

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

**Introduced by Senators Conroy, Schwarz, Arthurhultz, Cherry, Berryman, Stabenow, Honigman, Hart,
Kelly, Koivisto and Faxon**

ENROLLED SENATE BILL No. 352

AN ACT to amend section 1a of chapter I, sections 1, 2, 6, 7, 9, 10, and 13 of chapter VI, sections 1, 2, 3, 40, 46, and 62 of chapter VII, and section 12 of chapter X of Act No. 3 of the Public Acts of 1895, entitled as amended "An act to provide for the incorporation of villages; to define their powers and duties; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by villages; to define the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to define the application of this act and provide for its amendment by villages subject thereto; and to validate prior amendments and certain prior actions taken and bonds issued by villages," section 1 of chapter VII as amended by Act No. 176 of the Public Acts of 1991 and section 46 of chapter VII as amended by Act No. 173 of the Public Acts of 1985, being sections 61.1a, 66.1, 66.2, 66.6, 66.7, 66.9, 66.10, 66.13, 67.1, 67.2, 67.3, 67.40, 67.46, 67.62, and 70.12 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 1a of chapter I, sections 1, 2, 6, 7, 9, 10, and 13 of chapter VI, sections 1, 2, 3, 40, 46, and 62 of chapter VII, and section 12 of chapter X of Act No. 3 of the Public Acts of 1895, section 1 of chapter VII as amended by Act No. 176 of the Public Acts of 1991 and section 46 of chapter VII as amended by Act No. 173 of the Public Acts of 1985, being sections 61.1a, 66.1, 66.2, 66.6, 66.7, 66.9, 66.10, 66.13, 67.1, 67.2, 67.3, 67.40, 67.46, 67.62, and 70.12 of the Michigan Compiled Laws, are amended to read as follows:

CHAPTER I

Sec. 1a. As used in this act, "civil infraction", "civil infraction action", and "municipal civil infraction" mean those terms as defined in section 113 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.113 of the Michigan Compiled Laws.

CHAPTER VI

Sec. 1. The style of an ordinance shall be: "The village of ordains." An ordinance, except as otherwise provided in this act, requires for its passage the concurrence of a majority of the council. An ordinance imposing a sanction shall not take effect in less than 20 days after its passage.

Sec. 2. Except as otherwise provided in this act, the council of a village authorized to pass an ordinance may prescribe a sanction for a violation of the ordinance. If a sanction is prescribed, it shall be prescribed in the ordinance. If a violation of the ordinance is a civil infraction, the ordinance may provide a civil fine for its violation. A violation of

the ordinance is a municipal civil infraction only if the ordinance explicitly states that a violation is a municipal civil infraction. If a violation of the ordinance is not a civil infraction, the ordinance may provide that a person who violates the ordinance is subject to either, or both, of the following:

- (a) Punishment by imprisonment for not more than 90 days or by a fine of not more than \$500.00, or both.
- (b) Payment of court costs.

Sec. 6. (1) An action for violation of an ordinance shall be commenced not more than 2 years after the violation occurs. This subsection does not apply to a violation of an ordinance that constitutes a civil infraction.

(2) An action for the violation of an ordinance shall be brought in the district court or municipal court in the judicial district in which the village is located unless the defendant alleged to have violated the ordinance enters a plea of guilty, admits responsibility, or admits responsibility with explanation before a magistrate, traffic bureau, or municipal ordinance violation bureau as otherwise provided by law. That court may hear, try, and determine causes and actions arising under an ordinance of the village, and impose sanctions for a violation of an ordinance as provided in the ordinance.

Sec. 7. If a penalty is incurred for the violation of an ordinance, and a provision is not made for the imprisonment of the offender upon conviction of the violation, the penalty may be recovered in a civil action. If a corporation incurs a penalty for the violation of an ordinance, the corporation shall be sued in a civil action. Except in the case of a civil infraction action or an action against a corporation, an action for a violation of an ordinance of the village may be commenced by warrant for the arrest of the offender. The warrant shall be in the name of the people of this state, shall set forth the substance of the offense complained of, and shall be substantially in the form, and be issued upon complaint made, as provided by law in misdemeanor cases. The proceedings relating to the arrest and custody of the accused during the pendency of the action, the pleadings, and the proceedings upon the trial of the cause, in procuring the attendance and testimony of witnesses, and in the rendition of judgments and the execution of judgments, except as otherwise provided by this act, are governed by and shall conform as nearly as may be to the provisions of law regulating proceedings in misdemeanor cases.

Sec. 9. (1) An action for the violation of an ordinance need not state or set forth the ordinance, or the provisions of the ordinance in a complaint, warrant, process, or pleading, but shall recite the ordinance's title and the date of its passage, adoption, or approval.

(2) It is a sufficient statement of the cause of action in a complaint or warrant to set forth substantially, and with reasonable certainty, as to time and place, the act complained of, and to allege the act to be in violation of an ordinance of the village, referring to the ordinance by its title and the date of its passage, adoption, or approval. Either party may require a trial by jury in an action for violation of the ordinance.

(3) The jury, except when other provision is made, shall consist of 6 persons. In actions commenced by warrant, the jury shall be selected and summoned as in misdemeanor cases before the court in which the prosecution for the village ordinance violation is brought. In a civil action to recover penalties for a village ordinance violation, the jury shall be selected and summoned as in any other civil action before the court in which the action is brought. An inhabitant of the village is not incompetent to serve as a juror in a cause in which the village is a party or interested, on account merely of the interest that the inhabitant may have, in common with the inhabitants of the village, in the results of the action.

(4) This section does not apply to an ordinance violation that constitutes a civil infraction.

Sec. 10. A person convicted of a violation of an ordinance of the village in an action commenced by warrant as set forth in section 7 may appeal the judgment to the circuit court for the county in which the village is located, by appeal, and the time for the appeal, the proceedings for the appeal, the bond or security to be given on the appeal, and the proceedings and disposition of the cause in the circuit court shall be the same as in misdemeanor cases on appeal from the court that tried the village ordinance violation. In actions to which the village is a party, brought to recover a fine for a violation of a village ordinance, either party may appeal from the judgment to the circuit court, and similar proceedings shall be had on that appeal and similar bond or security shall be given as in cases of appeal in civil actions before the court that tried the village ordinance violation, except that the village shall not be required to give a bond or security on that appeal.

Sec. 13. Except in cases in which a fine is paid to a parking violations bureau or a municipal ordinance violations bureau pursuant to section 8395 or 8396 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.8395 and 600.8396 of the Michigan Compiled Laws, a fine imposed for a violation of an ordinance of the village shall be received by the clerk of the court in which judgment or conviction was had. If the fine is collected upon execution, the person receiving the fine shall immediately pay the money collected to that clerk. If the defendant is committed, the fine and costs imposed shall be paid to the sheriff or other keeper of the jail or prison, who shall, within 30 days after receiving payment, pay the money to that clerk for distribution pursuant to law.

CHAPTER VII

Sec. 1. A village subject to this act has, and the council may enact ordinances relating to, the following powers:

- (a) To restrain and prevent vice and immorality.
- (b) To impose sanctions on individuals engaged in vagrancy, disorderly conduct, or prostitution.
- (c) To abate nuisances and preserve the public health.
- (d) To prohibit and suppress disorderly houses and gaming houses.
- (e) To regulate, license, or suppress places of entertainment.
- (f) To suppress gaming.
- (g) To regulate and license public shows and exhibitions.
- (h) To license auctioneers, to license and regulate hawkers and peddlers, to regulate or prohibit sales of property at auction except sales made pursuant to an order of a court or public law, to require transient traders and dealers to obtain a license before engaging in business, and to regulate by ordinance the terms and conditions of issuing those licenses.
- (i) To license and regulate public vehicles.
- (j) To provide for and regulate the inspection of provisions.
- (k) To regulate or prohibit bathing in the bodies of water of the village.
- (l) To regulate or prohibit the selling, storing, and transportation of combustible or explosive substances or materials within the village and to regulate and restrain the making of fires in the streets or other open spaces in the village.
- (m) To provide for the organization and regulation of a fire department, to provide for the prevention and extinguishment of fires, and to establish and maintain definite fire limits.
- (n) To license and regulate solicitors for passengers or baggage for any hotel, tavern, public house, boat, or railroad; to license and regulate porters, runners, and drivers of vehicles used and employed for hire, and to fix and regulate the amount and rate of compensation of those individuals.
- (o) To require horses, mules, or other animals attached to vehicles or standing in any street, lane, or alley in the village to be securely fastened, hitched, watched, or held.
- (p) *To prevent and impose sanctions for horse racing and immoderate driving in a street, park, or alley and to authorize the stopping and detaining of a person who is immoderately driving or riding in a street, park, or alley in the village.*
- (q) To prevent the running at large of dogs, to require dogs to be muzzled, and to authorize the destruction of dogs found at large in violation of an ordinance of the village.
- (r) To establish lines and grades upon which buildings may be erected, and beyond which buildings shall not extend.
- (s) To prevent the erection and provide for the removal of buildings considered unsafe.
- (t) To regulate the placement and provide for the preservation of hitching posts.
- (u) To declare and define the powers and duties of the officers of the village whose powers and duties are not specifically prescribed in this act.
- (v) To require the treasurer or marshal of the village, and other officers of the village as the council considers proper, to give bonds for the discharge of their official duties.
- (w) To see that the officers of the village perform their duties faithfully and that proper measures are taken to impose sanctions for neglect of duty by an officer of the village.
- (x) To provide for the care, custody, and preservation of the public property of the village.
- (y) To investigate any matter that may come under the jurisdiction of the village and that is pursuant to the authority vested in the council or in an officer under this act. The council by majority vote of the council members serving may serve upon a person a subpoena that has been authorized by a court of proper jurisdiction in the county in which the village is located compelling the person to appear before the council or any committee of the council to be examined under oath or to produce a document or object for inspection or copying. If a person objects to or otherwise fails to comply with the written notice served upon him or her, the council may file in that court an action to enforce the subpoena. The court may issue an order requiring the person to appear to be examined or to produce a document or object for inspection or copying. Failure to obey the order of the court is punishable by the court as a contempt.
- (z) To adopt other ordinances and make other regulations for the safety and good government of the village and the general welfare of its inhabitants that are not inconsistent with the general laws of this state.
- (aa) To regulate or prohibit public nudity within village boundaries. As used in this subdivision, "public nudity" means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person

including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering.

Sec. 2. (1) The council may prescribe the terms and conditions upon which a license shall be granted and may require payment of a reasonable and proper sum for a license. The person receiving the license shall, if required by the council or an ordinance of the village, before the issuing of the license, execute a bond to the village in a sum prescribed by the council, with 1 or more sufficient sureties, conditioned for a faithful performance of the laws relating to the village and the ordinances of the council, and otherwise conditioned as the council may prescribe. A license is revocable by the council. If a license is revoked for noncompliance with the terms and conditions upon which it was granted, or on account of a violation of an ordinance or regulation passed or authorized by the council, the person holding the license shall, in addition to any other sanctions imposed, forfeit payments made for the license. The council may provide sanctions for a person who, without license, does something for which a license is required by an ordinance of the council.

(2) The council of a village may provide for the support and relief of poor persons residing in the village and, for that purpose, may provide, by ordinance or resolution, for the appointment of a director of the poor for the village and may prescribe the director's duties and vest him or her with authority proper for the exercise of those duties.

Sec. 3. The council may provide and maintain 1 or more pounds within the village; appoint, prescribe the powers and duties of, and fix the compensation of pound masters; and authorize the impounding of animals found at large, contrary to an ordinance of the village. If there is no pound or pound master, the council may provide for the impounding of an animal by the village marshal, in some suitable place, under his or her immediate care and inspection and may confer on him or her the powers and duties of pound master. The council may also prescribe the fees for impounding an animal, and the amount or rate of expenses for keeping an impounded animal, and the charges to be paid by the owner or keeper of an impounded animal. The council may authorize the sale of an impounded animal for the payment of the fees, expenses, and charges, and for sanctions incurred, and may impose sanctions for rescuing an animal impounded.

Sec. 40. The council of a village may regulate and license ferries from the village, or a place in the village; require the payment of a reasonable sum for a ferry license; impose reasonable terms and restrictions, in relation to the keeping and management of ferries and the time, manner, and rates of carriage and transportation of persons and property by ferry; provide for the revocation of a ferry license and for the imposition of sanctions for a violation of an ordinance prohibiting unlicensed ferries or regulating ferries established and licensed.

Sec. 46. The village marshal is the chief of police, and, subject to the president, has the direction of the police of the village. For the preservation of the peace, the police officers have all the powers given by law to constables. The police shall suppress riots, disturbances, and breaches of the peace; arrest any person fleeing from justice; apprehend upon view any person found violating a law of this state or an ordinance of the village in a manner involving a breach of the peace and, unless the violation constitutes a civil infraction, take the offender before the proper magistrate or officer, to be punished; make complaints before the proper magistrate of any person known or believed by the police to be guilty of crime or responsible for violation of an ordinance of the council; serve process that may be delivered to the police for that purpose; and generally perform all duties required by the council for the good government of the village. This section is subject to an ordinance adopted under section 8 of chapter V.

Sec. 62. The council of a village owning a burial place, whether within or without the village, may pass and enforce an ordinance necessary to carry into effect the provisions of this act concerning burial places, to control or regulate the burial place and the improvement of the burial place, to protect it and its appurtenances from injury, and to impose sanctions for a violation of a lawful order or regulation made by the board of cemetery trustees.

CHAPTER X

Sec. 12. The council of a village located upon any of the navigable waters of the state may by ordinance prescribe regulations, to be observed by owners, masters, and employees of watercraft, necessary to prevent fires in a harbor and to prevent the communication of fire from watercraft, and may prescribe in such an ordinance the manner of collecting any sanction imposed by the ordinance.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 348 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.