

THE GENERAL LAW VILLAGE ACT (EXCERPT)

Act 3 of 1895

CHAPTER VI ORDINANCES.

66.1 Ordinance; style; passage; days required to be effective.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2755;—CL 1915, 2626;—CL 1929, 1535;—CL 1948, 66.1;—Am. 1994, Act 16, Eff. May 1, 1994;—Am. 1998, Act 255, Imd. Eff. July 13, 1998.

66.2 Violation of ordinance; sanction; designation as civil infraction; civil fine; act or omission constituting crime; penalty.

Sec. 2. (1) 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.

(2) Consistent with any of the following statutes, the village council may adopt an ordinance that designates a violation of the ordinance as a civil infraction and provides a civil fine for that violation:

- (a) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.
- (b) 1969 PA 235, MCL 257.941 to 257.943.
- (c) 1956 PA 62, MCL 257.951 to 257.955.

(3) The village council may adopt an ordinance that designates a violation of the ordinance as a municipal civil infraction and provides a civil fine for that violation. An ordinance shall not designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under subsection (2). A statute may provide that a violation of a specific type of ordinance is a municipal civil infraction whether or not the ordinance designates the violation as a municipal civil infraction.

(4) An ordinance shall not make an act or omission a municipal civil infraction if that act or omission constitutes a crime under any of the following:

- (a) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545.
- (b) The Michigan penal code, 1931 PA 328, MCL 750.1 to 750.568.
- (c) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.
- (d) The Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.
- (e) Part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.
- (f) The aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208.
- (g) Part 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101 to 324.82160.
- (h) Part 811 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150.
- (i) Sections 351 to 365 of the railroad code of 1993, 1993 PA 354, MCL 462.351 to 462.365.
- (j) Any law of this state under which the act or omission is punishable by imprisonment for more than 93 days.

(5) An ordinance not described in subsection (2) or (3) may provide that a violation of the ordinance is punishable by imprisonment for not more than 90 days or by a fine of not more than \$500.00, or both. However, unless otherwise provided by law, the ordinance may provide that a violation of the ordinance is punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. In addition, 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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2756;—CL 1915, 2627;—CL 1929, 1536;—CL 1948, 66.2;—Am. 1979,

66.2a Recreational trailway; posting ordinance; prohibited operation of vehicle as municipal civil infraction; penalty.

Sec. 2a. (1) An ordinance regulating a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(2) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by an ordinance is a municipal civil infraction, whether or not so designated by the ordinance. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the ordinance or \$500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that section 2 of chapter VI prohibits an ordinance from designating as a municipal civil infraction.

History: Add. 1994, Act 87, Eff. Oct. 1, 1994.

66.3 Record of ordinances; authentication.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2757;—CL 1915, 2628;—CL 1929, 1537;—CL 1948, 66.3;—Am. 1998, Act 255, Imd. Eff. July 13, 1998.

66.3a Codification of ordinances.

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.

History: Add. 1979, Act 18, Imd. Eff. May 24, 1979;—Am. 1998, Act 255, Imd. Eff. July 13, 1998.

66.4 Publication of ordinance or synopsis; certification; adoption of state statute by reference; penalty.

Sec. 4. (1) 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. Immediately after the ordinance or synopsis of the ordinance is published, 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 in which the ordinance was published. The certificate is prima facie evidence of the publication 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 the law or code in full. The law or code shall be clearly identified in the ordinance and a statement of the purpose of the law or code shall be published with the adopting ordinance. Printed copies of the law or 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 law or code distributed to the public. The publication in the newspaper shall 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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2758;—CL 1915, 2629;—CL 1929, 1538;—CL 1948, 66.4;—Am. 1951, Act 240, Eff. Sept. 28, 1951;—Am. 1976, Act 82, Imd. Eff. Apr. 17, 1976;—Am. 1977, Act 197, Imd. Eff. Nov. 17, 1977;—Am. 1982, Act 346, Eff. Mar. 30, 1983;—Am. 1998, Act 255, Imd. Eff. July 13, 1998;—Am. 1999, Act 255, Imd. Eff. Dec. 28, 1999;—Am. 1999, Act 259, Eff. Dec. 29, 1999;—Am. 2012, Act 10, Imd. Eff. Feb. 15, 2012.

66.5 Repealed. 1998, Act 255, Imd. Eff. July 13, 1998.

Compiler's note: The repealed section pertained to laws, regulations, or ordinances as proof in court.

66.6 Violation of ordinance; commencement of prosecution; judicial district; powers of court.

Sec. 6. (1) an action for violation of an ordinance shall be commenced not more than 2 years after the violation occurs.

(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 person alleged to have violated the ordinance admits responsibility at a parking violations bureau or a municipal ordinance violations bureau as permitted 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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2760;—CL 1915, 2631;—CL 1929, 1540;—CL 1948, 66.6;—Am. 1978, Act 189, Imd. Eff. June 4, 1978;—Am. 1994, Act 16, Eff. May 1, 1994.

66.7 Violation of ordinance; civil action to recover penalty; warrant; law governing proceedings.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2761;—CL 1915, 2632;—CL 1929, 1541;—CL 1948, 66.7;—Am. 1978, Act 189, Imd. Eff. June 4, 1978;—Am. 1994, Act 16, Eff. May 1, 1994.

66.8 Use of county jail; expenses.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2762;—CL 1915, 2633;—CL 1929, 1542;—CL 1948, 66.8;—Am. 1998, Act 255, Imd. Eff. July 13, 1998.

66.9 Sufficient statement of cause; right to trial by jury; selecting and summoning jurors; inhabitant of village as juror; applicability of section to civil infraction.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2763;—CL 1915, 2634;—CL 1929, 1543;—CL 1948, 66.9;—Am. 1978, Act 189, Imd. Eff. June 4, 1978;—Am. 1994, Act 16, Eff. May 1, 1994;—Am. 1998, Act 255, Imd. Eff. July 13, 1998.

66.10 Appeals to circuit court; proceedings.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2764;—CL 1915, 2635;—CL 1929, 1544;—CL 1948, 66.10;—Am. 1978, Act 189, Imd. Eff. June 4, 1978;—Am. 1994, Act 16, Eff. May 1, 1994.

66.11 Village lockup or holding facility.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2765;—CL 1915, 2636;—CL 1929, 1545;—CL 1948, 66.11;—Am. 1998, Act 255, Imd. Eff. July 13, 1998.

66.12 Security for costs; filing by complaining witness; liability.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2766;—CL 1915, 2637;—CL 1929, 1546;—CL 1948, 66.12;—Am. 1998, Act 255, Imd. Eff. July 13, 1998.

66.13 Fines; payment.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2767;—CL 1915, 2638;—CL 1929, 1547;—CL 1948, 66.13;—Am. 1994, Act 16, Eff. May 1, 1994.

66.14 Suit against collector; failure to pay over fines; larceny.

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.

History: 1895, Act 3, Imd. Eff. Feb. 19, 1895;—CL 1897, 2768;—CL 1915, 2639;—CL 1929, 1548;—CL 1948, 66.14;—Am. 1998, Act 255, Imd. Eff. July 13, 1998.