

# HOUSE BILL NO. 6378

November 12, 2020, Introduced by Reps. Coleman, Meerman and Steven Johnson and referred to the Committee on Government Operations.

A bill to amend 1895 PA 3, entitled  
"The general law village act,"  
by amending section 1 of chapter II, sections 5 and 8 of chapter V,  
sections 3a and 4 of chapter VI, section 26 of chapter VII, and  
section 6 of chapter XIV (MCL 62.1, 65.5, 65.8, 66.3a, 66.4, 67.26,  
and 74.6), section 1 of chapter II as amended by 2004 PA 300,  
section 5 of chapter V as amended by 2020 PA 81, section 8 of  
chapter V, section 3a of chapter VI, and section 26 of chapter VII

as amended by 1998 PA 255, and section 4 of chapter VI as amended by 2012 PA 10.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 CHAPTER II—OFFICERS.

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

9 (2) The council by a vote of 2/3 of the members of council may  
10 provide by ordinance for the reduction in the number of trustees to  
11 4 or for the election of all trustees at the same election for 2-  
12 year terms at the first possible election after 2004 who with the  
13 president shall constitute the council, and may provide by  
14 ordinance for the method of changing from 2-year staggered terms to  
15 4-year staggered terms. If village trustees are elected biennially  
16 for staggered 4-year terms, the ordinance ~~shall~~**must** as nearly as  
17 possible maintain staggered terms and provide for an equal number  
18 of seats to be filled at each election. The ordinance may extend  
19 but ~~shall~~**must** not shorten the term of an incumbent trustee. The  
20 ordinance may extend a prospective term. The ordinance ~~shall~~**must**  
21 not shorten or eliminate a prospective term unless the nomination  
22 deadline for that term is not less than 30 days after the effective  
23 date of the ordinance. An ordinance adopted under this subsection  
24 ~~shall~~**must** satisfy both of the following conditions:

25 (a) The ordinance ~~shall~~**must** be voted on and adopted at a  
26 meeting that occurs not less than 10 days after the initial meeting

1 or public hearing at which the ordinance was considered.

2 (b) ~~Notice~~**Before January 1, 2022, notice** of each meeting at  
 3 which the ordinance is considered indicating that an ordinance  
 4 reducing the size of the council or to change the time of election  
 5 of the trustees comprising the council will be 1 of the subjects of  
 6 the meeting ~~shall~~**must** be published not less than 10 days before  
 7 the meeting in a newspaper of general circulation in the village.  
 8 **Beginning January 1, 2022, public notice of each meeting at which**  
 9 **the ordinance is considered indicating that an ordinance reducing**  
 10 **the size of the council or to change the time of election of the**  
 11 **trustees composing the council will be 1 of the subjects of the**  
 12 **meeting must be provided in the manner required under the open**  
 13 **meetings act, 1976 PA 267, MCL 15.261 to 15.275.**

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

22 (4) The council shall provide that an ordinance adopted under  
 23 subsection (2) or (3) takes effect 45 days after the date of  
 24 adoption unless a petition signed by not less than 10% of the  
 25 registered electors of the village is filed with the village clerk  
 26 within the 45-day period, in which case the ordinance takes effect  
 27 upon approval at an election held on the question. Notice of the  
 28 delayed effect of the ordinance and the right of petition under  
 29 this subsection ~~shall~~**must** be published **or posted** separately at the

1 same time, and in the same manner, as the ordinance is published  
 2 ~~pursuant to or posted under~~ section 4 of chapter VI. The village  
 3 clerk shall verify the signatures on the petitions. If a petition  
 4 bearing the required number of valid signatures of electors is  
 5 filed, the question of ~~adoption of~~ **adopting** the ordinance ~~shall~~  
 6 **must** be submitted at the next general or special election. The  
 7 ballot language for the question ~~shall~~ **must** be prepared by the  
 8 village clerk, unless the question concerns the appointment of the  
 9 clerk under subsection ~~(2),~~ **(3)**, in which case the ballot language  
 10 ~~shall~~ **must** be prepared by the village council.

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

#### 17 CHAPTER V—VILLAGE COUNCIL.

18 Sec. 5. (1) The council shall prescribe the rules of its own  
 19 proceedings, and shall keep a record of those proceedings. Except  
 20 as otherwise provided in this section, a majority of the members of  
 21 council are a quorum for the transaction of business. A majority of  
 22 the members of council serving, if meeting to fill a vacancy in the  
 23 office of village president or village trustee, are a quorum for  
 24 the transaction of business. A lesser number may adjourn and compel  
 25 the attendance of absent members in a manner as prescribed by  
 26 ordinance. In the absence of an ordinance, if the village council  
 27 lacks a quorum for more than 60 consecutive calendar days, then the  
 28 presiding officer of the village council may compel the attendance  
 29 of board members and other officers of the village at a regular or

1 special meeting and enforce the orderly conduct in the meeting. A  
2 member of the council or any other officer of the village who  
3 refuses to attend a meeting for a reason other than a confining  
4 illness or extenuating circumstances is guilty of gross neglect of  
5 duty. Any police officer designated by the presiding officer of the  
6 meeting shall serve as the sergeant-at-arms of the village council  
7 in the enforcement of this subsection.

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

16 (3) Money must not be appropriated except by ordinance or  
17 resolution of the council. An ordinance appropriating money must  
18 not be passed, or a resolution appropriating money must not be  
19 adopted, except by a majority vote of the members of council. The  
20 vote must be taken by yeas and nays, and entered in the journal.  
21 ~~Within~~ **Before January 1, 2022, within** 15 days after a meeting of  
22 the council, a synopsis or the entirety of the proceedings,  
23 including the vote of the members, prepared by the clerk and  
24 approved by the president showing the substance of each separate  
25 decision of the council must be published in a newspaper of general  
26 circulation in the village or posted in 3 public places in the  
27 village. **Beginning January 1, 2022, within 15 days after a meeting**  
28 **of the council, public notice of a synopsis or the entirety of the**  
29 **proceedings, including the vote of the members, prepared by the**

1 clerk and approved by the president showing the substance of each  
2 separate decision of the council must be posted as set forth in the  
3 local government public notice act.

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

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

10 (2) The **village** manager ~~shall serve~~ **serves** at the pleasure of  
11 the council.

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

26 (4) The council may adopt an ordinance assigning to the  
27 **village** manager an administrative duty imposed by this act on the  
28 council; an administrative duty imposed by this act on the village  
29 president; the authority to appoint, remove, direct, or supervise

1 any employee or appointed official of the village; or supervisory  
 2 responsibility over the accounting, budgeting, personnel,  
 3 purchasing, and related management functions imposed by this act on  
 4 the village clerk and the village treasurer. The council shall  
 5 provide in the ordinance that the assignment becomes effective 45  
 6 days after the date of adoption and that if a petition signed by  
 7 not less than 10% of the registered electors of the village is  
 8 filed with the village clerk within the 45-day period, the  
 9 ordinance ~~shall~~**does** not become effective until after the ordinance  
 10 is approved at an election held on the question. Notice of the  
 11 delayed effect of the ordinance and the right of petition under  
 12 this subsection ~~shall~~**must** be published **or posted** separately at the  
 13 same time, and in the same manner, as the ordinance is published  
 14 ~~pursuant to~~**or posted under** section 4 of chapter VI. The village  
 15 clerk shall compare the signatures on the petitions to the  
 16 signatures of those electors as they appear on the appropriate  
 17 registration cards. If a petition bearing the required number of  
 18 valid signatures of electors is filed, the clerk shall perform the  
 19 acts required for the submission of the question of ~~adoption of~~  
 20 **adopting** the ordinance at the next general or special election. An  
 21 ordinance adopted before December 2, 1985 that conforms  
 22 substantially with the requirements of this subsection is valid to  
 23 the same extent as if the ordinance had been adopted on or after  
 24 December 2, 1985.

#### 25 CHAPTER VI—ORDINANCES.

26 Sec. 3a. A village may codify, recodify, and continue in code  
 27 the village's ordinances, in whole or in part, without the  
 28 necessity of publishing **or posting** the entire code in full. The  
 29 ordinance adopting the code and ordinances repealing, amending,

continuing, or adding to the code ~~shall~~**must** be published **or posted** as required by section 4 of this chapter. The publication ~~shall~~**or posting must** 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. (1) ~~Within~~**Before January 1, 2022, within** 15 days after an ordinance is passed, the clerk shall publish the ordinance or a synopsis of the ordinance in a newspaper circulated in the village. **Beginning January 1, 2022, within 15 days after an ordinance is passed, public notice of the ordinance or a synopsis of the ordinance must be posted by the clerk as set forth in the local government public notice act.** Immediately after the ordinance or synopsis of the ordinance is published **or posted**, 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 signed certificate, stating the date on which and the ~~name of the newspaper~~**method** in which the ordinance was published **or posted**. The certificate is prima facie evidence of the publication **or posting** of the ordinance or the synopsis.

(2) A village may adopt a provision of any state statute for which the maximum period of imprisonment is 93 days, the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or 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 that is organized or conducted for the purpose of developing a code, by reference to the law or code in an adopting ordinance and without publishing **or posting** the law or



code in full. The law or code ~~shall~~**must** be clearly identified in the ordinance and a statement of the purpose of the law or code ~~shall~~**must** be published **or posted** with the adopting ordinance. Printed copies of the law or code ~~shall~~**must** 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 law or code distributed to the public. The publication ~~in the newspaper~~ ~~shall~~**or posting must** contain a notice to the effect that a complete copy of the law or code is available for public use and inspection at the office of the village clerk. Except as otherwise provided in this subsection, a village shall not enforce any provision adopted by reference for which the maximum period of imprisonment is greater than 93 days. A village may adopt section 625(1)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, by reference in an adopting ordinance and shall provide that a violation of that ordinance is a misdemeanor punishable by 1 or more of the following:

- (a) Community service for not more than 360 hours.
- (b) Imprisonment for not more than 180 days.
- (c) A fine of not less than \$200.00 or more than \$700.00.

#### CHAPTER VII-POWERS OF COUNCIL.

Sec. 26. (1) Before ~~proceeding to the~~**beginning** 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~~**that** in their opinion will be benefited and ~~which~~**that** they intend to assess for the cost. Those lands ~~shall~~ constitute a special assessment district. ~~and the~~ **The** map ~~shall~~**must** 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~~**must** be deposited with the clerk. ~~, and~~ **Before January 1, 2022**, notice ~~shall~~**must** be given by publication in a newspaper of the village for 2 weeks or by posting copies of ~~such~~**the** 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~~**the** time when the council will meet to hear any suggestions and objections from persons interested or liable to be assessed for the work. **Beginning January 1, 2022, public notice of the intention to construct the improvement, where the map and estimates can be found, and the time when the council will meet to hear any suggestions and objections from persons interested or liable to be assessed for the work must be posted as set forth in the local government public notice act.**

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

#### CHAPTER XIV-MISCELLANEOUS.

Sec. 6. ~~Whenever~~**If** the council of any village ~~shall determine~~**determines** by resolution to alter the boundaries of ~~such~~**the** village, either by taking in lands and premises ~~adjoining thereto~~**adjoined to the village** or by taking out any lands and premises included in ~~such~~**the** village, or both, they shall petition the **county** board of ~~supervisors~~**commissioners** of the county in which ~~such~~**the** lands and premises affected ~~thereby~~ are situated to make ~~such~~**the** change. ~~Such~~**The** petition ~~shall~~**must** contain a description by metes and bounds of the lands and premises proposed to be added

1 to or taken out of ~~such-the~~ village, and ~~shall-must~~ set forth the  
 2 reasons for the proposed change, and ~~shall-must~~ contain a copy of  
 3 the resolution of the council in relation thereto, and ~~shall-must~~  
 4 be signed by the president and clerk of ~~such-the~~ village. Before  
 5 ~~such-January 1, 2022, before the~~ petition ~~shall-be-is~~ presented to  
 6 the **county** board of ~~supervisors-commissioners~~, notice ~~shall-must~~ be  
 7 given by the clerk of the time and place when **and where** the ~~same~~  
 8 **petition** will be presented for consideration, ~~by publishing the~~  
 9 ~~same-notice~~ in a newspaper published in ~~such-the~~ village for at  
 10 least 3 weeks immediately ~~preceding-before~~ the presentation of the  
 11 ~~same, petition~~, and if ~~no-a~~ newspaper is **not** published in ~~such-the~~  
 12 village, then by posting the ~~same-notice~~ in at least 3 of the most  
 13 public places within the village, ~~and in at least 3 of the most~~  
 14 public places of the territory directly affected. ~~thereby. Such~~  
 15 **Beginning January 1, 2022, before the petition is presented to the**  
 16 **county board of commissioners, public notice of the time and place**  
 17 **when and where the petition will be presented for consideration**  
 18 **must be posted by the clerk as set forth in the local government**  
 19 **public notice act. The** notice ~~shall-must~~ also contain a description  
 20 of the premises proposed to be taken in or out of the boundaries of  
 21 ~~such-the~~ village. At the time of presenting ~~such-the~~ petition, all  
 22 parties interested may appear before ~~such-the~~ **county** board of  
 23 ~~supervisors-commissioners~~ and be heard touching the proposed  
 24 boundaries of ~~such-the~~ village. ~~and after such-After the~~ hearing  
 25 and due consideration of ~~such-the~~ petition, it ~~shall-be-is~~ the duty  
 26 of the **county** board of ~~supervisors-commissioners~~ to order and  
 27 determine ~~as to whether the prayer contained in the petition or any~~  
 28 ~~part thereof of the petition~~ shall be granted. ~~and they-The~~  
 29 **county board of commissioners** shall make an order of ~~such-the~~

1 determination, which order ~~shall~~**must** be entered upon their  
2 records, and thereupon the boundaries of ~~such~~**the** village ~~shall~~  
3 **must** be fixed and ~~shall~~**must** exist as provided in ~~such~~**the** order,  
4 and a certified copy thereof ~~shall~~**of the order must** be transmitted  
5 to the clerk of ~~such~~**the** village and to the secretary of state. ~~r~~  
6 ~~and such~~**The** order ~~shall be~~**is** prima facie evidence of ~~such~~**the**  
7 change of boundaries of ~~such~~**the** village and of the regularity of  
8 ~~such~~**the** proceedings in all courts and places.

9       Enacting section 1. This amendatory act does not take effect  
10 unless Senate Bill No.\_\_\_\_ or House Bill No. 6440 (request no.  
11 02449'19) of the 100th Legislature is enacted into law.