

**TITLE III: ADMINISTRATION**

Chapter

- 30. GENERAL PROVISIONS**
- 31. VILLAGE COUNCIL**
- 32. VILLAGE OFFICIALS**
- 33. VILLAGE ORGANIZATIONS**
- 34. MUNICIPAL CIVIL INFRACTIONS;  
ORDINANCE VIOLATIONS BUREAU**



## CHAPTER 30: GENERAL PROVISIONS

### Section

#### *General Provisions*

- 30.01 Sale of real property
- 30.02 Charge for dishonored checks and the like
- 30.03 Compensation of elected officials

(B) Any proposed public or private sale of village real estate shall not be valid until the same has been approved by an affirmative vote of a majority of Council.  
(Prior Code, ' 220.02) (Ord. 99-9, passed 10-25-1999)

#### *Purchasing*

- 30.15 Purchasing agent
- 30.16 Spending limits
- 30.17 Request for bids
- 30.18 Bid security
- 30.19 Performance bonds
- 30.20 Bid opening
- 30.21 Contract award
- 30.22 Bidding exclusion

#### **' 30.02 CHARGE FOR DISHONORED CHECKS AND THE LIKE.**

Whoever tenders to the village a check, draft, or other negotiable instrument, in payment for any product and/or service sold, furnished, or rendered by the village, which check, draft, or instrument is dishonored because of insufficient funds or for any other reason, shall be assessed a civil penalty of \$25 for each check, draft, or other instrument and for each occasion of dishonor, payable to the village in addition to the amount owed for the product and/or service sold, furnished, or rendered by the village.  
(Prior Code, ' 236.01)

#### *Elections*

- 30.35 Purpose
- 30.36 Nonpartisan elections required
- 30.37 Election procedure

#### **' 30.03 COMPENSATION OF ELECTED OFFICIALS.**

### **GENERAL PROVISIONS**

#### *(A) Councilmembers.*

#### **' 30.01 SALE OF REAL PROPERTY.**

(A) Pursuant to the provisions of ' 4 of the General Law Village Act, being Public Act 3 of 1895, being M.C.L.A. ' 67.4, as amended, Council is authorized to sell, by public or private sale, and at any price and upon any terms as Council shall deem advisable, any real property (exclusive of designated public parks) owned by the village.

(1) Each Councilmember shall receive compensation for each scheduled Council meeting which he or she attends. The amount of the compensation shall be determined from time to time by resolution of Council.

(2) The compensation due each Councilmember shall be paid twice a year as follows. Meetings attended from April through September will

be paid after the first Council meeting of October. Meetings attended from October through March will be paid after the first Council meeting of April.

(B) *Other elected offices.* The President, the Clerk, and the Treasurer shall receive monthly sums to be determined from time to time by resolution of Council as full compensation for fulfilling the duties of their respective offices.

(Prior Code, ' 260.01) (Ord. 99-1, passed 2-22-1999)

### **PURCHASING**

#### **' 30.15 PURCHASING AGENT.**

The Village Manager shall act as the purchasing agent for the village, except as otherwise voted on by the Village Council.

(Prior Code, ' 208.01) (Ord. 142, passed 2-27-1989)

#### **' 30.16 SPENDING LIMITS.**

(A) *Generally.* Spending or expenditure limits for village officials shall be periodically set by resolution of the Village Council. The Council shall approve, in advance, all expenditures made by the village, except for the following situations.

(B) *Specifically.*

(1) *Within budget.* Any expenditure, regardless of amount, which has been specifically budgeted in a current budget approved by Council;

(2) *Expenditures up to the amount of \$10,000.* Except as otherwise provided herein, any expenditures by the Village Manager in excess of \$5,000 but less than \$10,000, as included in the current budget approved by the Council, shall be submitted by the Village Manager for competitive proposals by written letter or telephone with written or e-mail confirmation. The solicitation shall be posted in the Village Hall, and proposals shall be confirmed in writing and opened and read publicly at a specific

time and date, as set forth in the solicitation. The Village Manager shall have the right to award a contract based on his or her judgment of the best interest of the village. The bid solicitation, results, and award shall be reported to the Council in writing at its next meeting; and

(3) *Expenditures in excess of \$10,000.*

Except as otherwise provided herein, any expenditure for items or contracts (except with respect to professional services) obligating the village in excess of \$10,000 shall be submitted for competitive bidding according to the procedures set forth in ' ' 30.17 through 30.22.

(Prior Code, ' 208.02)

#### **' 30.17 REQUEST FOR BIDS.**

(A) The Village Manager, or any other person designated by the Village Manager or the Council, shall solicit bids from a reasonable number of qualified prospective bidders. An item or contract for which a solicitation is requested shall be described in detail with printed documents or drawings as may be necessary. Notice of request for bids must be given publication in a newspaper generally circulated in the village and by posting in the Village Hall at least ten days prior to the date bids are opened. The Council may direct that additional notice be given for any expenditure over \$5,000 which is subject to bids.

(B) The Village Manager may submit the request for bids to a specific person whom he or she deems to be a qualified bidder. Any notice for bids shall provide that the Council reserves the right to award or reject any and all bids and waive any formalities of the bidding process.

(Prior Code, ' 208.03) (Ord. 142, passed 2-27-1989)

#### **' 30.18 BID SECURITY.**

Unless otherwise directed by Council, the Village Manager shall prescribe the amount of any security to be deposited with any bid, provided that the deposit shall be in the form of cash, certified or cashier=s check, or bond written by a surety company authorized to do business in the state. The amount of

the security shall be expressed in terms of a percentage of the total bid submitted.  
(Prior Code, ' 208.04) (Ord. 142, passed 2-27-1989)

' **30.19 PERFORMANCE BONDS.**

(A) Except as set by Council, the Village Manager shall fix the amount of the performance bond and, in the case of construction contracts, the amount of the labor and material performance and payment bond to be required of the successful bidders.

(B) As a minimum, any contract in excess of \$50,000 shall require that the contractor complete a labor and material performance and payment bond in the amount of at least 25% of the contract or as required by the latest state and federal laws, if greater.  
(Prior Code, ' 208.05) (Ord. 142, passed 2-27-1989)

' **30.20 BID OPENING.**

Bids shall be opened in public, at the time and place designated in the notice requesting bids, in the presence of the Village Manager and at least two other village officials, preferably the head of the department most closely concerned with the subject of the contract. The bids shall be carefully examined, tabulated, and reported to the Council with the recommendation of the Village Manager at the next Council meeting. After tabulation, all bids may be inspected by the competing bidders. In lieu of the procedure for the opening of bids herein specified, the Council may direct that the bids be opened at a Council meeting.  
(Prior Code, ' 208.06) (Ord. 142, passed 2-27-1989)

' **30.21 CONTRACT AWARD.**

(A) When the bids are submitted to the Council, if the Council shall find any of the bids to be satisfactory, it shall award the contract to the lowest qualified bidder meeting specifications, unless the Council shall determine that the public interest will be better served by accepting a higher bid. The award may be by resolution or ordinance. The Council shall

have the right to reject any and all bids which do not conform in every respect to the bidding requirements.

(B) All bids and deposits of certified cashier checks may be retained until the contract is awarded and signed. If the successful bidder fails or refuses to enter into the contract awarded to him or her within five days after the same has been awarded to him or her, or file any bond required within the same time, the deposit accompanying his or her bid shall be forfeited to the village. Council may, in its discretion, award the contract to the next lower competent bidder meeting specifications, or to another competent bidder meeting specifications if the Council shall determine that the public interest shall be served by accepting a higher bid, or re-advertise the contract for bids.  
(Prior Code, ' 208.07) (Ord. 142, passed 2-27-1989)

' **30.22 BIDDING EXCLUSION.**

(A) *Generally.* The bidding procedure and requirements provided in this subchapter shall not apply in the following circumstances.

(B) *Specifically.*

(1) Any contract for professional services, such as lawyers, accountants, engineers, or appraisers, may be exempt from the solicitation of competitive proposals.

(2) In the event of any emergency situation, the Village Manager, with the approval of a majority of the Finance Committee, may proceed to make any lawful expenditure without submitting it for competitive bidding. An **EMERGENCY SITUATION** means a condition or event which necessitates any expenditure to protect the public from an immediate danger to the general safety, welfare, and well-being of the community, and, in the judgment of the Finance Committee, it is not reasonably practical to meet the time and other requirements of this bidding policy.  
(Prior Code, ' 208.08) (Ord. 142, passed 2-27-1989)

*ELECTIONS***‘ 30.35 PURPOSE.**

The purpose of this subchapter is to require the holding of nonpartisan elections and to specify the procedure for which those elections will be held.

(Prior Code, ‘ 210.01) (Ord. 2001-2, passed 9-10-2001)

**‘ 30.36 NONPARTISAN ELECTIONS REQUIRED.**

(A) As authorized by Chapter III, ‘ 3(1) and (2) of the General Law Village Act, being Public Act 3 of 1895, M.C.L.A ‘ 63.3(1) and (2) as amended, and Public Act 255 of 1998, elections in the village shall hereafter be nonpartisan.

(B) This section shall apply beginning with the first village election for which the nomination deadline is not less than 30 days after the effective date of this section.

(Prior Code, ‘ 210.02) (Ord. 99-2, passed 5-10-1999; Ord. 2001-2, passed 9-10-2001)

**‘ 30.37 ELECTION PROCEDURE.**

(A) All elections will be held at the time of the general election, and the village will not conduct a primary election.

(B) The person receiving the highest number of votes shall be declared the elected winner for a single office.

(C) If more than one position is open, the first opening will go to the person who receives the highest number of votes, the second opening will go to the person who receives the second highest number of votes, and, if there are more than two positions available, this procedure will follow until all positions are filled.

(Prior Code, ‘ 210.03) (Ord. 2001-2, passed 9-10-2001)

## CHAPTER 31: VILLAGE COUNCIL

### Section

#### 31.01 Standing committees

#### ' 31.01 STANDING COMMITTEES.

The following standing committees of Council are hereby established:

- (A) Finance Committee;
- (B) Personnel Committee;
- (C) Physical Facilities Committee;
- (D) Services Committee;
- (E) Ordinances Committee; and

(F) Planning Committee.  
(Prior Code, ' 220.01)





**CHAPTER 32: VILLAGE OFFICIALS**

Section

***Manager***

- 32.01 Establishment
- 32.02 Appointment; qualifications
- 32.03 Acting Manager
- 32.04 Compensation
- 32.05 Duties
- 32.06 Purchasing agent
- 32.07 Authority regarding village personnel

granted to the village contained in Public Act 3 of 1895, Ch. II, ' 2, and Ch. V, ' 8, being M.C.L.A. ' ' 62.2 and 65.8, as amended, which is the Charter of the village, there is hereby established the Office of Village Manager. (Prior Code, ' 231.01) (Ord. 2000-2, passed 5-8-2000)

***Clerk***

- 32.20 Nomination; appointment; term of office

**' 32.02 APPOINTMENT; QUALIFICATIONS.**

(A) The President shall, with the concurrence of four or more Councilmembers, appoint a Village Manager for an indefinite term and the Council may, by contract, enter into any other terms and conditions as the Manager and Council deem appropriate. The Manager shall serve at the pleasure of the Council and may be removed by the affirmative vote of four or more Councilmembers, but only after a hearing before the Council. The President may, for cause, suspend the Manager with full pay, until the hearing. The action of the Council in removing the Manager shall be final.

***Treasurer***

- 32.35 Nomination; appointment; term of office

(B) The Manager shall be selected solely on the basis of administrative and executive abilities, with special reference to training and experience. (Prior Code, ' 231.02) (Ord. 2000-2, passed 5-8-2000)

***Ordinance Enforcement Officer***

- 32.50 Establishment
- 32.51 Appointment
- 32.52 Authority
- 32.53 Duties

***MANAGER***

**' 32.01 ESTABLISHMENT.**

In accordance with the authority for the appointment of any village officers as the Council shall deem necessary for the execution of the powers

**' 32.03 ACTING MANAGER.**

The President, with the concurrence of four or more Councilmembers, shall appoint or designate an Acting Manager during a vacancy in the Office of Village Manager and shall make a permanent

appointment within 180 days from the effective date of the vacancy. A Village Manager, appointed in accordance with ' 32.02, shall be deemed to be the Acting Manager from the date of the appointment until the appointee becomes a resident, if residency is deemed to be a qualification for the appointment.

(Prior Code, ' 231.03) (Ord. 2000-2, passed 5-8-2000)

#### ' 32.04 COMPENSATION.

The Village Manager shall receive any compensation as the Council shall determine annually by resolution or contract.

(Prior Code, ' 231.04) (Ord. 2000-2, passed 5-8-2000)

#### ' 32.05 DUTIES.

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

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

(1) Attend all meetings of the Village Council and committees thereof and take part therein, but without a vote;

(2) Be responsible for personnel management and issue, subject to Council approval, personnel rules applicable to all village employees. The Manager shall have the following responsibilities:

(a) To appoint, suspend, or remove all appointed administrative officers and department heads, subject to Council approval. The Manager shall recommend to the Council the salary or wages to be paid to each official; and

(b) To appoint, suspend, or remove all other employees of the village. All these actions shall be based on merit and taken pursuant to personnel rules approved by the Council. The Manager shall fix the salaries or wages of all the employees.

(3) Exercise supervisory control over all departments, including the Police Department, the Department of Public Works, and the Fire Department.

The Chief of Police and the Fire Chief shall be subject to the direction of the Manager;

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

(5) Shall be authorized to attend all meetings of village boards and commissions, including the Village Planning Commission, with the right to take part therein, but without a vote;

(6) Prepare and administer the budget as provided for in the Uniform Budgeting and Accounting Act, Public Act 2 of 1968, being M.C.L.A. ' ' 141.421 *et seq.*, as amended;

(7) Be the purchasing agent for the village;

(8) Prepare and maintain an administrative code defining the duties and functions of the several officers and departments of the village, subject to approval by the Council;

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

(10) Make recommendations to the Council for the adoption of any measures as may be deemed necessary or expedient for the improvement or betterment of the village; and

(11) Perform other duties required from time to time by the Village Council.

(Prior Code, ' 231.05) (Ord. 2000-2, passed 5-8-2000)

**' 32.06 PURCHASING AGENT.**

(A) The Village Manager shall act as purchasing agent for all village offices and departments. The Manager may delegate some or all of the duties as purchasing agent to another officer or employee, provided that the delegation shall not relieve the Manager of his or her responsibility for the proper conduct of those duties.

(B) The Village Manager shall have the authority to purchase any product or service the cost of up to \$10,000, provided that funds have been appropriated. The cost of the product or service shall not exceed the unencumbered balance of the appropriation for that account. Except as hereinafter provided, the Village Manager shall not purchase any product or service the cost of which exceeds the above dollar amount without prior approval of the Village Council. The Village Manager may promulgate rules governing the purchase of products or services.

(C) The Village Manager shall have the authority to purchase any product or service regardless of its cost when the purchase is necessitated by an emergency condition. **EMERGENCY CONDITION** is defined to mean any event that presents an imminent threat to the public health or safety or any event that would result in the disruption of a village service that is essential to the public health or safety.  
(Prior Code, ' 231.06) (Ord. 2000-2, passed 5-8-2000; Ord. passed 12-14-2015)

**' 32.07 AUTHORITY REGARDING VILLAGE PERSONNEL.**

Neither the Council nor the Village President shall attempt to influence the employment of any person by the Village Manager or in any way interfere in the management of departments under the jurisdiction of the Manager. Except for purpose of inquiry, the President and Council and its members shall deal with departments under the jurisdiction of the Village Manager through the Manager.  
(Prior Code, ' 231.07) (Ord. 2000-2, passed 5-8-2000)

**CLERK**

**' 32.20 NOMINATION; APPOINTMENT; TERM OF OFFICE.**

(A) As authorized by Ch. II, ' ' 1(3) and (4) of the General Law Village Act, being Public Act 3 of 1895, M.C.L.A. ' 62.1(3) and (4), as amended, and Public Act 255 of 1998, the Clerk shall be chosen by nomination by the President and appointed by Council.

(B) The term of office of the Clerk shall be one year from the second Monday of April of each year until a successor is appointed.  
(Prior Code, ' 234.01) (Ord. 1999-3, passed 5-10-1999; Ord. 2003-2, passed 12-8-2003)

**TREASURER**

**' 32.35 NOMINATION; APPOINTMENT; TERM OF OFFICE.**

(A) As authorized by Ch. II, ' ' 1(3) and (4) of the General Law Village Act, being Public Act 3 of 1895, M.C.L.A. ' 62.1(3) and (4), as amended, and Public Act 255 of 1998, the Treasurer shall be chosen by nomination by the President and appointed by Council.

(B) The term of office of the Treasurer shall be one year from the second Monday of April of each year until a successor is appointed.  
(Prior Code, ' 236.02) (Ord. 1999-3, passed 5-10-1999; Ord. 2003-3, passed 12-8-2003)

***ORDINANCE ENFORCEMENT OFFICER*****' 32.50 ESTABLISHMENT.**

The Office of Ordinance Enforcement Officer is hereby established in and for the village.  
(Prior Code, ' 243.01) (Ord. 99-8, passed 9-13-1999)

**' 32.51 APPOINTMENT.**

Council is authorized to appoint, by motion or resolution, any person or persons to the Office of Ordinance Enforcement Officer for any term or terms as may be designated in the motion or resolution and for any compensation as Council may determine. Council may further, by motion or resolution, remove any person from the office, in the discretion of Council.  
(Prior Code, ' 243.02) (Ord. 99-8, passed 9-13-1999)

**' 32.52 AUTHORITY.**

The Ordinance Enforcement Officer is authorized, along with any village police officer, to enforce the ordinances of the village, whether heretofore or hereafter enacted, whether the ordinances specifically designate a different enforcing officer or do not designate any particular enforcing officer. Where a particular officer is so designated, that officer=s authority shall continue in full force and effect and shall not be diminished or impaired by the terms of this subchapter, and the authority of the Ordinance Enforcement Officer shall be in addition and supplementary to the authority granted to the other specific officer. Any Ordinance Enforcement Officer shall, in the performance of the Officer=s duties, be subordinate and responsible to Council.  
(Prior Code, ' 243.03) (Ord. 99-8, passed 9-13-1999)

**' 32.53 DUTIES.**

The Ordinance Enforcement Officer=s duties shall include the following: investigation of ordinance violations; issuing and serving ordinance violation notices; issuing and serving appearance tickets, as authorized under Public Act 147 of 1968, being M.C.L.A. ' 764.9c, as amended; issuing and serving municipal ordinance violation notices and municipal civil infraction citations, as authorized under Public Act 12 of 1994, being M.C.L.A. ' ' 600.8701 *et seq.*, as amended; appearance in court or other judicial or quasi-judicial proceedings to assist in the prosecution of ordinance violators; and any other ordinance enforcing duties as may be delegated by Council or the President or assigned by the Village Attorney.  
(Prior Code, ' 243.04) (Ord. 99-8, passed 9-13-1999)

**CHAPTER 33: VILLAGE ORGANIZATIONS**

Section

***Department of Public Works***

33.01 Divisions

***Police Department***

33.15 Divisions

***Downtown Development Authority***

- 33.30 Establishment; fiscal year
- 33.31 Purposes
- 33.32 Definitions
- 33.33 Downtown Development Board
- 33.34 Officers and duties
- 33.35 Powers of authority
- 33.36 Financing
- 33.37 Use of moneys in project funds
- 33.38 Development area of the Authority
- 33.39 Development plan
- 33.40 Preparation of initial base year assessment roll
- 33.41 Preparation of updated base year assessment roll
- 33.42 Establishment of Project Fund; approval of depository
- 33.43 Payment of tax increment of Authority
- 33.44 Annual report

***Design Advisory Committee***

33.50 Design Advisory Committee created

***DEPARTMENT OF PUBLIC WORKS***

**' 33.01 DIVISIONS.**

The Village Department of Public Works shall have the following divisions:

- (A) Streets Division;
- (B) Sewers Division;
- (C) Water Division;
- (D) Parks Division; and
- (E) Buildings Division.  
(Prior Code, ' 246.01)

***POLICE DEPARTMENT***

**' 33.15 DIVISIONS.**

The Village Police Department shall have the following divisions:

- (A) Public Safety Division; and
- (B) Traffic Control Division.  
(Prior Code, ' 248.01)



***DOWNTOWN DEVELOPMENT AUTHORITY*****' 33.30 ESTABLISHMENT; FISCAL YEAR.**

There is hereby established, in and for the village, a Downtown Development Authority. The fiscal year of the Authority shall commence on April 1. (Prior Code, ' 280.01) (Ord. 145, passed 8- -1993)

**' 33.31 PURPOSES.**

The purposes of the Downtown Development Authority are to implement Public Act 197 of 1975, being M.C.L.A. ' ' 125.1651 through 125.1681, as amended, including, but not limited to, the correction and prevention of deterioration in the Downtown District, the creation and implementation of development plans in the Downtown District, and the promotion of economic growth therein. (Prior Code, ' 280.02) (Ord. 145, passed 8- -1993)

**' 33.32 DEFINITIONS.**

The words and terms used in this subchapter shall have the same meaning given them in Public Act 197 of 1975, being M.C.L.A. ' ' 125.1651 through 125.1681, or as hereinafter in this section provided, unless the context clearly indicates to the contrary, and shall be in addition to the terms provided in Act 197.

**ACT 197.** Public Act 197 of 1975, being M.C.L.A. ' ' 125.1651 through 125.1681, as amended.

**AUTHORITY.** The Village Downtown Development Authority.

**CAPTURED ASSESSED VALUE.** The amount in any one year by which the current assessed value,

as finally equalized, of all taxable property in the respective development areas exceeds the initial assessed value.

**COUNCIL.** The Village Council for Pentwater, Michigan.

**DEVELOPMENT AREA.** Each of the areas described in ' 33.38.

**DEVELOPMENT PLAN or PLAN.** The development plan prepared by the Authority and approved by the Village Council.

**INITIAL ASSESSED VALUE.** The most recently assessed value, as finally equalized, of all the taxable property within the boundaries of the development areas at the time of adoption of this subchapter.

**TAXING JURISDICTION.** Each unit of government levying an ad valorem property tax on property in the development area.

**VILLAGE.** The Village of Pentwater, Michigan. (Prior Code, ' 280.03) (Ord. 145, passed 8- -1993)

**' 33.33 DOWNTOWN DEVELOPMENT BOARD.**

(A) *Membership; qualifications; terms; vacancy; compensation and expenses; Chairperson.*

(1) The Downtown Development Authority shall be supervised and controlled by a Downtown Development Board consisting of the President of the village and at least eight, but no more than 12, members, to be determined by resolution of the village.

(2) The members of the Board shall be appointed by the President subject to the approval of the Village Council.

(3) At least a majority of the members of the Board shall be persons having an interest in property located in the Downtown District.

(4) A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve for a term of four years.

(5) An appointment to fill a vacancy shall be made by the President for the unexpired term only. Members of the Board shall serve without compensation, but shall be reimbursed for all actual and necessary expenses.

(6) The Chairperson of the Board shall be elected by the members of the Board.







(B) *Oath of office.* Before assuming the duties of office, each member shall qualify by taking and subscribing to the constitutional oath of office.

(C) *Open Meetings Act; compliance; special meetings.* The business which the Board may perform shall be conducted at a public meeting of the Board held in compliance with Public Act 267 of 1976, being M.C.L.A. ' ' 15.261 through 15.275, as amended. Public notice of the time, date, and place of the meeting shall be given in the manner required by the Act. The Board shall adopt rules, consistent with the Act, governing its procedure and the holding of regular meetings, subject to the approval of the village. Special meetings may be held when called in the manner provided in the rules of the Board.

(D) *Removal of Board member for cause.* Pursuant to notice and after having been given an opportunity to be heard, a member of the Board may be removed for cause by the village.

(E) *Expenses and financial records open to the public.* All expense items of the Authority shall be publicized monthly, and the financial records shall be open to the public.

(F) *Freedom of Information Act; compliance.* In addition to the items and records prescribed in division (E) above, a writing prepared, owned, and used, in the possession of or retained by the Board, in the performance of an official function shall be made available to the public in compliance with Public Act 442 of 1976, being M.C.L.A. ' ' 15.231 through 15.246, as amended.  
(Prior Code, ' 280.04) (Ord. 145, passed 8- -1993)

**' 33.34 OFFICERS AND DUTIES.**

(A) The Downtown Development Board shall elect from its membership a Chairperson, a Vice-Chairperson, a Secretary, and a Treasurer. In addition, the Board may appoint an Assistant Secretary, who need not be a member of the Board, to be charged with any duties as the Board deems appropriate. The election of any officer requires a majority vote of the members of the Board.

(B) All officers shall hold office for one year or until a successor is elected and qualified.

(C) An officer may be removed by a majority vote of the Board whenever, in the judgment of the Board, the best interests of the Authority would be served thereby.

(D) A vacancy in any office shall be filled for its unexpired term by a majority vote of the members of the Board.

(E) The Board may authorize any officer, agent, employee, or member to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Downtown Development Authority, and that authority may be general or confined to specific instances. Unless so authorized, no officer, agent, employee, or member shall have any power or authority to bind the Authority by any contract or engagement, pledge its credit, or render it liable pecuniarily for any purpose or in any amount.

(F) The Chairperson shall preside at all meetings of the Board and shall discharge the duties of the presiding officer.

(G) In the absence of the Chairperson, or in the event of his or her inability or refusal to act, the Vice-Chairperson shall perform the duties of the Chairperson and, when so acting, shall have all the powers and be subject to all the restrictions of the Chairperson.

(H) The Treasurer shall keep the financial records of the Authority and shall approve all vouchers for the expenditure of funds of the Authority, which vouchers shall be deposited with the Village Treasurer. The Treasurer shall perform any other duties as may be delegated by the Board and shall furnish bond in an amount prescribed by the Board.

(I) The Secretary shall maintain custody of records, books, documents, or other papers not required to be maintained by the Treasurer. The Secretary shall attend meetings of the Board, shall

keep a record of its proceedings, shall perform any other duties as delegated to him or her by the Board, and shall post at the village offices a copy of the approved minutes of a meeting within six days of the meeting.

(Prior Code, ' 280.05) (Ord. 145, passed 8- -1993)

### ' 33.35 POWERS OF AUTHORITY.

The Downtown Development Authority shall possess all of the powers necessary to carry out the purposes of its incorporation and shall have all powers provided by Public Act 197 of 1975, being M.C.L.A. ' ' 125.1651 through 125.1681, as amended, including, but not limited to, the power to:

(A) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier-free design requirements of the State Construction Code promulgated under the State Construction Code Act of 1972, being Public Act 230 of 1972, being M.C.L.A. ' ' 125.1501 through 125.1531, as amended;

(B) Develop long-range plans, in cooperation with the village, designed to halt the deterioration of property values in the Downtown District and to promote the economic growth of the Downtown District, and take any steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible;

(C) Implement any plan of development in the Downtown District necessary to achieve the purposes of this subchapter, in accordance with the powers of the Authority granted by Act 197;

(D) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties;

(E) Accept grants and donations of property, labor, or other things of value from a public or private source; and

(F) Levy ad valorem taxes on the real and tangible personal property not exempt by law and as finally equalized in the Downtown District at the rate of not more than two mills, as set forth in ' 12 of Act 197.

(Prior Code, ' 280.06) (Ord. 145, passed 8- -1993)

### ' 33.36 FINANCING.

The activities of the Downtown Development Authority shall be financed from one or more of the following sources:

(A) Donations to the Authority for the performance of its functions;

(B) Moneys borrowed and to be repaid as authorized by ' 13 of Act 197;

(C) Revenues from any property, building, or facility owned, leased, licensed, or operated by the Authority or under its control, subject to the limitations imposed upon the Authority by trusts or other agreements;

(D) Proceeds of a tax increment financing plan, established under ' ' 14 through 16 of Act 197;

(E) Moneys obtained from other sources approved by the village; and/or

(F) Proceeds from a special assessment district created as provided by law.

(Prior Code, ' 280.07) (Ord. 145, passed 8- -1993)

### ' 33.37 USE OF MONEYS IN PROJECT FUNDS.

(A) *Generally.* The moneys credited to the project funds and on hand therein, from time to time, shall be used annually in the following manner and in the following order of priority.

(B) *Specifically.*

(1) First, to pay into the debt retirement fund or funds for all outstanding series of bonds issued pursuant to the plan, including the 1990 amendment thereof, if any, or any other series of bonds or other obligations pledging tax increment revenues of the Downtown Development Authority as a source of debt service payments, an amount equal to the interest and principal coming due (in the case of principal, whether by maturity or mandatory redemption) prior to the next collection of taxes, less any credit for sums on hand in the debt retirement fund;

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

(3) Third, to pay the administrative, auditing, and operating costs of the Authority and the village pertaining to the development areas, including planning and promotion, to the extent provided in the annual budget of the Authority;

(4) Fourth, to repay any amount advanced by the village for project costs or by any developer or contractor on behalf of the village, including costs for preliminary plans and fees for other professional services;

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

(6) Sixth, to pay the cost of any additional improvements to the plan that are determined to be necessary by the Authority and approved by the village in accordance with Act 197.  
(Prior Code, ' 280.08) (Ord. 145, passed 8- -1993)

**' 33.38 DEVELOPMENT AREA OF THE AUTHORITY.**

(A) The development area of the Downtown Development Authority shall be all property zoned commercial, with the exception of any property zoned commercial that is presently used for single-family residential.

(B) The condominiums in the following locations are included in the Downtown Development Authority area:

(1) Abutting Hancock Street from Lowell Street south to Sixth Street;

(2) Abutting Third Street from the alley east of Hancock Street to Lake Pentwater;

(3) Abutting Second Street from the alley east of Hancock Street to Dover Street;

(4) Abutting First Street from the alley east of Hancock Street to Dover Street;

(5) Abutting Sixth Street from Hancock Street to Rush Street; and

(6) Abutting Lake Street from Lake Pentwater on the west to Bean Street on the east.  
(Prior Code, ' 280.09) (Ord. 145, passed 8- -1993)

**' 33.39 DEVELOPMENT PLAN.**

The term *DEVELOPMENT PLAN* means the tax increment financing and development plan for the Downtown District, as prepared and amended and submitted to the Village Council for public hearings and approval and subsequently approved by the Downtown Development Authority for implementation.  
(Prior Code, ' 280.10) (Ord. 145, passed 8- -1993)

**' 33.40 PREPARATION OF INITIAL BASE YEAR ASSESSMENT ROLL.**

(A) Within 60 days of the effective date of this subchapter, the village personnel shall prepare the initial base year assessment roll. The initial base year assessment roll shall list each taxing jurisdiction in which the development area is located, the initial assessed value of the development area on the effective date of this subchapter, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes on the property in the development area.

(B) Village personnel shall transmit copies of the initial base year assessment roll to the Village Treasurer, the County Treasurer, the Downtown Development Authority, and each taxing jurisdiction, together with a notice that the assessment roll has been prepared in accordance with this subchapter and the tax increment financing plan contained in the development plan approved by this subchapter.

(Prior Code, ' 280.11) (Ord. 145, passed 8- -1993)

**' 33.41 PREPARATION OF UPDATED BASE YEAR ASSESSMENT ROLL.**

Each year, within 30 days following the final equalization of property in the development area, the village personnel shall prepare an updated base year assessment roll. The updated base year assessment roll shall show the information required in the initial base year assessment roll and, in addition, the captured assessed value for that year. Copies of the annual base year assessment roll shall be transmitted by the village personnel to the same persons to whom the initial base year assessment roll is transmitted, together with a notice that it has been prepared in accordance with this subchapter and the development plan.

(Prior Code, ' 280.12) (Ord. 145, passed 8- -1993)

**' 33.42 ESTABLISHMENT OF PROJECT FUND; APPROVAL OF DEPOSITORY.**

The Treasurer of the Downtown Development Authority shall establish a separate fund which shall be kept in a depository bank account or accounts in a bank approved by the Village Treasurer, to be designated the Village Downtown Development Authority Project Fund. All moneys received by the Downtown Development Authority pursuant to the tax increment financing and development plan shall be deposited in the Project Fund. All moneys in that Fund and earnings thereon shall be used only in accordance with the tax increment financing and development plan and this subchapter.

(Prior Code, ' 280.13) (Ord. 145, passed 8- -1993)

**' 33.43 PAYMENT OF TAX INCREMENT OF AUTHORITY.**

The Village and County Treasurers shall, as ad valorem taxes are collected on the property in the development area, pay that proportion of taxes, except for penalties and collection fees, that the captured assessed value bears to the initial assessed value, to the Treasurer of the Downtown Development Authority for deposit in the Project Fund. The payments shall be made on the date or dates on which the Village and County Treasurers are required to remit taxes for each of the taxing jurisdictions.

(Prior Code, ' 280.14) (Ord. 145, passed 8- -1993)

**' 33.44 ANNUAL REPORT.**

Within 90 days after the end of each fiscal year, the Downtown Development Authority shall submit to the Council, with copies to each taxing jurisdiction, a report on the status of the Project Funds. The report shall include the amount and source of revenue in the accounts, the amount and purpose of expenditures from the accounts, the amount of principal and interest on outstanding indebtedness, if any, the amount in any bond reserve account, the initial assessed value of the development area, the captured assessed value of the development area, the amount of captured assessed

value retained by the Authority, the tax increments received and the amount of any surplus from the prior year, and any additional information requested by the Council or deemed appropriate by the Authority. The Secretary of the Authority shall cause a copy of the report to be published once in full in a newspaper of general circulation in the village.  
(Prior Code, ' 280.15) (Ord. 145, passed 8- -1993)

by ordinance or state law, a zoning permit. All applications for an alteration permit shall be required to contain a set of design plans to be forwarded to the DAC.

(2) In addition to the application requirements of the Zoning Administrator with respect to zoning permits, the applicant for an alteration permit shall submit supporting documents for DAC review, which shall include the following when applicable:

**DESIGN ADVISORY COMMITTEE**

**' 33.50 DESIGN ADVISORY COMMITTEE CREATED.**

*(A) Establishment of Design Advisory Committee.*

The Village Council hereby establishes a Design Advisory Committee for the purpose of reviewing proposed alteration and construction projects within the Downtown Development Authority (DDA) district.

*(B) Membership; appointments.* The Design Advisory Committee (DAC) shall consist of five members, two of whom shall be members of the DDA, who shall be nominated by the Village President and appointed by the Village Council, and serve at the pleasure of the Village Council.

*(C)* The DAC shall review plans submitted with applications for alteration and/or zoning permits, educate and advise property owners to make them familiar with the recommendations and facade design guidelines of the DDA applicable to appearance, design, materials, colors or other alterations of the exterior of any properties in the DDA district.

*(D) Review process.*

(1) Any person intending to construct, alter, repair, paint, resurface, remove or demolish, any structures within the DDA district shall make application to the Zoning Administrator for an alteration permit and, if a building permit is required

(a) Current photographs of the structure and its relationship to adjacent buildings;

(b) A site plan showing the placement of the addition, or location of the new building in relation to adjacent structures;

(c) Site plan is to include parking space designation per village requirements;

(d) Elevation drawings of the proposed exterior facade;

(e) Samples of all proposed exterior finishes and materials;

(f) Photographs showing in detail any specific problem areas to be dealt with during the repair/alteration.

*(E) Meeting with the DAC.* All applicants for an alteration or zoning permit shall meet with the DAC prior to commencing any alteration or construction. The purpose of the meeting is for the DAC to present, discuss and explain to the applicant the architectural and streetscape design advisories for the DDA district.

*(F)* The applicant shall request in writing a meeting with the DAC by delivering the written request, along with the documentation described in division (D) above, to the Zoning Administrator, who shall immediately forward it to the DAC. The DAC shall have ten days from the date of the DACs receipt of the request to schedule the meeting and notify the

applicant in writing. The meeting must be held within ten days of the date the notice is sent to the applicant unless the applicant agrees to or requests, in writing, a longer time frame. The terms "written," "in writing," or "written notice" or other notice provisions shall include e-mail.

(G) *Grant of application.* The DAC shall file with the Zoning Administrator a written notice confirming that the applicant has met with the Committee and fulfilled the provisions of this subchapter. No work shall begin until such notice has been filed. If the DAC has met with the applicant and has not, within ten days, delivered to the Zoning Administrator's office written verification of such meeting, the applicant may furnish such written notice and shall be deemed to have complied with the subchapter and the Zoning Administrator may issue appropriate permits.  
(Ord. 2010-2, passed 6-14-2010)



## CHAPTER 34: MUNICIPAL CIVIL INFRACTIONS; ORDINANCE VIOLATIONS BUREAU

### Section

- 34.01 Definitions
- 34.02 Commencement of municipal civil infraction actions
- 34.03 Issuance and service of municipal civil infraction citations
- 34.04 Contents of municipal civil infraction citations
- 34.05 Village Ordinance Violations Bureau
- 34.06 Issuance and service of municipal ordinance violation notices
- 34.07 Civil penalties

#### ***MUNICIPAL CIVIL INFRACTION CITATION.***

A written complaint or notice prepared by an authorized village official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

#### ***MUNICIPAL ORDINANCE VIOLATION***

***NOTICE.*** A written notice prepared by an authorized village official, directing a person to appear at the Village Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the village, as authorized under ' ' 8396 and 8707(6) of the Act, being M.C.L.A. ' ' 600.8396 and 600.8707(6).

(Prior Code, ' 203.01) (Ord. 99-4, passed 5-24-1999)

### **' 34.01 DEFINITIONS.**

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

***ACT.*** Public Act 236 of 1961, being M.C.L.A. ' ' 600.8701 *et seq.*, as amended.

***AUTHORIZED VILLAGE OFFICIAL.*** A police officer or other personnel of the village authorized by these codified ordinances or any ordinance to issue municipal civil infraction citations or municipal ordinance violation notices.

***BUREAU.*** The Village Ordinance Violations Bureau, as established by this chapter.

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

### **' 34.02 COMMENCEMENT OF MUNICIPAL CIVIL INFRACTION ACTIONS.**

A municipal civil infraction action may be commenced upon the issuance, by an authorized village official, of:

(A) A municipal civil infraction citation directing the alleged violator to appear in court; or

(B) A municipal ordinance violation notice directing the alleged violator to appear at the Village Ordinance Violations Bureau.

(Prior Code, ' 203.02) (Ord. 99-4, passed 5-24-1999)

**' 34.03 ISSUANCE AND SERVICE OF MUNICIPAL CIVIL INFRACTION CITATIONS.**

(A) *Generally.* Municipal civil infraction citations shall be issued and served by authorized village officials as follows.

(B) *Specifically.*

(1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

(2) The place for appearance specified in a citation shall be the District Court.

(3) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the village and issued to the alleged violator as provided by ' 8704 of the Act.

(4) A citation for a municipal civil infraction signed by an authorized village official shall be treated as if it were made under oath, if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: AI DECLARE UNDER THE PENALTIES OF PERJURY THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE AND BELIEF.@

(5) An authorized village official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.

(6) An authorized village official may issue a citation to a person if:

(a) Based upon the investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

(b) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for such an infraction and if the Village Attorney approves, in writing, the issuance of the citation.

(7) Municipal civil infraction citations shall be served by an authorized village official as follows.

(a) Except as provided by division (B)(7)(b) below, an authorized village official shall personally serve a copy of the citation upon the alleged violator.

(b) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, or a motor vehicle or trailer, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building, structure, motor vehicle, or trailer by posting the copy on the land or attaching the copy to the building, structure, motor vehicle, or trailer. In addition, in the case of land, buildings, or structures, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner=s last known address.

(Prior Code, ' 203.03) (Ord. 99-4, passed 5-24-1999)

**' 34.04 CONTENTS OF MUNICIPAL CIVIL INFRACTION CITATIONS.**

(A) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(B) Further, the citation shall inform the alleged violator that he or she may do one of the following:

(1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance;

(2) Admit responsibility for the municipal civil infraction with explanation by mail, by the time specified for appearance, or in person or by representation; or

(3) Deny responsibility for the municipal civil infraction by doing either of the following:

(a) Appearing in person for an informal hearing before a judge or District Court Magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the village; or

(b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(C) The citation shall also inform the alleged violator of all of the following:

(1) If the alleged violator desires to admit responsibility with explanation in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance;

(2) If the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation;

(3) A hearing shall be an informal hearing, unless a formal hearing is requested by the alleged violator or the village;

(4) At an informal hearing, the alleged violator must appear in person before a judge or District Court Magistrate, without the opportunity of being represented by an attorney; and

(5) At a formal hearing, the alleged violator must appear in person before a judge or District Court Magistrate, with the opportunity of being represented by an attorney.

(D) The citation shall contain a notice in boldface type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Prior Code, ' 203.04) (Ord. 99-4, passed 5-24-1999)

**' 34.05 VILLAGE ORDINANCE VIOLATIONS BUREAU.**

(A) *Establishment.* The village hereby establishes a Village Ordinance Violations Bureau, hereinafter the Bureau, as authorized under ' 8396 of the Act, to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized village officials, and to collect and retain civil fines and costs as prescribed by these codified ordinances or any other ordinance.

(B) *Location; supervision; rules and regulations; employees.* The Bureau shall be located at the Village Hall and shall be under the supervision and control of the Village Clerk. The Village Clerk, subject to the approval of the Council, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified village employees to administer the Bureau.

(C) *Disposition of violations.* The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice, as

compared to a citation, has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this chapter shall prevent or restrict the village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the Bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection accorded by law.

(D) *Scope of authority.* The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(Prior Code, ' 203.05) (Ord. 99-4, passed 5-24-1999)

#### ' 34.06 ISSUANCE AND SERVICE OF MUNICIPAL ORDINANCE VIOLATION NOTICES.

(A) *Contents.* Municipal ordinance violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as are provided for municipal civil infraction citations in ' 34.03(B)(6) and (B)(7). In addition to any other information required by these codified ordinances or any other ordinance, the violation notice shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance must be made, the address and telephone number of the Bureau, the

hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(B) *Appearances; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(C) *Procedure where admission of responsibility is not made or fine is not paid.* If an authorized village official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and cost, if any, prescribed by the schedule of fines for the violation, as set forth in ' 34.07, are not paid at the Bureau, a municipal civil infraction citation may be filed with the District Court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the Court does not need to comply in all particulars with the requirements for citations as provided by ' ' 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(Prior Code, ' 203.06) (Ord. 99-4, passed 5-24-1999)

#### ' 34.07 CIVIL PENALTIES.

(A) A schedule of civil fines payable to the Village Ordinance Violations Bureau for admissions of responsibility by persons served with municipal

ordinance violation notices is hereby established. The fines for the classes of municipal civil infractions, as set forth in ' 10.99(D), are as follows:

<i>Schedule of Municipal Civil Infraction Fines</i>			
Class	First Offense	Second Offense Within 1 Year	Third Offense and Subsequent Offenses Within 1 Year
A	\$25	\$40	\$80
B	\$50	\$100	\$200
C	\$100	\$200	\$500
Special as Set by Specific Section	Specific Amount	First x 2	First x 4

(B) A copy of the schedule, as amended from time to time, shall be posted at the Village Ordinance Violations Bureau.

(C) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues, unless otherwise provided.

(Prior Code, ' 203.07) (Ord. 99-4, passed 5-24-1999; Ord. 2009-1, passed 2-9-2009; Am. Ord. 2013-2, passed 9-9-2013)

