

CODIFIED ORDINANCES OF CASEVILLE

PART EIGHT - BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

- Chap. 810. Cable Television.
- Chap. 812. Circuses, Shows and Exhibitions.
- Chap. 814. Outdoor Assemblies.
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CHAPTER 810
Cable Television

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CROSS REFERENCES

Construction and maintenance of facilities - see M.C.L.A.

Secs. 247.183 et seq.

Cables improperly located; insurance - see M.C.L.A. Sec. 500.3123

810.01 DECLARATION OF PURPOSE.

The purpose of this chapter is to provide fair regulation of cable communications service in the Village in the interest of the public; to promote and encourage adequate, economical and efficient cable communications service to the residents; to promote and encourage harmony between cable communications companies and their subscribers and to provide for the furnishing of cable communications system service to the residents without unjust discrimination, undue preferences or advantages. (Ord. 701. Passed 10-12-81.)

810.02 DEFINITIONS.

As used in this chapter:

- (a) "Person" means and includes one or more individuals, firms, corporations, associations, partnerships or organizations of any kind, and any combination thereof.
- (b) "Cable communications service" means the business, in whole or in part, of receiving, directly or indirectly over the air, and amplifying or otherwise modifying, signals transmitting programs broadcast by one or more signals, sound signals, pictures, visual images, digital signals, telemetry or any other type of closed circuit transmission by means of electrical or light impulses, whether or not directed to originating signals or receiving signals off the air, and redistributing such signals by wire, cable or other means to residents who pay for such service.
- (c) "Cable communications system," "cable system," "cable television system," "CATV" or "system" means a system of coaxial cables or other conductors, antennae, transmitters, fixtures, converters, distribution networks, studios and other equipment used or to be used to originate or receive television or radio signals directly or indirectly off the air and to transmit them via cable to subscribers for a fixed or variable fee, including the origination, receipt, transmission and distribution of voices, sound signals, pictures, visual images, digital signals, telemetry or any other type of closed circuit transmission by means of electrical or light impulses, whether or not directed to originating signals or receiving signals off the air. However, such definition shall not include any separate system which serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of such dwellings, upon approval of the Village Engineer.

(d) "Cable communications company" means any person who owns, controls, operates or manages a cable communications system for the purpose of providing cable communications service to residents, except that such definition shall not include:

(1) A telephone, telegraph or electric utility in a case where it merely leases or rents to a cable communications company utility pole contract space for the placing thereon of wire or cable facilities used in the distribution of television or other signals to the subscribers of such cable communications company; or

(2) A telephone or telegraph utility regulated by the Michigan Public Service Commission or Federal Communications Commission in a case where it merely provides a communications company for the distribution of television signals to the subscribers of such company.

(e) "Board" means Council or its designee. (Ord. 701. Passed 10-12-81.)

810.03 FRANCHISE REQUIRED.

(a) No person shall construct, install, maintain or operate a cable communications system, nor shall any person provide a cable communications service or acquire ownership or control of a cable communications company, without first obtaining a franchise therefor from the Village in the form of a franchise agreement between the Village and the franchisee, which franchise agreement shall include, at a minimum, compliance with the specifications of the Village.

(b) No person shall use, occupy or traverse the streets, alleys, lanes, avenues, boulevards, sidewalks, bridges, viaducts, rights-of-way or any other public place or public way in the Village or any extensions thereof or additions thereto, whether on, above or under the surface of the ground, for the purposes of installing, constructing, maintaining or operating a cable communications system or facilities therefor or for the purpose of furnishing a cable communications service without such person having first obtained a franchise therefor from the Village in the form of a franchise agreement between the Village and the franchisee, which franchise agreement shall include, at a minimum, compliance with all the specifications of this Village.

(c) The specifications required by the Village are minimum requirements of a franchise agreement. Additional requirements including, but not limited to, rates, charges, deposits, specifications regarding required interconnections, studios or other signal origination facilities, number of channels to be equipped and available for immediate use upon initial construction of the system, use of channels by the Village, schools and other educational institutions, quality of community access, availability of equipment to users, required establishment and expansion of service area, other use of channels and other specifications or requirements of a cable communications franchisee or system may be established in the franchise agreement. (Ord. 701. Passed 10-12-81.)

810.04 FRANCHISE APPLICATION; CONTENTS; FEES; ISSUANCE; TRANSFER.

(a) The application for a franchise to install, construct, maintain or operate a cable communications system in the Village or to furnish a cable communications service therein shall be made in writing to Council in such form as may be prescribed. Upon completion, a description and map of the territory within which the cable communications system is to be installed, constructed, maintained or operated or a

cable communications service is to be provided shall be accompanied by a showing of the applicant's legal, financial, technical and other qualifications to be a franchisee, hereunder. Such showing shall contain:

(1) In establishing legal qualifications, if the applicant is other than a single individual, a certified copy of the partnership agreement, articles of association or articles of incorporation, as the case may be, and also, if the applicant is a foreign corporation, a certified copy of its authorization to do business in the State;

(2) In establishing financial qualifications, a copy of the applicant's current balance sheet as of a date not more than sixty days prior to the date of the application. If a loan or other credit arrangement is to be consummated to finance the establishment and operation of the proposed facilities, full particulars relative thereto shall be disclosed, including the identity of the creditor;

(3) In establishing technical qualifications, a statement of the arrangements to ensure the rendition of good service, including the type and kind of facilities to be employed, the technical standards to be followed, the maintenance and repair facilities to be used and the number and description of technical personnel, including copies of any contracts, agreements or arrangements relating to any of the above;

(4) A statement as to the location of the antenna site or sites and the location of any places of business in the Village;

(5) A statement as to any affiliated corporations or business organizations engaged in providing cable communications service, or interlocking directorships or ownerships held by any owners, officers or directors of the applicant with any other business engaged in providing cable communications service;

(6) A detailed statement as to the arrangements and timetable by which the applicant proposes to construct the cable communications facilities and systems, including detailed descriptions of portions of the Village to be served by the system within one year, eighteen months, two years, thirty months, and three years of the granting of a certificate of compliance by the Federal Communications Commission;

(7) The following information as to the programming services and public services which the applicant proposes to provide:

A. The off air signals to be carried initially;

B. The number of channels offered and the potential for diversified services to local government, educational institutions, community groups, householders and local commercial interest; and

C. The projected development of customer and community services, indicating priorities in development and estimated time schedules therefor;

(8) Cost estimates of development, installation and maintenance of the system, which items shall be deemed to include, but are not limited to, the proposed cost of acquisition of the system where approval of a transfer of the franchise has been requested;

(9) Revenue forecasts for the next five years of service;

(10) A proposed schedule of rates for installation charges, monthly service fees and relocation charges; and

(11) Such other information as the Village may request.

The application shall be accompanied by a fee of one thousand dollars (\$1,000), which fee shall be refunded if the applicant is not granted a franchise. If the applicant is granted a franchise, then the fee shall be used for the purpose of dissipation of

Village costs in implementing the franchise. After the application of such fee to such fees and costs, the excess thereof shall be applied to the first annual franchise fee.

(b) Upon the filing of an application and the payment of the fees as prescribed, Council shall consider the application and may request such additional information as it deems necessary to establish the legal, financial, technical and other qualifications of the applicant to provide a cable communications service in the Village.

(c) If Council determines that the applicant possesses the necessary qualifications, legal, financial, technical and otherwise, to reasonably ensure the applicant's ability to satisfactorily install, construct, maintain or operate a cable communications system or to furnish a cable communications service to the residents, Council may issue the applicant a nonexclusive franchise therefor, provided that no franchise shall be issued until the franchise application has been on file and available for public inspection in the office of the Village Clerk for at least thirty days, and until Council has thereafter held a public hearing on such application after due notice of the time and place of such hearing has been given to the public.

(d) In determining whether or not a franchise shall be issued, Council shall take into consideration, among other things, the technical qualifications of the applicant; the financial responsibility of the applicant; the ability of the applicant to perform efficiently the service for which the franchise is requested, including the prior experience, if any, of the applicant in providing cable communications systems or furnishing cable communications service; the proposed rate schedule; the nature and scope of the applicant's proposed system; and the timetables for development of the applicant's proposed system.

(e) No franchise granted hereunder may be sold, transferred or assigned unless such transaction is first approved by Council after receipt of a written application therefor containing the same information in regard to the transferee as would be required of an original applicant. Prior approval of Council shall be required where ownership or control is more than twenty-five percent of such right of control, singularly or collectively. No franchise granted hereunder may be sold, transferred or assigned, nor may more than twenty-five percent of the right of control of the franchise be transferred to a person or group of persons acting in concert, none of whom already own or control twenty-five percent or more of such right of control, singularly or collectively, until such sale, transfer or assignment of franchise or transfer of right of control shall first have been offered to the Village or to a person approved by Council. Such offer shall be made at a price not greater than, and on terms equivalent to, that made to the offer or by a bona fide bidder for such franchise or right of control. The township or the person approved by Council shall accept or reject the offer within ninety days. This provision shall not be deemed to restrict the transfer by bequest of a descent of the stock of the franchisee.

(Ord. 701. Passed 10-12-81.)

810.05 NONEXCLUSIVE FRANCHISE; TERM; FORM.

A franchise issued pursuant to this chapter shall be a nonexclusive franchise for a term of years, not to exceed fifteen years, as Council may approve, and shall be issued in such form as shall be determined by Council.

(Ord. 701. Passed 10-12-81.)

810.06 FEES; REPORTS; RECORDS.

(a) During the term of any franchise granted pursuant to this chapter, the person granted such franchise shall pay to the Village, for the use of its streets, public places and other facilities, for the maintenance, improvement and supervision thereof, and for the regulation activities required by virtue of the franchise, an annual franchise fee in an amount equal to three percent of the annual local gross subscriber revenues. Local gross subscriber revenues are those gross revenues of the franchisee from subscribers in the Village. Local gross subscriber revenues include installation fees, disconnect and reconnect fees and fees for regular cable benefits, including the transmission of broadcast signals and access and origination channels. Local gross subscriber revenues include local gross revenues from pay television, in excess of the fair market value royalty paid by the franchisee therefor, and local leased channel revenues. To the extent that the franchisee's books of account do not reflect the source of any gross subscriber revenue, that portion of gross subscriber revenue allocable to the Village shall be based on the ratio of the number of subscribers in the township to the number of subscribers outside of the Village. Sales tax or other taxes levied directly on a per subscription basis and collected by the franchisee shall be deducted from the local gross revenues before computations of the fee due the Village is made. The Village shall be furnished a statement with each payment, certified as correct by the franchisee, and an annual statement for the entire year, prepared by a certified public accountant. All of the statements shall reflect the total amount of local gross subscriber revenues and the charges, deductions and computations for the period covered by the statement.

(b) Such franchise fee shall be paid annually during the existence of the franchise on or before a date thirty days subsequent to each anniversary date of such franchise at the office of the Village Treasurer during his or her regular business hours. If the Village Treasurer's office is closed on the thirtieth day, then payment may be made during his or her regular business hours on the next following day on which the office is open for business.

(c) The Village may inspect, at all reasonable times, the customer records of any person granted a franchise hereunder from which its franchise fee payments are computed, and may audit and recompute any and all franchise fees paid. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the Village may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation hereunder.

(Ord. 701. Passed 10-12-81.)

810.07 CONSTRUCTION OF FACILITIES; USE OF STREETS.

(a) A franchise granted pursuant to this chapter shall confer upon the grantee named therein the nonexclusive right to erect, install, construct, reconstruct, replace, remove, repair, maintain and operate in, upon, under, above and across the streets, avenues, highways, sidewalks, bridges, other public ways, easements and right-of-ways, as existing as of the date of the grant of such franchise and all subsequent extensions thereof and additions thereto, in and belonging to the Village, all necessary

towers, poles, wires, cables, coaxial cables, transformers, amplifiers, underground conduits, manholes and other television and/or radio conductors, equipment and fixtures for the installation, construction, maintenance and operation of a cable communications system (including audio, video and radio signals) or for the furnishing of a cable communications service.

(b) Prior to the erection or installation of any towers, poles, guys, anchors, underground conduits, manholes or fixtures for use in connection with the installation, construction, maintenance or operation of a cable communications system under a franchise granted pursuant to this chapter, the grantee of such franchise desiring to erect or install such facilities for use in connection with its cable communications system shall first submit to the Village Engineer, for his or her review and approval, a concise description of the facilities proposed to be erected or installed, including engineering drawings, if requested or required, together with a map indicating the proposed location of such facilities. No erection or installation of any tower, pole, guy, anchor, underground conduit, manhole or fixture for use in a cable communications system shall be commenced by any person until approval therefor has been received from the Village Engineer, provided that such approval shall not be unreasonably withheld.

(c) Any person accepting a franchise pursuant to this chapter and erecting or installing towers or poles shall, upon written request by the Village, grant the Village reasonable attachment space upon such towers or poles without rental charge for the attachment of wire or cable owned and used by the Village. However, the Village shall pay any costs incurred by such person in providing attachment space to the Village, including all necessary costs of rearrangement of such person's wires, cables or equipment and tower or pole replacement costs for a larger tower or pole, if required.

(d) Upon the expiration, termination or revocation of any franchise granted pursuant to this chapter, or if any person wishes to otherwise dispose of any tower or pole erected or installed for use in connection with a cable communications system or any portion of such system, the Village retains the first right and option to purchase in place such towers or poles as it may require or such portion of the system for the fair market value thereof. The Village shall be under no obligation to purchase all or any part of the system upon the expiration, termination or revocation for cause of any franchise granted pursuant to this chapter. Further, upon the expiration, termination or revocation for cause of any such franchise, if the Village determines that it does not desire to purchase the system or any part thereof, the franchisee shall have six months from the date of expiration, termination or revocation to remove its towers, poles, wires, cables, fixtures or other facilities from the streets, alleys, public right-of-ways or public places, provided, that such franchisee shall not disturb any underground conduit, manhole or other facility constructed underground. At the expiration of such six-month period, any property not removed by the franchisee shall become the property of the Village to do with as it may choose. Any cost to the Village in removing such property from the streets, alleys, public right-of-ways or public places shall be claimed against the franchise under the performance bond required under Section 810.11(a).

(e) In areas or portions of the Village where transmission or distribution facilities

of public utilities providing telephone service and electric service are underground, or may be placed underground when installed, any person granted a franchise pursuant to this chapter shall likewise install, construct, maintain and operate its transmission and distribution facilities in like manner underground to the maximum extent feasible and permitted by existing technology and conditions, subject to the approval of the Village Engineer as provided in subsection (b) hereof.

(f) All construction, installation, maintenance and operation of any cable communications system or of any facilities employed in connection therewith shall be in compliance with the National Electrical Safety Code, as prepared by the American National Standards Institute (A.N.S.I.), the National Electrical Code of the National Fire Protection Association, the Bell Telephone System's Code of Pole Line Construction, any standards issued by the Federal Communications Commission or other Federal or State regulatory agencies in relation thereto, and applicable regulations of public utilities operating in the Village. Every cable communications system shall be installed, constructed, maintained and operated so as not to endanger or interfere with the safety of persons or property in the Village.

(g) Any opening or obstruction in, disturbance of or damage to the streets, alleys, public right-of-ways or public places by any person in the exercise of any right granted pursuant to this chapter shall be properly guarded by adequate barriers, lights, signals and warnings so as to prevent danger to any person or vehicle using such streets, alleys, public right-of-ways or public places, and shall be properly and promptly repaired, all in a manner specified and approved by the Village Engineer at such person's expense.

(h) Any person owning or maintaining a cable communications system or facilities therefor in or on the streets, alleys, public right-of-ways or public places in the Village shall, at his or her expense and without reimbursement from the Village, upon request of the Village, protect, support, temporarily disconnect, relocate or remove from the street, alley, public right-of-way or public place any property of such person when required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines or tracks, or the construction or change of the transmission or distribution facilities of any telephone or electric public utility or other public improvement. Any such person shall also, at the request of any private party holding an appropriate permit issued by the Village, temporarily raise or lower its cable communications transmission or distribution wires or cables to permit the moving of any building or other structure, provided that the actual expense of such temporary raising and lowering shall be paid in full by the party requesting the same. Notice herein required shall be of the same duration as that notice required of other utilities.

(i) If any person fails to commence, pursue or complete any work required by law or by this chapter, to be done in any street, alley, public right-of-way or public place as designated by the Village Engineer, the Village Engineer may cause such work to be done and such person shall pay to the Village the cost thereof within thirty days of the receipt of an itemized statement of such cost.
(Ord. 701. Passed 10-12-81.)

810.08 STANDARDS OF SERVICE.

(a) Any cable communications company granted a franchise pursuant to this chapter shall install, construct, maintain and operate its cable communications system in accordance with the accepted standards of the industry, in conformity with the state of the art and any standards of operation or maintenance for a cable communications system which may be established or issued by the Federal Communications Commission. Further, it is the intention of Council that any person granted a franchise to furnish a cable communications service to the public in the Village shall possess the financial and technical qualifications necessary to provide a cable communications system which will ensure its subscribers high quality technical and public service.

(b) Every cable communications system franchised under this chapter shall have at least 300 MHz of bandwidth (the equivalent of thirty-five television broadcast channels) available for potential use for the totality of cable services to be offered. The system shall possess the capability for the reception and distribution of world-wide radio signals.

(c) Every cable communications system franchised under this chapter shall maintain bidirectional signal capability for digital audio and video signal transmission on all elements of the system. The extent to which the reverse capability is available to subscriber use shall be specified in the franchise agreement when economically feasible.

(d) Every cable communications system franchised under this chapter, as a minimum, shall maintain and make available, without charge, such public access channels, education access channels and local government access channels as may from time to time be designated, established, required or regulated by the rules and regulations of the Federal Communications Commission, including the expansion of such access channels pursuant to the rules and regulations of the Federal Communications Commission as may from time to time be in force and effect.

(e) Every cable communications system franchised under this chapter shall maintain such capacity, capability and technical standards as will enable it to interconnect with any other cable communications system located in any adjacent community. It is the intention of Council to require that all access channels in the Village area be interconnected to the cable communications system franchised under this chapter.

(Ord. 701. Passed 10-12-81.)

810.09 RATES; DISCRIMINATION.

(a) No cable communications company shall make any unjust or unreasonable discrimination in rates, charges, classifications, promotions, practices, regulations, facilities or services for or in connection with like services, nor subject any person to any prejudice or disadvantage in any respect whatsoever. However, this shall not be deemed to prohibit the establishment of a graded scale of charges and classifications of rates to which any subscriber coming within such classification shall be entitled.

(b) No rate or charge for the installation of basic cable communications service provided in the Village shall be effective, nor shall a cable communications company advertise, collect or receive any rate or charge for its services, until it has filed a complete schedule of rates and charges with the Village Clerk and until such rates and charges have been approved by Council. The rate increase requests made for services of the franchisee hereunder shall be fair and reasonable and not higher than necessary to meet all increased costs of the service (assuming efficient and economical management), and to provide a fair return to the franchisee. The franchisee shall receive no consideration whatsoever for its service other than in accordance with this section of the franchise agreement without the approval of Council. The applicant for a franchise shall include in its application its proposed rates, charges and deposits.

(c) No cable communications system may increase any rate or charge for cable communications service, or alter any classification, contract, rule, regulation or practice so as to result in any increase in its schedule of rates or charges for such service without the prior approval of such increased rate or charge or alteration in its classification, contract, rule, regulation or practice by Council after a public hearing thereon. Such public hearing shall be noticed at least ten days in advance in a newspaper of general circulation in the Village. At such public hearing, the cable

communications company shall set forth in detail the basis for its requested increase in rates or charges for service or alteration in its classification, contract, rule, regulation or practice, including the reasonableness and lawfulness thereof. In the determination of just, reasonable and lawful rates, and charges Council shall consider and give due weight to all lawful elements properly to be considered, including expenses, a reasonable return on the cost of the property used in the service, depreciation, obsolescence, taxes, risks of the business and value of service to the customer. Council shall render its decision with respect to any request by a franchisee for a rate increase within ninety days of the date of such request, unless the franchisee stipulates, in writing, to an extension of the ninety-day period.

(Ord. 701. Passed 10-12-81.)

810.10 FREE SERVICE TO VILLAGE; USE OF SYSTEM DURING EMERGENCIES.

(a) Every cable communications company furnishing service in the Village shall, without charge for installation or service, provide one installation of its cable communications service to each department of the Village and each fire and police station in the Village, and shall, without charge, provide cable communications service to every primary school, secondary school and public library in the franchisee's current service area. However, such service provided without charge shall not be included in determining the number of subscribers in service for computation of the franchise fee as hereinbefore provided.

(b) Every cable communications company providing service in the Village shall make its cable system available, without charge, to the Village, the County, the State, the United States and/or emergency operations agencies for the prompt and simultaneous communication to subscribers and the public in the Village of any information resulting from or required by war, threat of war, natural catastrophe, riot or insurrection necessary to save or protect life or property.

(Ord. 701. Passed 10-12-81.)

810.11 BOND; INSURANCE.

(a) Every cable communications company shall, within thirty days of the grant of a franchise to it pursuant to this chapter, file with the Village Clerk, and at all times thereafter maintain in full force and effect for the term of the franchise, at its expense, a corporate surety bond or such other surety arrangement as Council may approve in the amount of ten thousand dollars (\$10,000), conditioned upon the faithful performance by such cable communications company of its obligations under its franchise as herein set forth, and upon the further condition that if such cable communications company fails to comply with any of the provisions of this chapter, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the Village as result thereof, including the full amount of any compensation, indemnification or cost of removal of any property of such cable communications company as provided in this chapter, plus attorney's fees and costs, up to the full amount of the bond. Such condition shall be a continuing obligation for the duration of any franchise granted under this chapter and any renewal thereof and thereafter until such cable communications company has liquidated all of its obligations with the Village which may have arisen under the franchise or from the exercise of any privilege or right granted thereby. Any bond provided under this section shall provide that at least thirty days prior notice of any intention to not renew, to cancel or to make a material change therein shall be filed with the Village Clerk. Nothing herein shall be construed to excuse faithful performance by any cable communications company or in any way limit its liability for damages or otherwise. The bond required hereunder may be reduced in face amount to five thousand dollars (\$5,000) at such time as the franchisee is actively providing cable communications service to 100 or more subscribers in the Village. Such reduction shall be deemed a material change in the bond.

(b) Any cable communications company, within ninety days of the grant of a franchise pursuant to this chapter, shall file with the Village Clerk, in addition to the bond as hereinbefore set forth:

(1) An agreement to indemnify, defend and save the Village harmless from and against any or all claims, suits, actions or liability for damages which may arise in any way from the grant of a franchise to such cable communications company, or its operation thereunder in the Village, including all expenses incurred by the Village in defending itself against any claim, action or suit;

(2) Proof of a general comprehensive liability insurance policy and an automobile liability insurance policy, issued by companies licensed to do business in the State, protecting the Village, its officers, boards, commissions, agents and employees against liability for loss or damage for personal injury, death and property damage occasioned by the installation, construction, maintenance or operation of a cable communications system in the Village, with minimum liability limits of five hundred thousand dollars (\$500,000) for personal injury or death of any one person and one million dollars (\$1,000,000) for personal injury or death of two or more persons in any one occurrence, and five hundred thousand dollars (\$500,000) for damages to property resulting from any one occurrence. Such policy shall contain a provision that a written notice of cancellation or material change or reduction in coverage shall be given to the Village Clerk at least thirty days in advance of the effective date thereof.

(3) Proof of adequate insurance required by the Michigan Worker's

Compensation Law applicable to it.

(c) No franchise hereunder shall be effective until subsections (a) and (b) hereof have been fully complied with. Failure to file with the Village Clerk, within ninety days after the grant of a franchise, the bond, indemnity agreement, proof of general comprehensive liability insurance policy, proof of automobile liability insurance policy and proof of adequate worker's compensation insurance, or any of them as required by subsections (a) and (b) hereof, shall render the franchise null and void without notice of further proceedings.

(Ord. 701. Passed 10-12-81.)

810.12 TERMINATION; REVOCATION OR SURRENDER OF FRANCHISE.

(a) Any franchise granted pursuant to this chapter shall expire without further proceedings one year after its effective date if the person granted such franchise has not commenced construction of a cable communications system within such period.

(b) If any person granted a franchise pursuant to this chapter fails to provide cable communications service within and throughout the franchise area as required under the franchise agreement, such franchise shall, on the anniversary of the effective date of such franchise next following the twelve-month period during which cable communications service has not been extended as required under the franchise agreement, be deemed revoked without the necessity of Council action, unless prior to such date, such person has applied to Council and Council has, for good cause shown, granted an extension of the construction or service periods set forth in the franchise agreement.

(c) Any franchise granted pursuant to this chapter shall be terminated and cancelled without further proceedings 120 days after the appointment of a receiver or trustee to take over and conduct the business of a cable communications company, whether in receivership, reorganization, bankruptcy or other action or proceedings, unless such receivership or trusteeship has been vacated prior to the expiration of such period. However, such receiver or trustee may apply for a transfer or assignment of such franchise, as provided in Section 810.04(e), within sixty days of the appointment of such receiver or trustee, if duly approved by the court having jurisdiction in the premises. In the case of a foreclosure or other judicial sale of the plant, property or facilities of a cable communications company, with or without the appointment of a receiver or trustee, the franchise granted will be terminated and cancelled without further proceedings upon thirty days written notice of termination served upon the cable communications company and the purchaser thereof, unless within such thirty-day period the purchaser shall apply to the Village for a transfer or assignment to it of the same as provided in Section 810.04(e).

(d) Any franchise granted pursuant to this chapter is revocable at will by Council prior to its expiration. Any franchise granted pursuant to this chapter is revocable prior to its expiration where the cable communications company has failed substantially to comply with any provision or requirement of this chapter or the provisions of the franchise agreement. Council may give a written notice containing full particulars as to the provision or requirement with which compliance is claimed deficient and may allow such cable communications company sixty days to comply. At the expiration of such sixty days, such franchise shall be deemed terminated and revoked, without further Council action, unless such cable communications company requests a hearing before Council upon its alleged failure to substantially comply with any provision or requirement of this chapter or of the franchise agreement. Such hearing shall be public with the cable communications company being permitted to fully participate therein, including the right to introduce testimony and exhibits and to examine and cross examine witnesses. The hearing shall be recorded and at the conclusion thereof Council, if it finds that the cable communications company has not substantially complied with any provision or requirement of this chapter or its franchise agreement, may terminate and revoke the franchise.

(e) Any person granted a franchise pursuant to this chapter may surrender it by written notice of intent to surrender its franchise filed with the Village Clerk not less than sixty days prior to the surrender date. On the surrender date specified in such notice, all rights, privileges and authority under such franchise shall terminate. However, such person shall have twelve months thereafter to remove all towers, poles, wires, cables, fixtures or other facilities from the streets, alleys, public right-of-ways or public places, subject to the right of the Village as set forth in Section 810.07(d). At the expiration of such twelve-month period, any property not removed by such person shall become the property of the Village to do with as it may choose. Any cost to the Village in removing such property from the streets, alleys, public right-of-ways or public places shall be claimed against such person under the performance bond required under Section 810.11(a).

(Ord. 701. Passed 10-12-81.)

Any person granted a franchise pursuant to this chapter shall, within such period as designated in the franchise agreement after the effective date of the issuance of a certificate of compliance, complete construction in the area designated in the franchise agreement. Any person granted a franchise pursuant to this chapter who is unable to construct according to this section for good cause shall notify Council in writing within thirty days of the occurrence of any delay or interruption of construction of more than fifteen working days duration, which interruption or delay would affect an inability to construct according to schedule.

(Ord. 701. Passed 12-12-81.)

810.14 COMPLAINT PROCEDURE; BUSINESS OFFICE.

(a) Council or any person or department designated by it may, upon its own motion or upon complaint of any person or subscriber of a cable communications company, hear and determine all complaints concerning the rates, charges, rules, regulations, practices and quality of service rendered or refused to be rendered, equipment furnished or refused to be furnished or any other matter relating to the service or operation of the cable communications system or any person franchised under this chapter.

(b) Upon the filing of any complaint against any person pursuant to subsection (a) hereof, Council shall give such person at least twenty days notice of the time and place of a hearing to be given such person upon the matter alleged in the complaint. Council may take whatever action is necessary to resolve the complaint and such action shall be binding on all parties.

(c) Every person granted a franchise pursuant to this chapter shall have a business office located in the area, suitably staffed, for purposes, among others, of receiving and investigating complaints, dealing with subscribers, receiving payment for service and otherwise conducting business, unless otherwise provided in the franchise agreement. (Ord. 701. Passed 10-12-81.)

810.15 PRIORITY OF USE; LIMITATIONS ON POWERS.

Any right or privilege granted to any person under this chapter to use or occupy any street, alley, public right-of-way or public place shall be subordinate to any prior lawful occupancy of such property. Nothing in this chapter shall be construed as limiting the Village in any way in the lawful exercise of police power. The grant of a franchise to any person as provided in this chapter shall confer no right, privilege or exemption not specifically presented herein.

(Ord. 701. Passed 10-12-81.)

810.16 SURRENDER OF OTHER FRANCHISES.

By the application for and acceptance of a franchise pursuant to this chapter, a cable communications company agrees that upon subsequent additions of areas to the Village, whether by annexation, consolidation or otherwise, all franchises and/or licenses held by it to provide a cable communications system in such areas shall be surrendered, and any rights or privileges in streets, alleys, public right-of-ways or public places to install, construct, maintain or operate a cable communications system or to furnish a cable communications service in such areas as may subsequently be added to the Village by annexation, consolidation or otherwise shall thereafter be subject to and authorized by this chapter.

(Ord. 701. Passed 10-12-81.)

810.17 REPORTS.

Every cable communications company shall file annually with the Village Engineer a current map showing the exact location of the transmission and distribution facilities and equipment in the Village used by it in providing cable communications service. Such company shall prepare and furnish to the Village, upon written request therefor, at such times and in such form as may be prescribed, such reports as to its operations, finances, facilities and activities as may be reasonably necessary to enable the Village to perform its obligations, functions and duties under this chapter. (Ord. 701. Passed 10-12-81.)

810.18 RIGHTS OF VILLAGE; INCORPORATION OF STATE STATUTES.

Any franchise granted under this chapter is made subject to all applicable provisions of law relating to the Village and ordinances thereof, and is specifically subject to the rights and powers of the Village on and limitations upon the cable communications company holding such franchise as are set forth in the statutes of the State pertaining to villages, which statutes are herein incorporated by reference. Such cable communications company shall abide by and be bound by such rights, powers and limitations, and any franchise granted under this chapter constitutes and shall be considered as a public utility franchise. A cable communications company shall be deemed to be a public utility, except for purposes of rate increase and programming.

(Ord. 701. Passed 10-12-81.)

810.19 CABLE COMMUNICATIONS COMMISSION.

(a) Council may establish a commission to be known as the Cable Communications Commission. Council shall solicit from the public and from the franchisee names of persons interested in serving on the Commission, but is not limited to names thereby submitted.

(b) The Commission shall consist of five residents of the Village appointed by

Council. Each member shall serve a term of three years. However, appointments to the initial Commission shall be two members for a term of three years; two members for a term of two years; and one member for a term of one year.

Any vacancy in office shall be filled by Council for the remainder of the term. No employee or person with ownership interest in a cable television franchise granted pursuant to this chapter shall be eligible for membership on the Commission. Members of the Commission may be compensated at a rate to be determined by Council. Such rate of compensation, if any, shall be established and may be revised from time to time by resolution of Council.

(c) The Commission, in addition to the functions and responsibilities that Council may delegate to it from time to time by resolution, shall have the following functions:

(1) To discuss this chapter and franchises hereunder with prospective franchise applicants;

(2) To advise Council on applications for franchises;

(3) To advise Council on matters which might constitute grounds for revocation of a franchise under this chapter;

(4) To recommend to Council, after a hearing, resolutions of disputes between franchisees, between franchisees and subscribers, between franchisees and access users, and between franchise users;

(5) To advise Council on the regulation of rates under this chapter and to make recommendations on requested changes in rates, services or classifications;

(6) To recommend to Council a general policy relating to access channels with a view to maximizing the diversity of programs and services to subscribers;

(7) To encourage the use of access channels by institutions, groups and individuals in the Village. Council shall budget a minimum of eighty percent of the moneys to be received from cable franchise fees for use by the Commission to encourage the use of access channels. Such budget funds shall be kept by or under the control of the Village Treasurer, and the Village Treasurer shall draw checks on the account only when a majority of the members of the Commission have authorized such an expenditure. Notwithstanding the foregoing, funds remaining in such account by the end of each calendar year shall be transferred by the Village Treasurer to the General Fund of the Village unless otherwise determined by Council;

(8) To encourage and supervise interconnection of systems;

(9) To review and report to Council concerning records and reports which the franchisee is required to submit under this chapter;

(10) To prepare an annual budget and, prior to adopting the same, to conduct a public hearing thereon. The Commission shall also prepare an annual report to Council including an accounting of budgeted fees received and distributed by the Commission and a report of the type and amount of use of access channels.

(11) To conduct evaluations of the system at least every three years and to make recommendations to Council regarding amendments to this chapter or to the franchise agreement.

(Ord. 701. Passed 10-12-81.)

810.20 NONLIABILITY OF VILLAGE.

Any person granted a franchise pursuant to this chapter will have no recourse

whatsoever against the Village, its officers, councils, commissions, agents or employees for any loss, cost expense or damage arising out of any provision or requirement of this chapter or the enforcement thereof.

(Ord. 701. Passed 10-12-81.)

810.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty if provided.)

CHAPTER 812
Circuses, Shows and Exhibitions

812.01	Permit required.	812.04	Immoral or indecent activities.
812.02	Permit fee.	812.05	Bungee jumping.
812.03	Exemptions.	812.99	Penalty.

CROSS REFERENCES

Carnival rides; inspection, licensing, regulation and safety devices - see M.C.L.A. 408.651 et seq.
Municipal police regulations re theaters and shows - see M.C.L.A. Secs. 431.201, 431.202
Masks and disguises - see M.C.L.A. Sec. 750.396
Adult entertainment - see P. & Z. 1272.06

812.01 PERMIT REQUIRED.

No person shall act, perform, exhibit or maintain a circus, tent show, theatrical exhibition or performance, or a street parade in connection therewith, without first obtaining a permit therefor from the Village Clerk, except such as may be exhibited or performed in a recognized theater, hall, gymnasium or exhibition center.

812.02 PERMIT FEE.

The fee for the permit required by Section 812.01 shall be one hundred dollars (\$100.00). If the permit is issued for a period of time exceeding two days, the fee for such permit shall be fifty dollars (\$50.00) per day for each day the circus, tent show, theatrical exhibition or performance, or street parade in connection therewith, is to be held.

812.03 EXEMPTIONS.

This chapter shall not extend to any lecture upon a scientific, religious, historical or literary subject, or to any concert or entertainment, the proceeds of which are to be applied for the benefit of any religious or charitable purpose. This chapter shall not be construed as in any manner authorizing the exhibition of any boxing or sparing match or any immoral, indecent or obscene performance, exhibition, picture or device.

812.04 IMMORAL OR INDECENT ACTIVITIES.

No person shall act, perform, exhibit or engage in assisting therein any sport, public exhibition, entertainment, show, amusement or performance whatever of any immoral, indecent or obscene character. No person shall exhibit any indecent, immoral or obscene picture or maintain in a public place any machine containing such a picture.

812.05 BUNGEE JUMPING.

Bungee jumping is prohibited within the Village.
(Ord. 812-A. Passed 8-10-92.)

812.99 PENALTY.

(a) Municipal Civil Infraction. Whoever violates or fails to comply with any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to payment of a civil fine of not less than fifty dollars (\$50.00), reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction. Repeat offenses under this chapter shall be subject to increased fines as provided below.

(b) Increased Civil Fines. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this chapter. As used in this chapter, "repeat offense" means a second (or any subsequent) Municipal civil infraction violation of the same requirement or provision committed by a person within any eighteen-month period and for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense shall be as follows:

(1) The fine for any offense which is a first repeat offense shall be no less than two hundred fifty dollars (\$250.00), plus reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than five hundred dollars (\$500.00), plus reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.

(Res. 96-117. Passed 12-9-96.)

CHAPTER 814
Outdoor Assemblies

814.01 Purpose.	814.06 Time limit for acting on application.
814.02 Definitions.	814.07 Denial.
814.03 Prohibited acts.	814.08 Posting; information thereon.
814.04 License required.	814.09 Revocation
814.05 Application; required information; fee.	814.99 Penalty.

814.01 PURPOSE.

The City Council finds and declares that the interests of the public health, safety and welfare of the citizens of the City require the regulation, licensing and control of assemblage of large numbers of people in excess of those normally drawing upon the health, sanitation, fire, police transportation, utility and other public services regularly provided in this City.

(Ord. 2003-09. Passed 5-12-03; Ord. 2011-01. Passed 5-9-11.)

814.02 DEFINITIONS.

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

- (a) "Attendant" means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.
- (b) "Licensee" means any person to whom a license is issued pursuant to this chapter.
- (c) "Outdoor assembly (assembly)" means any event, which includes theatrical exhibition, public show, display, entertainment, amusement or other exhibition including, but not limited to, musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:
 - (1) An event which is conducted or sponsored by a governmental unit or agency on public owned land or property;
 - (2) An event held entirely within the confines of a permanently enclosed and covered structure.
- (d) "Sponsor" means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.

(Ord. 2003-09. Passed 5-12-03.)

814.03 PROHIBITED ACTS.

- (a) It shall be unlawful for a licensee, his or her employee, or agent to knowingly:
- (1) Advertise, promote or sell tickets to, conduct, or operate an assembly without first obtaining a license as provided in Section 814.05;
 - (2) Conduct or operate an assembly in such a manner as to create a public or private nuisance;
 - (3) Conduct or permit, with the assembly, any obscene display, exhibition, show, play, entertainment or amusement;
 - (4) Permit any person on the premises to cause or create a disturbance in, around, or near the assembly by obscene or disorderly conduct;
 - (5) Permit any person to unlawfully consume, sell, or possess intoxication liquor while on the premises;
 - (6) Permit any person to unlawfully use, sell or possess any narcotics, narcotic drugs, drugs, or other controlled substance.

(b) Any of the violations enumerated in division (a) is a separate offense, is a nuisance per se immediately enjoined in the circuit court, and is punishable as provided in Section 814.99.

(c) It is further provided that any of the violations enumerated in division (a) is a sufficient basis for revocation of the license and for the immediate enjoining, in the circuit court, of the assembly.

(Ord. 2003-09. Passed 5-12-03.)

814.04 LICENSE REQUIRED.

(a) A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in the City unless he or she shall have first made application for, and obtained, as prescribed in Section 814.05, a license for each such assembly.

(b) An established business will be allowed to offer entertainment after an annual permit, that is approved by the Police Chief, with a fee set by the City Council, is obtained. An approved permittee shall abide by Chapter 666 and abide by all noise and time restrictions therein.

(c) An established business will be allowed to offer entertainment until 1:00 a.m., during special events and holidays, after a special permit approved by the Police Chief, with a fee set by Council.

(Ord. 2003-09. Passed 5-12-03; Ord. 2011-01. Passed 5-9-11; Ord. 2016-06. Passed 6-13-16; Ord. 2018-2. Passed 6-11-18.)

814.05 APPLICATION; REQUIRED INFORMATION; FEE.

(a) Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the Chief of Police and shall be made at least ten days prior to the date of the proposed assembly.

(b) Each application shall be accompanied by a nonrefundable fee as established by resolution of the City Council from time to time and shall include at least the following:

- (1) The name, age, residence and mailing address of the person making the application, whether the person making the application is a partnership, corporation or other association.
- (2) A statement of the kind, character, and type of proposed assembly and a list of names of all performers.
- (3) The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his or her consent to use the site for the proposed assembly.
- (4) The dates and hours during which the proposed assembly is to be conducted. (NOTE: No performance shall extend beyond 11:00 p.m. unless specifically authorized in the license).
- (5) An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering of other methods which will be used for accounting purposes. (Ord. 2003-09. Passed 5-12-03; Ord. 2011-01. Passed 5-9-11.)

814.06 TIME LIMIT FOR ACTING ON APPLICATION.

Within five days of the filing of the application the Chief of Police shall issue, set conditions prerequisite to the issuance of, or deny, a license. The council may require that adequate security or insurance be provided before a license is issued.

(Ord. 2003-09. Passed 5-12-03.)

814.07 DENIAL.

(a) The application shall be denied if the applicant fails to comply with any or all requirements of this chapter, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or

(b) The application shall be denied if the applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document. (Ord. 2003-09. Passed 5-12-03.)

814.08 POSTING; INFORMATION THEREON.

A license shall specify the name and address of the license, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this chapter. It shall be posted

in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.

(Ord. 2003-09. Passed 5-12-03.)

814.09 REVOCATION.

The Chief of Police may revoke a license whenever the licensee, his or her employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth in this chapter or with any and all provisions, regulations, ordinances, statutes, or other laws incorporated in this chapter by reference.

(Ord. 2003-09. Passed 5-12-03.)

814.99 PENALTY.

(a) A person who violates this chapter is responsible for a municipal civil infraction subject to payment of a civil fine of not more than \$100.00, reimbursement to the City for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction. Repeat offenses under this chapter shall be subject to increased fines as provided in division (b) below.

(b) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this chapter. As used in this chapter, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement of provision (i) committed by a person within any 18 month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense shall be as follows:

- (1) The fine for any offense that is a first repeat offense shall be no less than \$250.00 plus reimbursement to the City for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.
- (2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500.00 plus reimbursement to the City for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.

(Ord. 2003-09. Passed 5-12-03; Ord. 2011-01. Passed 5-9-11.)

CHAPTER 815
Outdoor Sales

815.01 Outdoor sales regulated.

815.99 Penalty.

815.01 OUTDOOR SALES REGULATED.

No outside sale of goods, articles, services or food and beverages shall be permitted from the hours of 12:00 midnight to 7:00 a.m. unless prior written approval is granted by the Village Council. Sales from self-serve vending devices are exempt.
(Ord. 2008-03. Passed 7-14-08.)

815.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 818
Fortunetellers

818.01 Fortunetelling for consideration prohibited. 818.99 Penalty.

CROSS REFERENCES

Theft - see GEN. OFF. 666.01(12)

818.01 FORTUNETELLING FOR CONSIDERATION PROHIBITED.

No person shall, for consideration, predict future events, or pretend to enable another to recover lost or stolen property, give success in business, enterprise, speculation or games of chance, or make one person dispose of property in favor of another, by cards, tokens, trances, inspection of the hands or the skull, mind reading, consulting the movements of the heavenly bodies or other means.

818.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 820
Garage Sales

820.01	Garage sale defined.	820.04	Permit application.
820.02	Permit required; fee.	820.05	General prohibitions.
820.03	Scope of permit; period of sale; removal of personal property from public view after permit expiration.	820.06	Exemptions.
		820.99	Penalty.

CROSS REFERENCES

Sales - see M.C.L.A. Secs. 440.2101 et seq.

Secondhand dealers - see M.C.L.A. Secs. 445.401 et seq.

Abandoned vehicle sales - see TRAF. 410.04(UTC Sec. 2.5g)

Peddlers and solicitors - see B.R. & T. Ch. 856

820.01 GARAGE SALE DEFINED.

As used in this chapter, “garage sale” means a home business conducted within or on premises used as a residence for the purpose of transferring ownership of tangible property of the resident and/or owner to a purchaser, or a regularly established business in the Village where merchandise is sold or exchanged in the ordinary course of business.

(Ord. 820. Passed 3-21-94; Ord. 2006-08. Passed 9-11-06.)

820.02 PERMIT REQUIRED; FEE.

No property or premises in the Village shall be used for the purpose of conducting a garage sale thereon unless the owner or occupant of such property or premises first obtains a permit therefor from the Village office. Such permit shall be known as a “Garage Sale Permit.” There shall be no fee charged for the first permit. The fee for every permit issued thereafter shall be two dollars (\$2.00).

(Ord. 820. Passed 3-21-94.)

820.03 SCOPE OF PERMIT; PERIOD OF SALE; REMOVAL OF PERSONAL PROPERTY FROM PUBLIC VIEW AFTER PERMIT EXPIRATION.

The permit shall authorize the purchaser thereof to conduct a garage sale on the subject premises for not more than three consecutive days, and the three consecutive days shall be specified on the permit. After the expiration of such period, all personal property offered for sale shall be placed inside a structure and not within the view of the general public.

(Ord. 820. Passed 3-21-94.)

820.04 PERMIT APPLICATION.

The permit information to be filed with the Village office pursuant to this chapter shall be as follows:

- (a) The name of the person conducting the sale;
- (b) The name of the owner of the property on which the sale is to be conducted and the consent of the owner if the applicant is other than the owner;
- (c) The location at which the sale is to be conducted;
- (d) The number of days of the sale;
- (e) The date and nature of any past sale; and
- (f) A statement or affirmation by the applicant that the information given is in full and true.

820.05 GENERAL PROHIBITIONS.

(a) No garage sale shall be conducted on the same property more than five times in any twelve-month period.

(b) No garage sale shall be conducted at any time other than between the hours of 8:00 a.m. and 8:00 p.m.

(c) No garage sale shall offer any merchandise for sale that has been purchased for purposes of resale.

(Ord. 820. Passed 3-21-94.)

820.06 EXEMPTIONS.

(a) A charitable, religious or fraternal organization, or a nonprofit corporation, shall be required to comply with the provisions of this chapter, except that it shall not be required to pay the two dollar (\$2.00) fee.

(b) The provisions of this chapter shall not apply to any person selling or advertising for sale any items of personal property which are specifically named or described in the advertisement, which separate items do not exceed five in number.

(Ord. 820. Passed 3-21-94; Ord. 2006-11. Passed 9-11-06)

820.99 PENALTY.

(a) Municipal Civil Infraction. Whoever violates or fails to comply with any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to payment of a civil fine of not less than fifty dollars (\$50.00), reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction. Repeat offenses under this chapter shall be subject to increased fines as provided below.

(b) Increased Civil Fines. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this chapter. As used in this chapter, "repeat offense" means a second (or any subsequent) Municipal civil infraction violation of the same requirement or provision committed by a person within any eighteen-month period and for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense shall be as follows:

- (1) The fine for any offense which is a first repeat offense shall be no less than two hundred fifty dollars (\$250.00), plus reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.
- (2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than five hundred dollars (\$500.00), plus reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.

(Res. 96-117. Passed 12-9-96.)

CHAPTER 821
Motor Vehicle Sales

- 821.01 Definitions. 821.99 Penalty.
821.02 Motor vehicles for sale.
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821.01 DEFINITIONS.

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

- (a) "Motor vehicle" means a vehicle as defined by the Michigan Motor Vehicle Code.
- (b) "Motor vehicle sale" means any sale of a motor vehicle not otherwise regulated or licensed by these Codified Ordinances or state law, conducted on private property.
- (c) "Person" means an individual or individuals, corporation, partnership, or any other legal entity, and refers to all members of a household residing at the same address.

(Ord. 2003-05. Passed 3-10-03; Ord. 2006-09. Passed 9-11-06.)

821.02 MOTOR VEHICLES FOR SALE.

(a) No more than one motor vehicle shall be placed for sale on private property unless the person offering the motor vehicle for sale has a motor vehicle dealer's license.

(b) No motor vehicle placed for sale shall remain on the property more than six months unless the motor vehicle is duly licensed, insured and operational for the highway.

(c) No person shall have more than two motor vehicles for sale on their property in any calendar year.

(Ord. 2003-05. Passed 3-10-03; Ord. 2006-09. Passed 9-11-06.)

821.99 PENALTY.

(a) A person who violates this chapter is responsible for a municipal civil infraction subject to payment of a civil fine of not more than one hundred dollars (\$100.00), reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by division (b) below.

(b) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this chapter. As used in this chapter, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 18-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense shall be as follows:

- (1) The fine for any offense that is a first repeat offense shall be no less than one hundred fifty dollars (\$150.00) plus reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.
- (2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than two hundred fifty dollars (\$250.00) plus reimbursement to the Village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.

(Ord. 2003-05. Passed 3-10-03.)

CHAPTER 856
Peddlers and Solicitors

<p>856.01 Uninvited peddling and soliciting prohibited.</p> <p>856.02 Enforcement.</p> <p>856.03 Invited peddling and soliciting; registration required.</p> <p>856.04 Premises and display of permit.</p> <p>856.05 Exemptions.</p> <p>856.06 Time limitations.</p> <p>856.07 Revocation of permit.</p>	<p>856.08 Peddling from vehicles on streets, alleys and sidewalks prohibited.</p> <p>856.09 Sidewalk sales.</p> <p>856.10 Obstruction of sidewalks.</p> <p>856.11 Crying one's wares and other means of attracting attention prohibited.</p> <p>856.12 Safety requirements.</p> <p>856.99 Penalty.</p>
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CROSS REFERENCES

Transient merchants - see M.C.L.A. Secs. 445.371 et seq.

Sales of alcoholic beverages to minors - see GEN. OFF. 604.01, 604.02

Garage sales - see B.R. & T. Ch. 820

856.01 UNINVITED PEDDLING AND SOLICITING PROHIBITED.

The practice of going in and upon private or public property in the City by canvassers, solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise and/or services, not having been requested or invited to do so by the owners or occupants of such private or public property, for the purpose of soliciting orders for the sale of goods, wares, merchandise or services or for the purpose of disposing of or peddling or hawking the same, is hereby declared to be a nuisance and is prohibited.

(Ord. 2012-01. Passed 4-9-12.)

856.02 ENFORCEMENT.

(a) The Chief of Police and the Police Department are hereby required and directed to suppress and abate any such nuisance as is described in Section 856.01.

(b) Any police officer may require any person seen peddling, soliciting or canvassing and who is not known by the officer to be duly licensed, to produce his or

her peddlers, canvassers, or solicitors license and to enforce the ordinances, against any person found violating the same.

(Ord. 2003-06. Passed 3-10-03; Ord. 2005-03. Passed 4-11-05; Ord. 2006-02. Passed 5-8-06; Ord. 2007-03. Passed 6-11-07; Ord. 2009-07. Passed 5-11-09; Ord. 2012-01. Passed 4-9-12.)

856.03 INVITED PEDDLING AND SOLICITING; REGISTRATION REQUIRED.

(a) No canvasser, solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise or services who is invited or requested to go in or upon private or public property in the City for the purpose of soliciting orders for the sale of goods, wares, merchandise or services or for the purpose of disposing of or peddling the same, shall go in or upon such private or public property without first registering in the office of the Chief of Police and obtaining a permit to do so from him or her.

(b) At least thirty (30) days prior to the date of commencement of sales, for which the permit is intended to be used, an application for the permit must be filed with the Chief of Police.

- (1) The application shall be provided by the Chief of Police. No license shall be issued to any applicant unless all fees are paid and the applicant complies with M.C.L.A. 445.371 et seq.
- (2) If the applicant intends to handle or sell anything edible by human beings for immediate consumption, he or she shall also contact the Huron County Health Department at least ten days prior to the submission of the application.
- (3) At the time of filing, a permit fee as set by the City Council shall be paid to the Chief of Police as outlined as follows: (ref: City Fee Schedule)
 - A. Transient vendor fee.
 - B. City business fee. For businesses that are required to get temporary food permit(s) from the Huron County Health Department or are moving their business to another location that is not on their main business property.
- (4) At the time of filing, the applicant must supply the following:
 - A. A proof of a general liability insurance policy with a minimum limit of one million dollars (\$1,000,000).
 - B. A certificate of insurance naming the City as additional insured, with a thirty-day written notification of cancellation.
- (5) Applicant must provide proof of garbage and/or refuse means and methods of disposal. Clean-up of property must be done after vending is complete. Washing of grease and other debris into the City drains, sidewalks, and streets or onto another's property is prohibited.

- (6) The following rules shall apply to all food vendors who have been granted a food service vendor permit:
 - A. At least one temporary porta-potty shall be required for each food serving vendor permit;
 - B. Required portable bathroom facilities must be both visible and accessible to the public.
- (7) Non-food service vending permittees must have written permission from the property owner if inside bathrooms are available or provide a minimum of one porta-potty.
- (8) Any application submitted after the 30 days prior to the event shall carry a permit fee that is double the ordinary fee. No application will be accepted by the Chief of Police if the application is received within seven days of the desired sale date.
- (9) The Police Chief may set additional permit application requirements, at his or her discretion, other than what is listed.
(Ord. 90-3. Passed 9-10-90; Ord. 856-A. Passed 8-10-92; Ord. 2003-06. Passed 3-10-03; Ord. 2012-01. Passed 4-9-12; Ord. 2013-02. Passed 5-13-13; Ord. 2016-10. Passed 12-12-16.)

856.04 PREMISES AND DISPLAY OF PERMIT.

No permittee shall go in or upon any premises not indicated on his or her permit. Each permittee shall at all times while peddling, vending or hawking in the City, carry upon his or her person his or her permit and the same shall be exhibited by such permittee whenever he or she is requested to do so by any police officer or by any person solicited.

(Ord. 2003-06. Passed 3-10-03; Ord. 2012-01. Passed 4-9-12.)

856.05 EXEMPTIONS.

This chapter shall not be applicable to officers or employees of the City, County, State or Federal Government, or any subdivision thereof, when on official business; nor to farmers or truck gardeners selling or offering for sale any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated; nor to any person under the age of eighteen years when such person is engaged in peddling or soliciting in the neighborhood of his or her residence, on foot and under the direct supervision of any school or recognized charitable or religious organization.

Fees may be exempted or reduced for events approved by the City Council. Requests for exemptions must be submitted for approval at the City Council meeting at least one month prior to the event.

(Ord. 2003-06. Passed 3-10-03; Ord. 2004-02. Passed 1-12-04; Ord. 2004-03. Passed 7-12-04; Ord. 2006-02. Passed 5-8-06; Ord. 2012-01. Passed 4-9-12; Ord. 2016-10. Passed 12-12-16.)

856.06 TIME LIMITATIONS.

(a) No activity permitted under authority of this chapter shall commence prior to 7:00 a.m. or continue after 12:00 midnight. This time limitation shall be stated on the permit.

(b) Permits shall not be issued for more than five consecutive days.

(c) Vendors shall have one day prior to the sale for set up and the day after the sale for removal.

(d) There shall be no more than two permits issued to any individual, company or business in any calendar year.

(Ord. 856-A. Passed 8-10-92; Ord. 2003-06. Passed 3-10-03; Ord. 2005-03. Passed 4-11-05; Ord. 2008-04. Passed 7-14-08; Ord. 2012-01. Passed 4-9-12.)

856.07 REVOCATION OF PERMIT.

Permits issued under this chapter may be revoked by the Chief of Police, or his or her designee, for the following reasons:

- (a) Fraud or misrepresentation contained in the registration;
- (b) Fraud, misrepresentation or false statements made in the course of conducting the activity;
- (c) Violation of any of the provisions of this chapter or of these Codified Ordinances or of any State or Federal law;
- (d) Conducting the business in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public;
- (e) The permittee ceases to possess the qualifications and character required in this chapter for the original registration.

The revocation of a permit shall be in addition to any penalty provided in Section 856.99 or any other penalty that may be imposed upon the permittee.

(Ord. 2012-01. Passed 4-9-12.)

856.08 PEDDLING FROM VEHICLES ON STREETS, ALLEYS AND SIDEWALKS PROHIBITED.

Unless authorized by the City Council, no person shall park a vehicle of any kind, including trailers, commercial vehicles, house trailers or boats, on any public street, for the purpose of peddling or selling merchandise from such vehicle, nor shall any person sell from a push- or peddle-driven cart or wagon on any street, alley or sidewalk within the City. This section does not pertain to newspaper delivery persons utilizing bicycles, wagons, sleds, etc.

(Ord. 856-A. Passed 8-10-92; Ord. 2003-06. Passed 3-10-03; Ord. 2012-01. Passed 4-9-12.)

856.09 SIDEWALK SALES.

The display of small merchandise for sidewalk sales by established businesses is permitted where such display does not interfere with pedestrian traffic or with the display of others, and where such display does not constitute a fire hazard or a hazard to the health and welfare of the public.

(Ord. 2012-01. Passed 4-9-12.)

856.10 OBSTRUCTION OF SIDEWALKS.

All vendors permitted under this chapter shall maintain a minimum five-foot distance off the sidewalk when placing tables, tents, equipment or any other object

used in their transactions with the public so as to not interfere with the safe traversing of pedestrians on the sidewalk in front of their stand. If no sidewalk exists at the point of sale, a minimum five-foot distance from the roadway or right-of-way is required. (Ord. 2012-01. Passed 4-9-12.)

856.11 CRYING ONE'S WARES AND OTHER MEANS OF ATTRACTING ATTENTION PROHIBITED.

No person shall shout or cry out his or her goods or merchandise, or blow any horn, ring any bell or use any other similar device to attract the attention of the public. (Ord. 2012-01. Passed 4-9-12.)

856.12 SAFETY REQUIREMENTS.

All of the following are requirements for those that are preparing food under this chapter (or other outside food preparation) using propane, natural gas or other type of cooking fuel:

- (a) On file with the application shall be two emergency contact numbers for use during emergencies.
- (b) A minimum of a ten-pound fire extinguisher, ABC type, shall be on location placed away from the fire source available for immediate use.
- (c) All cooking fuel tanks shall be equipped with protection collars around the valves.
- (d) Tanks shall be staked or otherwise secured so they will not tip over, fall or be subject to being struck by anything.
- (e) Tank hoses must have protective covering that will ensure hoses will not be broken, cut or damaged in any way.
- (f) Inspections will be performed to ensure these and all safety measures will be followed.
- (g) Distance from open flame. Cooking fuel or any other flammable liquid should be kept a safe distance away from any source of flame as determined by the Fire Chief or the Chief's designee.

(Ord. 2007-07. Passed 6-11-07; Ord. 2012-01. Passed 4-9-12.)

856.99 PENALTY.

Any person, firm or corporation convicted of violating any provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed \$500.00 or by imprisonment in the county jail for a period of not to exceed ninety days or both, such fine and imprisonment in the discretion of the Court. (Res. 96-117. Passed 12-9-96; Ord. 2003-06. Passed 3-10-03.)

CHAPTER 860
Adult Entertainment Establishments

860.01	Definitions.	860.08	Revocation or suspension of license.
860.02	Licenses.	860.09	Physical layout of adult entertainment establishment.
860.03	Application for license.	860.10	Responsibilities of the operator.
860.04	Standards for issuance of license.	860.99	Penalty.
860.05	Fee.		
860.06	Display of license or permit.		
860.07	Renewal of license or permit.		

860.01 DEFINITIONS.

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

- (a) “Adult bookstore.” An establishment that has a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas;
 - (2) Instruments, devices, or paraphernalia designed for use as part of or in connection with specified sexual activities.
- (b) “Adult motion picture theater.” An establishment, where, for any form of consideration, films, motion pictures, videos, slides, or other photographic reproductions are shown and in which a substantial portion of the total presentation is devoted to the showing of material characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual devices.
- (c) “Massage parlor.” An establishment or place which is primarily in the business of providing massage services and which is not a myotherapy establishment.
- (d) “Specified anatomical areas.” Specified anatomical areas means and includes any one or more of the following:
 - (1) Less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- (e) “Specified sexual activities.” Includes any one or more of the following:
- (1) The fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (2) Human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy;
 - (3) Human masturbation, actual or simulated;
 - (4) Human excretory functions as part of or as related to any of the activities described above; and
 - (5) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to any of the activities described above.
- (f) “Substantial portion.” A use or activity accounting for more than twenty percent of any one or more of the following: stock-in-trade, display space, floor space, or viewing time, movie display time, or entertainment time measured per month.
(Ord. 2007-08. Passed 6-11-07.)

860.02 LICENSES.

(a) Requirement. From and after the effective date of this chapter, no adult bookstore, adult motion picture theater or massage parlor, hereinafter referred to as adult entertainment establishments, shall be operated or maintained in the Village without first obtaining a license to operate issued by the Village.

(b) Limitation. No license shall be issued to any adult entertainment establishment located within 1,000 feet of any school or church. A license may be issued only for one adult entertainment establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult entertainment establishment must have a license for each.

(c) Non-transferability. No license or interest in a license may be transferred to any person, partnership or corporation.

(d) Exclusions. All private schools and public schools located within the Village are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

(Ord. 2007-08. Passed 6-11-07.)

860.03 APPLICATION FOR LICENSE.

(a) Any person, partnership, or corporation desiring to secure a license shall make application to the Village Clerk. The application shall be dated by the Village Clerk. A copy of the application shall be distributed promptly by the Village Clerk to the Department of Public Safety and to the applicant.

(b) The application for a license shall be upon a form provided by the Village Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers and directors of a corporate applicant and all stockholders including more than five percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- (1) Name and address, including all aliases.
- (2) Date of birth.
- (3) Social Security number.
- (4) Michigan vehicle operator's license number.
- (5) Written proof that the individual is at least eighteen years of age.
- (6) All residential addresses of the applicant for the past three years.
- (7) The applicant's height, weight, color of eyes and hair.
- (8) The business, occupation, or employment of the applicant for five years immediately preceding the date of application.
- (9) Whether the applicant previously operated in this or any other county, city, or state under an adult entertainment establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subjected to the suspension or revocation.
- (10) All criminal statues, whether Federal or State, or city ordinance violation convictions, forfeiture of bond, or pleadings of nolo contendere on all crime charges, except minor traffic violations.
- (11) Fingerprints and two portrait photographs at least two inches by two inches of the applicant.
- (12) The address of the adult entertainment establishment to be operated by the applicant.
- (13) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and the name and address of all shareholders owning more than five percent of the stock in said corporation and all officers and directors of the corporation.

(c) Within twenty-one days of receiving an application for a license the Village Clerk shall notify the applicant whether application is granted or denied.

(d) Whenever an application is denied, the Village Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held within thirty days thereafter before the Village Council, as hereinafter provided.

(e) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Clerk.
(Ord. 2007-08. Passed 6-11-07.)

860.04 STANDARDS FOR ISSUANCE OF LICENSE.

(a) To receive a license to operate an adult entertainment establishment, an applicant must meet the following standards:

- (1) If the applicant is an individual:
 - A. The applicant shall be at least eighteen years of age.
 - B. The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
 - C. The applicant shall not have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.
- (2) If the applicant is a corporation:
 - A. All officers, directors, and stockholders required to be named under Section 860.03(b) shall be at least eighteen years of age.
 - B. No officer, director, or stockholder required to be named under Section 860.03(b) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
 - C. No officer, director, or stockholder required to be named under Section 860.03(b) shall have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.
- (3) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest:
 - A. All persons having a financial interest in the partnership, joint venture, or other type of organization shall be at least eighteen years of age.
 - B. No person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral

turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

- C. No person having a financial interest in the partnership, joint venture, or other type of organization shall have been found to have violated any provision of this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.
- D. No license shall be issued unless the Police Department has investigated the applicant's qualifications to be licensed. The results of the investigation shall be filed in writing with the Village Clerk no later than fourteen days after the date of the application.
(Ord. 2007-08. Passed 6-11-07.)

860.05 FEE.

A license fee, that will be set by the Village Council, shall be submitted with the application for a license. If the application is denied, one-half of the fee shall be returned.

(Ord. 2007-08. Passed 6-11-07.)

860.06 DISPLAY OF LICENSE OR PERMIT.

The license shall be displayed in a conspicuous public place in the adult entertainment establishment.

(Ord. 2007-08. Passed 6-11-07.)

860.07 RENEWAL OF LICENSE OR PERMIT.

(a) Every license issued pursuant to this chapter will terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Village Clerk. The application for renewal must be filed not later than sixty days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Village Clerk. A copy of the application for renewal shall be distributed promptly by the Village Clerk to the Police Department and to the business operator. The application for renewal shall be upon a form provided by the Village Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(b) A license renewal fee of two hundred fifty dollars (\$250.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.

(c) If the Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Village Clerk.
(Ord. 2007-08. Passed 6-11-07.)

860.08 REVOCATION OR SUSPENSION OF LICENSE.

(a) The Village Council can revoke or suspend a license or permit for any of the following reasons:

- (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
- (2) The operator or any employee of the operator has violated any provision of this chapter or any rule or regulation adopted by the Village Council pursuant to this chapter, provided however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty days if the Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
- (3) The operator becomes ineligible to obtain a license or permit or the operator is convicted of or pleads nolo contendere to any felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature.
- (4) Any cost or fee required to be paid by this chapter is not paid.
- (5) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult entertainment establishment.
- (6) The operator fails to maintain a special use permit for the site as required by the zoning ordinance or fails to comply with conditions of the special use permit.

(b) The Council, before revoking or suspending any license or permit, shall give the operator at least ten days written notice of the charges against the operator and the opportunity for a public hearing before the Village Council, as hereinafter provided:

- (1) Before the Village Council revokes or suspends a license issued herein, the Village Council shall cause written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application, informing such person of the right to a hearing upon request.
- (2) If the licensee does not request a hearing within fourteen days of the date the notice was sent, the license may be forthwith revoked or suspended. If the licensee requests a hearing before the Village Council regarding the proposed revocation or suspension, the hearing shall be held within twenty-one days after the date of the written request.

- (3) Any license issued by the Village may be immediately suspended by the Village Administrator or duly appointed Village official if it is determined that the licensee has violated or someone at or upon the licensed location has violated this chapter or State law and that continued operation under the license is contrary to the public health, safety, and welfare. A licensee shall have the right to a hearing before the Village Council on any license suspension by the Village Administrator and notice thereof shall be given in accordance with paragraphs (b)(1) and (2) hereof.
- (4) Both the Village and the licensee shall be afforded a reasonable opportunity to present evidence on the issue at the hearing. Action taken by the Village Council shall be final and any fees hereunder shall not be refunded to the applicant or licensee.

(c) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(d) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult entertainment establishment for six months from the date of revocation of the license.

(Ord. 2007-08. Passed 6-11-07.)

860.09 PHYSICAL LAYOUT OF ADULT ENTERTAINMENT ESTABLISHMENT.

Any adult entertainment establishment having available for customers, patrons, or members any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- (a) Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult entertainment establishment and shall be unobstructed by any door, lock, or other control-type devices.
- (b) Construction. Every booth, room or cubicle shall meet with the following construction requirements:
 - (1) Each booth, room, or cubicle shall be separated from adjacent booths, rooms, and cubicles, and any non-public areas by a wall.
 - (2) Each booth, room, or cubicle shall have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same.
 - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, nonabsorbent, smooth textured, and easily cleanable.
 - (4) The floor must be light colored, nonabsorbent, smooth textured, and easily cleanable.

- (5) The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.
- (c) Occupants. Only one individual shall occupy a booth, room, or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.
(Ord. 2007-08. Passed 6-11-07.)

860.10 RESPONSIBILITIES OF THE OPERATOR.

(a) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, date of birth, sex, height, weight, color of hair and eyes, phone numbers, Social Security numbers, date of employment and termination, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.

(b) Daily hours of operation of any adult entertainment establishment shall be limited to the period of time from 8:00 a.m. to 2:00 a.m.

(c) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the Police Department at all reasonable times.

(d) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any areas where they can be viewed from a public sidewalk adjacent to the establishment.

(e) Any individual viewing booths, entertainment rooms, or similar cubicles designed or used for individuals to view specified anatomical areas or to view specified sexual activities shall not be completely enclosed from the common areas, hallways, or other areas of the adult entertainment business.

(f) No employee or patron under eighteen years of age shall be allowed on the premises of an adult entertainment establishment.

(g) No intoxicating liquor or cereal malt beverage shall be served or consumed on the premises of an adult entertainment establishment.

(h) The operator shall maintain the premises in a clean and sanitary manner at all times.

(i) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator, if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(j) Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.

(k) No employee of an adult entertainment establishment shall allow any minor to loiter around or to frequent an adult entertainment establishment or to allow any minor to view adult entertainment as defined herein.

(l) The operator shall maintain at least ten foot candles of light in the public portions of the establishment, including aisles, at all times measured from the floor. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room, or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, that at no time shall there be less than one foot candle of illumination in the aisles, as measured from the floor.

(m) The operator shall insure compliance of the establishment and its patrons with the provisions of this chapter.
(Ord. 2007-08. Passed 6-11-07.)

860.99 PENALTY.

(a) Terms. Any person convicted under this chapter shall be subject to a maximum penalty of ninety days in jail, or an equal amount of time of community service, or any combination thereof not exceeding ninety days, plus five hundred dollars (\$500.00) fine, plus actual costs of prosecution, plus mandatory restitution to victims.

(b) Continuing Violations. In addition to the penalty provided in subsection (a) hereof, any condition caused or permitted to exist in violation of the provisions of this Code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
(Ord. 2007-08. Passed 6-11-07.)

TITLE FOUR - Taxation
Chap. 880. Tax Increment Financing and Development Plan

CHAPTER 860
Tax Increment Financing and Development Plan

CROSS REFERENCES

Taxation - see CHTR. Ch. 9

Downtown Development Authority - see ADM. Ch. 290

Finance generally - see CHTR. Ch. 8

860.01 TITLE.

This chapter shall be known as and may be cited as the “Tax Increment Financing and Development Plan Ordinance of the Village of Caseville, Michigan.”
(Ord. 90-5. Passed 11-12-90.)

860.02 DEFINITIONS.

The terms used in this chapter shall have the following meaning unless the context clearly requires otherwise:

(a) “Base year assessment roll” means the base year assessment roll prepared by the Village Assessor in accordance with Section 860.05.

(b) “Captured assessed value” means the amount in any one year by which the current assessed value of property of the Development District, including the assessed value of property for which specific local taxes are paid in lieu of property taxes, as determined in subsection (h) hereof, exceeds the initial assessed value. The State Tax Commission prescribes the method for calculating captured assessed value.

(c) “Development Plan” means the Tax Increment Financing and Development Plan of the Caseville Downtown Development Authority, dated November 12, 1990, as transmitted to the Village Council by the Downtown Development Authority for public hearing, copies of which are on file in the Office of the Village Clerk.

(d) “Downtown Development Authority” means the Village of Caseville Downtown Development Authority.

(e) “Downtown Development District” means the area described in Section 290.02 of the Administrative Code and as shown in Figure 1 of the Development Plan, and includes all properties listed in Appendix B of the Development Plan, which Appendix B is attached to original Ordinance 90-5, passed November 12, 1990. The Downtown Development Area, as defined in Public Act 197 of 1975, as amended, has an identical boundary to the Development District defined herein.

(f) “Initial assessed value” means the assessed value, as equalized, of all the

taxable property within the boundaries of the Development Area at the time this chapter establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the Village of Caseville for which equalization has been completed at the time this chapter is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For purposes of determining initial assessed value, property for which a specific local tax is paid in lieu of property tax, shall not be considered to be property which is exempt from taxation. The initial assessed value of property for which a specific tax is paid in lieu of a property tax shall be determined as provided in subsection (h) hereof.

(g) "Project Fund" means the Downtown Development Authority Project Fund established pursuant to Section 860.07.

(h) "Specific local tax" means a tax levied under Act 198 of the Public Acts of 1974, Sections 207.551 to 207.751 of the Michigan Compiled Laws; the Commercial Redevelopment Act, Act 255 of the Public Acts of 1978, being Sections 207.651 to 207.668 of the Michigan Compiles Laws; the Technology Park Development Act, Act 385 of 1984, being Sections 207.701 to 207.718 of the Michigan Compiled Laws; and Act 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws. The initial assessed value or current assessed value of the property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate.

(i) "Taxing jurisdiction" means each unit of government levying an ad valorem property tax on property in the Downtown Development District. (Ord. 90-5. Passed 11-12-90.)

860.03 APPROVAL AND ADOPTION OF THE TAX INCREMENT FINANCING AND DEVELOPMENT PLAN.

The Tax Increment Financing and Development Plan submitted to the Village Council by the Caseville Downtown Development Authority is hereby approved and adopted. The duration of the approved Plan shall be seven years from the date of issuance of the last debt instrument by the Caseville Downtown Development Authority pursuant to the Plan, except as the time period may be extended by subsequent amendments to the Plan and this chapter. A copy of the approved Plan and all amendments thereto shall be maintained on file in the Office of the Village Clerk. (Ord. 90-5. Passed 11-12-90.)

860.04 BOUNDARIES OF THE DOWNTOWN DEVELOPMENT DISTRICT.

The boundaries of the Downtown Development District shall be as set forth in Section 290.02 of these Codified Ordinances. Said boundaries are hereby adopted and confirmed. (Ord. 90-5. Passed 11-12-90.)

860.05 PREPARATION OF BASE YEAR ASSESSMENT ROLL.

Within twenty days of the publication of this chapter (the effective date of this chapter), the Village Assessor shall prepare the base year assessment roll. The base year assessment roll shall list each taxing jurisdiction levying taxes in the Downtown Development District, the initial assessed value of the Downtown Development District on the effective date of this chapter, and the amount of revenue derived by each taxing jurisdiction from ad valorem taxes on the property in the Downtown Development District.

The Assessor shall transmit copies of the initial base year assessment roll to the Village Treasurer, County Treasurer, Downtown Development Authority and each taxing jurisdiction, together with a notice that the assessment roll has been prepared in accordance with this chapter and the Tax Increment Financing and Development Plan approved by the adoption of this chapter.
(Ord. 90-5. Passed 11-12-90.)

860.06 PREPARATION OF ANNUAL BASE YEAR ROLL.

Each year within fifteen days following the final equalization of property assessed values in the Downtown Development District, the Assessor shall prepare an updated base year assessment roll. This 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 Assessor to the same taxing jurisdictions as the initial base year assessment roll, together with a notice that the annual base year assessment roll has been prepared in accordance with this chapter and the Tax Increment Financing and Development Plan approved by adoption of this chapter.
(Ord. 90-5. Passed 11-12-90.)

860.07 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 in a bank or banks approved by the Village Treasurer, to be designated as the Downtown Development Authority Project Fund. All tax increment revenues accruing to the Downtown Development Authority shall be deposited in the Project Fund. All moneys in that Fund and interest earnings thereon shall be used in accordance with the Development Plan and this chapter. (Ord. 90-5. Passed 11-12-90.)

860.08 PAYMENT OF TAX INCREMENT REVENUE TO THE DOWNTOWN DEVELOPMENT AUTHORITY.

The Village and County Treasurer shall, as ad valorem taxes are collected on the property within the Downtown Development District, pay that proportion of the taxes, except for penalties and collection fees, that the captured assessed values bears to the initial assessed value to the Treasurer of the Downtown Development Authority. The payments shall be made on the date or dates which the Village and County Treasurers are required to remit taxes to each of the taxing jurisdictions.
(Ord. 90-5. Passed 11-12-90.)

860.09 USE OF MONEYS IN PROJECT FUND.

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

(a) To pay into the debt retirement fund or funds, for all outstanding debt instruments issued pursuant to the Development Plan, a sum equal to the total principal and interest payments due prior to the next collection of taxes, less credit for any sums on hand in the debt retirement fund;

(b) To establish a reserve account for payment of principal and interest on debt instruments issued pursuant to the Development Plan in an amount equal to one-fifth of the largest annual principal and interest payments due on debt instruments issued

pursuant to the Development Plan. Any amounts to the credit of the reserve account at the beginning of any fiscal year in excess of the requirements of this subsection shall be considered tax increment revenue for the then current fiscal year;

(c) To pay the administrative and operating expenses of the Downtown Development Authority for the Downtown Development District, including planning, promotion, personnel, accounting, public notices and reports, and other operating costs, to the extent provided in the annual budget of the Downtown Development Authority;

(d) To pay, to the extent determined necessary by the Downtown Development Authority and approved by the Village Council, the costs of design, engineering, construction and completion of public improvements within the Development District which are not financed from proceeds of bonds, notes or other debt instruments;

(e) To pay the cost of any additional improvements to the Downtown Development District determined necessary by the Downtown Development Authority and approved by the Village Council;

(f) To reimburse the Village for funds advanced to acquire property, clear land, make plans and construction documents, and install improvements necessary in the Downtown Development District; and

(g) To provide a pool of mortgage financing and/or funds to acquire facade or scenic easements needed for private or public development within the Development District.

Any tax increment revenue in excess of those needed to accomplish the Development Plan purposes shall revert to the taxing jurisdictions or be used for future development activities within the Downtown Development District, as defined in the Development Plan or as the Plan may be amended from time to time.

(Ord. 90-5. Passed 11-12-90.)

860.10 ANNUAL REPORT.

Within ninety days after the end of each fiscal year, the Downtown Development Authority shall submit to the Village Council a report on the status of the Project Fund, including the amount and purpose of expenditures from the Fund, the initial assessed value of the Downtown Development District, the captured assessed value of the Downtown Development District, the tax increment revenues received in the prior year, the amount, if any, of surplus funds, and any additional information deemed necessary by the Downtown Development Authority or as requested by the Village Council. The Secretary of the Downtown Development Authority shall cause to be published once in full a copy of the annual report in a newspaper of general circulation in the Village.

(Ord. 90-5. Passed 11-12-90.)

860.11 REFUND OF SURPLUS TAX INCREMENT REVENUE.

Any surplus money in the Project Fund at the end of any fiscal year, as shown by the annual report of the Downtown Development Authority, shall be paid by the Authority to the Village or County Treasurers, as the case may be, and rebated by them to the taxing jurisdictions.

(Ord. 90-5. Passed 11-12-90.)

860.12 MILLAGE LEVY WITHIN THE DEVELOPMENT DISTRICT.

The Caseville Downtown Development Authority is hereby authorized to levy two mills within the Development District as permitted by Section 12(1) of the Downtown Development Authority Act, as amended. This levy shall be upon all real and tangible

personal property in the District. The Downtown Development Authority shall not levy this millage unless and until the Village Council shall first approve a specific annual request from the Authority to levy said millage and the proposed use of tax revenue from said millage. (Ord. 90-5. Passed 11-12-90.)

TITLE FOUR - Taxation
 Chap. 870. Medical Marihuana Facilities.
 Chap. 880. Tax Increment Financing and Development Plan
 Chap. 890. Special Assessments.

CHAPTER 870
 Medical Marihuana Facilities

- 870.01 Purpose.
 870.02 Definitions.
 870.03 Authorized medical marihuana
 facilities.
 870.04 General regulations.
 870.05 Fee and license renewal.
 870.06 Violations and penalties.
 870.07 Severability.
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870.01 PURPOSE.

It is the intent of this chapter to authorize the establishment of certain types of medical marihuana facilities in the City of Caseville and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; to retain the character of the neighborhoods; and to mitigate potential impacts on surrounding properties and persons. It is also the intent of this chapter to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the City of Caseville through imposition of an annual fee set by the Council on each medical marihuana facility licensing. Authority for the enactment of the provisions of this chapter is set forth in the Medical Marihuana Facilities Licensing Act, PA 281 of 2016; MCL 333.27101, et seq.

Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421, et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq., the Marihuana Tracking Act, MCL 333.27901, et seq.; and all other applicable rules and regulations promulgated by the State of Michigan.

As of the effective date of this chapter, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 USC § 801, et seq. which makes it unlawful to manufacture, distribute or dispense marihuana. Nothing in this chapter is intended to grant immunity from any criminal prosecution under federal law.

This chapter shall not limit an individual or entity's rights under the Michigan Medical Marihuana Act or the Medical Marihuana Facilities Licensing Act. The provisions of Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the Marihuana Tracking Act shall supersede the provisions of this chapter to the extent there is a conflict between the provisions of this chapter and the provisions of the Acts.

Any activity that a licensee is authorized to perform pursuant to this chapter that was conducted either prior to the enactment of this chapter, or that is conducted after the enactment of this chapter but without obtaining the required licensing provided for in this chapter, shall be deemed to be an unauthorized and illegal use and therefore not entitled to legal nonconforming use status under any applicable provisions of the City's zoning ordinance or other City ordinance.

(Ord. 2020-3. Passed 1-13-20.)

870.02 DEFINITIONS.

For purposes of this chapter:

- (a) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421, et seq. shall have the definition given in the Medical Marihuana Act, and any amendments thereto.
- (b) Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq. shall have the definition given in the Medical Marihuana Facilities Licensing Act, and any amendments thereto.
- (c) Any term defined by the Marihuana Tracking Act. MCL 333.27901, et seq. shall have the definition given in the Marihuana Tracking Act, and any amendments thereto.

(Ord. 2020-3. Passed 1-13-20.)

870.03 AUTHORIZED MEDICAL MARIHUANA FACILITIES.

(a) The following medical marihuana facilities may be authorized to operate within the City by the holder of a state operating license, subject to compliance with all relevant Michigan statutes, the rules promulgated thereunder, and this chapter:

- (1) Not more than two provisioning center(s) shall be authorized in the City.
- (2) Not more than three secure transporter(s) shall be authorized in the City.

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(b) At least every three years after adoption of this chapter, the City Council shall review the maximum number of each type of marihuana facility allowed and determine whether this maximum number should be changed.

(c) After the effective date of this chapter, the City shall accept applications for authorization to operate a medical marihuana facility within the City. An application shall be made on a City form and must be submitted to the City Clerk and/or other designee of the City Council (hereinafter referred to as "Clerk"). Once the Clerk receives a complete application including the initial annual medical marihuana facility fee, the application shall be time and date stamped. Complete applications shall be considered for authorization in consecutive time and date stamped order. Upon consideration, if the facility type authorization is available within the number specified above, then the applicant shall receive tentative authorization to operate such medical marihuana facility within the City, after Planning Commission approval of use and pay the fee set by Council. Once the limit on the number of authorized facilities is reached, then any additional complete applications shall be held in consecutive time and date stamped order for future authorization. Any applicants waiting for future authorization may withdraw their submission by written notice to the Clerk at any time and receive a refund, minus a 10% administration cost of the initial annual medical marihuana fee submitted.

(d) Within 30 days from the tentative authorization from the City, the applicant must submit proof to the Clerk that the applicant has applied for a state operating license, if the applicant fails to submit such proof, then such tentative authorization shall be canceled by the Clerk and the authorization process shall be available to the next applicant in consecutive time and date stamped order as provided for in subsection (c) above. The applicant's fee will be returned minus a 10% administration fee.

(e) If a city authorized applicant is denied prequalification for the state operating license or is denied a full application for a state operating license, then such authorization will be canceled by the Clerk and receive a refund, minus a 10% administration cost, and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in subsection (c) above.

(f) An authorized applicant shall receive full authorization from the City to operate the medical marihuana facility within the City upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the medical marihuana facility in the City and the applicant has met all other requirements of this chapter for operating including but not limited to any zoning approval for the location of the facility within the City.

(Ord. 2020-3. Passed 1-13-20.)

870.04 GENERAL REGULATIONS.

No person shall operate a marihuana facility in the City of Caseville without a valid marihuana facility license issued by the City pursuant to the provisions of this chapter.

An authorized medical marihuana facility shall only be operated within the City by the holder of a state operating license issued pursuant to PA 281 of 2016, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.

Prior to operating an authorized medical marihuana facility within the City pursuant to a state operating license, the facility must comply with all City zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all City zoning ordinance regulations, including 1000 feet from a school and 300 feet from a church.

Prior to operating an authorized medical marihuana facility within the City pursuant to a state operating license, the facility must comply with all City construction and building ordinances, all other City ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.

An authorized medical marihuana facility shall consent to inspection of the facility by City officials and/or by the City Police Department, upon reasonable notice, to verify compliance with City ordinances.

If at any time an authorized medical marihuana facility violates any ordinance, the City Council may request that the state revoke or refrain from renewing the facility's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the City authorization and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section 870.03(c) above.

It is hereby expressly declared that nothing in this chapter be held or construed to give or grant to any authorized medical marihuana facility a vested right license, privilege or permit to continued authorization from the City for operations within the City.

A marihuana facility license issued under this chapter is not transferrable or assignable.

No merchandise or pictorial representations of the products shall be displayed in window areas or any areas where they can be viewed from a public sidewalk. All forms of electronic signage or lighting advertising the products that are visible from the public sidewalk are prohibited.

Sale time shall be limited to seven days per week, 8:00 a.m. to 9:00 p.m.

The City expressly reserves the right to amend or repeal this chapter in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized medical marihuana facilities authorized to operate within the City.

(Ord. 2020-3. Passed 1-13-20.)

870.05 FEE AND LICENSE RENEWAL.

A City medical marihuana facility fee will be established by City Council for each application submitted for a medical marihuana licensing facility within the City, to help defray administrative and enforcement costs associated therewith. In the event that a license is granted, the licensee shall thereafter pay an annual medical marihuana facility fee set by Council, payable each year upon the renewal of the license as provided in this chapter.

A marihuana facility license issued under this chapter shall be valid for one year from the date of issuance of full authorization by the City, unless earlier revoked as provided by law.

A valid marihuana facility license may be renewed on an annual basis by submitting a renewal application upon a form provided by the City and payment of the annual medical marihuana facility fee provided for in this section. The application to renew the license shall be filed at least 30 days prior to the date of its expiration.

(Ord. 2020-3. Passed 1-13-20.)

870.06 VIOLATIONS AND PENALTIES.

Any person who disobeys, neglects, or refuses to comply with any provision of this chapter or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this chapter. A violation of this chapter is deemed to be a nuisance per se.

A violation of this chapter shall be a misdemeanor, for which the punishment for a first violation shall be a fine of not less than \$100.00 and not more than \$500.00, or imprisonment not to exceed 90 days, or both, at the discretion of the court. The punishment for a second or subsequent violation shall be a fine of not less than \$250.00 and not more than \$500.00, or imprisonment not to exceed 90 days, or both, at the discretion of the court. For purposes of this section, "second or subsequent violation" means a violation of the provisions of this chapter committed by the same person within 12 months of a previous violation of the same provision of this chapter for which said person pled or was adjudicated guilty. The foregoing penalties shall be in addition to the rights of the City to proceed at law or equity with other appropriate and proper remedies.

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

In addition, the City may seek injunctive relief against persons alleged to be in violation of this chapter, and such other relief as may be provided by law.

This chapter shall be administered and enforced by the Police Department of the City or by such other person(s) as designated by the City Council from time to time. (Ord. 2020-3. Passed 1-13-20.)

870.07 SEVERABILITY.

The provisions of this chapter are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or confliction with the statutory regulations for licensing medical marihuana facilities pursuant to PA 281 of 2016, as may be amended. (Ord. 2020-3. Passed 1-13-20.)

CHAPTER 880
Tax Increment Financing and Development Plan

880.01	Title.	880.07	Establishment of project fund; approval of depository.
880.02	Definitions.	880.08	Payment of tax increment revenue to the downtown development authority.
880.03	Approval and adoption of the tax increment financing and development plan.	880.09	Use of moneys in project fund.
880.04	Boundaries of the downtown development district.	880.10	Annual report.
880.05	Preparation of base year assessment roll.	880.11	Refund of surplus tax increment revenue.
880.06	Preparation of annual base year roll.	880.12	Millage levy within the development district.

CROSS REFERENCES

Finance generally - see CHTR. Ch. 8

Taxation - see CHTR. Ch. 9

Downtown Development Authority - see ADM. Ch. 290

880.01 TITLE.

This chapter shall be known as and may be cited as the “Tax Increment Financing and Development Plan Ordinance of the Village of Caseville, Michigan.”
(Ord. 90-5. Passed 11-12-90.)

880.02 DEFINITIONS.

The terms used in this chapter shall have the following meanings unless the context clearly requires otherwise:

- (a) “Base year assessment roll” means the base year assessment roll prepared by the Village Assessor in accordance with Section 880.05.
- (b) “Captured assessed value” means the amount in any one year by which the current assessed value of property of the Development District, including the assessed value of property for which specific local taxes are paid in lieu of property taxes, as determined in subsection (h) hereof, exceeds the initial assessed value. The State Tax Commission prescribes the method for calculating captured assessed value.
- (c) “Development Plan” means the Tax Increment Financing and Development Plan of the Caseville Downtown Development Authority, dated November 12, 1990, as transmitted to the Village Council by the Downtown Development Authority for public hearing, copies of which are on file in the office of the Village Clerk.

- (d) “Downtown Development Authority” means the Village of Caseville Downtown Development Authority.
- (e) “Downtown Development District” and “Development District” mean the area described in Section 290.02 of the Administration Code and as shown in Figure 1 of the Development Plan, and include all properties listed in Appendix B of the Development Plan, which Appendix B is attached to original Ordinance 90-5, passed November 12, 1990. The Downtown Development Area, as defined in Public Act 197 of 1975, as amended, has an identical boundary to the Development District defined herein.
- (f) “Initial assessed value” means the assessed value, as equalized, of all the taxable property within the boundaries of the Development Area at the time this chapter establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the Village of Caseville for which equalization has been completed at the time this chapter is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For purposes of determining initial assessed value, property for which a specific local tax is paid in lieu of property tax, shall not be considered to be property which is exempt from taxation. The initial assessed value of property for which a specific tax is paid in lieu of a property tax shall be determined as provided in subsection (h) hereof.
- (g) “Project Fund” means the Downtown Development Authority Project Fund established pursuant to Section 880.07.
- (h) “Specific local tax” means a tax levied under Act 198 of the Public Acts of 1974, being Sections 207.551 to 207.751 of the Michigan Compiled Laws; the Commercial Redevelopment Act, Act 255 of the Public Acts of 1978, being Sections 207.651 to 207.668 of the Michigan Compiled Laws; the Technology Park Development Act, Act 385 of 1984, being Sections 207.701 to 207.718 of the Michigan Compiled Laws; and Act 189 of the Public Acts of 1953, being Sections 211.181 to 211.182 of the Michigan Compiled Laws. The initial assessed value or current assessed value of the property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate.
- (i) “Taxing jurisdiction” means each unit of government levying an ad valorem property tax on property in the Downtown Development District.
(Ord. 90-5. Passed 11-12-90.)

880.03 APPROVAL AND ADOPTION OF THE TAX INCREMENT FINANCING AND DEVELOPMENT PLAN.

The Tax Increment Financing and Development Plan submitted to the Village Council by the Caseville Downtown Development Authority is hereby approved and adopted. The duration of the approved Plan shall be seven years from the date of issuance of the last debt instrument by the Caseville Downtown Development Authority pursuant to the Plan, except as the time period may be extended by subsequent amendments to the Plan and this chapter. A copy of the approved Plan and all amendments thereto shall be maintained on file in the office of the Village Clerk. (Ord. 90-5. Passed 11-12-90.)

880.04 BOUNDARIES OF THE DOWNTOWN DEVELOPMENT DISTRICT.

The boundaries of the Downtown Development District shall be as set forth in Section 290.02 of these Codified Ordinances. Said boundaries are hereby adopted and confirmed. (Ord. 90-5. Passed 11-12-90.)

880.05 PREPARATION OF BASE YEAR ASSESSMENT ROLL.

Within twenty days of the publication of this chapter (the effective date of this chapter), the Village Assessor shall prepare the base year assessment roll. The base year assessment roll shall list each taxing jurisdiction levying taxes in the Downtown Development District, the initial assessed value of the Downtown Development District on the effective date of this chapter, and the amount of revenue derived by each taxing jurisdiction from ad valorem taxes on the property in the Downtown Development District.

The Assessor shall transmit copies of the initial base year assessment roll to the Village Treasurer, County Treasurer, Downtown Development Authority and each taxing jurisdiction, together with a notice that the assessment roll has been prepared in accordance with this chapter and the Tax Increment Financing and Development Plan approved by the adoption of this chapter. (Ord. 90-5. Passed 11-12-90.)

880.06 PREPARATION OF ANNUAL BASE YEAR ROLL.

Each year within fifteen days following the final equalization of property assessed values in the Downtown Development District, the Assessor shall prepare an updated base year assessment roll. This 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 Assessor to the same taxing jurisdictions as the initial base year assessment roll, together with a notice that the annual base year assessment roll has been prepared in accordance with this chapter and the Tax Increment Financing and Development Plan approved by adoption of this chapter. (Ord. 90-5. Passed 11-12-90.)

880.07 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 in a bank or banks approved by the Village Treasurer, to be designated as the Downtown Development Authority Project Fund. All tax increment revenues accruing to the Downtown Development Authority shall be deposited in the Project Fund. All moneys in that Fund and interest earnings thereon shall be used in accordance with the Development Plan and this chapter.

(Ord. 90-5. Passed 11-12-90.)

880.08 PAYMENT OF TAX INCREMENT REVENUE TO THE DOWNTOWN DEVELOPMENT AUTHORITY.

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

(Ord. 90-5. Passed 11-12-90.)

880.09 USE OF MONEYS IN PROJECT FUND.

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

- (a) To pay into the debt retirement fund or funds, for all outstanding debt instruments issued pursuant to the Development Plan, a sum equal to the total principal and interest payments due prior to the next collection of taxes, less credit for any sums on hand in the debt retirement fund;
- (b) To establish a reserve account for payment of principal and interest on debt instruments issued pursuant to the Development Plan in an amount equal to one-fifth of the largest annual principal and interest payments due on debt instruments issued pursuant to the Development Plan. Any amounts to the credit of the reserve account at the beginning of any fiscal year in excess of the requirements of this subsection shall be considered tax increment revenue for the then current fiscal year;
- (c) To pay the administrative and operating expenses of the Downtown Development Authority for the Downtown Development District, including planning, promotion, personnel, accounting, public notices and reports, and other operating costs, to the extent provided in the annual budget of the Downtown Development Authority;

- (d) To pay, to the extent determined necessary by the Downtown Development Authority and approved by the Village Council, the costs of design, engineering, construction and completion of public improvements within the Development District which are not financed from proceeds of bonds, notes or other debt instruments;
- (e) To pay the cost of any additional improvements to the Downtown Development District determined necessary by the Downtown Development Authority and approved by the Village Council;
- (f) To reimburse the Village for funds advanced to acquire property, clear land, make plans and construction documents, and install improvements necessary in the Downtown Development District; and
- (g) To provide a pool of mortgage financing and/or funds to acquire facade or scenic easements needed for private or public development within the Development District.

Any tax increment revenue in excess of those needed to accomplish the Development Plan purposes shall revert to the taxing jurisdictions or be used for future development activities within the Downtown Development District, as defined in the Development Plan or as the Plan may be amended from time to time.

(Ord. 90-5. Passed 11-12-90.)

880.10 ANNUAL REPORT.

Within ninety days after the end of each fiscal year, the Downtown Development Authority shall submit to the Village Council a report on the status of the Project Fund, including the amount and purpose of expenditures from the Fund, the initial assessed value of the Downtown Development District, the captured assessed value of the Downtown Development District, the tax increment revenues received in the prior year, the amount, if any, of surplus funds, and any additional information deemed necessary by the Downtown Development Authority or as requested by the Village Council. The Secretary of the Downtown Development Authority shall cause to be published once in full a copy of the annual report in a newspaper of general circulation in the Village.

(Ord. 90-5. Passed 11-12-90.)

880.11 REFUND OF SURPLUS TAX INCREMENT REVENUE.

Any surplus money in the Project Fund at the end of any fiscal year, as shown by the annual report of the Downtown Development Authority, shall be paid by the Authority to the Village or County Treasurer, as the case may be, and rebated by them to the taxing jurisdictions.

(Ord. 90-5. Passed 11-12-90.)

880.12 MILLAGE LEVY WITHIN THE DEVELOPMENT DISTRICT.

The Caseville Downtown Development Authority is hereby authorized to levy two mills within the Development District as permitted by Section 12(1) of the Downtown Development Authority Act, as amended. This levy shall be upon all real and tangible personal property in the District. The Downtown Development Authority shall not levy this millage unless and until the Village Council shall first approve a specific annual request from the Authority to levy said millage and the proposed use of tax revenue from said millage.

(Ord. 90-5. Passed 11-12-90.)

Chapter 890
Special Assessments

<p>890.01 Short title.</p> <p>890.02 Definitions.</p> <p>890.03 Authority to assess.</p> <p>890.04 Initiation of special assessment projects generally.</p> <p>890.05 Initiation by petition.</p> <p>890.06 Survey and report.</p> <p>890.07 Determination of project; notice.</p> <p>890.08 Public hearing; modification; resolution to proceed.</p> <p>890.09 Change or deviation from plans and specifications.</p> <p>890.10 Limitations on preliminary expenses.</p> <p>890.11 Special assessment roll generally.</p> <p>890.12 Assessor to file special assessment roll.</p> <p>890.13 Review of special assessment roll; objections.</p>	<p>890.14 Changes and corrections in special assessment roll.</p> <p>890.15 Objection to assessment.</p> <p>890.16 Payment of assessments.</p> <p>890.17 Partial payments; when due.</p> <p>890.18 Delinquent special assessments.</p> <p>890.19 Creation of lien.</p> <p>890.20 Additional special assessments; refunds.</p> <p>890.21 Additional procedures.</p> <p>890.22 Issuance of bonds in anticipation of collection of special assessments.</p> <p>890.23 Special assessment accounts.</p> <p>890.24 Contested assessments.</p> <p>890.25 Reassessment for benefits.</p> <p>890.26 Combination of projects.</p> <p>890.27 Division of parcels.</p> <p>890.28 Deferred payments.</p> <p>890.29 Reconsideration of petitions.</p> <p>890.99 Penalty.</p>
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CROSS REFERENCES

Taxation generally - see CHTR. Ch. 9

Assessment roll - see CHTR. Secs. 9.5 et seq., B.R. & T.
880.05, 880.06

Special assessments generally - see CHTR. Ch. 10

Assessments for sidewalk, curb and gutter construction - see
S.U. & P.S. 1020.02, 1020.05

890.01 SHORT TITLE.

This chapter shall be known and may be cited as the “Special Assessment Ordinance” of the Village of Caseville, Michigan.

(Ord. Unno. Passed 5-10-99.)

890.02 DEFINITIONS.

As used in this chapter:

- (a) “Cost” means and includes, when referring to the cost of any local public improvement, the cost of surveys, land, rights-of-way, services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, legal fees, interest on special assessment bonds, for not to exceed one year, and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.
- (b) “Local public improvement” means any improvement upon any public property, right-of-way or easement which is of such nature as to benefit especially any real property or properties within a district in the vicinity of such improvement.

(Ord. Unno. Passed 5-10-99.)

890.03 AUTHORITY TO ASSESS.

The whole or a part of the expense of a local public improvement or repair may be defrayed by special assessment upon the lands specially benefited by the improvement in the manner hereinafter provided. All provisions of Act 4 of the Public Acts of 1974, as amended, are incorporated herein by reference. In case of a conflict between the Act and the provisions of this chapter, the provisions of the Act, as amended, shall prevail.

(Ord. Unno. Passed 5-10-99.)

890.04 INITIATION OF SPECIAL ASSESSMENT PROJECTS GENERALLY.

Council may, by resolution, with or without a petition, commence proceedings for the making of local public improvements within the Village, establishing the tentative necessity thereof, and making the determination that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefited, provided that all special assessments levied shall be in proportion to the benefits derived from the improvements.

(Ord. Unno. Passed 5-10-99.)

890.05 INITIATION BY PETITION.

Local public improvements may be initiated by petition signed by property owners whose aggregate property in the proposed district was assessed for not less than fifty-one percent of the total assessed value of the privately-owned real property located therein, as shown by the last preceding general tax records of the Village. Such petition shall contain a brief description of the property owned by the respective signatories thereof and, if it shall appear that the petition is signed by at least fifty-one percent as aforesaid, the Clerk, or his or her designee, shall certify the same to the Council. The petition shall be addressed to the Council and filed with the Clerk, or his or her designee, and shall in no event be considered directory, but shall be considered advisory only.

(Ord. Unno. Passed 5-10-99.)

890.06 SURVEY AND REPORT.

Before the Council shall consider the making of any local improvement, the Council shall cause to be prepared a report which shall include necessary plans, profiles, specifications and detailed estimates of cost, an estimate of the list of the improvement, a description of the assessment district or districts, and such other pertinent information as will permit the Council to decide the cost, extent and necessity of the improvement proposed and what part or proportion thereof should be paid by special assessments upon the property especially benefited therefrom, and what part, if any, should be paid by the Village at large. The Council shall not finally determine to proceed with the making of any local public improvement until such report has been filed, nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of such improvement.

(Ord. Unno. Passed 5-10-99.)

890.07 DETERMINATION OF PROJECT; NOTICE.

After receiving the report required in Section 890.06 for making any local public improvement as requested in the resolution of the Council, and after the Council has reviewed said report, a resolution may be passed tentatively determining the necessity of the improvement, setting forth the nature thereof, prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefited therefrom, determining the benefits to be received by the affected properties, and what part, if any, shall be paid by the Village at large; and designating the limits of the special assessment district to be affected, designating whether the costs of the improvement are to be assessed according to frontage or other benefits, placing the complete information on file in the office of the Village Clerk, where the same may be found for examination, and directing the Village Clerk, or his or her designee, to give notice of a public hearing on the proposed improvement, at which time and place opportunity will be given to interested persons

to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the Village and by first class mail addressed to each owner of, or person with an interest in, property to be assessed as shown by the general tax assessment roll of the Village. The publication of notice shall be made at least seven full days prior to the hearing and the mailing of notice shall be made at least ten full days prior to the date of the hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council.

(Ord. Unno. Passed 5-10-99.)

890.08 PUBLIC HEARING; MODIFICATION; RESOLUTION TO PROCEED.

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the local public improvement in such a manner as it shall deem to be in the best interest of the Village as a whole, provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in Section 890.07. If the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, assessment district and detailed estimates of cost, and directing the Assessor to prepare a special assessment roll in accordance with the Council's determination, and report the same to the Council for confirmation.

(Ord. Unno. Passed 5-10-99.)

890.09 CHANGE OR DEVIATION FROM PLANS AND SPECIFICATIONS.

No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the Village without authorization by Council by resolution. A copy of a resolution authorizing such change or deviation shall be certified by the Village Clerk, or his or her designee, and attached to the original plans and specifications on file in the Clerk's office.

(Ord. Unno. Passed 5-10-99.)

890.10 LIMITATIONS ON PRELIMINARY EXPENSES.

The Council shall specify the provisions and procedures for financing a local public improvement. No contract or expenditure, except for the cost of preparing necessary profiles, plans, specifications and estimates of cost, shall be made for the improvement, nor shall any improvement be commenced until the special assessment roll to defray the costs of the same shall have been made and confirmed.

(Ord. Unno. Passed 5-10-99.)

890.11 SPECIAL ASSESSMENT ROLL GENERALLY.

The Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the proportionate amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of cost as approved by the Council.

(Ord. Unno. Passed 5-10-99.)

890.12 ASSESSOR TO FILE SPECIAL ASSESSMENT ROLL.

When the Assessor shall have completed such special assessment roll, the Assessor shall file the same with the Village Clerk, or his or her designee, for presentation to the Council for review and certification by Council.

(Ord. Unno. Passed 5-10-99.)

890.13 REVIEW OF SPECIAL ASSESSMENT ROLL; OBJECTIONS.

Upon receipt of the special assessment roll, the Council, by resolution, shall accept the special assessment roll and order it to be filed in the office of the Village Clerk for public examination, shall fix the time and place the Council will meet to review such special assessment roll and direct the Village Clerk, or his or her designee, to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard. The notice shall be given by publication once, at least seven full days prior to the date of the hearing, in a newspaper published or circulated within the Village, and by first class mail addressed to each owner of or person with an interest in property to be assessed as shown by the last general tax assessment roll of the Village, mailed at least ten full days prior to the date of the hearing. The hearing required by this section may be held at any regular, adjourned or special meeting of the Council. At this meeting, all interested persons or parties shall present, in writing, their objections, if any, to the assessments against them. The Assessor, if directed by the Council, shall be present at every meeting of the Council at which a special assessment is to be reviewed.

(Ord. Unno. Passed 5-10-99.)

890.14 CHANGES AND CORRECTIONS IN SPECIAL ASSESSMENT ROLL.

The Council shall meet at the time and place designated for the review of such special assessment roll and at such meeting, or a proper adjournment thereof, shall consider all objections thereto submitted in writing. The Council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein, or it may, by resolution, annul the assessment roll and direct that new proceedings be instituted. The same procedure shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and

making a record of such changes as the Council deems justified, the Council determines that it is satisfied with the special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determination, confirming such roll, placing it on file in the office of the Village Clerk, and directing the Village Clerk, or his or her designee, to attach his or her warrant to a certified copy thereof within ten days, therein commanding the Assessor to spread and the Treasurer to collect the various sums and amounts appearing thereon as directed by the Council. The roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies, unless contested in the manner provided in Section 890.24 and subject to adjustment to conform to the actual cost of the improvement, as provided for in Section 890.20.

(Ord. Unno. Passed 5-10-99.)

890.15 OBJECTION TO ASSESSMENT.

If, at or prior to the final confirmation of any special assessments, the owners of privately owned real property to be assessed for more than fifty percent of the cost of an improvement, or, in the case of paving or similar improvements, the owners of more than fifty percent of the frontage to be assessed for any such improvements, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings delineated by this chapter without a two-thirds vote of the members-elect of the Council, provided that this section shall not apply to sidewalk construction.

(Ord. Unno. Passed 5-10-99.)

890.16 PAYMENT OF ASSESSMENTS.

All special assessments, except such installments thereof as the Council shall make payable at a future time, as provided in this chapter, shall be due and payable upon confirmation of the special assessment roll.

(Ord. Unno. Passed 5-10-99.)

890.17 PARTIAL PAYMENTS; WHEN DUE.

The Council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed thirty in number, the first installment being due upon confirmation of the roll or on such date as the Council may determine, and deferred installments being due annually thereafter, or, in the discretion of the Council, such installments may be spread upon and made a part of each annual Village tax roll thereafter until all are paid. Interest shall be charged on all deferred installments at a rate not to exceed seven percent per annum, or such

other rate as may be established by the Council in accordance with State statute, commencing on the due date of the first installment, or sixty days after the date of confirmation if the first installment is not due upon confirmation, and payable on the due date of each subsequent installment. The payment of future due installments of a special assessment against a parcel of land may be made at any time in full, with interest accrued to the due date of the next installment. If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have sixty days from the date of confirmation to pay the full amount of said assessment, or the full amount of any installments thereof, without interest or penalty. Following said sixty-day period, the assessment or first installment thereof shall, if unpaid, be considered delinquent and the same penalties shall be collected on such unpaid assessments or first installments thereof as are provided by law to be collected on delinquent general Village taxes. Deferred installments shall be collected without penalty until sixty days after the due date thereof, after which time such installments shall be considered delinquent and such penalties on said installments shall be collected as are provided by law to be collected on delinquent general Village taxes. After the Council has confirmed the roll, the Village Treasurer shall notify by mail each property owner on said roll that said roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the Village Treasurer to give said notice or of such owner to receive said notice shall not invalidate any special assessment roll of the Village or any assessment thereon nor excuse the payment of interest or penalties.

(Ord. Unno. Passed 5-10-99.)

890.18 DELINQUENT SPECIAL ASSESSMENTS.

Any assessment, or part thereof, remaining unpaid on the second Monday of May following the date when the same became delinquent shall be reported as unpaid by the Treasurer to the Council. Any such delinquent assessment, together with all accrued interest, shall be transferred and reassessed on the next annual Village tax roll in a column headed "Special Assessments" with a penalty of four percent upon such total amount added thereto, and, when so transferred and reassessed upon said tax roll, shall be collected in all respects as provided for the collection of Village taxes. (Ord. Unno. Passed 5-10-99.)

890.19 CREATION OF LIEN.

Special assessments and all interest, penalties and charges thereon from the date of confirmation of the roll shall become a debt to the Village from the persons to whom they are assessed, and, until paid, shall be and remain a lien upon the property assessed, of the same character and effect as the lien created by general law for State, County, and Village taxes, and the lands upon which the same are a lien shall be subject to sale therefor the same as are lands upon which delinquent Village taxes constitute a lien, or by a suit against the person.

(Ord. Unno. Passed 5-10-99.)

890.20 ADDITIONAL SPECIAL ASSESSMENTS; REFUNDS.

The Village Clerk, or his or her designee, shall, within sixty days after the completion of each local or special public improvement, compile the actual cost thereof and certify the same to the Assessor, who shall adjust the special assessment roll to correspond therewith. Should the assessment prove larger than necessary by less than five percent of the total cost, the same shall be reported to the Council, which may place the excess in the General Fund of the Village or make a refund thereof pro rata according to the assessment. If the assessment exceeds the amount necessary by five percent or more, the entire excess shall be credited to owners of property as shown by the Village assessment roll upon which such assessment has been levied, prorated according to the assessment. No refunds of special assessments may be made which impair or contravene the provision of any outstanding obligation or bond secured in whole or in part by such special assessments. In the case of assessments due in installments, the Council may order the refund given by credit against installments last coming due. When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the Council may make an additional pro rata assessment, but the total amount assessed against any one parcel of land shall not exceed the benefits received by said lot or parcel of land.

(Ord. Unno. Passed 5-10-99.)

890.21 ADDITIONAL PROCEDURES.

In any case where the provisions of this chapter may prove to be insufficient to carry out fully the making of any special assessment, the Council shall provide by ordinance any additional steps or procedures required.

(Ord. Unno. Passed 5-10-99.)

890.22 ISSUANCE OF BONDS IN ANTICIPATION OF COLLECTION OF SPECIAL ASSESSMENTS.

In the event bonds are issued in anticipation of the collection of special assessments as hereinbefore provided, all collections on each special assessment roll or combination of rolls shall be set in a separate fund for the payment of the principal and interest on the bonds so issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

(Ord. Unno. Passed 5-10-99.)

890.23 SPECIAL ASSESSMENT ACCOUNTS.

Monies raised by special assessment to pay the cost of any local improvements shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, expenses incidental thereto, including the repayment of the principal and interest on money borrowed therefor, and to refund excessive assessments, if refunds are authorized.

(Ord. Unno. Passed 5-10-99.)

890.24 CONTESTED ASSESSMENTS.

No action may be instituted for the purpose of contesting or enjoining the collection of a special assessment unless:

(a) Within forty-five days after the confirmation of the special assessment roll, written notice is given to the Council indicating an intention to file such an action and stating the grounds on which it is claimed that the assessment is illegal; and

(b) The action is commenced within ninety days after the confirmation of the roll.
(Ord. Unno. Passed 5-10-99.)

890.25 REASSESSMENT FOR BENEFITS.

Whenever the Council shall deem any special assessment invalid or defective for any reason whatsoever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatsoever, in whole or in part, the Council may revoke its confirmation, correct the illegality, if possible, or reconfirm it. The Council shall have the power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether or not any part of the assessment has been collected. All proceedings on such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall, to that extent, be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment. Property which is not involved in the illegality may not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

(Ord. Unno. Passed 5-10-99.)

890.26 COMBINATION OF PROJECTS.

The Council may combine several districts into one project for the purpose of effecting a saving in the costs. Separate funds and accounts shall be established for each district to cover the cost of the same. (Ord. Unno. Passed 5-10-99.)

890.27 DIVISION OF PARCELS.

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the Assessor shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. The Village Treasurer shall, within ten days after such apportionment, send notice of such action to the persons concerned at their last known address, by first class mail. Said apportionment shall be final and conclusive on all parties unless a protest in writing is received by the Village Treasurer within twenty days of the mailing of the aforesaid notice.

(Ord. Unno. Passed 5-10-99.)

890.28 DEFERRED PAYMENTS.

The Council may provide for the deferred payment of special assessments from persons who, in the opinion of the Council and the Assessor, by reason of poverty, are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the Village shall require a mortgage security on the real property of the beneficiary payable on or before his or her death, or, in any event, on the sale or transfer of the property.

(Ord. Unno. Passed 5-10-99.)

890.29 RECONSIDERATION OF PETITIONS.

In the event that the Council shall fail to make any public improvement petitioned for under the provisions of Section 890.05 during the calendar year during which any petition is filed, such petition shall be reconsidered by the Council prior to the second Monday of April of the succeeding calendar year for the purpose of determining whether such improvement should be made during such calendar year.

(Ord. Unno. Passed 5-10-99.)

890.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)