through the DPW Superintendent to reimburse the village for the expense of said construction. If this agreement is made, then the DPW Superintendent shall bill the property owner immediately after completion of the sidewalk and the property owner may forthwith pay the village in accordance with said billing.

(B) If the owner, owners or agent of such owner or owners of any lot or premises shall refuse or neglect to construct or repair the sidewalk or shall neglect to direct the village to construct or repair the sidewalk as herein provided after having been duly notified so to do, in the manner and within the time hereby prescribed by the Council, the DPW Superintendent is hereby authorized and required immediately after the expiration of such time to cause the same to be constructed or repaired, and the expense of doing the same shall be assessed to the person or persons refusing or neglecting to construct or repair the same, and be charged against such lot or premises.

(Ord. passed 10-15-2018) Penalty, see ' 91.99

' 91.30 REPORT OF EXPENSES TO COUNCIL.

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It shall be the duty of the DPW Superintendent to make a full and complete report to the Council when any such sidewalks shall have been constructed or repaired by him or her, of the expense of constructing or repairing the same and the proportion of such expense to be charged against each lot or premises.

(Ord. passed 10-15-2018) Penalty, see ' 91.99

' 91.31 SPECIAL ASSESSMENT.

(A) Upon receipt of the said report, the Council shall cause the amounts spent for construction to be charged against such lot or premises and report the same to the assessor to be levied by him or her as a special assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review after proper notice is given as in all other cases of special assessments provided for by the charter and ordinances of this village. Provided always that any property owner may at any time pay in cash the cost of any such construction and repair without necessity of a special assessment.

(B) After such opportunity for review, said assessments shall be confined by the Council and shall be a lien upon said lot or premises the same as other special assessments, and the Council shall order the assessor to spread the same amount together with such penalty upon the special assessment roll as a special assessment upon such lot or premises, and the same shall be collected in the same manner as other village taxes.

(Ord. passed 10-15-2018) Penalty, see ' 91.99

' 91.32 COLLECTION.

The village may collect such amount together with the penalty aforesaid from the owner of said premises or his or her agent in any action of assumpsit, together with the costs of suit.

(Ord. passed 10-15-2018)

' 91.33 LINES AND GRADES.

(A) Whenever sidewalks are ordered on any street where none have heretofore existed, it shall be the duty of the DPW Superintendent to immediately establish a sidewalk line on said street, said line to be one foot from the lot line. No person shall construct, alter or change any sidewalk, driveway apron or any opening in or through any curb in any street or public way without first procuring a permit from the Division of Public Works. Such construction will be done by approved plans and specifications of the DPW Superintendent.

(B) The DPW Superintendent shall keep a record of all sidewalk lines and grades in a book prepared for that purpose which record shall be filed in the office of the Village Clerk.

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(Ord. passed 10-15-2018) Penalty, see ' 91.99

' 91.34 PERMISSION FOR CONSTRUCTION OR REPAIR.

(A) *Generally.* No property owner shall construct or repair any sidewalk, driveway apron or opening in or through any curb in any street or public way except with permission of the DPW Superintendent and with procuring a permit from the Division of Public Works. After written application is filed by said owner, said construction to be in accordance with the specifications and directions as established by the Village Council.

(B) *Public liability insurance required.* Before any permit is issued to the applicant, the DPW Superintendent shall require a public liability and property damage insurance as shall protect the applicant and the village from claims for damages for personal injury, including wrongful death, as well as claims for property damage. Said policy shall name the village as an additional insured, by means of certificate of insurance to the village. Any person other than utility companies doing excavation work on any village street or alley shall provide the village with a surety bond in the amount of \$1,000 for each job, or \$5,000 per year guaranteeing that the contractor will complete the work in accordance with all ordinances and the plans and specifications as approved by the DPW Superintendent.

(Ord. passed 10-15-2018)

' 91.35 USE OF SIDEWALKS.

(A) (1) No person shall throw, place or leave or cause to be thrown, placed or left in any public street or alley within the corporate limits of the village any waste, rubbish, wagon, sled, vehicle or another object or material except as otherwise provided in this code.

(2) No person owning, building or repairing any house or other building shall permit any lumber, brick, plaster, mortar, earth, clay, sand, stone, animal feces or other material to remain on the sidewalk after sunset of the day upon which it was placed there, without permission from the DPW Superintendent.

(B) No person shall suspend anything above any sidewalk or within any street area, unless expressly authorized by village ordinances, except an awning or marquee no part of which is less than eight feet above the sidewalk grade by zoning permit application.

(C) The owner or occupant of any lot or lots, or lands and premises adjacent to and abutting upon any sidewalk in said village shall keep the same free from obstruction, snow, ice and filth, except insofar as the Village Council may provide for the removal of snow from such walks, but no person in removing snow or ice or either from any cement walk shall in any manner cut, mark or injure any such walk by the use of an axe, pick or any other tool or implement or chemical. No person shall go upon

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or drive, or cause to be driven, any vehicle or animal on any pavement, sidewalk, curbing or gutter, except at a driveway constructed for such purpose.

(Ord. passed 10-15-2018) Penalty, see ' 91.99

' 91.36 SNOW AND ICE REMOVAL.

(A) (1) Every person, partnership or corporation in charge or in control of any commercial or industrial building or commercial or industrial lot of land within the village fronting or abutting on a paved sidewalk, whether its owner, tenant, occupant, lessee or otherwise, shall remove and clear away or cause to be removed and cleared away, snow and ice from a patch of at least 48 inches in width from so much of said sidewalk as is in front of or abuts on said building or lot of land.

(2) Except as provided in division (B) below, snow and ice shall be removed from sidewalks in all of the business district within the village by 18 hours after the cessation of fall and accumulation of snow, sleet or freezing rain, with the exception of Sundays and holidays. **HOLIDAYS** to be defined as Thanksgiving Day, Christmas Day and New Year=s Day. This exclusion of Sundays and holidays applies only if the subsidence of snow storm occurs after 4:00 p.m. the previous day, in which case sidewalks must be cleaned by 12:00 p.m. (noon) the day following a Sunday or holiday.

(B) In the event snow and ice on a sidewalk have become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person or entity charged with its removal shall, within the time mentioned in division (A) above, cause enough sand or other abrasive to be put on the sidewalk to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause a path in said sidewalk of at least 48 inches in width to be thoroughly cleaned.

(C) If the sidewalks covered in this section are not cleared within the time limits set above, the property or business owner will be issued a civil infraction ticket. After the receipt of a civil infraction ticket, the property or business owner will have a 24-hour period to comply with the requirements of this section.

(D) If the property or business owner fails to clear the sidewalks after the 24-hour period following the issuance of a civil infraction ticket, the DPW crews are authorized to clear the walk. The cost to clear the walk will be charged to the property owner at a fee to be set by resolution of the Village Council.

(Ord. passed 10-15-2018) Penalty, see ' 91.99

' 91.37 DEPOSITING SNOW AND ICE RESTRICTED.

(A) No person, partnership or corporation shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, public right-of-way; except that which fronts the owner=s, renter=s or corporation property; or loading and unloading areas of a public transportation

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system, except that snow and ice may be deposited on curbs incident to the cleaning of sidewalks within the Central Business District.

(B) No snow or ice shall be piled more than three feet high as measured above the road surface within the right-of-way or on private property if it causes a sight restriction of vehicular traffic. (Ord. passed 10-15-2018) Penalty, see ' 91.99

' 91.38 COUNCIL MAY PAY PART OF EXPENSE.

The Council may, by a two-thirds vote of all of the Trustees elect, pay such part of the expense of building or rebuilding such walk as it may deem proper from the General Street Fund or the Street District Fund of any street district in which such walk may be located. (Ord. passed 10-15-2018)

STREET EXCAVATIONS AND OBSTRUCTIONS

' 91.50 PERMIT REQUIRED.

(A) It shall be unlawful for any person to do the following without first obtaining a street opening permit therefor as provided in this subchapter:

(1) Make or cause to be made any excavation or opening in or under the right-of-way or surface or pavement of any street, alley, sidewalk or other public place;

(2) Place any obstruction on any part of any street, alley, sidewalk or other public place;

(3) Occupy any part of any street, alley, sidewalk or public place for the purpose of construction, maintenance, or repair of property immediately adjacent thereto; or

(4) Make or cause to be made any opening in or through any curb of any street, alley or public place.

(B) Division (A) above shall not be applicable to a duly authorized village official or employee in the course of his or her employment; to a person acting under contract with the village; or in any emergency requiring immediate action to preserve public or private property or the public safety; provided that such emergency shall first be reported to the Department of Public Works and the Police Department which shall grant permission to make the necessary excavation or obstruction, and provided that an application for permit is made in the required manner on or before the close of the next business day.

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(1957 Code, ' 30-051) Penalty, see ' 91.99

' 91.51 APPLICATION FOR PERMIT.

The applicant for such permit shall furnish to the Superintendent of Public Works the reason and location for the intended opening or excavation and the extent to which said street, alley, sidewalk, or other public place is to be used for the purpose applied for and the intended start and completion time for the proposed excavation in the public right-of-way. Upon furnishing said information, the applicant shall submit a village street opening permit application to the Superintendent of Public Works.

(1957 Code, ' 30-052)

' 91.52 APPROVED BY DPW SUPERINTENDENT.

(A) Upon receipt of such application, the Superintendent shall investigate to verify that such work is necessary and reasonable. If satisfied that the proposed work is appropriate, the Superintendent of Public Works shall sign the street opening permit application with all deposits required for all restoration work performed by the village after completion of the work by the applicant.

(B) If the DPW Superintendent shall determine that said application shall be granted only on certain conditions and for a certain limited time, he or she shall so state in his or her endorsement approving such application and the permit shall be issued only subject to such conditions or limitations.

(1957 Code, ' 30-053) Penalty, see ' 91.99

' 91.53 COLLECTION OF DEPOSITS BY VILLAGE CLERK.

The Superintendent of Public Works shall immediately submit the approved street opening permit application to the Village Clerk. The Clerk shall collect all deposits called for on the application. Upon completion of the work by the applicant, the DPW Superintendent shall certify to the Clerk the cost of all restoration work performed by the village and the amount of any surplus remaining from the amount deposited shall therefore be refunded to the applicant.

Penalty, see ' 91.99

' 91.54 SUPERVISION.

No pavement or curb in any street or alley shall be cut or removed except under the direct supervision of the DPW Superintendent or his or her representative, except in an emergency as heretofore provided.

(1957 Code, ' 30-056) Penalty, see ' 91.99

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' 91.55 SECURING EXCAVATIONS OR OBSTRUCTIONS.

(A) All openings, excavations, or obstructions in the village right-of-way shall have proper traffic control signs and devices as set forth by the Michigan Department of Transportation including advance warning signs at the appropriate distance from the work site in both directions. Adequate lighting shall be provided by the applicant or applicant=s contractor for excavations or obstructions left overnight at the direction of the DPW Superintendent unless otherwise provide by the village.

(B) The utmost care shall be exercised at all times in protecting life and property in the performance of the work, and the work accomplished with as little as possible interference to traffic and the use of street, alley or thoroughfare. Sufficient help and equipment shall be provided to expedite the work to the satisfaction of the DPW Superintendent.

(1957 Code, ' 30-057) Penalty, see ' 91.99

' 91.56 SAFEGUARDING OPENINGS AND EXCAVATIONS.

All openings and excavations shall be properly braced at the discretion of the DPW Superintendent to protect workers including village DPW employees from dangerous trench bank collapses and cave ins.

Penalty, see ' 91.99

' 91.57 SAFEGUARDING EXISTING UTILITIES.

The DPW Superintendent shall determine how installation of new or replacement utility lines shall be made should said utility lines require excavating near existing village utility lines and appurtenances. Penalty, see ' 91.99

' 91.58 BACKFILLING.

(A) (1) All spoils from the excavation trench shall be removed from the work site as said spoils are excavated unless approved by the DPW Superintendent to be placed back in the trench. The trench shall be backfilled with fill sand approved by the DPW Superintendent and compacted in lifts not to exceed two feet in depth.

(2) The top eight inches of the trench shall be backfilled with approved gravel at the discretion of the DPW Superintendent.

(B) Should the applicant or applicant=s contractor fail to comply with the requirements of division (A) above, the DPW Superintendent shall be authorized to perform any needed work using village

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personnel, equipment, and material. The cost of said work shall be charged to the street opening permit applicant.

Penalty, see ' 91.99

' 91.59 RESTORATION BY VILLAGE.

After the applicant or applicant=s contractor has completed the work for which the street opening permit application was submitted, the Village DPW shall perform all surface restoration work including street repaving, sidewalk replacement, and green belt restoration. The costs of said restoration work performed by the Village DPW shall be charged against deposits paid by the street opening permit applicant.

Penalty, see ' 91.99

' 91.60 REVOCATION OF PERMIT.

Any person receiving a permit under this subchapter who shall fail to comply with the provisions thereof, or with those imposed by the DPW Superintendent shall be liable to have such permit suspended by said DPW Superintendent and shall not proceed with the work for which the permit was granted until said DPW Superintendent shall order the same to proceed.

(1957 Code, ' 30-063)

' 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99. As all citations issued by the Shepherd Police Department are set forth by Isabella County.

(B) Any person, firm or corporation which violates any of the provisions of " 91.01 through 91.10 shall be deemed guilty of a misdemeanor, punishable by a fine of up to \$100. Each day that a violation continues shall be considered a separate offense.

(C) If work is undertaken without a permit (' 91.33), a \$100 penalty, plus double the permit fee, will be charged.

(D) If work is undertaken without a permit (' 91.34), a \$100 penalty, plus double the permit fee, will be charged.

Streets and Sidewalks

(E) (1) *Municipal civil infraction.* Any person who violates any provision of ' 91.36, with the exception of ' 91.36(B), shall be held responsible for a municipal civil infraction and prosecuted in accordance with the municipal civil infractions ordinance. The fine for violation of a municipal civil infraction under this chapter shall be \$50; the second violation: \$100; and the third or any subsequent violation within any one calendar year: \$250; with the exceptions of under which the fine shall be \$200. in addition, the village shall be reimbursed for any costs incurred by the village in causing any work to be performed which the respondent has failed to perform. Each day a violation is permitted to exist shall constitute a separate offense.

(2) *Criminal misdemeanor.* Any person violating ' 91.36(B) shall be guilty of a misdemeanor and be punished by a fine not exceeding \$500, or by incarceration, for a term not exceeding 90 days, or both.

(Ord. passed 10-15-2018)

CHAPTER 92: FIRE PREVENTION; FIREWORKS

Section

Fire Prevention and Protection

- 92.01 State law
- 92.02 False fire alarms
- 92.03 Injury to firefighting equipment
- 92.04 Obstruction of fire hydrants
- 92.05 Authority of Fire Department
- 92.06 Destruction of buildings
- 92.07 Fire inspection
- 92.08 Bonfires
- 92.09 Starting fires by smoking unlawful

Fireworks

- 92.25 Purpose
- 92.26 Definitions
- 92.27 General prohibition on ignition, discharge and use of consumer fireworks
- 92.28 Additional prohibitions
- 92.29 Permit, application and site plan
- 92.30 Requirements and restrictions
- 92.31 Enforcement, seizure of fireworks

- 92.99 Penalty

FIRE PREVENTION AND PROTECTION

' 92.01 STATE LAW.

No person shall violate any law of the state, nor any rule or regulation adopted by any duly authorized agency of the state, pertaining to fire, fire hazards, fire prevention or fire waste.
(1957 Code, ' 40-001) Penalty, see ' 92.99

' 92.02 FALSE FIRE ALARMS.

No person shall willfully turn in, sound or cause to be communicated to the Fire Department, a false alarm of fire.

(1957 Code, ' 40-002) Penalty, see ' 92.99

' 92.03 INJURY TO FIREFIGHTING EQUIPMENT.

No person shall willfully molest, take for his or her own private use, or damage in any manner any fire fighting equipment or apparatus or anything pertaining to the firefighting system, or drive any vehicle upon or against any hose or equipment of the Fire Department.

(1957 Code, ' 40-003) Penalty, see ' 92.99

' 92.04 OBSTRUCTION OF FIRE HYDRANTS.

No person shall place any obstruction whatever, nor shall any person responsible for such obstruction permit it to remain within 15 feet of any fire hydrant.

(1957 Code, ' 40-004) Penalty, see ' 92.99

' 92.05 AUTHORITY OF FIRE DEPARTMENT.

(A) At any fire, the Fire Chief or other person in command of the Fire Department shall have full power, control and command of all persons present and shall have full power to enter upon any premises adjoining or adjacent to utilize any facilities available for the extinguishment of such fires.

(B) The Fire Chief or other person in command of the Fire Department, or any member of the Police Department, may require the aid of any person in extinguishing such fire, or in preventing any property from being stolen or injured or in protecting, removing or securing the same.

(C) Any person refusing or failing to comply with such requisition for assistance, or who shall disobey any lawful order, or who shall interfere with or impede any member of the Fire or Police Departments in the performance of his or her duties shall be punished as provided in the provisions of this code.

(1957 Code, ' 40-005) Penalty, see ' 92.99

' 92.06 DESTRUCTION OF BUILDINGS.

The Fire Chief alone, or any other person in command of the Fire Department with the concurrence

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of the Chief of Police, President or any Trustee, shall have authority to direct any building to be removed or destroyed for the purpose of checking the progress of any fire.

(1957 Code, ' 40-006)

' 92.07 FIRE INSPECTION.

(A) The Fire Chief, or his or her authorized representative, is hereby empowered to enter any and all reasonable times upon and into any premises, buildings or structures for the purposes of examining and inspecting the same, to ascertain the condition thereof with regard to fire hazards, and the condition, size, arrangement and efficiency of any and all appliances for firefighting.

(B) If such inspection shall disclose any fire hazards or any deficiency in the firefighting appliances, the Fire Chief shall order the condition remedied within a reasonable time. Any person, copartnership or corporation shall not fail to comply forthwith any such order of the Fire Chief, or his or her authorized representative.

(1957 Code, ' 40-007)

' 92.08 BONFIRES.

(A) There is no type of special permit required for the use of outdoor fire pits on private property. However, rules apply as follows.

(1) Keep the fire small and manageable less than three feet in diameter and two feet tall.

(2) Fires must be 15 feet from any structure and ten feet from any lot line and 25 feet from any habitable structure.

(3) Always use good dry wood or charcoal do not use wet, damp or Anew@ wood this creates needless, irritating smoke also no burning of leaves, brush, yard waste, trash or construction waste.

(4) Do not cause a nuisance to neighbors.

(5) If the Police or Fire Department receives complaints from neighbors that the smoke or smell is bothersome to them, they will investigate and if deemed necessary, you may be instructed to extinguish the fire or let it burn out. If multiple complaints are justified, you will not be allowed to burn.

(6) The fire pit should be sited on a flat surface that is non-combustible. An area should be cleared around it 15 feet in all directions of all combustibles.

(7) There must be at least one person over the age of 18 in view and in charge of the fire at all time that it is burning.

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(8) Never leave fires unattended at any time.

(9) It is recommended to keep a fire extinguisher or garden hose handy for quick extinguishment if necessary.

(10) All fire apparatuses must be made of metal, brick or stone and be above ground at least 12@ tall and no in ground pits will be allowed. They should also have some sort of mesh cover.

(B) Exceptions: the Director of Public Safety and the Shepherd Village Council may permit the demolition of a building by fire, after consultation with the Shepherd Tri-Township Fire Chief, if it appears to be in the best interest of the community.

(1957 Code, ' 40-008) (Ord. passed 4-17-1989) Penalty, see ' 92.99

' 92.09 STARTING FIRES BY SMOKING UNLAWFUL.

(A) It shall be unlawful for any person in smoking or attempting to light or to smoke a cigarette, cigar, pipe or tobacco in any form for which a lighter or matches are used, to set fire to any bed, bedding, furniture, curtains, drapery or household furniture in any hotel, rooming house, or public lodging house.

(B) The owner or operator of any hotel, rooming house or public lodging house shall post a plainly printed copy of this section of the code in a conspicuous place in each room and in the lobby.

(1957 Code, ' 40-009) Penalty, see ' 92.99

FIREWORKS

' 92.25 PURPOSE.

The purpose of this subchapter is to establish a safe environment for the use or discharge of fireworks and to regulate the public health, safety and general welfare of persons and property, in particular to ensure protection for the viewing public and the property owners surrounding the discharge site of fireworks.

(Ord. passed - -)

' 92.26 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly

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indicates or requires a different meaning.

ARTICLES PYROTECHNIC. Pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 C.F.R. ' 172.101.

CONSUMER FIREWORKS. Fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States consumer product safety commission under 16 C.F.R. parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3 or 3.5. Examples include, but are not limited to aerials, roman candles, bottle rockets, firecrackers, helicopter/aerial spinners, re-loadable shell devices, missile-type devices, single tube devices with report and other items that leave the ground. **CONSUMER FIREWORKS** do not include low-impact fireworks.

DISPLAY FIREWORKS. Large fireworks devices and explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration or detonation, as provided in 27 C.F.R. ' 555.11, 49 C.F.R. part 172 and APA standard 87-1,4.1.

FIREWORK or FIREWORKS. Any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. **FIREWORKS** consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks and special effects.

LOW IMPACT FIREWORKS. Any ground-based and some handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5.

NOVELTY FIREWORKS. That term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4 and 3.2.5 and all of the following:

(1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than 0.25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap;

(2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in division (1) above are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are designed to break apart or be separated so as to form a missile by the explosion;

(3) Hitter sparklers in paper tubes not exceeding one-eighth inch in diameter; and

(4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer=s name and the quantity contained in each box

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are printed on the box; and toy smoke devices.

PERSON. An individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization or any other legal or commercial entity.

SPECIAL EFFECTS. A combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

USE OF FIREWORKS. The ignition, discharge and use of fireworks.
(Ord. passed - -)

' 92.27 GENERAL PROHIBITION ON IGNITION, DISCHARGE AND USE OF CONSUMER FIREWORKS.

(A) No person shall ignite, discharge or use consumer fireworks within the village at any time, except during the dates and local times specified below:

(1) December 31 from 11:00 a.m. until 1:00 a.m. on January 1;

(2) The Saturday and Sunday immediately preceding Memorial Day from 11:00 a.m. until 11:45 p.m. on each of these days;

(3) June 29 to July 4 from 11:00 a.m. until 11:45 p.m. on each of these days;

(4) July 5, if that date is a Friday or Saturday, from 11:00 a.m. until 11:45 p.m.; and

(5) The Saturday and Sunday immediately preceding Labor Day from 11:00 a.m. until 11:45 p.m. on each of these days.

(B) Fireworks may be discharged in strict compliance with any permit issued by the village in accordance with the Act and this subchapter.

(C) No person shall ignite; discharge or use consumer fireworks at any time from public street, road, or highway.

(D) Low-impact fireworks shall be ignited, discharged, or used so as to not cause injury or damage to any person or property but shall not be ignited, discharged, or used inside any building or structure at any time without a license or permit issued by the Village of Shepherd. Novelty fireworks may be ignited, discharged, or used without restriction but such shall only occur in a manner so as to not cause

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injury or damage to any person or property.

(Ord. passed - -) Penalty, see ' 92.99

' 92.28 ADDITIONAL PROHIBITIONS.

(A) Consumer fireworks shall not be ignited, discharged or used from any of the following locations without the owner or the legal representative=s express written permission:

- (1) On public property, including streets and rights-of-way;
- (2) On school property;
- (3) On church property; or
- (4) From the property of another person.

(B) Consumer fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.

(C) Low impact fireworks shall not be ignited, discharged or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.

(D) Any person who uses fireworks shall be in compliance with all other applicable laws or ordinances.

(Ord. passed - -) Penalty, see ' 92.99

' 92.29 PERMIT, APPLICATION AND SITE PLAN.

(A) All applications shall be in writing on forms supplied by the Michigan State Police Department.

(M.C.L.A. ' 750.243b(1))

(B) Before a permit may be issued the legal age resident, firm, or corporation requesting the permit must furnish in written documentation evidence of a security bond or insurance policy covering damages to property and persons arising out of an act or omission on the part of the legal age resident, firm, or corporation or agent or employee thereof in the minimum amount of \$5,000,000 or additionally as may be required by the size and scope of the fireworks being used in requested permit.

(M.C.L.A. ' 750.243b(3))

(C) The Village of Shepherd may require any additional safety requirements as the Village Council deems fit based on the time, place, and materials requested on the permit application form.

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(M.C.L.A. ' 750.243b(5))

(D) All applications must be submitted to the village office in completion no less than 30 business days before the requested date of use.

(E) A site plan of the area where the event is to be conducted shall be submitted with the application. The site plan shall set forth all structures in the area and the discharge site fallout area. The site plan shall furthermore set forth the distance separating the mortars used to launch the fireworks and the structures and also set forth the distance separating the mortars and the spectators viewing the display. All site plans must be approved by the Shepherd Tri-Township Fire Department Chief prior to Shepherd Council approval. The approval by the Fire Chief or Shepherd Council may be subject to such conditions as the Fire Chief or his or her designee may impose to properly safeguard the public, both as to persons and property; and subject to the provisions of the State Fireworks Safety Act, Act 256 of 2011, being M.C.L.A. " 28.451 et seq.

(Ord. passed - -) Penalty, see ' 92.99

Statutory reference:

Similar provisions, see State Fireworks Safety Act, Public Act 256 of 2011, ' 16(1), being M.C.L.A. ' 28.455

' 92.30 REQUIREMENTS AND RESTRICTIONS.

(A) Every person who ignites, discharges or uses fireworks shall follow National Fire Protection Association (NFPA) Code 1123 for fireworks display and/or the village requirements, whichever is more restrictive.

(B) Any person using fireworks shall be responsible for all shells or devices being fired or burned. In the event any shell does not explode, the person shall secure the area until the unexploded shell is found and properly disposed of.

(C) Smoking in an area where fireworks are being used is prohibited under NFPA 1124, 7.3.11.1 and is regulated by State Fireworks Safety Act, Act 256 of 2011, ' 12(1), being M.C.L.A. ' 28.462(4).

(D) Nothing herein limits the liability of any individual for injury to any person or property as a result of the use of fireworks, including any fire suppression costs incurred as a result of improper, careless or negligent use of fireworks.

(Ord. passed - -)

Statutory reference:

Similar provisions, see State Fireworks Safety Act, Public Act 256 of 2011, ' 16(2), being M.C.L.A. " 28.451 et seq

' 92.31 ENFORCEMENT, SEIZURE OF FIREWORKS.

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(A) This subchapter may be enforced by the Village Police Chief and Shepherd Tri-Township Fire Department Fire Chief, their designees, and any sworn law enforcement officers.

(B) If an enforcing official determines that a violation of this subchapter or the State Fireworks Safety Act has occurred, the official may seize the fireworks as evidence of such violation.

(C) Any person who violates ' 92.28(A) is responsible for a state civil infraction as provided by the State Fireworks Safety Act, Public Act 256 of 2011, ' 12(1).

(D) Upon conviction, or finding of responsibility, for a violation of this subchapter, the Village Police Department may dispose of or destroy any consumer fireworks or low impact fireworks retained as evidence for prosecution of the violation.

(E) A violation of this chapter is a municipal civil infraction, for which the fines shall be \$1,000 with \$500 due to the agency issuing the municipal civil infraction. The foregoing sanctions shall be in addition to the rights of the village to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the village incurs in connection with the municipal civil infraction.

(F) Each day during which any violation continues shall be deemed a separate offense.

(G) In addition, the village may seek injunctive relief against persons alleged to be in violation of this chapter, and such other relief as may be provided by law. If the village abates a nuisance, as defined herein, the cost of any abatement, including legal expenses and the authorized administrative fee will be billed to the property owner. The cost and fee will be a debt of the property owner to the village, which may be assessed as a single lot assessment in accordance with Chapter 33 of the codified ordinance of the Village of Shepherd, and shall constitute a lien against the property, including interest, until paid, and enforced and collected in the same manner as ad valorem property taxes.

(H) This chapter shall be administered and enforced by a Code Enforcement Officer of the Village of Shepherd, a duly sworn law enforcement officer approved through the Michigan Commission on Law Enforcement Standards (MCOLES) employed by an agency having jurisdiction in the Village of Shepherd including the Isabella County Sheriff=s Department, the Michigan State Police, and the Michigan Department of Natural Resources, or by such other person(s) as designated by the Village Council from time to time.

(Ord. passed - -) Penalty, see ' 92.99

' 92.99 PENALTY.

(A) Fines for violations of this chapter shall be as set forth by the county.

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(B) Violation of ' 92.08 is a misdemeanor punishable by \$100 and/or 90 days in jail.

(C) Unless otherwise provided herein, any person who violates " 92.27 or 92.28 is guilty of a misdemeanor, which shall be punishable upon conviction thereof by a fine not exceeding \$500 or by imprisonment for not more than 90 days, or by both such fine and imprisonment at the discretion of the court.

(Ord. passed - -; Ord. passed 4-17-1989)

CHAPTER 93: PUBLIC NUISANCES

Section

General Nuisances

- 93.01 Definitions
- 93.02 Prohibition
- 93.03 Abatement
- 93.04 Abatement by village
- 93.05 Recovery of expense
- 93.06 Dangerous structures
- 93.07 Refuse
- 93.08 Smoke
- 93.09 Barbed wire
- 93.10 Prohibited noises

Junk; Motor Vehicles

- 93.25 Definitions
- 93.26 Storage and repair of vehicles, utility trailers and wagons
- 93.27 Junk on residential parcels
- 93.28 Appearance tickets

Weed Control

- 93.40 Nuisance
- 93.41 Duty of owner
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- 93.44 Charge included in tax bill
- 93.45 Recorded statement constitutes lien

- 93.99 Penalty

Cross-references:

Animals, see Chapter 90

Street excavations and obstructions, see " 91.50 through 91.62

GENERAL NUISANCES

' 93.01 DEFINITIONS.

(A) Whatever annoys, injures or endangers the safety, health, comfort, convenience or repose of the public; offends public decency, interferes with, obstructs or renders dangerous any public place, street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance.

(B) Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this subchapter.

(1957 Code, ' 35-001) (Ord. passed 5-19-2014)

' 93.02 PROHIBITION.

No person shall commit, create or maintain any nuisance. Each day a nuisance shall remain unabated shall be construed as a separate violation.

(1957 Code, ' 35-002) (Ord. passed 5-19-2014) Penalty, see ' 93.99

' 93.03 ABATEMENT.

The Chief of Police may, at his or her option, elect to enforce the provisions of this subchapter by one of the following methods or by any combination thereof:

(A) He or she may prosecute the person committing, creating or maintaining the nuisance for a violation of the provisions of this code;

(B) He or she may cause the nuisance to be immediately abated provided the nuisance involves the public health or safety or injury to property; or

(C) He or she may give notice in the manner provided in ' 1201 of this code ordering said nuisance to be abated.

(1957 Code, ' 35-003) (Ord. passed 5-19-2014)

' 93.04 ABATEMENT BY VILLAGE.

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In the event that the owner, possessor or occupier, or any person, firm or corporation having charge of any property subject to an order of abatement of a nuisance by the Council or the Chief of Police fails or refuses to comply with the abatement notice, it shall be the duty of the Police Chief to refer the matter to the Village Attorney who shall commence proceedings to abate the nuisance. (1957 Code, ' 35-004) (Ord. passed 5-19-2014)

' 93.05 RECOVERY OF EXPENSE.

(A) The cost of abatement by the village of any nuisance may be collected in an action at law from the owner, occupier or possessor of the property upon which the nuisance was committed, created or maintained.

(B) In all cases where the village shall incur any expense for draining, filling, cleansing or purifying any lot, place or premises, or for removing any unsafe building or structure, or for removing or abating any nuisance found upon any such lot or premises, the Council, in addition to all other remedies provided for the recovery of such expense, may charge the same or such part thereof as they shall deem proper, upon the lot and premises upon or account of which such expenses were incurred, or from which said nuisance was removed or abated, and cause the same to be assessed upon such lot or premises and collected as a special assessment.

(1957 Code, ' 35-005) (Ord. passed 5-19-2014) Penalty, see ' 93.99

' 93.06 DANGEROUS STRUCTURES.

(A) No person shall maintain any structure which is unsafe or which is a menace to the health, morals or safety of the public.

(B) The Council may condemn any such structure after investigation by giving notice to the owner, occupier or possessor of the land upon which the structure is located in the manner provided in ' 1201 of this code, specifying in what respects said structure is a public nuisance and requiring said owner to alter, repair, tear down or remove same within five days after service of said notice.

(C) If, at the expiration of the time limit of said notice, the owner has not complied with the requirements thereof, the Village Attorney shall commence proceedings to have the structure removed. (1957 Code, ' 35-006) (Ord. passed 5-19-2014) Penalty, see ' 93.99

' 93.07 REFUSE.

(A) No person shall dispose of any refuse, waste or other such material except at dumps which have been approved and are supervised by the Police Department and which are clearly marked for such purpose, provided that garbage shall not be permitted on any dump within the village.

Public Nuisances

(B) The foregoing shall not prevent the burning or other disposal of garbage, refuse, waste foods or other such materials in receptacles approved by the Police Department.

(C) Every person shall keep within the lot line of his or her premises a suitable receptacle for depositing any ashes, glass, metal, stone, cans or other refuse and waste of like nature.

(D) Each person who is responsible for any lot or premises within the village which is occupied for residential or commercial premises shall keep within the lot line a receptacle for garbage, animal or vegetable matter, which receptacle shall have a cover and which shall be at all times left in a convenient place so that proper collection of the garbage may be made.

(E) Except as heretofore provided in this section, no person shall dump, abandon, throw or scatter any refuse or waste in or transport the same in such a manner as to cause the littering of any street, alley or public place, or of any private property not his own, or to cause the obstruction of any ditch, drain or gutter.

(F) No person shall allow any refuse, rubbish, junk (including vehicles that are abandoned, inoperable or lack valid registration/valid insurance) or waste to collect or lie on the property which he or she owns, occupies or controls, in such a manner that it attracts, annoys or interferes with the safety, health, comfort or repose of the public, emits odors, is unsightly or is offensive.
(1957 Code, ' 35-007) (Ord. passed 6-5-1966; Ord. passed 5-19-2014) Penalty, see ' 93.99

' 93.08 SMOKE.

No person who is responsible therefore shall permit the emission from any chimney or smokestack of dense smoke or smoke containing soot or other substance in sufficient quantity to noticeably permit the deposit of soot or other substance within the village. The emission of smoke or other substance is hereby described to constitute a public nuisance.

(1957 Code, ' 35-008) (Ord. passed 5-19-2014) Penalty, see ' 93.99

Cross-reference:

Garbage and refuse, see Chapter 51

' 93.09 BARBED WIRE.

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(A) No person shall place or maintain any barbed wire fencing or any strands of barbed wire along the line of or in any public street, alley or public place within the corporate limits, nor shall any person place or allow the same to remain between any premises owned or occupied by him or her and the adjoining premises, or place or allow to remain any barbed wire fencing or barbed wire within the corporate limits in any place where it will expose any person to injury on account thereof, provided that it shall not be unlawful to place such barbed wire at the top of a legal fence when placed not less than six feet from the ground.

(B) No person shall place or maintain any fence, trees, shrubs or other obstacles in any portion of a highway or street right-of-way except by permission of the Chief of Police.
(1957 Code, ' 35-009) (Ord. passed 5-19-2014) Penalty, see ' 93.99

' 93.10 PROHIBITED NOISES.

(A) It is unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

(B) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but this enumeration is not exclusive:

(1) *Horns, signaling devices and the like.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place, except as a danger warning; the creation by means of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust;

(2) *Radios, phonographs and the like.* The using, operating or permitting to be played, used or operated, any radio or receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants;

(3) *Loud speakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or to attract attention of the public to any building or structure;

(4) *Yelling, shouting.* Yelling, shouting, hooting, whistling or singing on the public streets or any other public place at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity;

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(5) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or other motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises;

(6) *Defect in vehicle or load.* The use of any automobile, motorcycle or other vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding or annoyance;

(7) *Loading or unloading, opening boxes.* Creation of a loud and excessive noise in connection with loading and unloading of any vehicle or the opening and destruction of bales, crates and containers;

(8) *Construction or repairing of buildings.*

(a) The erection (including excavation, demolition, alteration or repair) of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays except in the case of urgent necessity in the interest of public health and safety, and then only with a permit issued by Chief of Police, which permit may be granted for a period not to exceed three days or less while the emergency continues and which may be renewed for periods of three days or less while the emergency continues.

(b) If the Chief of Police determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets or highways between the hours of 6:00 p.m. and 7:00 a.m. and he or she further determines that loss of inconvenience will result to any party in interest, he or she may grant permission for the work to be done during the hours of 6:00 p.m. and 7:00 a.m. upon application.

(c) If the Chief of Police shall determine that such work does actually impair the public health and safety, then such permit may be revoked by Chief of Police.

(9) *Hawkers and peddlers.* Shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood;

(10) *Drums for commercial purposes.* The use of any drum or other instrument or device for the purpose of attracting attention to any performance, show or sale by creation of noise;

(11) *Transportation of materials.* The transportation of any material over the streets and other public places so as to cause loud noises or so as to disturb the peace and quiet of such streets;

(12) *Pile drivers, hammers and the like.* The operation between the hours of 6:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoists other appliances, the use of which is attended by loud or unusual noises; and

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(13) *Blowers, fans, engines.* The operation of any noise created by any blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gasses or fluids, unless the noise from the blower is muffled and the engine is equipped with a muffler device sufficient to deaden the noise.

(1957 Code, ' 35-010) (Ord. passed 5-19-2014) Penalty, see ' 93.99

JUNK; MOTOR VEHICLES

' 93.25 DEFINITIONS.

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

GOODS. Any goods, warehouse merchandise or other property capable of being the object of a sale regulated under this subchapter.

YARD SALE. All sales entitled Ayard sale,@ Alawn sale,@ A garage sale,@ A attic sale,@ Arummage sale@ or Aflea market sale@ or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale.

(Ord. passed - -)

' 93.26 STORAGE AND REPAIR OF VEHICLES, UTILITY TRAILERS AND WAGONS.

(A) (1) The repair, restoration, storage and maintenance of vehicles on any residentially used property is prohibited unless occurring entirely inside a fully enclosed building. Inoperable and/or vehicles lacking current registration and vehicle parts shall also be stored inside a building.

(2) The following, however, shall not be subject to the aforementioned requirements of this section: Procedures or projects on vehicles that last less than 48 hours in duration to complete. Procedures or projects or sequences of procedures or projects that result or which may result in a vehicle being immobile or inoperable for more than 48 hours may only be done within a fully enclosed building, and may not have any part of the procedure or project, for example but not limited to, welding, grinding, sanding, painting, major motor vehicle repairs, or any other activity lasting less than 48 hours, done outside the building.

(B) It shall be unlawful for the owner, tenant or lessee of any lot in any residentially used property to permit the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery unless parked thereon while in use in construction being conducted on such lot, and/or more than one noncommercial utility

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trailer or wagon designed for pulling behind a motor vehicle which may be used for hauling, but not including recreational vehicles.

(C) Nothing in this section shall be deemed to alter any of the provisions of the village zoning ordinance or other ordinances of the village.

(Ord. passed - -) Penalty, see ' 93.99

' 93.27 JUNK ON RESIDENTIAL PARCELS.

No junk (including inoperable vehicles and/or vehicles lacking current registration) shall be permitted to accumulate on a lot outside of an enclosed building which is zoned or used as a residential lot, provided, however, that nothing in this section shall be deemed to prohibit the establishment and use of a compost pile as otherwise is permitted by this subchapter.

(Ord. passed - -) Penalty, see ' 93.99

' 93.28 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, along with county and state officers, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to ' 1 of Act 147 of the Public Acts of 1968, as amended, being M.C.L.A. ' 764.9c(2); M.S.A. ' 28.868(3)(2). Appearance tickets shall be in such form as determined by the Village Attorney and shall be in conformity with all statutory requirements.

(Ord. passed - -) Penalty, see ' 93.99

WEED CONTROL

' 93.40 NUISANCE.

(A) No owner of any lot, place or area within the village, or the agent of such owner, shall permit on such lot, place or area, or upon any sidewalk abutting the same, any weeds, grass or deleterious, unhealthful growths, or other noxious matter, that may be growing, lying or located thereon.

(B) No person, firm or corporation, owning or occupying any property within the village, shall permit any grass or weeds or any vegetation whatsoever, not eatable or planted for some useful or ornamental purpose grow or remain upon such premises so as to exceed a height of six inches or throw off any unpleasant or obnoxious odor. Any grass, weeds or other vegetation growing upon any premises in the village in violation of any of the provisions of this subchapter is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitant of the village.

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(Ord. passed 7-16-2001) Penalty, see ' 93.99

' 93.41 DUTY OF OWNER.

The owner of the premises, as to vacant premises or premises occupied by the owner and the occupant thereof, in case of premises occupied by other than the owner thereof shall remove, trim, cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the provisions of the first section of this subchapter. In the event that the Chief of Police is required to post two consecutive postings annually for this violation at a specific residence that is abandoned or in foreclosure, the DPW Superintendent is hereby automatically authorized and empowered to pay for the cutting, destroying, and or removing of such weeds, grass or deleterious, unhealthful growths, or other noxious matter, or to order the removal by the village without the posting requirements by the Police Department for this violation.

(Ord. passed 7-16-2001) Penalty, see ' 93.99

' 93.42 NOTICE TO DESTROY.

The Village Police Chief is hereby authorized to give notice, by personal service or United States Mail, to the owner or occupant, as the case may be, of any premises wherein, grass, weed or other vegetation is growing or remaining, in violation of the provisions of the first section of this subchapter, directing and requiring such occupant to remove, trim, or cut such grass, weed or other vegetation so as to conform to the requirements of this subchapter within five days of receipt of such notice. In the event there is no occupancy, or the owner cannot be located within the village, then notice shall be posted on the premises.

(Ord. passed 7-16-2001)

' 93.43 ACTION UPON NONCOMPLIANCE.

Upon the failure, neglect or refusal of any owner or agent so notified, to cut destroy, and/or remove weeds, grass or other vegetation or other noxious matter, growing, lying or located on such owner=s property or upon the sidewalk abutting same within the time frame set forth above or within ten days after the date of such notice in the event that the same is returned to the Village Post Office Department because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner, or agent, the Village DPW Superintendent is hereby authorized and empowered to pay for the cutting, destroying and or removing of such weeds, grass or deleterious, unhealthful growths or other noxious matter, or to order the removal by the village.

(Ord. passed 7-16-2001)

' 93.44 CHARGE INCLUDED IN TAX BILL.

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When the village has affected the removal of such noxious growth or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of 1% per month from the date of completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the village, and said charge shall be due and payable by said owner at the time of payment of such tax bill.

(Ord. passed 7-16-2001) Penalty, see ' 93.99

' 93.45 RECORDED STATEMENT CONSTITUTES LIEN.

Where the full amount due the village is not paid by such owner within 60 days after the cutting, destroying and/or removal of such weeds, grass or deleterious, unhealthful growths, or other noxious matter, as set forth in " 93.41 and 93.42 then, in that case, the Village Clerk shall cause to be recorded in the Treasurer=s office of the village a sworn statement showing the cost and expense incurred for the work and the date, place or property on which said work was done, and the recordation of such sworn statement shall constitute a lien on the property, and shall remain in full force and effect for the amount due in principal and interest, plus cost of court, if any, for collection until final payment has been made; said cost and expense shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of 1% per month in the event same is not paid in full on or before the date the tax bill upon which such charge appears becomes delinquent: sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been properly and satisfactorily done, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.

(Ord. passed 7-16-2001) Penalty, see ' 93.99

' 93.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Fines for violations of " 93.25 through 93.28 shall be as set forth by the county.

(C) Each day=s violation shall constitute a separate offense and notice to the offender shall not be necessary to constitute an offense.

(Ord. passed - -; Ord. passed 7-16-2001)

CHAPTER 94: TREES, SHRUBS AND PLANTS

Section

- 94.01 Control
- 94.02 Destruction
- 94.03 Overhanging trees and shrubs
- 94.04 Corner lots
- 94.05 Failure to trim
- 94.06 Planting of trees

' 94.01 CONTROL.

(A) The DPW Superintendent shall have control over all trees, shrubs and plants planted or to be planted in the public highways, parks or other public places of the village. The DPW Superintendent shall have power to plant, prune, spray and otherwise maintain such trees, plants and shrubs and to determine the type or kind of trees to be planted.

(B) The words **PUBLIC HIGHWAY** shall be deemed to include all of the land lying between property lines on either side of all the public streets, boulevards and alleys in the village.
(1957 Code, ' 35-151)

' 94.02 DESTRUCTION.

(A) No person shall cut down, deface, destroy, damage or injure any trees, shrubs or plants upon the public places of the village without first obtaining permission from the DPW Superintendent.

(B) No person shall fasten any wire, rope, chain or cable to any tree or shrub for the purpose of anchorage without a written permit from the DPW Superintendent.

(C) No person shall nail, tie or in any other manner fasten any cards, signs, posters, boards or other articles to any tree, shrub or plant growing upon any public highway, park or other public place in the village.
(1957 Code, ' 35-152) Penalty, see ' 10.99

Trees, Shrubs and Plants

' 94.03 OVERHANGING TREES AND SHRUBS.

(A) Every owner of any tree, shrub or plant overhanging the streets or highways within the village shall trim 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 12 feet above the surface of the street or highway.

(B) Said owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs of trees which constitute a menace to the safety of the public.

(1957 Code, ' 35-153) Penalty, see ' 10.99

' 94.04 CORNER LOTS.

All bushes, shrubs or plants located on any corner lot within the village shall not be permitted to grow a height of more than three feet above the surface of the roadway, in order that the view of the driver of a vehicle approaching the street intersection shall not be obstructed.

(1957 Code, ' 35-154) Penalty, see ' 10.99

' 94.05 FAILURE TO TRIM.

In all cases of violation of " 94.03 or 94.04, the DPW Superintendent shall by written notice, given in accordance with ' 1201 of this code, order the owner of any tree, shrub or plant to trim or cut the same so as to comply with the provisions of this subchapter. Such order shall be complied with within a period of ten days.

(1957 Code, ' 35-155)

' 94.06 PLANTING OF TREES.

(A) No tree, shrub or plant shall be placed in any public street, park or public place except under the supervision of the DPW Superintendent and in accordance with the provisions of this chapter.

(B) No poplar, box elder or willow tree shall hereafter be planted in the public highways, parks or other public places of the village.

(1957 Code, ' 35-156)

CHAPTER 95: PARKS AND RECREATION

Section

95.01 Hours of operation

95.02 Violation

95.99 Penalty

' 95.01 HOURS OF OPERATION.

The village parks, located on the southeast corner of Wright and First Streets in the village, shall be open daily to the public from 8:00 a.m. to 10:00 p.m.
(1957 Code, ' 20-701) (Ord. 6801, passed 9-16-1974)

' 95.02 VIOLATION.

It shall be unlawful for any person to occupy or be present in said park during any hours in which the park is not open to the public.
(1957 Code, ' 20-702) (Ord. 6801, passed 9-16-1974) Penalty, see ' 95.99

' 95.99 PENALTY.

Fines for violations of this chapter shall be as set forth by the county.
(1957 Code, ' 20-703) (Ord. 6801, passed 9-16-1974)

Parks and Recreation

CHAPTER 96: HAZARDOUS SPILLS; EXPENSE RECOVERY

Section

- 96.01 Intent
- 96.02 Definitions
- 96.03 Notice and response
- 96.04 Liability of costs
- 96.05 Recovery of costs
- 96.06 Civil suit
- 96.07 Conflict with state or federal law
- 96.08 Nonexclusive remedy

' 96.01 INTENT.

Surface waters, ground water, soils, vegetation and atmosphere inside the village are susceptible to damage from the handling, storage, use, processing and disposal of hazardous material and the expense incurred by the taxpayer as a result of the village or its designee having to respond in an emergency to protect lives, property and the environment when there has been a release of hazardous materials should be recovered from the person responsible for the emergency.
(Ord. passed 5-19-2003)

' 96.02 DEFINITIONS.

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

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

COMPRESSED GAS. Any material regulated as a compressed gas by the United States Department of Transportation by regulations found in 49 C.F.R. ' 173.301.

DESIGNEE. The Isabella County Hazardous Materials Response Team or such other public or private agency authorized in writing by the village to respond to hazardous materials incidents within the village.

Hazardous Spills; Expense Recovery

EMERGENCY ACTION. All of the activities conducted in order to prevent or mitigate injury to human health or to the environment inside the village from a release or threatened release of any material into or upon the environment.

EXPLOSIVE. Any material regulated as a class A or class B explosive by the United States Department of Transportation by regulations found in 49 C.F.R. " 173.50 et seq.

FLAMMABLE LIQUID. Any material regulated as a flammable liquid by the United States Department of Transportation by regulations found in 49 C.F.R. ' 173.115.

FLAMMABLE SOLID. Any material regulated as a flammable solid by the United States Department of Transportation by regulations found in 49 C.F.R. ' 173.150.

HAZARDOUS MATERIALS. Any of the following:

- (1) Any material listed in the list of toxic pollutants found in 40 C.F.R. ' 401.15, as amended;
- (2) Any material designated as hazardous material by applicable state law; and
- (3) Any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison or radioactive material.

OXIDIZER. Any material regulated as an oxidizer by the United States Department of Transportation by regulations found in 49 C.F.R. ' 173.151.

PERSON. Includes any individual, corporation, association, partnership, firm, trustee or legal representative.

POISON. Any liquid or gas that is life threatening when mixed with air in small amounts, and shall also include all those materials regulated as poison Class A by the United States Department of Transportation by regulations found in 49 C.F.R. ' 73.326.

RADIOACTIVE MATERIAL. Any material required by the United States Department of Transportation to have type A packaging or other special protection or closed transport vehicles, under regulations found in 49 C.F.R. ' 173.425.

RELEASE. Any spilling, leaking, pumping, pouting, emitting, emptying, discharging, injection, escaping, leaching, dumping or disposing into or upon the environment, which causes danger or harm to the public health or to the environment, including, but not limited to, the release of any material classified as hazardous material by any federal legislation or regulation, by any state legislation or regulation, or by any village ordinance.

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THREATENED RELEASE. Any imminent or impending event potentially causing but not resulting in a release, but causing the village to undertake an emergency action.
(Ord. passed 5-19-2003)

' 96.03 NOTICE AND RESPONSE.

(A) Any person who has damaged the surface waters, ground water, soils or atmosphere by the handling or storage of hazardous materials, or who have violated any local, state or federal environmental laws with the respect to hazardous materials, are required to immediately notify the village.

(B) The requirements of the ordinance shall not be construed to forbid or forgive any person from using all diligence necessary to control a hazardous material release prior or subsequent to the notification of the village, especially if such efforts may result in the containment of the release or the abatement of extreme hazard to the employees or the general public. Delays in reporting release due to in-house notification of off-site owners or supervisors shall result in penalties. Nothing in this chapter shall be construed to exempt or release any person from any other notification or reporting required by any state or federal agency.

(C) The village, the village=s designee, the Shepherd Tri-Township Fire Department, the Shepherd Tri-Township Fire Chief or the designee of the Chief is authorized to direct an emergency action and the clean up and abatement of any release, or threatened release within the village.
(Ord. passed 5-19-2003)

' 96.04 LIABILITY OF COSTS.

(A) Any person causing a release or threatened release which results in an emergency action shall be liable to the village for the recoverable costs resulting from the emergency action.

(B) The following described persons shall be jointly and severally liable to the village for the payment of all costs incurred by the village as a result of such clean up or abatement activity:

(1) Any person whose negligent or willful act or omission proximately caused such release, discharge or deposit;

(2) The person who owned or had custody or control of the hazardous material or the material at the time of such release, discharge or deposit, without regard to fault or proximate cause; and

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(3) The person who owned or had custody or control of the container which held such hazardous material at the time of or immediately prior to such release, discharge or deposit, without regard to fault or proximate cause.

(Ord. passed 5-19-2003) Penalty, see ' 10.99

' 96.05 RECOVERY OF COSTS.

(A) The village or its designee shall keep an itemized record of recoverable costs resulting from an emergency action.

(B) The village or its designee shall submit a written itemized claim to the responsible person for the total costs incurred by the village or its designee for the emergency action and a written notice that unless the amounts are paid in full within 30 days after the date of the mailing of the claim and notice, a civil action will be commenced seeking recovery for the stated amount plus any amounts occasioned by such suit.

(C) For the purposes of this chapter, costs of the village or its designee. All direct and indirect costs and shall include, but are not limited to, the following:

(1) Actual labor cost of personnel, including workers compensation benefits and fringe benefits;

(2) Administrative overhead;

(3) Costs of equipment operation;

(4) Costs of materials

(5) Laboratory costs of analyzing samples taken during the emergency action;

(6) Medical expenses incurred as a result of response activities;

(7) Costs of any contracted labor;

(8) Costs to supervise or verify the adequacy of the cleanup or abatement of others; and

(9) Legal expenses that may be incurred as a result of the emergency action, including actions for recoverable expenses pursuant to this chapter.

(D) The authority to recover costs under this chapter shall not include actual fire suppression services, which are normally or usually provided by the Shepherd Tri-Township Fire Department.

(Ord. passed 5-19-2003)

Shepherd - General Regulations**' 96.06 CIVIL SUIT.**

The village or designee may bring a civil action for payment of the recoverable expenses against any and all persons liable under this chapter. All costs of such suit, including actual attorney fees, shall also be a recoverable cost within the same civil action.

(Ord. passed 5-19-2003)

' 96.07 CONFLICT WITH STATE OR FEDERAL LAW.

Nothing in this chapter shall be construed to conflict with state or federal laws requiring persons causing or responsible for release or threatened releases from engaging in remediation activities or paying the cost thereof, or both.

(Ord. passed 5-19-2003)

' 96.08 NONEXCLUSIVE REMEDY.

The remedies provided by this chapter shall be in addition to any other remedies available in equity or at law and such penalties as provided by law or ordinance.

(Ord. passed 5-19-2003)

Hazardous Spills; Expense Recovery

CHAPTER 97: OUTDOOR WOOD FURNACES

Section

- 97.01 Definitions
- 97.02 Regulations for outdoor wood furnaces
- 97.03 Substantive requirements
- 97.04 Appeals

- 97.99 Penalty

' 97.01 DEFINITIONS.

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

OUTDOOR WOOD FURNACE. Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors and is hand loaded or continuously fed (automatically fueled) for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An ***OUTDOOR WOOD FURNACE*** may also be referred to as an ***OUTDOOR WOOD BOILER*** or ***HYDRONIC HEATER***.

OUTDOOR WOOD-PELLET FURNACE. An outdoor wood-pellet furnace that is specifically designed to burn wood pellet fuel, corn or other biomass pellets with metered fuel and air feed and controlled combustion engineering, which burns only wood pellets, corn or other biomass pellets.

CHIMNEY. Flue or flues that carries off exhaust from an outdoor wood furnace firebox or burn chamber.

EPA HH (HYDRONIC HEATER) PHASE 2 PROGRAM. EPA HH Phase 2 Program is administered by the United States Environmental Protection Agency and has a particulate matter emission limit of 0.32 pounds per million British Thermal Output Units output.

Outdoor Wood Furnaces

EPA HH (HYDRONIC HEATER) PHASE 2 PROGRAM QUALIFIED MODEL. A hydronic heater that has been EPA HH Phase 2 Program qualified. The model has met the EPA HH Phase 2 emission level and is labeled accordingly.

NON-QUALIFIED OUTDOOR WOOD FURNACE MODEL. An outdoor wood furnace that is not EPA Hydronic Heater Phase 2 Program qualified.

EXISTING OUTDOOR WOOD FURNACE. An outdoor wood furnace that was purchased and installed prior to the effective date of this local law.

NEW OUTDOOR WOOD FURNACE. An outdoor wood furnace that is first installed, established or constructed after the effective date of this local law.

NATURAL WOOD. Wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
(Ord. passed 12-20-2010)

' 97.02 REGULATIONS FOR OUTDOOR WOOD FURNACES.

(A) No person shall, from the effective date of this local law, construct, install or establish, an outdoor wood furnace other than in compliance with the applicable sections of this local law.

(B) All new outdoor wood furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer=s instructions and be an EPA HH (Hydronic Heater) Phase 2 Program Qualified Model the requirements of this local law. In the event of a conflict, the requirements of this local law shall apply unless the manufacturer=s instructions are stricter, in which case the manufacturer=s instructions shall apply.

(C) The owner of any new outdoor wood furnace will be required to produce the manufacturer=s owner=s manual or installation instructions to the Village Clerk for review.

(D) All new outdoor wood furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.

(E) Outdoor wood-pellet furnaces that are specifically designed to burn wood pellet fuel, corn or other biomass pellets with metered fuel and air feed and controlled combustion engineering shall be installed per the manufacturers= recommendations.

(Ord. passed 12-20-2010) Penalty, see ' 97.99

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' 97.03 SUBSTANTIVE REQUIREMENTS.

Outdoor wood furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions.

(A) Fuel burned in any new or existing outdoor wood furnace shall be only natural wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer=s instructions such as fuel oil, natural gas or propane backup.

(B) The following fuels are strictly prohibited, in new and existing outdoor wood furnaces:

(1) Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products;

(2) Rubbish or garbage, including, but not limited to, food wastes, food packaging and food wraps;

(3) Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers;

(4) Rubber including tires or other synthetic rubber-like products;

(5) Newspaper, cardboard or any paper with ink or dye products; and

(6) Any other items not specifically allowed by the manufacturer or this provision.

(C) Setbacks for any new qualified outdoor wood furnace model:

(1) The outdoor wood furnace shall be located at least 50 feet from the property line. And be on the property served by the unit.

(2) The outdoor wood furnace shall be located at least 100 feet from any residence that is not served by the outdoor wood furnace.

(3) The outdoor wood furnace shall be located on the property in compliance with the manufacturer=s recommendations and or testing and listing requirements for clearance to combustible materials.

(D) Chimney heights for any qualified outdoor wood furnace model: the chimney shall extend at least two feet above the peak of any residence served and not served by the outdoor wood furnace located within 300 feet of such outdoor wood furnace.

Outdoor Wood Furnaces

(E) Setbacks for EPA HH Phase 2 Program qualified models: the outdoor wood furnace shall be located on the property in compliance with manufacturer=s recommendations and or testing and listing requirements for clearance to combustible materials.

(F) Chimney heights for EPA HH Phase 2 Program qualified models (0.32 lbs/million Btu heat output):

(1) If located within 300 feet to any residence not served by the furnace, it is recommended that the chimney be at least two feet higher than the peak of the residence served; and

(2) If located within 100 feet to any residence not served by the furnace, the chimney must be two feet higher than the peak of the residence served or not served, whichever is higher.
(Ord. passed 12-20-2010)

' 97.04 APPEALS.

(A) Appeals from any actions, decisions or rulings of the Zoning Administrator or for a variance from the strict application of the specific requirements in " 97.02 or 97.03 may be made to the Village Zoning Board of Appeals.

(B) Requests for all appeals shall be made in writing to the Village Clerk not later than seven days of the act, decision or ruling from which relief is sought.

(1) *Appeals fees.* Appeals fees shall be established by Village Council resolution.

(2) *Public hearing.* Within 30 days after receiving the written request, the Zoning Board of Appeals shall hold a public hearing on the appeal, with prior notice published in a newspaper of general circulation in the village or posted at key locations at least 14 days before the date of the hearing and specifying the date, place, time and purpose of the hearing.

(3) *Decision of Zoning Board of Appeals.* Decision of Zoning Board of Appeals within 30 days of the final adjournment of a public hearing, the Board shall affirm, modify or deny the action, decision or ruling of the Board or correct any omission by the Inspector, or approve, approve with conditions or disapprove the application. The decision of the Board shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the Zoning Board of Appeals. As part of any decision, the Board shall direct the officer to issue any appropriate permit in conformity with its ruling and shall state a time by which such permit shall be issued, in conformity with this local law.

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(4) *Criteria for variances.* In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

(1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;

(2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;

(3) Whether the requested variance is substantial; and

(4) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the variance. (Ord. passed 12-20-2010)

' 97.99 PENALTY.

(A) *Generally.* Any person who shall violate any provision of this local law shall be guilty of a civil violation as defined above shall upon conviction be subject to a fine of not more than \$200. Each week=s continued violation shall constitute a separate and distinct offense.

(B) *Civil proceedings.* Compliance with this law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this law shall also be subject to a civil penalty of not more than \$200, to be recovered by the village in a civil action, and each week=s continued violation shall be for this purpose a separate and distinct violation. In the event the village is required to take legal action to enforce this local law, the violator may be responsible for any and all necessary costs relative thereto, including attorneys= fees, and such expense shall be charged to the property so affected by including such expense in the next annual tax levy.

(Ord. passed 12-20-2010)

Outdoor Wood Furnaces