

**VILLAGE OF PENTWATER
COUNTY OF OCEANA
STATE OF MICHIGAN**

Ordinance No. 02 of 2019

AN ORDINANCE TO AMEND "CHAPTER 93: STREETS AND SIDEWALKS" TO REGULATE STREETS, SIDEWALKS, AND PUBLIC RIGHTS-OF-WAY IN THE VILLAGE.

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. The title of Chapter 93 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

CHAPTER 93: STREETS, SIDEWALKS, AND PUBLIC RIGHTS-OF-WAY.

Section 2. Sections 93.01 through 93.11 of the Village of Pentwater, Michigan, Code of Ordinances, are hereby renumbered to be Sections 9.30 through 9.40. The language of the aforementioned Sections is affirmed in its entirety.

Section 3. Section 93.01 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the following definition shall apply in the interpretation of this chapter:

"Street" means the entire width of land subject to an easement for a public right-of-way or owned in fee by the Village, county or state, of every way or place, of whatever nature, regardless of whether any part thereof is open to the use of the public as a matter of right for purposes of public travel, and includes lawn extensions and sidewalks and the area reserved therefor where sidewalks are not yet constructed.

Section 4. Section 93.02 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.02 DAMAGE AND OBSTRUCTION PROHIBITED.

No person shall make any excavation in, or cause any damage to, any street in the Village, except under the conditions and in the manner permitted in this chapter. No person shall place any article, thing, or obstruction in any street, except under the conditions and in the manner permitted in this chapter; but this provision shall not be deemed to prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, or to the lawful parking of vehicles within the part of

the street reserved for vehicular traffic.

Section 5. Section 93.03 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.03 PERMITS AND BONDS.

(A) Where permits are authorized in this chapter, they shall be obtained upon application to the Village Manager, upon such forms as he shall prescribe, and there shall be a charge as established from time to time by the Village Council for each such permit. Such permit shall be revocable by the Village Manager for failure to comply with this chapter, rules and regulations adopted pursuant hereto, and the lawful orders of the Village Manager or his duly authorized representative, and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the Village in connection therewith, repair all damage done to the street surface and installations on, over, or within such street, including trees, and protect and save harmless the Village from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the following amounts, except as otherwise specified in this chapter:

- (1) On account of injury to, or death of, any person in any one accident, \$250,000.00;
- (2) On account of any one accident resulting in injury to, or death of, more than one person, \$500,000.00;
- (3) On account of damage to property in any one accident, \$100,000.00;

A duplicate executed copy or photostatic copy of the original of such insurance policy shall be filed with the Village Clerk.

(b) Where cash deposits are required with the application for any permit under this chapter, such deposit shall be in an amount specified in a fee schedule to be determined by the Village Council by resolution, and such deposit shall be used to defray all expenses to the Village arising out of the granting of the permit and work done under the permit or in connection therewith. Three months after completion of the work done under the permit, any balance of such cash deposit unexpended shall be refunded. In any case where the deposit does not cover all costs and expenses of the Village, the deficit shall be paid by the applicant.

Section 6. Section 93.04 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.04 STREET OPENINGS.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the Village Manager. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy, as required by § 93.03.

Section 7. Section 93.05 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.05 EMERGENCY OPENINGS.

The Village Manager may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this chapter shall be complied with.

Section 8. Section 93.06 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.07 BACKFILLING.

All trenches in a public street or other public place, except by special permission, shall be backfilled with approved granular material to within 12 inches of the surface. On main thoroughfares, this material shall contain one 80-pound sack of cement per yard of fill. The remaining portion shall be filled with road gravel, as specified by the Village Manager.

Section 9. Section 93.07 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.08 UTILITY POLES.

Utility poles may be placed in such streets as the Village Manager shall prescribe and shall be located thereon in accordance with the directions of the Village Manager. Such poles shall be removed or relocated as the Village Manager shall, from time to time, direct.

Section 10. Section 93.08 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.08 MAINTENANCE OF INSTALLATIONS IN STREETS.

Every owner of, and every person in control of, any property maintaining a sidewalk vault, coal hole, manhole, or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit, or other structure in, under, over, or upon any street which is adjacent to or a part of his/her property, shall do so only on condition that such maintenance shall be considered as an agreement on his part with the Village to keep the sidewalk vault, coal hole, manhole, or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit, or other structure, and the covers thereof, and any gas and electric boxes and tubes thereon, in good

repair and condition at all times during his ownership or control thereof, and to indemnify and save harmless the Village against all damages or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in, or upon the street, or being unfastened, out of repair, or defective during such ownership or control.

Section 11. Section 93.09 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.09 CURB CUTS.

No opening in or through any curb of any street shall be made without first obtaining a written permit from the Village Manager. Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

- (1) No single curb cut shall exceed 25 feet nor be less than ten feet.
- (2) The minimum distance between any curb cut and a public crosswalk shall be five feet.
- (3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet.
- (4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business, or enterprise shall be 45 percent of the total abutting street frontage, up to and including 200 lineal feet of street frontage, plus 20 percent of the lineal feet of street frontage in excess of 200 feet.
- (5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, street or railway signs, signals, or other public improvements or installations shall be accomplished without cost to the Village.
- (6) All construction shall be in accordance with plans and specifications approved by the Village Manager.

Section 12. Section 93.10 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.10 SIDEWALK OBSTRUCTIONS.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition, or repair of any building adjacent to such street, or for any other purpose, without first obtaining a permit from the Village Manager. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy, as required by § 93.03.

Section 13. Section 93.11 of the Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to provide as follows:

§ 93.11 PEDESTRIAN PASSAGE.

A passageway at least six feet wide shall be kept clean and clear for the free passage of pedestrians and, if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter shall be provided around such obstruction.

Section 14. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add a Section 93.12, which shall provide as follows:

§ 93.12 SAFEGUARDS.

All openings, excavations, and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with red or amber warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and parallel to the flow of traffic not over 15 feet apart.

Section 15. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add a Section 93.13, which shall provide as follows:

§ 93.13 SHORING EXCAVATIONS.

All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street

Section 16. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add a Section 93.14, which shall provide as follows:

§ 93.14 HOUSE MOVING.

No person shall move, transport, or convey any building or other similar bulky or heavy object, including machinery, trucks, and trailers, larger in width than 14 feet, into, across, or along any street, alley, or other public place in the Village without first obtaining a permit from the Village Manager. Such permit shall specify the route to be used in such movement and no person shall engage in such movement along a route other than that specified in the permit. No house moving permit shall be granted until the applicant shall post a cash deposit in the amount established from time to time by the Village Council and file a liability insurance policy, as required by § 93.03.

Section 17. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add a Section 93.15, which shall provide as follows:

§ 93.15 REMOVAL OF ENCROACHMENT.

Encroachments and obstructions in the street may be removed and excavations refilled, and the expense of such removal or refilling charged to the abutting property owner when made or permitted by him/her or allowed to remain by him/her otherwise than in accordance with the terms and conditions of this chapter. If the property owner fails to pay the bill within the specified 30-day period, the Village Clerk shall forward the cost to the assessor, who shall place the same on the next tax roll. The assessor shall then add an additional ten percent to the cost and place the total amount as an assessment upon the property. The assessment shall be subject to lien against the property and collected in the same manner as general Village taxes.

Section 18. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add a Section 93.16, which shall provide as follows:

§ 93.16 TEMPORARY STREET CLOSINGS.

The Village Manager shall have authority to temporarily close any street, or portion thereof, when he shall deem such street to be unsafe or temporarily unsuitable for use for any reason. The Village Manager shall cause suitable barriers and signs to be erected on such street, indicating that the street is closed to public travel. When any street, or portion thereof, shall have been closed to public travel, no person shall drive any vehicle upon or over such street, except as the vehicle may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the Village Manager.

Section 19. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add a Section 93.17, which shall provide as follows:

§ 93.17 PLACEMENT OF LEAVES AND OTHER MATERIAL.

The owner and/or occupant, or his agent or employee, of any parcel of property shall not place any leaves and/or other debris or material, or snow or ice upon the streets or public rights-of-way of the Village or upon any property not his own, unless permission has been obtained for such placement. The owner and/or occupant of any parcel of property from which any such item as specified above originates shall be responsible for the proper placement of such item as called for in this section.

Section 20. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add a Section 93.18, which shall provide as follows:

§ 93.18 DRAINAGE TILES BENEATH DRIVEWAYS.

Whenever an existing open ditch must be spanned for the purpose of constructing a driveway between private premises and a public street within the Village, a permit shall first be

obtained from the Village Manager and such permit shall not be issued, unless all of the following conditions are met:

- (1) Tile will be installed and size determined by the Village;
- (2) Cost of the tile will be paid by the property owner;
- (3) Location of the proposed driveway must be approved by the Village Manager and shall not detrimentally affect the interest of adjacent property owners;
- (4) Property owner will cover the installed tile with acceptable driveway construction materials which are approved by the village manager;
- (5) Property owner will maintain the drainage tile and the driveway in a safe and reasonable manner;
- (6) Property owner will keep both ends of the drainage tile free from obstructions so as to insure free flow and normal drainage by the ditch; and
- (7) Continued maintenance and upkeep of the drainage tile and the driveway will be the obligation of the property owner, his heirs, or assigns.

Section 21. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add a Section 93.50, which shall provide as follows:

§ 93.50 EXTENSIONS AND IMPROVEMENTS OF STREETS AND UTILITIES.

(A) Purpose and intent. From time-to-time persons may desire to extend or improve Village streets or utilities to provide new or improved service to properties within the Village, especially in connection with a new development, with the intention of dedicating such streets and utility facilities to the Village. The Village engages engineers and, on occasion, other consultants to review the plans and specifications for such projects and to inspect the construction and installation in order to assure that they meet Village requirements.

(B) Fees and escrow.

- (1) In addition to any other applicable fees and charges all persons wishing to construct and install streets, water lines and facilities, sanitary sewer lines and facilities, or storm water drainage ditches, lines and facilities, for dedication to the Village shall pay all costs incurred by the village to review and approve the plans and specifications therefor and to inspect the construction and installation thereof, including, without limitation, fees paid to engineers, architects, environmental consultants, traffic consultants, attorneys and others. The Village shall not charge fees or assess costs for the time expended by Village employees (except when authorized under appropriate provisions of the Freedom on Information Act) or for incidental costs and expenses, but may charge or assess for all other reasonable costs

and expenses incurred by the Village during and in connection with the review process and other related proceedings, whether or not the plans and specifications are approved, and whether or not the construction or installation occurs.

(2) The person seeking to construct, install and dedicate such streets and utilities shall deposit with the Village the amount of \$2,500 prior to the review by the Village of any plans and specifications and an additional \$2,500 prior to receiving a permit to start construction and installation. Such amounts shall be held in escrow and the actual costs incurred by the Village shall be invoiced to the applicant to be paid within 14 days of the date of invoice. The escrow funds shall be used to pay any invoice that is not timely paid. Except for use in the payment of the last invoice after the work is done and accepted by the Village, if the escrow drops below \$2,500 during the plan review and approval stage or below \$5,000 at the construction and installation stage, a stop work order may be issued. All amounts must be paid in full before the Village accepts the dedication of any streets or utilities subject to this chapter and no connections to the utility lines by individual users will be permitted until such fees are paid in full. The payment in full of such fees shall also be a condition for the issuance of a certificate of occupancy of any structure fronting on a street for which such fees are due. Any monies paid or deposited which are not used or spent by the Village shall be refunded to the party seeking the approval.

Section 22. All ordinances or part of ordinances in conflict with this ordinance are hereby repealed only to the extent necessary to give this ordinance full force and effect.

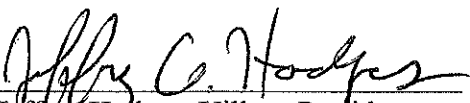
Section 23. This ordinance shall take effect and be in force 20 days from and after its enactment as provided by the Village Council.


AYES: Members: Burdick, Griffis, Nugent, Palmer, Ressel-Hodan, Hodges.

NAYS:Members:None.

ABSENT: Members:Angell-Powell.

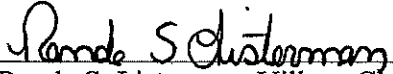
ORDINANCE DECLARED ADOPTED.


Jeffrey Hodges, Village President
Village of Pentwater


Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on June 10, 2019, and I further certify that public notice of such meeting was given as provided by law.



Rande S. Listerman, Village Clerk
Village of Pentwater