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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Reps. Mans, Birkholz, Brackenridge and Dobronski

Reps. Baade, Baird, Basham, Bodem, Brater, Cassis, Crissman, DeHart, Goschka, Horton, Jansen, Jelinek, Johnson, Kelly, Kukuk, Llewellyn, McBryde, Middaugh, Middleton, Oxender, Richner, Rocca, Schroer, Vaughn and Voorhees named co-sponsors

ENROLLED HOUSE BILL No. 5438

AN ACT to amend 1895 PA 3, entitled "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," by amending the title and sections 1, 1a, and 12 of chapter I, sections 1, 2, 4, 5, 6, 7, 11, 12, 13, 14, and 15 of chapter II, sections 2 and 7 of chapter III, sections 1, 2, 3, 5, 6, 7, 9, 10, 11, 12, and 21 of chapter IV, sections 1, 2, 3, 5, 7, and 8 of chapter V, sections 1, 3, 3a, 4, 8, 9, 11, 12, and 14 of chapter VI, and sections 3, 4, 5, 6, 7, 9, 10, 12, 13, 16, 18, 19, 23, 24, 25, 26, 31, 33, 34, 38, 39, 41, 56, 57, 58, 61, 63, and 64 of chapter VII (MCL 61.1, 61.1a, 61.12, 62.1, 62.2, 62.4, 62.5, 62.6, 62.7, 62.11, 62.12, 62.13, 62.14, 62.15, 63.2, 63.7, 64.1, 64.2, 64.3, 64.5, 64.6, 64.7, 64.9, 64.10, 64.11, 64.12, 64.21, 65.1, 65.2, 65.3, 65.5, 65.7, 65.8, 66.1, 66.3, 66.3a, 66.4, 66.8, 66.9, 66.11, 66.12, 66.14, 67.3, 67.4, 67.5, 67.6, 67.7, 67.9, 67.10, 67.12, 67.13, 67.16, 67.18, 67.19, 67.23, 67.24, 67.25, 67.26, 67.31, 67.33, 67.34, 67.38, 67.39, 67.41, 67.56, 67.57, 67.58, 67.61, 67.63, and 67.64), the title as amended by 1998 PA 145, section 1a of chapter I, sections 1 and 9 of chapter VI, and section 3 of chapter VII as amended by 1994 PA 16, section 2 of chapter II, sections 1 and 3 of chapter IV, and section 8 of chapter V as amended by 1985 PA 173, section 13 of chapter II, section 5 of chapter V, and sections 9 and 13 of chapter VII as amended by 1983 PA 205, section 21 of chapter IV as amended by 1992 PA 42, and section 4 of chapter VI as amended by 1982 PA 346, and by adding sections 3 and 4 to chapter III and section 1a to chapter VII; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to provide for the government of certain 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 subject to this act; to define the powers and duties of certain state and local officers and entities; to define the application of this act and provide for its amendment by villages subject to this act; to validate prior amendments and certain prior actions taken and bonds issued by villages subject to this act; to provide for the disincorporation of villages; and to prescribe penalties and provide remedies.

CHAPTER I—INCORPORATION.

Sec. 1. This act is the charter for all villages incorporated under this act.

Sec. 1a. As used in this act:

(a) “Appointed officer” means any officer, except an officer who is appointed to fill an elective but vacant seat on the council.

(b) “Civil infraction action”, “municipal civil infraction”, and, except as used in section 2 of chapter VI, “civil infraction” mean those terms as defined in section 113 of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.

(c) “Council” or “members of council”, with respect to voting procedure, means 1 of the following:

(i) The president and 6 trustees, if the village has not adopted an ordinance reducing the number of trustees under chapter II.

(ii) The president and 4 trustees, if the village has adopted an ordinance reducing the number of trustees under chapter II.

(d) “Elector” means an individual who has the qualifications of an elector under section 492 of the Michigan election law, 1954 PA 116, MCL 168.492.

(e) “Officer” means the village president, clerk, or treasurer, a village trustee, or an appointed person authorized by the council.

(f) “Quorum” means, except as otherwise defined, 1 of the following:

(i) Three council members, if the village has adopted an ordinance reducing the number of trustees under chapter II.

(ii) Four council members, if the village has not adopted an ordinance reducing the number of trustees under chapter II.

Sec. 12. A village incorporated under this act is a body politic and corporate under the name designated for it upon incorporation. By that name, the village may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the purposes for which it was incorporated, have a common seal, change the common seal at pleasure, and exercise all the powers under this act.

CHAPTER II—OFFICERS.

Sec. 1. (1) Except as provided in subsections (2) and (3), in each village, the following officers shall be elected: a president, 6 trustees, 1 clerk, and 1 treasurer. The president and trustees constitute the council. In all votes for which not less than a majority vote of council is required, the calculation of the number of votes required shall be based on the maximum number that constitutes council.

(2) The council by a vote of 2/3 of the members of council may provide by ordinance for the reduction in the number of trustees to 4 who with the president shall constitute the council. If village trustees are elected biennially for staggered 4-year terms or annually for staggered 2-year terms, the ordinance shall as nearly as possible maintain staggered terms and provide for an equal number of seats to be filled at each election. The ordinance may extend but shall not shorten the term of an incumbent trustee. The ordinance may extend a prospective term. The ordinance shall not shorten or eliminate a prospective term unless the nomination deadline for that term is not less than 30 days after the effective date of the ordinance. An ordinance adopted under this subsection shall satisfy both of the following conditions:

(a) The ordinance shall be voted on and adopted at a meeting that occurs not less than 10 days after the initial meeting or public hearing at which the ordinance was considered.

(b) Notice of each meeting at which the ordinance is considered indicating that an ordinance reducing the size of the council will be 1 of the subjects of the meeting shall be published not less than 10 days before the meeting in a newspaper of general circulation in the village.

(3) The council by a vote of 2/3 of the members of council may provide by ordinance for the nomination by the president and the appointment by the council of the clerk or the treasurer or both for such a term as the ordinance may provide. The ordinance shall apply beginning with the first term the nomination deadline for which would have been not less than 30 days after the effective date of the ordinance or shall apply when the office is vacated, whichever occurs first.

(4) The council shall provide that an ordinance adopted under subsection (2) or (3) takes effect 45 days after the date of adoption unless a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, in which case the ordinance takes effect upon approval at an election held on the question. Notice of the delayed effect of the ordinance and the right of petition under this subsection shall be published separately at the same time, and in the same manner, as the ordinance is published pursuant to section 4 of chapter VI. The village clerk shall verify the signatures on the petitions. If a petition bearing the required number of valid

signatures of electors is filed, the question of adoption of the ordinance shall be submitted at the next general or special election. The ballot language for the question shall be prepared by the village clerk, unless the question concerns the appointment of the clerk under subsection (2), in which case the ballot language shall be prepared by the village council.

(5) A village that has adopted an ordinance reducing the number of trustees to 4 or providing for the appointment by the council of the clerk or treasurer may increase the number of trustees to 6 or provide for the election of the clerk or treasurer by the same process as provided in subsection (2) or (3), respectively, and in subsection (4).

Sec. 2. (1) The president may nominate and the council appoint such officers as shall be provided for by resolution or ordinance of the council. The council may provide by ordinance or resolution for the appointment of other officers whose election or appointment is not specifically provided for in this act, as the council considers necessary for the execution of the powers granted by this act. The powers and duties of such officers shall be prescribed by the council. The council may require that the officers perform their duties faithfully and that proper measures be taken to punish neglect of duty by an officer.

(2) This section is subject to an ordinance adopted under section 8 of chapter V.

Sec. 4. Unless otherwise provided by ordinance, the president, clerk, and treasurer shall hold their respective offices for the term of 2 years from the second Monday of March of the year when elected and until their successors are elected and qualified.

Sec. 5. (1) Except as otherwise provided in this section, 3 village trustees shall be elected at each biennial village election for the term of 4 years from the second Monday in March of the even numbered year when elected and until their successors are qualified. As an alternative, if provided by an ordinance adopted by the village before January 1, 1974, all 6 village trustees shall be elected at the biennial village elections for the term of 2 years and until their successors are qualified.

(2) If a village exempted itself from subsection (1) by council resolution adopted before January 1, 1974, the village shall continue to elect its trustees annually on the second Monday in March with 3 trustees to be elected annually. The trustees shall hold their offices for the term of 2 years and until their successors are qualified.

(3) A village that exempted itself as described in subsection (2) may subsequently provide by ordinance that the village shall elect trustees biennially. The ordinance shall be applicable to the even year village election to be held not less than 6 months next following the adoption of the ordinance. The ordinance shall provide for a system of electing trustees as described in subsection (1). The ordinance may extend the terms of incumbent trustees for not more than 1 year if necessary to provide for the biennial election of trustees. In any event, a trustee shall serve until his or her successor is qualified.

(4) A copy of each resolution and ordinance adopted pursuant to this section shall be forwarded to the director of the bureau of elections of the department of state.

Sec. 6. All appointive officers, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the second Monday of April next after such appointment, and until their successors are qualified unless a different term of office is prescribed in this act, in an ordinance authorized by this act, or in the ordinance or resolution creating the office. An officer appointed to fill a vacancy in an elective office shall hold office until the next regular village election, and until his or her successor is elected and qualified. An officer appointed to fill a vacancy in an appointive office shall hold office until his or her successor is appointed and qualified.

Sec. 7. (1) A person shall not be elected to an office unless he or she is an elector of the village.

(2) A person in default to the village is not eligible for any office in the village. All votes in an election for or any appointment of a person in default to the village are void. As used in this subsection, "in default" means delinquent in payment of property taxes or a debt owed to the village if 1 of the following applies:

(a) The taxes remain unpaid after the last day of February in the year following the year in which they are levied, unless the taxes are the subject of an appeal.

(b) Another debt owed to the village remains unpaid 90 days after the due date, unless the debt is the subject of an administrative appeal or a contested court case.

(3) Not more than 30 days after receiving notice of his or her election or appointment, an officer of the village shall take and subscribe the oath of office prescribed by the constitution of the state and file the oath with the clerk. An officer who fails to comply with the requirements of this subsection shall be considered to have declined the office.

Sec. 11. If any elected officer shall cease to be a resident of the village during his or her term of office, the office shall be thereby vacated. If any officer is alleged to be in default as defined in section 7 of this chapter, the office shall be declared vacated.

Sec. 12. If any person elected or appointed to office fails to give or maintain the bond or security required for the due performance of the duties of his or her office, within the time specified under section 8 or 9 of this chapter, the council shall declare the office vacant, unless the officer gives the requisite bond or security before the council makes its declaration.

Sec. 13. Any vacancy occurring in the office of president, trustee, or any other elective office shall be filled by appointment by the council, and the appointee shall hold office until the next regular village election. All vacancies in any other office shall be filled by the president, by and with the consent of the council. If by reason of removal, death, resignation, or otherwise, the membership of the council is reduced to less than a quorum, the remaining council members shall call a special election for the purpose of filling all vacancies in the office of trustee, if a petition signed by not less than 10% of the qualified voters of the village is filed with the village clerk within 10 days after the vacancy or vacancies occur. If a petition is not filed within the time stated, then the remaining council members may either call a special election, or may proceed to appoint a sufficient number of trustees to constitute with the members in office a quorum of the council, who shall then fill the remaining vacancies as provided in this section. If all the officers and trustees of a village have died or removed from the village, and no successors have been elected or appointed to fill the vacancies, the township clerk of the township within which the village is situated shall, upon petition of 10% of the qualified voters residing in the village, call a special election for the election of the officers and trustees of the village, at a date and place to be fixed by the township clerk, which date shall be not more than 30 days after the receipt of the petition. The township board of the township shall perform all of the other duties with respect to the election as the village might have done had the vacancies not existed, including the preparation of ballots, the appointment of election inspectors, the counting and canvassing of the ballots, and the certification of the persons elected to the offices for which the election was held. All of the expenses of the election shall be a charge upon the village.

Sec. 14. The resignation or removal of an officer or the appointment or election of a successor to the officer does not exonerate the officer or the officer's sureties from any liability incurred by the officer or the officer's sureties.

Sec. 15. When an officer resigns or is removed from office, or when the elected term of office expires, he or she shall deliver over to his or her successor in office books, papers, money, evidence of debt, and other property as required by section 480 of the Michigan penal code, 1931 PA 328, MCL 750.480.

CHAPTER III—ELECTIONS.

Sec. 2. Special elections may be called by resolution of the council. The resolution shall state the purpose and object of and, subject to the election laws of this state, the date of the election.

Sec. 3. (1) Except as provided in this section, village elections shall be partisan. The council by a vote of 2/3 of the members of council may provide by ordinance that village elections shall be nonpartisan. The ordinance shall apply beginning with the first village election for which the nomination deadline is not less than 30 days after the effective date of the ordinance.

(2) The council shall provide that an ordinance adopted under subsection (1) takes effect 45 days after the date of adoption unless a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, in which case the ordinance takes effect upon approval at an election held on the question. Notice of the delayed effect of the ordinance and the right of petition under this subsection shall be published separately at the same time, and in the same manner, as the ordinance is published pursuant to section 4 of chapter VI. The village clerk shall verify the signatures on the petitions. If a petition bearing the required number of valid signatures of electors is filed, the question of adoption of the ordinance shall be submitted at the next general or special election. The ballot language for the question shall be prepared by the village clerk.

(3) A village that has adopted an ordinance providing for nonpartisan elections may revert to partisan elections by the same process as provided in subsections (1) and (2).

Sec. 4. An individual who is a registered elector of the township in which the village is located and who is a resident of the village may vote at any election in the village.

Sec. 7. All elections in the village shall be conducted as nearly as may be in the manner provided by law for holding general elections in the state, except as provided in this act. If at any election vacancies are to be filled, or if any person is to be elected for less than a full term of office, the term shall be designated on the ballot.

CHAPTER IV—DUTIES OF OFFICERS.

Sec. 1. The president is the chief executive officer of the village. He or she shall preside at the meetings of the council. The president is a voting member of the council. The president shall give the council information concerning the

affairs of the village, and recommend measures which he or she considers expedient. Unless otherwise provided in an ordinance adopted under section 8 of chapter V, the president shall exercise supervision over the affairs of the village and over the public property belonging to the village. The president shall see that the laws relating to the village and the ordinances and regulations of the council are enforced.

Sec. 2. The president is a conservator of the peace and may exercise within the village the power to suppress disorder. The president may command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the council in cases of emergency or disaster, subject to the applicable limitations of state law.

Sec. 3. The president may suspend any officer authorized by this act or appointed pursuant to this act for neglect of duty, and with the approval of the council remove any officer appointed by the council when the president considers it in the public interest. The president may at any time examine and inspect the books, records, and papers of any agent, employee, or officer of the village, and shall perform generally all duties prescribed by the ordinances of the village. This section is subject to an ordinance adopted under section 8 of chapter V.

Sec. 5. (1) The clerk shall keep the corporate seal and all the documents, official bonds, papers, files, and records of the village, not by this act or the ordinances of the village entrusted to some other officer. The clerk is the clerk of the council and shall attend its meetings.

(2) In case of the absence of the clerk, or if from any cause the clerk is unable to discharge, or is disqualified from performing, his or her duties, the council may appoint a council member, or some other person, to perform the duties of the clerk for the time being.

(3) The clerk shall record all the proceedings and resolutions of the council, and shall record, or cause to be recorded, all the ordinances of the village.

(4) The clerk shall countersign and register all licenses granted.

(5) When required, the clerk shall make reproductions pursuant to the records media act, 1992 PA 116, MCL 24.401 to 24.403, of the papers and records filed and kept in his or her office and shall certify the reproductions under the seal of the village. The admissibility in evidence of such reproductions is governed by section 3 of 1964 PA 105, MCL 691.1103.

(6) The clerk may administer oaths and affirmations.

Sec. 6. (1) The clerk shall be the general accountant of the village.

(2) Claims against the village shall be filed with the clerk for adjustment. After examination, the clerk shall report the claims, with the accompanying vouchers and counterclaims of the village, and the true balance, to the council for allowance. After the claims are allowed by the council, the clerk shall present check disbursement authorizations to the treasurer for payment of the claims, designating the fund from which payment is to be made, and take proper receipts.

(3) The clerk shall not present check disbursement authorizations upon a fund after the fund is exhausted. When a tax or money is levied, raised, or appropriated, the clerk shall report the amount to the village treasurer, stating the objects and funds for which it is levied, raised, or appropriated, and the amounts to be credited to each fund.

Sec. 7. Unless otherwise provided by ordinance, the clerk shall do all of the following:

(a) Have charge of all the books, vouchers, and documents relating to the accounts, contracts, debts, and revenues of the corporation.

(b) Countersign and register all bonds issued, and keep a list of all property belonging to the village, and of all its debts and liabilities.

(c) Keep a complete set of books, exhibiting the financial condition of the village in all its departments, funds, resources, and liabilities, with a proper classification, and showing the purpose for which each fund was raised.

(d) Keep an account of all the money received for each of the several funds of the village, and credit all check disbursements drawn, keeping an account with each fund.

Sec. 9. The treasurer shall do all of the following:

(a) Have the custody of all money, bonds other than official bonds filed with the clerk under chapter II, mortgages, notes, leases, and evidences of value belonging to the village.

(b) Receive all money belonging to, and receivable by the corporation.

(c) Keep an account of all receipts and expenditures.

(d) Collect and keep an account of all taxes and money appropriated, raised, or received for each fund of the village, and keep a separate account of each fund.

(e) Pay check disbursement authorizations out of the particular fund raised for the purpose for which the disbursement was authorized.

(f) Perform duties prescribed by this act relating to assessing property and levying taxes.

Sec. 10. The treasurer shall report to the clerk on the first Monday of every month, if required, the amounts received and credited to each fund, on what account received, the amounts paid out from each fund during the preceding month, and the amount of money remaining in each fund on the day of the report. The treasurer shall also exhibit to the council annually within 45 days after the end of the fiscal year, and as often and for such period as the council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of the treasurer's last annual report, classifying them by the funds to which the receipts are credited and out of which the disbursements are made, and the balance remaining in each fund.

Sec. 11. The treasurer shall take vouchers for all money paid from the treasury, showing the amount and fund from which payment was made. Upon settlement of the vouchers with the proper officers of the village, the treasurer shall file the vouchers with the clerk.

Sec. 12. The treasurer shall keep all village money in depository accounts authorized by law. The treasurer shall not use, either directly or indirectly, the village money, warrants, or evidences of debt for his or her own use or benefit, or that of any other person. On proof of the violation, the village council shall declare the office vacant and appoint a successor for the remainder of the term.

Sec. 21. The president and each trustee shall receive compensation for the performance of the duties of the office of president or trustee only as provided by ordinance. The ordinance shall specify how the compensation is determined due and paid. Except as otherwise provided by law, these officers shall receive no other compensation for services performed for and on behalf of the village during their term of office. Except as otherwise provided in this act or by other law regulating fees for services, other officers shall receive such compensation as may be prescribed by the council.

CHAPTER V—VILLAGE COUNCIL.

Sec. 1. The legislative authority of villages shall be vested in the council.

Sec. 2. The president shall be president of the council, and preside at the meetings of the council.

Sec. 3. On the second Monday in April in each year, or as soon thereafter as possible, the council shall appoint 1 of their number president pro tempore of the council, who in the absence of the president shall preside at the council meetings, and exercise the powers and duties of president. In the absence of the president and president pro tempore, the member with the longest current period of continuous service on the council shall preside unless otherwise provided by council rules.

Sec. 5. (1) The council shall prescribe the rules of its own proceedings, and shall keep a record of those proceedings. A majority of the members of council shall be a quorum for the transaction of business. A lesser number may adjourn and compel the attendance of absent members in a manner as prescribed by ordinance.

(2) An office shall not be created or abolished; a street, alley, or public ground vacated; real estate or an interest in real estate purchased, leased, sold, or disposed of; or a public improvement ordered, except by a majority vote of the members of council. The vote shall be taken by yeas and nays, and entered in the journal. However, a tax shall not be increased or a special assessment imposed except by an affirmative vote of 2/3 of the members of council.

(3) Money shall not be appropriated except by ordinance or resolution of the council. An ordinance appropriating money shall not be passed, or a resolution appropriating money shall not be adopted, except by a majority vote of the members of council. The vote shall be taken by yeas and nays, and entered in the journal. Within 15 days after a meeting of the council, a synopsis or the entirety of the proceedings, including the vote of the members, prepared by the clerk and approved by the president showing the substance of each separate decision of the council shall be published in a newspaper of general circulation in the village or posted in 3 public places in the village.

(4) A writing prepared, owned, used, in the possession of, or retained by the council or by the clerk, treasurer, or other officer of the village in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 7. (1) The council shall audit and allow all accounts chargeable against the village. An account or claim or contract shall not be received for audit or allowance unless it is accompanied with a certificate of an officer of the village, or an affidavit of the person rendering it, that the services therein charged have been actually performed or the property delivered for the village, that the sums charged therefor are reasonable and just, and that to the best of his or her knowledge and belief, no set-off exists, and no payment has been made on account thereof, except such set-offs or payments as are endorsed or referred to in the account or claim. Each account shall exhibit in detail all the items

making up the amount claimed, and the date of each. The council may adopt a different procedure for the audit and allowance of accounts, claims, and contracts than that provided by this subsection.

(2) It shall be a sufficient defense in any court, to an action or proceeding for the collection of any claim against the village for personal injuries or otherwise that it has never been presented, certified to, or verified to the council for allowance as provided in this section or as may be required under different procedures adopted by the council; or, if the claim is founded on contract, that the claim was presented without the certificate or affidavit required by this section and was rejected for that reason; or, that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it.

Sec. 8. (1) The council may employ a village manager.

(2) The manager shall serve at the pleasure of the council.

(3) The council may enter into an employment contract with a village manager for a period extending beyond the terms of the members of council but not exceeding 6 years. An employment contract with a manager shall be in writing and shall specify the compensation to be paid to the manager, any procedure for changing compensation, any fringe benefits, and any other conditions of employment. The contract shall state that the manager serves at the pleasure of the council. The contract may provide for severance pay or other benefits in the event the employment of the manager is terminated at the pleasure of the council. Unless otherwise provided by ordinance adopted under subsection (4), the council may assign to the manager only those powers and duties not required by law to be assigned to or performed by another official of the village.

(4) The council may adopt an ordinance assigning to the manager an administrative duty imposed by this act on the council; an administrative duty imposed by this act on the village president; the authority to appoint, remove, direct, or supervise any employee or appointed official of the village; or supervisory responsibility over the accounting, budgeting, personnel, purchasing, and related management functions imposed by this act on the village clerk and the village treasurer. The council shall provide in the ordinance that the assignment becomes effective 45 days after the date of adoption and that if a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, the ordinance shall not become effective until after the ordinance is approved at an election held on the question. Notice of the delayed effect of the ordinance and the right of petition under this subsection shall be published separately at the same time, and in the same manner, as the ordinance is published pursuant to section 4 of chapter VI. The village clerk shall compare the signatures on the petitions to the signatures of those electors as they appear on the appropriate registration cards. If a petition bearing the required number of valid signatures of electors is filed, the clerk shall perform the acts required for the submission of the question of adoption of the ordinance at the next general or special election. An ordinance adopted before December 2, 1985 that conforms substantially with the requirements of this subsection is valid to the same extent as if the ordinance had been adopted on or after December 2, 1985.

CHAPTER VI—ORDINANCES.

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 vote of the members of council. An ordinance shall state its effective date, which may be upon publication, except that an ordinance imposing a sanction shall not take effect before the twentieth day after its passage or before the date of its publication, whichever occurs first.

Sec. 3. Upon enactment, each ordinance shall be recorded by the clerk of the council in a book to be called "the record of ordinances," and the president and clerk shall authenticate each ordinance by placing his or her official signature upon the ordinance.

Sec. 3a. A village may codify, recodify, and continue in code the village's ordinances, in whole or in part, without the necessity of publishing the entire code in full. The ordinance adopting the code and ordinances repealing, amending, continuing, or adding to the code shall be published as required by section 4 of this chapter. The publication shall state where a copy of the entire code can be reviewed and obtained. The ordinance adopting the code may amend, repeal, revise, or rearrange ordinances or parts of ordinances by references to the title only.

Sec. 4. Within 15 days after the passage of an ordinance, the ordinance or a synopsis of the ordinance shall be published in a newspaper circulated in the village. Immediately after publication, the clerk shall enter in the record of ordinances, in a blank space to be left for that purpose under the record of the ordinance, a certificate under the clerk's hand, stating the time and places of the publication. The certificate shall be prima facie evidence of the due publication of the ordinance or the synopsis. A village may adopt a plumbing code, electrical code, mechanical code, fire protection code, building code, or other code promulgated by this state, by a department, board, or other agency of this state, or by an organization or association which is organized or conducted for the purpose of developing a code by reference to the code in an adopting ordinance and without publishing the code in full. The code shall be clearly identified in the ordinance and a statement of the purpose of the code shall be published with the adopting ordinance. Printed copies of

the code shall be kept in the office of the village clerk available for inspection by or distribution to the public during normal business hours. The village may charge a fee that does not exceed the actual cost for copies of the code distributed to the public. The publication in the newspaper shall contain a notice to the effect that a complete copy of the code is available for public use and inspection at the office of the village clerk.

Sec. 8. Every village shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons sentenced to imprisonment under the ordinances of the village, or under any of the provisions of this act; and the sheriff, or other keeper of the jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed until lawfully discharged. The expense of receiving and keeping a prisoner shall be borne by the county if the imprisonment is for a violation of a penal law of this state and by the village if the imprisonment is for a violation of a village ordinance.

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 or subject and the ordinance's section number.

(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 section number and effective date. 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. 11. The council shall have power to provide and maintain a village lockup or holding facility, and may provide for the confinement of persons sentenced to imprisonment or detention under the ordinances of the village. All persons sentenced to confinement and all persons imprisoned on execution for nonpayment of fines for violation of the ordinances of the village in the lockup or holding facility may be kept at hard labor during the term of their imprisonment, either within or without the prison, under such regulations as the council may prescribe.

Sec. 12. In prosecutions for violations of the ordinances of the village, commenced by a person other than an officer of the village, the court may require the complaining witness to file security for the payment of the costs of the proceedings, in case the defendant is determined not to be responsible. But the judge or magistrate before whom the complaint is made or trial is had shall order that the complaining witness is not liable for the payment of costs if the magistrate or judge determines that there was probable cause for the making of the complaint.

Sec. 14. If a person who collects a fine or part of a fine fails to pay over the amount collected pursuant to section 13, the village attorney may sue the person in the name of the village to recover the fine. If the failure to pay over the fine is willful, the person is guilty of larceny and shall be punished accordingly.

CHAPTER VII—POWERS OF COUNCIL.

Sec. 1a. (1) Unless otherwise provided or limited in this chapter, the village is vested with all powers and immunities, expressed or implied, that villages are, or hereafter may be, permitted to exercise under the constitution and laws of the state of Michigan. The enumeration of particular powers or immunities in this act is not exclusive.

(2) The village may do all of the following:

(a) Exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government whether such powers are expressly enumerated or not.

(b) Do any act to advance the interests, good government, and prosperity of the village.

(c) Through its regularly constituted authority, pass and enforce all laws, ordinances, resolutions, and rules relating to its municipal concerns subject to the constitution and laws of the state.

(3) The powers of the village under this act shall be liberally construed in favor of the village and shall include those fairly implied and not prohibited by law or constitution.

(4) The specific powers listed in section 1 of this chapter shall not be construed as limiting the general powers set forth in subsections (1), (2), and (3).

Sec. 3. The council may maintain an animal pound and provide for all of the following:

- (a) The impoundment of animals at large contrary to the terms of an ordinance.
- (b) The destruction of animals not retrieved or for their sale to recover expenses.
- (c) The payment by the owner of fees, charges, and penalties incurred for retrieval of the animal.

Sec. 4. A village may acquire, purchase, and erect public buildings required for the use of the village, and may purchase, appropriate, and own real estate necessary for public grounds, parks, markets, public buildings, and other purposes necessary or convenient for the public good, and for the exercise of the powers conferred in this act. Such buildings and grounds, or any part thereof, may be sold at a public or private sale, if authorized by an ordinance, or may be leased. A public park shall not be sold without the consent of a majority of the electors of the village voting on the question at an election.

Sec. 5. If the council considers it in the public interest, grounds and buildings for a village lockup or holding facility or hospital may be purchased, erected, and maintained beyond the corporate limits of the village. In such a case, the village may enforce beyond the corporate limits of the village, and over such lands, buildings and property, in the same manner and to the same extent as if they were within the village, ordinances and police regulations necessary for the care and protection thereof, and for the management and control of the persons kept or confined in the lockup or holding facility or hospital.

Sec. 6. The council may lay out or establish public parks and grounds within the village, and improve, light, and ornament public parks and grounds within the village. The council may regulate the use of public parks and grounds and protect the public parks and grounds and their appurtenances from obstruction, encroachment, and injury.

Sec. 7. The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks, and public grounds within the village, and shall have the authority over these that is given by the general laws of the state. A village is not liable in damages sustained by any person in the village, either to his or her person or property, by reason of a defective street, sidewalk, crosswalk, or public highway, or by reason of an obstruction, ice, snow or other incumbrance upon a street, sidewalk, crosswalk, or public highway, situated in such village unless within 120 days after the injury occurs a person serves or causes to be served a notice in writing upon the clerk or deputy clerk of the village. The notice shall set forth substantially the time when and place where the injury took place, the manner in which it occurred, the known extent of the injury, and that the person receiving the injury intends to hold the village liable for damages sustained by him or her. However, the road or highway bridges within the limits of a village laid out by any authority other than the village, shall be built, controlled, and kept in repair by the county or this state, whichever has jurisdiction. All other bridges in the village shall be built, controlled, and kept in repair by the village.

Sec. 9. The council may, either by ordinance or resolution, require the owners and occupants of a lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to the lot and premises, and to keep the sidewalks free from obstructions, encroachments, incumbrances, filth, and other nuisances. The council may by a majority vote of members of council provide by ordinance for the rebuilding, maintaining, and keeping in repair of all sidewalks within the village, for the removing of all ice and snow from the sidewalks, and for keeping them free from incumbrances, and may pay the expense from the general street fund.

Sec. 10. If the owner or occupant of a lot or premises fails to construct or maintain a sidewalk, to keep the sidewalk in repair, to remove the snow, ice, and filth from the sidewalk, or to remove and keep the sidewalk free from obstructions, encroachments, incumbrances, or other nuisances, as required under section 8 or 9 of this chapter, or to perform any other duty required by the council in respect to a sidewalk, the council may cause the work to be done at the expense of the owner or occupant, and may cause the amount of the expenses incurred, together with a penalty of 10% to be levied by them as a special assessment upon the lot or premises adjacent to and abutting upon the sidewalk. The special assessment is subject to review after proper notice has been given as in all other cases of special assessments provided for by law. When confirmed, the assessment shall be a lien upon the lot or premises the same as other special assessments, and the council shall order the treasurer of the village to spread the amount, together with the penalty, upon the roll as a special assessment upon the lot or premises. The assessment shall be collected in the same manner as other village taxes. The village may instead collect the amount, together with the penalty in a civil action, together with costs of suit.

Sec. 12. The council may lay out, establish, open, make, widen, extend, straighten, alter, close, vacate, or abolish a highway, street, lane, alley, sidewalk, sewer, drain, water course, bridge, or culvert in the village if the council considers it to be a public improvement, or necessary for the public convenience. Private property required for these purposes may be taken in the manner provided in this act. The expense of the improvement may be paid by special assessments upon the property adjacent to or benefited by the improvement, in the manner provided by law for levying and

collecting special assessments, or in the discretion of the council, a portion of such costs and expenses may be paid by special assessment, and the balance from the general highway fund.

Sec. 13. When the council considers it advisable to vacate, discontinue, or abolish a highway, street, lane, alley, or public ground, or a part of a highway, street, lane, alley, or public ground, it shall by resolution declare its intent and appoint a time not less than 4 weeks after the date of the resolution, when it shall meet and hear objections to the resolution. Notice of the meeting, with a copy of the resolution, shall be given in the manner prescribed by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. An objection to the proposed action of the council may be filed with the clerk in writing, and if an objection is filed, the highway, street, lane, alley, or public ground, or a part of the highway, street, lane, alley, or public ground, shall not be vacated or discontinued, except by a resolution or ordinance stating, if applicable, the name of the plat or plats affected and adopted by a majority vote of the members of council or by order of the circuit court in the county in which the land is situated as provided by the land division act, 1967 PA 288, MCL 560.101 to 560.293. The clerk of the municipality within 30 days shall record a certified copy of the resolution or ordinance with the register of deeds and file a certified copy with the department of consumer and industry services.

Sec. 16. (1) Whenever the grade of any street or sidewalk is established, and improvements are made by the owner or occupant of the adjacent property in conformity to the grade, the grade shall not be changed without compensation to the owner for all damages to the property resulting from the grade change. The damages shall be ascertained in the manner provided by the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, or agreed upon by the village and the owner or occupant of premises. After the damages are ascertained or agreed upon, the damages shall be paid by the village, or the council may cause the damages, or such part thereof as may be just and proper, to be assessed upon real estate to be benefited by the change of grade.

(2) If the council decides to assess the damages, or any part thereof, upon the property benefited, it shall determine and define a district in the village which in its judgment is benefited by the improvement out of which the damages arise. The damages or part thereof shall be assessed upon the real estate in the district, in proportion as nearly as may be to the advantage or benefit each lot, parcel, or subdivision is deemed to acquire by the improvement out of which the damages arise. The property on account of which the damages were awarded shall not be included in the district. The assessment shall be made, and the amount levied and collected in the same manner as other assessments on a district deemed to be benefited, in the grading and improvement of streets, as provided by law; and the provisions of chapter VIII relative to special assessments shall apply. The damages determined upon by the village or determined and collected by special assessment shall be paid to the person entitled to the damages.

Sec. 18. The expense of constructing and maintaining bridges, and the whole, or such part as the council shall determine, of the expense of improving and working upon the streets and highways, including grading, paving, and graveling, may be paid from the general highway fund, to be raised by tax upon all the property in the village. All or part of the expense of grading, paving, or graveling any street may also be defrayed by a special assessment upon the lots and premises abutting upon the improvement, in proportion to their number of feet front upon the street. The lots and premises to be assessed according to their frontage upon a street improvement constitute a special assessment district. As used in this section, "paving" includes curbing and the construction of crosswalks in the paved streets.

Sec. 19. Assessments made under section 18 upon exempt public lands may be paid from the general highway fund, or may be apportioned to the other assessable lots, at the option of the council. If because of the shape or size of any lot an assessment thereon in proportion to its frontage would be unjust and disproportionate to the assessment upon other lots, the council making the assessment may assess the lot for such number of feet frontage as in their opinion is just.

Sec. 23. The council may regulate the use of public highways, streets, avenues, and alleys of the village, subject to the right of travel and passage therein. The council may prescribe the stands for all vehicles kept for hire, or used for the transportation of persons or property for hire; designate the places where loads of wood, coal, hay, and other articles may stand for sale; regulate traffic and sales in the streets and upon sidewalks; regulate or prohibit the display, use, or placing of signs, advertisements, banners, awnings, posts, poles, or lamps in or over the streets; regulate or prohibit sports, amusement proceedings, and gatherings of crowds in the streets that may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; prohibit and prevent the running at large of animals in the streets or elsewhere in the village, and impose sanctions upon the owners or keepers responsible; cleanse and purify the streets; prohibit, prevent, remove, and abate all nuisances in the streets, require a person creating or maintaining a nuisance to remove or abate it, sanction the person for the creation or maintenance of the nuisance, and generally prescribe and enforce regulations concerning the public streets as may be necessary to secure good order and safety to persons and property in their lawful use and to promote the general welfare. In addition, the council shall have the same authority and powers over and in respect to the public streets of the village as are conferred by law upon the board of county road commissioners.

Sec. 24. The council of any village may establish, construct, and maintain sewers, drains, and watercourses whenever and wherever necessary. These improvements shall be of such dimensions and materials, and under such regulations as the council considers proper for the drainage of the village. Private property may be taken therefor in the manner provided by this act for taking private property for public use. But in all cases where the council shall consider it practicable, such sewer, drain, and watercourses shall be constructed in the public streets and grounds.

Sec. 25. The expense of constructing sewers, drains, and watercourses may be paid by general tax upon the taxable property in the village; or the expenses may be defrayed by special assessment upon the lands and premises benefited in proportion to the benefits resulting to each lot or parcel of land respectively; or such part of the expense as the council shall determine may be defrayed by special assessment, and the remainder may be paid by general tax.

Sec. 26. (1) Before proceeding to the construction of any sewer, drain, or watercourse, all or part of the expense of which is to be defrayed by special assessment, the council shall cause a map to be made of those lands and premises which in their opinion will be benefited and which they intend to assess for the cost. Those lands shall constitute a special assessment district; and the map shall show the boundaries and divisions of all the lots and premises in the district, the proposed route and location of the improvement through the district, and the depth, grade, and dimensions of the improvement. The map, with an estimate of the cost of the proposed work, shall be deposited with the clerk, and notice shall be given by publication in a newspaper of the village for 2 weeks or by posting copies of such notice for 2 weeks, in 3 public places in the village, of the intention to construct the improvement, and where the map and estimates can be found, and appointing a time when the council will meet to hear any suggestions and objections from persons interested or liable to be assessed for the work.

(2) The special assessments shall be made in the manner provided by law.

Sec. 31. The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, a reasonable sum in proportion to the amount of drainage through the private drain. The charge shall be a lien upon the premises, and may be collected by special assessment.

Sec. 33. The expenses of repairing public sanitary sewers, drains, ditches, storm water systems, water supply systems, and watercourses may be paid by general tax. The expenses of reconstructing these improvements may be defrayed in the manner prescribed in this chapter for paying the expenses of constructing such improvements.

Sec. 34. The council may enact ordinances necessary for the protection and control of the public sanitary sewers, drains, ditches, storm water systems, water supply systems, and watercourses, and to carry into effect the powers conferred in this chapter in respect to the drainage of the village.

Sec. 38. The council may do all of the following:

(a) Provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the village.

(b) Control and regulate the anchorage, moorage, and management of all boats, watercraft, and floats within the jurisdiction of the village.

(c) Regulate and prescribe by ordinance, or through a harbor master or other officer, the location of any boat, craft, vessel, or float, and the changes of station in, and use of the harbor as may be required to promote order and the safety and convenience of all boats, craft, vessels, and floats.

(d) Regulate the opening and passage of bridges.

(e) Adopt and enforce ordinances and regulations not inconsistent with the laws of the United States, or this state, as in the opinion of the council shall be most conducive to the orderly, safe, and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers, and landing places within the village.

Sec. 39. The president may nominate and the council may appoint a harbor master. The harbor master shall enforce all such ordinances and regulations as the council may lawfully enact and prescribe in respect to and over the navigable waters, harbors, wharves, docks, landings, and basins within the village, and in respect to the navigation, trade, and commerce of the village. The council may prescribe the powers and duties of the harbor master and fix his or her compensation.

Sec. 41. The council of any village may establish and regulate markets and marketplaces, for the sale of meats, fish, vegetables, and other food products and prescribe rules and regulations relating to hours of business, sanitation, traffic, and other matters normally incidental to the proper management of a market consistent with the market authority act of 1956, 1956 PA 185, MCL 123.671 to 123.680.

Sec. 56. The council may, within the limitations in this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds, and for the improvement, adornment, protection, and care of the cemetery grounds.

Sec. 57. (1) Whenever any village owns, purchases, or otherwise acquires any cemetery or cemetery grounds, the council may appoint a board of cemetery trustees. The council may provide that the powers conferred upon a board of cemetery trustees by this act shall be exercised by the department of public works director, or the village manager, if any.

(2) A board of cemetery trustees shall consist of 3 individuals. The trustees shall hold their office for the term of 3 years, except that at the first appointment, 1 shall be appointed for 1 year, 1 for 2 years, and 1 for the term of 3 years from the second Monday in April of the year when appointed. One trustee shall be appointed annually thereafter. The council may remove any trustee so appointed for inattention to his or her duties, want of proper judgment or skill in or for the proper discharge of his or her duties, or other good cause. The board shall serve without compensation.

Sec. 58. The board of cemetery trustees shall appoint 1 of their number chairperson and the village clerk shall be clerk of the board, and the council may by ordinance invest the board with such powers and authority as may be necessary for the care, management, and preservation of the cemetery, including the cemetery grounds, tombs, monuments, and appurtenances. The board shall perform such other duties as the council may prescribe.

Sec. 61. (1) Money raised for any public cemetery authorized by this act, and money received from the sale of lots or from other cemetery operations, shall be paid into the village treasury and constitute the "cemetery fund". The cemetery fund shall be used exclusively for cemetery purposes. The board of trustees shall report to the council annually, on the first Monday in March, and more often when the council requires, all of the following:

- (a) For money received into and owing to the cemetery fund, the amount, source, and the payor or debtor.
 - (b) For expenditures and liabilities incurred, the date, amount, items, and purpose, and to whom paid, and to whom incurred.
 - (c) Such other matters as the council shall require to be reported.
- (2) The report under subsection (1) shall be verified by the oath of the clerk of the board.

Sec. 63. The board of cemetery trustees may receive in trust money or other property as gifts, grants, devises, or bequests for cemetery purposes. The money or other property shall be held in trust by the board, subject to the terms and conditions on which it was given, granted, devised, or bequeathed, and shall constitute a trust fund. The money shall, unless otherwise expressed by those making such gifts, grants, devises, or bequests, be invested as permanent fund in undoubted real estate security, U.S. bonds, state bonds, or municipal bonds, and the interest thereon after fulfillment of such conditions expressed shall be used in improving the cemetery under the control of the cemetery board. The gifts, grants, devises, or bequests shall be used exclusively for cemetery purposes.

Sec. 64. (1) The board of cemetery trustees may make all requisite and necessary rules and bylaws to carry into effect the powers vested and duties required by section 63. The bylaws shall be recorded in a book kept for that purpose. The board of cemetery trustees shall also appoint a treasurer from the membership of the board, whose duties shall be, under the direction of the board, to receive, account for, and invest all money received by the board under section 63. The treasurer shall give and execute a bond to the board of cemetery trustees in a sum fixed by the council.

(2) The business which the board of cemetery trustees may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Enacting section 1. The following sections of the general law village act, 1895 PA 3, are repealed:

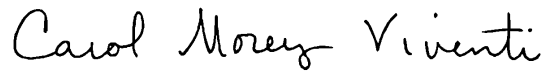
<u>Section Numbers</u>	<u>Chapter Number</u>	<u>Michigan Compiled Laws Section Number</u>
2 to 11 and 15	I	61.2 to 61.11 and 61.15
13	III	63.13
13 to 20	IV	64.13 to 64.20
5	VI	66.5
28, 32, and 44 to 46a	VII	67.28, 67.32, and 67.44 to 67.46a

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5437 of the 89th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.