THE HOME RULE VILLAGE ACT
Act 278 of 1909

AN ACT to provide for the incorporation of villages and for revising and amending their charters; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness; to validate bonds issued and obligations previously incurred; and to prescribe penalties and provide remedies.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—Am. 1973, Act 80, Imd. Eff. July 31, 1973 ;—Am. 1998, Act 148, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

78.1 Short title; corporate existence of villages to continue; village subject to general laws; seal; suit.

Sec. 1. (1) This act shall be known and may be cited as "the home rule village act".

(2) All villages within this state incorporated before September 1, 1909 under any general or special act of the legislature shall continue their corporate character, and any general and special charter provisions for the government of such villages shall continue in force until superseded, amended, or repealed pursuant to this act. A village is subject to all general laws of this state.

(3) A village incorporated under this act shall have a seal and may sue and be sued.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2843;—CL 1929, 1763;—CL 1948, 78.1;—Am. 1994, Act 86, Eff. Oct. 1, 1994.

78.1a Conducting business at public meeting; notice of meeting; availability of certain writings to public.

Sec. 1a. (1) The business which a charter commission or a legislative body of a village may perform shall be conducted at a public meeting of the commission or body held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by a charter commission or a legislative body of a village in the performance of an official function under this act shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1977, Act 198, Imd. Eff. Nov. 17, 1977.

78.1b Emergency financial manager; authority and responsibilities.

Sec. 1b. Notwithstanding any provision of this act, if an emergency financial manager has been appointed under the local government fiscal responsibility act, Act No. 101 of the Public Acts of 1988, being sections 141.1101 to 141.1118 of the Michigan Compiled Laws, with respect to a village governed by this act, then that emergency financial manager may exercise the authority and responsibilities provided in this act to the extent authorized by Act No. 101 of the Public Acts of 1988.

History: Add. 1988, Act 197, Imd. Eff. June 27, 1988.

78.2 Incorporation, detachment or addition of territory, or consolidation; petition; signatures; incorporation of summer resort association; proceedings; certification; appointment, oath, duties, and compensation of enumerators; sworn statement; “qualified electors” defined.

Sec. 2. Villages may be incorporated or territory detached therefrom or added thereto, or consolidation made of 2 or more villages into 1 village by proceedings originating by petition therefor signed by qualified electors residing within the cities, villages, or townships to be affected thereby, to a number not less than 1% of the population of the territory affected thereby according to the last preceding United States census, which number shall in no case be less than 100. If all or any part of the district proposed to be incorporated, annexed, or detached has been subdivided into 1 or more subdivisions, the plat or plats of which have been recorded in the register of deeds' office of the proper county, the petition therefor shall be signed by qualified electors residing within each such subdivision and by qualified electors residing within the unsubdivided portion, if any, of such district to a number in each case of not less than 1% of the population of each such subdivision and of such unsubdivided portion of such district, such population to be determined as of the date on which the first signature to such petition shall be obtained. If there are no qualified electors residing within

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the district proposed to be annexed or detached, or within a subdivided or unsubdivided portion of such a district then such petition shall be signed by persons who collectively hold equitable title as vendees under a recorded land contract or memorandum of land contract, or record legal title to more than 1/2 the area of the land, exclusive of streets, lying within such district, or subdivided portion of such district, at the time the first signature to such petition is obtained, and also by qualified electors in the remainder of the district to be affected by such annexation or detachment, to the number hereinbefore provided. If a summer resort association has been incorporated and has existed for 2 consecutive years under Act No. 230 of the Public Acts of 1897, as amended, being sections 455.1 to 455.24 of the Michigan Compiled Laws, and such association having a number of legal voters of not less than 30 residing within such territory, the same may be incorporated as a village as hereinafter provided. Signatures of land owners as above provided shall be followed by a description of the land and area thereof. In proceedings for the incorporation of a new village or the consolidation of 2 or more villages into 1 village, a petition signed by not less than 20 qualified electors who are freeholders residing within the territory proposed to be incorporated or consolidated, praying for the taking of a census of the inhabitants of the territory affected thereby, may be filed with the county clerk of the county in which the territory is located. The county clerk within 5 days after the filing of the petition shall certify to the president of each village and supervisor of each township affected thereby, and to the secretary of state, that the petition has been so filed. Within 5 days after the service of the certificate, the secretary of state shall appoint enumerators to enumerate the inhabitants of each village proposed to be incorporated, or a consolidation made thereof. Before entering upon the duties of office, each enumerator shall take and subscribe to the constitutional oath of office before some officer authorized to administer oaths and file the same with the secretary of state and with the county clerk in which the territory is located. Each enumerator shall enumerate all of the bona fide inhabitants of the village or township, territory or portion thereof assigned to the enumerator by the secretary of state, and shall visit each house or dwelling and obtain the names of each known resident thereof. Each enumerator shall receive for his or her services not to exceed $5.00 per day, together with actual and necessary expenses therefor, which sum shall be paid by the village or township within which the services of the enumerator were rendered. Upon completing the enumeration it shall be the duty of the persons so appointed to make a return in duplicate of the enumeration showing the names of the inhabitants of each village or township, territory or district to the county clerk and to the secretary of state. No enumeration or census shall be conducted in any village or township, or portion thereof, within 2 years of the date of the last enumeration in the territory. Every enumeration shall be conducted under the general supervision and control of the secretary of state who shall make rules and regulations in accordance with the the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws, for the purpose of carrying out this section. If a petition is signed by land owners in the case of a district which is proposed to be annexed or detached in which there are no qualified electors residing, as above provided, then a sworn statement shall also accompany such petition giving the total area of the land, exclusive of streets, included within such uninhabited district to be annexed or detached, or such subdivided or unsubdivided portion thereof. The term "qualified electors" as used in this section as applied to persons residing within unsubdivided portions of the district shall include only such electors who are owners of property assessed for taxes within the unsubdivided portions of the district.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2844;—Am. 1927, Act 159, Imd. Eff. May 12, 1927;—Am. 1929, Act 251, Eff. Aug. 28, 1929;—CL 1929, 1764;—Am. 1941, Act 291, Eff. Jan. 10, 1942;—CL 1948, 78.2;—Am. 1958, Act 140, Eff. Sept. 13, 1958;—Am. 1984, Act 430, Eff. Mar. 29, 1985.

78.2a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 2a. Except as otherwise provided in this section, a petition under section 2, 3, 4, 7, 11, 12, 13, 14, or 17, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A petition under section 2 that is signed by landowners because no qualified electors reside within the district or portion of the district to be annexed or detached is not subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 148, Eff. Mar. 23, 1999.

78.3 Petitions; contents.

Sec. 3. Said petition shall accurately describe the proposed boundaries of the village or of the territory to be annexed thereto or detached therefrom and if the purpose is to incorporate a new village, it shall represent that the territory described contains not less than 150 inhabitants and an average of not less than 100

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inhabitants per square mile.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2845;—Am. 1919, Act 256, Eff. Aug. 14, 1919;—Am. 1925, Act 40, Eff. Aug. 27, 1925;—Am. 1929, Act 241, Eff. Aug. 28, 1929;—CL 1929, 1765;—CL 1948, 78.3.

78.4 Petition; presentation; action of county board of commissioners; resolution; vote; review.

Sec. 4. (1) A petition under section 2 shall be addressed to the county board of commissioners of the county in which the territory to be affected by the proposed incorporation, consolidation, or change of boundaries is located. The petition shall be filed with the clerk of the county board of commissioners not less than 30 days before the board of commissioners convenes in regular session, or in a special session called for the purpose of considering the petition. The board of commissioners shall determine if the petition complies with the requirements of this act and if the statements contained in the petition are correct. If a majority of the board determines that the petition does not comply with the requirements of this act or that the statements contained in the petition are not correct, the board shall not conduct further proceedings on the petition. If the board determines that the petition complies with the requirements of this act and that the statements contained in the petition are correct, the board shall, by resolution, provide that the question of making the proposed incorporation, consolidation, or change of boundaries be submitted to the qualified electors of the district to be affected at the next general election, or at a special election before the next general election on a regular election day established under section 641 of the Michigan election law, 1954 PA 116, MCL 168.641, that is held 60 days or more after the adoption of the resolution.

(2) After the adoption of a resolution submitting the ballot question to a vote of the electors, neither the sufficiency nor legality of the petition under section 2 may be questioned in any proceeding.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2846;—CL 1929, 1766;—CL 1948, 78.4;—Am. 2003, Act 304, Eff. Jan. 1, 2005.

78.5 Incorporation, consolidation or change of boundaries; affected district; referendum; authorizing vote.

Sec. 5. The district to be affected by every such proposed incorporation, consolidation or change of boundaries, shall be deemed to include the whole of each city, village, or township from which territory is to be taken or to which territory is to be annexed: Provided, however, That proposed incorporations, consolidations or changes of boundaries shall be submitted to the qualified electors residing within the territory proposed to be incorporated or residing within the village to which territory is to be annexed as the case may be, and also to the qualified electors of the city, village or township, from which the territory to be taken is located and at the election, when the said question is voted upon, the city, village or township shall conduct the election in such manner as to keep the votes of the qualified electors in the territory proposed to be incorporated or annexed or detached in a separate box from the one containing the votes from the remaining portions of such city, village, or township, and if the returns of said election shall show a majority of the votes cast in the district proposed to be incorporated or annexed, voting separately, to be in favor of the proposed incorporation or change of boundary as the case may be, and if a majority of the electors voting in the remainder of the district to be affected as herein defined, voting collectively, are in favor of the proposed incorporation or change of boundary as the case may be, then such territory shall become incorporated as a village or shall become a part of the corporate territory of the village or shall be detached therefrom, as the case may be: Provided further, That in case there are no qualified electors residing within the territory proposed to be detached, or annexed, if a majority of electors voting in the remainder of the district to be affected, as herein defined, are in favor of the proposed change of boundary, then such territory shall become a part of the corporate territory of the village or shall be detached therefrom, as the case may be: Provided further, That the question of incorporating a new village from territory located in a township or townships shall be determined by a majority of the votes cast at an election at which only the electors residing within the territory proposed to be incorporated shall vote.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2847;—Am. 1919, Act 395, Eff. Aug. 14, 1919;—Am. 1925, Act 90, Eff. Aug. 27, 1925;—Am. 1929, Act 251, Eff. Aug. 28, 1929;—CL 1929, 1767;—CL 1948, 78.5.

78.5a Annexation; petition; vote; approval of adjoining city, village or township.

Sec. 5a. Where the territory proposed to be annexed is adjacent to a village and consists of fractional parts of platted subdivision lots, located in an adjoining city, village or township, annexation may be accomplished upon petition of the property owner by the affirmative majority vote of the legislative body of the village and the approval of the legislative body of the adjoining city, village or township.

History: Add. 1968, Act 71, Imd. Eff. May 28, 1968.

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78.6 Petition and resolution; certified copies, transmittal to local clerks, time; election notices.

Sec. 6. The county clerk shall, within 3 days after the passage of the resolution provided for in section 4 of this act, transmit a certified copy of said petition and of such resolution to the clerk of each city, village or township in the district to be affected by the proposed incorporation, consolidation or change, and it shall be the duty of each of said city, village and township clerks to give notice of the date and purpose of the election provided for by said resolution by publication in 1 or more newspapers published within said district at least once in each week for 4 weeks preceding said election, and by posting a like notice in at least 10 public places in said district not less than 10 days prior to such election.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2848;—CL 1929, 1768;—CL 1948, 78.6.

78.7 Villages in more than 1 county; incorporation, consolidation or change in boundary; procedure.

Sec. 7. (1) If the territory to be affected by a proposed incorporation, consolidation, or change of boundaries is situated in more than 1 county, the petition under section 2 shall be addressed and presented to the secretary of state.

(2) The secretary of state shall examine the petition and the accompanying affidavits. If the secretary of state finds that the petition and accompanying affidavit or affidavits comply with the requirements of this act, the secretary of state shall certify the petition and accompanying affidavits and shall transmit the certificate and a certified copy of the petition and the accompanying affidavits to the clerk of each city, village, or township to be affected by the proposed incorporation, consolidation, or change of boundaries, together with a notice directing that the question of making the incorporation, consolidation, or change of boundaries petitioned for be submitted to the electors of the district to be affected. The notice shall provide that the ballot question shall be submitted at the next general election, or at a special election before the next general election, that is held 60 days or more after the date of transmittal of the certificate.

(3) If the secretary of state finds that the petition and the accompanying affidavits do not comply with the requirements of this act, he or she shall certify to that fact and shall return the petition and affidavits to the person from whom they were received, along with the certificate.

(4) Each city, village, and township clerk who receives from the secretary of state the copies and certificate provided for in subsection (2) shall give notice of the election to be held on the question of making the incorporation, consolidation, or change of boundaries petitioned for in the same manner as provided for in section 6.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2849;—Am. 1929, Act 251, Eff. Aug. 28, 1929;—CL 1929, 1769;—CL 1948, 78.7;—Am. 1960, Act 68, Eff. Aug. 17, 1960;—Am. 2003, Act 304, Eff. Jan. 1, 2005.

78.8 Returns canvass.

Sec. 8. The returns by the several boards of election inspectors shall be made to the clerk of the county in which the village or proposed village, or the greater part thereof, if in more than 1 county, is located, and shall be canvassed on the first Thursday following said election in the manner provided by law for a county canvass.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2850;—CL 1929, 1770;—CL 1948, 78.8.

78.9 Proceedings; copy filed with secretary of state; recording; change effected; certificate to state treasurer; time.

Sec. 9. (1) On the filing in the office of the secretary of state and the clerk of the county or counties within which the village is located, of a copy of the petition and of every resolution, affidavit, or certificate necessarily following a petition, with the certificate of the board of county canvassers attached, showing that the purposes of the petition have been approved by a majority of the electors voting on the petition as provided in this act, the number of votes cast on that proposition and the number cast for and against the proposition, the village is from that date duly and legally incorporated under and by the name designated in that petition, or the territory described in that petition is duly and legally consolidated as 1 village, or attached to or detached from the village named in that petition, as the case may be, and that petition and the subsequent proceedings under that petition shall be duly recorded in each of the village offices in a book to be kept for that purpose. The records or certified copies of the records shall be prima facie evidence of the due and legal incorporation of the village or of the consolidation or change of boundaries prayed for in the petition. Territory detached from any village shall become a part of the township, village or city from which it was originally taken.

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(2) The secretary of state shall, within 10 days after the filing in his or her office of the certified copies as required by this section, make and file with the state treasurer a certificate showing the name of the village thus incorporated, a description of the land included within the limits of the village, or in case of a change of boundaries of any village a description of the land attached to or detached from that village.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1911, Act 71, Eff. Aug. 1, 1911;—CL 1915, 2851;—CL 1929, 1771;—CL 1948, 78.9;—Am. 2002, Act 375, Imd. Eff. May 24, 2002.

78.10 Annexation of entire village or township; incorporation of village from part of township; annexation of part of city, village, or township by village.

Sec. 10. Whenever an entire village or township is annexed to a village, the village to which it is annexed shall succeed to the ownership of all the property of the village or township annexed and shall assume all of its debts and liabilities, and whenever part of a city, village or township is annexed to a village the real property in the territory annexed which belongs to the city, village or township from which it is taken shall be sold by the authorities of the city, village or township in which said land was located before such annexation, and that portion of the proceeds of such sale shall be paid to the village acquiring such territory which shall be in the same ratio to the whole amount received as the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which said territory is taken: Provided, That no cemetery within such territory shall be sold; but to the extent it is owned by the city, village or township within which it was located, it shall become the property of the village to which it is annexed.

Whenever a new village is incorporated from part of a township or townships, such village shall be entitled to its pro rata share of the amount thereafter due such township or townships or due any county agency in respect of population in such township or townships from any future distribution of state sales tax receipts, gasoline and motor vehicle weight tax revenues, intangibles tax revenues, state alcoholic liquor tax revenues, or any other state funds, moneys or grants which, by law, are required to be distributed among cities, villages, townships and/or counties of the state, which pro rata distribution shall be determined as follows, to wit:

(1) According to the last federal census prior to date of distribution but since such annexation, if there be such census, showing the respective population of the township or townships and the municipalities affected;

(2) In the absence of such federal census, an official special census shall be taken of that part of the areas of each township which form the newly incorporated village and of the balance of the area of such township or townships. Such census shall be taken by enumerators appointed by the secretary of state upon application by any one of the municipalities affected by such incorporation, which census shall be taken, as near as may be, in accordance with the provisions of section 6 of Act No. 279 of the Public Acts of 1909, as amended, the ratio of population between the areas incorporated from each township to form the newly incorporated village and the remainder of the respective township or townships from which the village was incorporated, shall be the basis for determination of the pro rata share of the state funds, moneys or grants to be distributed, and the township or townships from which such incorporated village is incorporated or the county agency receiving the funds, moneys or grants in respect of population in such township or townships shall be liable to the incorporated village for its proper pro rata share of any state funds, moneys or grants received by such township or townships or such county agency, respectively, after the date of incorporation;

(3) In the absence of a federal census and in lieu of an official special census determining the respective populations of the municipalities affected by such incorporation, the newly incorporated village and each township from which the same was incorporated, may agree, by joint resolution, as to the prorating between them and between the village and any county agency receiving state funds, moneys or grants in respect of population in such township or townships of any funds, moneys, or grants distributable by the state, a certified copy of which joint resolution shall be filed in the office of the secretary of state and shall be binding upon all parties affected by said incorporation.

Whenever a part of a city, village or township is annexed to a village, the village to which such territory is annexed shall be entitled to its proper pro rata share of any of the said state funds, moneys or grants thereafter distributable under the law to the city, village or township from which said territory was detached or to any county agency receiving state funds, moneys or grants in respect of population in such township or townships, determined as follows:

(1) According to ratio of population between the area annexed and the remainder of the township, city or village from which said area was detached, as determined by the last official federal or state census showing such populations;

(2) If there be no official census by which said respective populations can be determined, then a census shall be taken of the territory detached and the remainder of the territory in the township, city or village from which it was detached as provided above in the case of a newly incorporated village;

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(3) In the absence of a federal census and in lieu of taking an official special census, the village to which said territory was annexed and the cities, townships, or villages from which said territory was detached, may agree by joint resolution of their governing bodies as to the prorating of any such state funds, moneys, or grants between them and between the village and any county agency receiving said funds, moneys, or grants in respect of population in such township or townships as provided above in the case of a newly incorporated village, a copy of which agreement shall be filed with the secretary of state and shall thereafter be binding upon all parties to said incorporation.

The foregoing provisions shall be used hereafter in determining the prorata distributions of any state funds, moneys or grants between townships and/or county agencies and any village which has become newly incorporated since the last decennial federal census, either before or after the passing of this law, and between townships and/or county agencies and any village which has annexed territory since the last decennial federal census, either before or after the passing of this law; but in no event shall the sharing of any distribution of state funds, moneys, or grants made previous to the effective date of this law be altered.

The indebtedness and liabilities of every city, village, and township, a part of which shall be annexed to a village, shall be assumed by the village to which the same is annexed in the same proportion which the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which such territory is taken. Assessed valuations shall be determined in every division pursuant to this section from the last assessment roll of the city, village or township which has been confirmed by the board of review.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2852;—CL 1929, 1772;—Am. 1947, Act 92, Eff. Oct. 11, 1947;—CL 1948, 78.10.

78.11 New village; charter commission, election, manner, duties, oath; proposed charter, vote, manner; notices.

Sec. 11. At every election on the question of incorporation of a new village, each elector residing within its proposed territorial limits shall also be entitled to vote for 5 electors, residing in the territory which it is proposed to incorporate, as members of a charter commission, and all notices required by section 6 of this act shall include notice of the election thereof. The ballots shall be prepared by the clerk of the county in which the territory is located or if located in more than 1 county, then by the clerk of the county in which the greater portion of the territory is located; the expense to be borne by the county: Provided, however, That if the proposed village shall be incorporated, then the county shall be reimbursed by the village. The county clerk shall prepare the ballot to be used at such election in accordance with the general election laws of the state as follows:

For village incorporation. Yes. [ ]

For village incorporation. No. [ ]

And such county clerk shall also prepare a separate ballot and place upon the same in alphabetical order having reference to the initial of the surname, without party designation, under the heading "Candidates for members of charter commission," the names of all electors, having the qualifications required by this act for members of charter commissions, who shall file a petition signed by 20 qualified electors residing in the territory proposed to be incorporated, asking that such name be placed upon the ballot. The ballot shall also bear instructions directing that not more than 5 candidates shall be voted for. On the vote being canvassed on the question of incorporation, if the result is determined to be in favor of such incorporation, the board of canvassers shall proceed to canvass the votes cast for members of such commission, and shall certify to the election of the 5 persons receiving the highest number of votes so cast. The members of the commission so elected shall take the constitutional oath of office, and shall have power to fill vacancies in their membership, and 3 or more of them shall constitute a quorum. The charter commission shall convene within 10 days after election and frame a charter for said village within 60 days thereafter. It shall choose its own officers, determine the rules of its proceedings and keep a journal. A roll call of its members on any question shall be entered on the journal at the request of any member. It shall provide the manner of nominating the candidates for the first elective officers provided in the proposed charter. It shall fix the date of the first village election and do and provide all other things necessary for making such nominations and holding such election. Such election may be held at a special election or on the same date as a general election. It shall publish such proposed charter in 1 or more newspapers published in said village, if one is published therein, and if not, then in some newspaper published in the same or an adjoining county and circulating in said villages, at least once, not less than 2 weeks and not more than 4 weeks preceding said election, together with a notice of said election, and that on the date fixed therefor the question of adopting such proposed charter will be voted on, and that the elective officers provided for therein will be elected on the same date. Notice of such election shall also be posted in at least 10 public places within the village not less than 2 weeks prior to such election.

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Said commission shall provide for 1 or more polling places for said election, and give like notice of their location, and shall appoint the inspectors of said election, and a canvassing board of 3 electors to canvass the votes cast at such election.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2853;—CL 1929, 1773;—CL 1948, 78.11.

78.12 Village charter; rejection; effect; president de facto; resubmission; revert to prior status.

Sec. 12. (1) If the proposed charter is rejected at an election, the election of officers is void, except that the elector who receives the highest number of votes cast for the office of president shall be a de facto officer of the village until a president for the village is elected and qualified pursuant to a charter which the electors have approved. The president elected shall, after the lapse of 10 days within which petitions for the selection of a new charter commission may be filed, if a petition has not been filed with him or her, by notice, require the charter commission to reconvene and upon notice the charter commission shall reconvene and, within 60 days after the notice, provide any revision, amendment, or amendments to the original draft of the charter previously prepared by the commission as the commission considers necessary.

(2) The proposed charter, with amendment or amendments, shall be resubmitted to the qualified electors of the village in the same manner and with the same notice and proceedings as required in the first instance, which proceedings shall continue until the qualified electors of the village have, by a majority vote, approved a charter for the village.

(3) Any proposed charter, as originally submitted or resubmitted with any amendment or amendments, shall not be submitted more than 3 times to the qualified electors of the village, and if rejected 3 times, or in the event that a charter is not adopted by the electors of the village during a period of 3 years following the election on the question of the incorporation of the village, the township clerk of the township in which the village is located, or of that township having the largest portion of the population thereof, shall certify that fact to the secretary of state and to the county clerk, register of deeds, and circuit court of the county in which the village is located. The territory of the village shall thereupon revert to the status existing prior to the filing of the petition required by section 2, and the office of each charter commissioner and de facto officer of the village shall terminate and cease to exist.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2854;—CL 1929, 1774;—CL 1948, 78.12;—Am. 1952, Act 20, Eff. Sept. 18, 1952;—Am. 2008, Act 418, Imd. Eff. Jan. 6, 2009.

78.13 Village charter; new charter commission, petition, procedure, duties; eligibility; expenses, payment; territory, control.

Sec. 13. In cases where the qualified electors of a village shall reject a proposed charter, any 100 electors of said village may petition the de facto president for the selection of a new charter commission, and if said petition shall be filed with the de facto president of said village on or before the expiration of 10 days from the canvass and determination of the vote on said charter, the de facto president of said village shall, if said petition is signed by the requisite number of electors, certify such fact upon said petition and forthwith file the same with the county clerk or secretary of state, depending upon the office in which the original petition was filed, and such county clerk or secretary of state as the case may be, shall give notice of the filing of such petition in the same manner as upon the filing of the original petition and an election shall be called and held and a new charter commission shall be elected in the same manner as in the first instance. The duties of the new charter commission shall be the same as those of the former commission, and as many such successive commissions as necessary may be held in like manner until a charter for such village is framed and approved by the electors thereof. All persons who have served on previous charter commissions within 1 year, shall be ineligible as members of every such commission. The first legislative body assembled pursuant to a charter adopted by the electors of such village, shall provide for the payment of the necessary expenses incurred by the county and by the members of such commission or commissions, but the members of the commission shall receive no compensation for their services. The territory constituting the village shall remain under the control and management of the respective cities, villages and townships from which it was taken and the authority of the officers of such cities, villages and townships shall continue until the charter of the new village has been adopted and the officers have been elected and qualified as herein provided.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2855;—CL 1929, 1775;—CL 1948, 78.13.

78.14 Village charter; revision.

Sec. 14. Any village desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter: When its legislative body shall by a 2/3 vote of the members-elect, declare for a general revision of the charter, or when an initiatory petition signed by qualified electors equal to at least 20 per

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centum of the total vote cast for president at the last preceding election, and verified by the person or persons who obtained such signatures, shall be presented therefor, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next municipal election or at a special election. In case the electors shall, by a majority vote, declare in favor of such revision, a charter commission shall be selected consisting of 5 electors who are freeholders, to be elected at large on a non-partisan ballot, having a residence of at least 2 years in the municipality. The 5 candidates having the greatest number of votes shall be elected.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1915, Act 298, Imd. Eff. May 19, 1915;—CL 1915, 2856;—CL 1929, 1776;—CL 1948, 78.14.

78.15 Election of charter commission; details fixed by legislative body.

Sec. 15. The legislative body of the municipality, unless it is otherwise provided, shall fix in advance of the election of a charter commission, the manner of nominating and electing the same, the place of its meeting, the compensation, if any, of its members, the money for the expense thereof, and provide the ballots for election.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2857;—CL 1929, 1777;—CL 1948, 78.15.

78.16 Charter commission; quorum.

Sec. 16. A majority of those elected shall constitute a quorum of the commission and its powers and duties shall be the same as those prescribed in section 11 of this act.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2858;—CL 1929, 1778;—CL 1948, 78.16.

78.17 Charter; amendments, submission.

Sec. 17. Any amendment to any existing charter, whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature, for the government of a village, may be submitted to the electors by a 2/3 vote of the legislative body of the village, or may be petitioned for by not less than 20 per centum of the number of electors voting for president at the last preceding election, which petition shall be verified by the oath of the party or parties securing the same and filed with the village clerk. Every such amendment shall be submitted to the electors at the next general or special election. When the amendment originates in the legislative body, it shall be published and remain on the table for 30 days before action is taken thereon. The form in which any proposed amendment to a village charter shall be submitted on the ballot, unless provided for in the initiatory petition, shall be determined by resolution by the legislative body.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—CL 1915, 2859;—CL 1929, 1779;—CL 1948, 78.17.

78.18 Charter commission; prosecuting attorneys to give advice; charter vote prerequisites.

Sec. 18. It shall be the duty of the prosecuting attorneys of the several counties, to give advice to any and all charter commissions of this state, as to whether proposed charters contravene the constitution and general laws of this state, and such other information in relation to the formation, amendment or revision of charters as they may require. Every charter framed or revised by a charter commission, and every amendment to a village charter, whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature for the government of a village shall, before its submission to a vote of the electors be presented to the governor of the state. If he shall approve it, he shall sign it; if not he shall return the charter to the commission, and amendment to the legislative body of the village, with his objections thereto, and any information or recommendations he may see fit to submit, which shall be spread at large on the journal of the body receiving them, and it shall reconsider it. On such reconsideration, if 2/3 of the members agree to pass it, it shall be submitted to the voters.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—CL 1915, 2860;—CL 1929, 1780;—CL 1948, 78.18.

78.19 Charter; publication prerequisites.

Sec. 19. Every charter and amendment thereto, whether of villages incorporated under this act or under an existing charter of the village heretofore granted or passed by the legislature for the government of a village, before submission to the electors shall be published as provided in section 11 of this act.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—CL 1915, 2861;—CL 1929, 1781;—CL 1948, 78.19.

78.20 Charter of amendment; approval; filing time.

Sec. 20. If the charter or any amendment thereto, whether of villages incorporated under this act or under

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an existing charter of the village heretofore granted or passed by the legislature for the government of a village, be approved, then 2 printed copies thereof, with the vote for and against, duly certified by the village clerk, shall, within 30 days after the vote is taken, be filed with the secretary of state, and a like number with the county clerk, and shall thereupon become law.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—CL 1915, 2862;—CL 1929, 1782;—CL 1948, 78.20.

78.21 Election; expenses; manner of conducting.

Sec. 21. (1) All elections held under this act shall be paid for as provided by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The appropriate clerk shall determine the publication and notice of the election.

(2) Notwithstanding a charter provision providing otherwise, the day on which a village holds its regular or a special election is governed by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, or by a resolution adopted in compliance with section 642 or 642a of the Michigan election law, 1954 PA 116, MCL 168.642 and 168.642a.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2863;—CL 1929, 1783;—CL 1948, 78.21;—Am. 2003, Act 304, Eff. Jan. 1, 2005;—Am. 2004, Act 299, Imd. Eff. July 23, 2004.

78.22 Police officers of village; powers.

Sec. 22. When any person has committed or is suspected of having committed any crime or misdemeanor within a village, whether incorporated under the provisions of this act or under an existing charter of the village heretofore granted or passed by the legislature for the government of a village, or has escaped from any prison of such a village, the police officers of such village shall have the same right to pursue, arrest and detain such person without the village limits as the sheriff of the county.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—CL 1915, 2864;—CL 1929, 1784;—CL 1948, 78.22.

78.22a District court or municipal court; hearing and determining cases.

Sec. 22a. The district court or municipal court in the judicial district in which a village is located shall hear and determine all cases that occur within the village's boundaries and come within the jurisdiction and authority of the district court or municipal court in the judicial district in which the village is located.

History: Add. 1964, Act 57, Eff. Aug. 28, 1964;—Am. 1978, Act 190, Imd. Eff. June 4, 1978;—Am. 1987, Act 239, Imd. Eff. Dec. 28, 1987.

78.22b Police officer; authority to execute bench warrant.

Sec. 22b. A police officer of a village has the same authority within the village as a deputy sheriff to execute a bench warrant for arrest issued by a court of record or a municipal court.

History: Add. 1992, Act 47, Imd. Eff. May 12, 1992.

78.23 Village charter; mandatory provisions.

Sec. 23. Each village charter shall provide for all of the following:

(a) The election of and compensation for a president who shall be the executive head, a clerk, and a legislative body. Notwithstanding a charter provision to the contrary, a village election shall be nonpartisan.

(b) The election or appointment of other officers or administrative boards considered necessary.

(c) The levying and collection of village taxes.

(d) That the subjects of taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law.

(e) An annual appropriation of money for municipal purposes.

(f) The public peace and health, and for the safety of persons and property.

(g) One or more election districts; subject to section 21, the time, place, and means of holding elections; and the registration of electors.

(h) Keeping in the English language a written or printed journal of proceedings of the legislative body.

(i) The publication of an ordinance or a synopsis of an ordinance before the ordinance becomes operative. Any charter provision to the contrary notwithstanding, a village may adopt an ordinance 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. Whether or not provided in its charter, 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, or building code that has been promulgated by

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this state, by a department, board, or other agency of this state, or by an organization or association that is organized and conducted for the purpose of developing that code, by making reference to that law or code in an adopting ordinance without publishing that 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 and made available to the public at all times. The publication shall contain a notice stating that a complete copy of the law or code is available to the public at the office of the village clerk. Except as otherwise provided in this subdivision, 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:

(*i*) Community service for not more than 360 hours.

(*ii*) Imprisonment for not more than 180 days.

(*iii*) A fine of not less than $200.00 or more than $700.00.

(j) That the business of the legislative body shall be conducted at a public meeting of the body held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and all records of the municipality shall be available to the public under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(k) Adopting, continuing, amending, or repealing village ordinances.

(*l*) A system of accounts that conforms to a uniform system required by law.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2865;—CL 1929, 1785;—Am. 1941, Act 285, Eff. Jan. 10, 1942;—Am. 1947, Act 345, Eff. Oct. 11, 1947;—CL 1948, 78.23;—Am. 1977, Act 198, Imd. Eff. Nov. 17, 1977;—Am. 1982, Act 373, Eff. Mar. 30, 1983;—Am. 1999, Act 254, Imd. Eff. Dec. 28, 1999;—Am. 1999, Act 258, Eff. Dec. 29, 1999;—Am. 2003, Act 304, Eff. Jan. 1, 2005;—Am. 2012, Act 11, Imd. Eff. Feb. 15, 2012.

78.24 Village charter; permissible provisions.

Sec. 24. A village may provide in its charter for 1 or more of the following:

(a) Except as otherwise provided in this subdivision, the regulation of a trade, occupation, or amusement within the village's boundaries, including the sale of intoxicating liquor and the number of licenses to be issued for the sale of intoxicating liquor. A charter must not permit the sale of liquor in a county in which the sale is prohibited by operation of the general local option law of this state, but may suppress saloons for the sale of intoxicating liquor. This subdivision is subject to the local government occupational licensing act.

(b) The punishment of a person who violates an ordinance of the village other than an ordinance described in section 25a. The penalty for a violation of such an ordinance must not exceed a fine of $500.00 or imprisonment for 90 days, 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:

(*i*) Community service for not more than 360 hours.

(*ii*) Imprisonment for not more than 180 days.

(*iii*) A fine of not less than $200.00 or more than $700.00.

(c) The establishment of a department considered necessary for the general welfare of the village and for the separate incorporation of the village. This subdivision does not apply to a public school.

(d) The use and enjoyment of the surface of a street of the village and the space above and beneath the street.

(e) The assessment and reassessment of the cost, or a portion of the cost, of a public improvement to a special district. The payment of a future installment of a special assessment against a parcel of land may be made at any time in full, with interest accrued to the due date of the next installment.

(f) The purchase of private property for a public use or purpose within the scope of the powers of the village.

(g) The sale and delivery of water outside the corporate limits of the village in an amount determined by the legislative body of the village.

(h) The purchase of land outside the corporate limits of the village if necessary for the disposal of sewage and garbage or for a purpose authorized by the state constitution of 1963 or the law of this state.

(i) The use, upon the payment of reasonable compensation by persons other than the owner, of property

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located in a street, alley, or public place if the property is used in the operation of a public utility.

(j) A plan of streets and alleys within the village's limits.

(k) The use, control, and regulation of a stream, water, or watercourse within the village's boundaries, but not so as to conflict with a law, or action under a law, by which a navigable stream is bridged or dammed.

(*l*) The enforcement of each police, sanitary, or other ordinance that is not in conflict with the law of this state.

(m) The exercise of each municipal power in the management and control of village property and the administration of the village government, whether the power is expressly enumerated in this act or not; an act to advance the interest of the village, and the good government and prosperity of the village and its inhabitants; and the making of ordinances that are necessary and proper for carrying into execution the powers conferred by this act, and other powers vested by the state constitution of 1963 in villages, except if forbidden by or if the subject is covered exclusively by the law of this state.

(n) The sale and delivery of heat, power, and light outside the village's corporate limits in an amount determined by the legislative body of the village, except that a sale at other than wholesale is limited to the area of a city, village, or township that is contiguous to the village as of June 23, 1974, and to the area of any other city, village, or township being served as of June 23, 1974. However, a village shall not sell heat, power, or light to a customer outside the village's corporate limits already receiving the service from another utility unless the serving utility consents in writing. For purposes of this subdivision, "wholesale" means the sale or exchange of heat, power, or light between public utility systems, whether municipally, cooperatively, or privately owned.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2866;—CL 1929, 1786;—CL 1948, 78.24;—Am. 1955, Act 60, Eff. Oct. 14, 1955;—Am. 1974, Act 174, Imd. Eff. June 23, 1974;—Am. 1978, Act 28, Imd. Eff. Feb. 24, 1978;—Am. 1979, Act 37, Imd. Eff. June 20, 1979;—Am. 1994, Act 15, Eff. May 1, 1994;—Am. 1999, Act 56, Eff. Oct. 1, 1999;—Am. 2012, Act 11, Imd. Eff. Feb. 15, 2012;—Am. 2018, Act 495, Imd. Eff. Dec. 27, 2018.

Compiler's note: Enacting section 1 of Act 495 of 2018 provides:
"Enacting section 1. This amendatory act is retroactive and takes effect January 1, 2018."

78.24a Codification of ordinances.

Sec. 24a. Each village shall have the power, whether provided in its charter or not, to codify, recodify, and continue in code the village's municipal 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 law provided that notification states 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 17, Imd. Eff. May 24, 1979.

78.24b Energy conservation improvements; acquisition or financing; resolution; payment; scope of improvements; acquisition of improvements by contract, lease-purchase agreement, or notes; reports; forms; terms of lease-purchase agreement.

Sec. 24b. (1) The governing body of a village may provide by resolution for the acquisition or financing of energy conservation improvements to be made to village facilities or infrastructure and may pay for the improvements or the financing or refunding of the improvements from operating funds of the village or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating, ventilating, or air-conditioning system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating, ventilating, or air-conditioning controls, and entrance or exit way closures, information technology improvements associated with an energy conservation improvement, and municipal utility improvements associated with an energy conservation improvement.

(2) The governing body of a village may acquire, finance, or refund 1 or more of the energy conservation improvements described in subsection (1) by installment contract, which may include a lease-purchase agreement described in subsection (5), or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract, a lease-purchase agreement described in subsection (5), or notes issued pursuant to this subsection shall extend for a period of time not to exceed 20 years from the date of the final completion of the energy conservation improvements or the useful life of the aggregate energy conservation improvements, whichever is less. Notes issued pursuant to

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this subsection shall be full faith and credit, tax limited obligations of the village, payable from tax levies and the general fund as pledged by the governing body of the village. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. A lease-purchase agreement issued pursuant to this subsection shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and shall not be a municipal security or a debt as those terms are defined in that act. This subsection does not limit in any manner the borrowing or bonding authority of a village as provided by law.

(3) Prior to entering into a contract for energy conservation improvements under this section, the governing body of a village shall determine the following information and, within 60 days of the completion of the improvements, shall report the following information to the department of treasury:

(a) Name of each facility to which an improvement is made and a description of the energy conservation improvement.

(b) Actual energy consumption during the 12-month period before commencement of the improvement.

(c) Project costs and expenditures, including the total of all lease payments over the duration of the lease-purchase agreement.

(d) Estimated annual energy savings, including projected savings over the duration of the installment contract.

(4) If energy conservation improvements are made as provided in this section, the governing body of a village shall report to the department of treasury, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the department of treasury.

(5) An installment contract described in this section may include a lease-purchase agreement, which may be a multiyear contractual obligation that provides for automatic renewal unless positive action is taken by the legislative body to terminate that contract. Payments under a lease-purchase agreement shall be a current operating expense subject to annual appropriations of funds by the legislative body and shall obligate the legislative body only for those sums payable during the fiscal year of contract execution or any renewal year thereafter. The legislative body may make payments under a lease-purchase agreement from any legally available funds or from a combination of energy or operational savings, capital contributions, future replacement costs avoided, or billable revenue enhancements that result from energy conservation improvements, provided that the legislative body has determined that those funds are sufficient to cover, in aggregate over the full term of the contractual agreement, the cost of the energy conservation improvements. The lease-purchase agreement will terminate immediately and absolutely and without further obligation on the part of the legislative body at the close of the fiscal year in which it was executed or renewed or at such time as appropriated and otherwise unobligated funds are no longer available to satisfy the obligations of the legislative body under the lease-purchase agreement. During the term of the lease-purchase agreement, the legislative body shall be the vested owner of the energy conservation improvements and may grant a security interest in the energy conservation improvements to the provider of the lease-purchase agreement. Upon the termination of the lease-purchase agreement and the satisfaction of the obligations of the legislative body, the provider of the lease-purchase agreement shall release its security interest in the energy conservation improvements.

History: Add. 1984, Act 404, Imd. Eff. Dec. 28, 1984;—Am. 1989, Act 29, Imd. Eff. May 23, 1989;—Am. 2002, Act 277, Imd. Eff. May 9, 2002;—Am. 2016, Act 121, Eff. Aug. 17, 2016.

Compiler's note: For transfer of functions relating to energy policy from the Energy Administration, Department of Commerce, to the Public Service Commission, Department of Commerce, see E.R.O. No. 1986-4, compiled at MCL 460.901 of the Michigan Compiled Laws.

For transfer of powers and duties of the public service commission pertaining to energy conservation improvement reports from the public service commission to the state treasurer, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

78.24c Acquisition of land for disposal of sewage or protection of water supply.

Sec. 24c. A village may acquire land outside its corporate limits necessary for the disposal of sewage or the obtaining or protection of a water supply for the village or the inhabitants of the village by purchase or, if the proposed use will not materially injure the health or safety of the persons living adjacent to the land, by condemnation pursuant to the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws.

History: Add. 1993, Act 32, Imd. Eff. Apr. 23, 1993.

***** *78.24d SUBSECTION (1) DOES NOT APPLY AFTER DECEMBER 31, 2006: See subsection (2)* *****

78.24d Staggered terms of office; resolution; length of initial terms; applicability of

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subsection (1).

Sec. 24d. (1) Notwithstanding any charter provision, a village may pass a resolution to provide for the terms of office of its elected officials and for the terms to be staggered.

(2) The initial terms established under subsection (1) may be longer than allowed under the charter in order to facilitate the staggering of terms. This subsection does not apply after December 31, 2006.

(3) Notwithstanding any charter provision, the village may also pass a resolution to provide for any election provision that is consistent with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 2005, Act 63, Imd. Eff. July 7, 2005.

78.25 Statutory provisions; adoption.

Sec. 25. Each village may adopt as its charter or any part of the same, any chapter, act or section of the statutes of this state in force at the time of such adoption and not inconsistent with the provisions of this act, which relates to the powers or government of villages generally, either by reciting the same in such charter or by appropriate reference thereto; and except in so far as any of the same may be so adopted, no village shall be subject to any of the limitations or restrictions thereof.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—CL 1915, 2867;—Am. 1921, Act 349, Eff. Aug. 18, 1921;—CL 1929, 1787;—CL 1948, 78.25.

78.25a Ordinance; designation of violation as civil infraction; civil fine; act or omission constituting crime.

Sec. 25a. (1) Consistent with any of the following statutes and whether or not authorized by the village charter, 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, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(b) Act No. 235 of the Public Acts of 1969, being sections 257.941 to 257.943 of the Michigan Compiled Laws.

(c) Act No. 62 of the Public Acts of 1956, being sections 257.951 to 257.954 of the Michigan Compiled Laws.

(2) Whether or not authorized by the village charter, 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 may not designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under subsection (1). 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.

(3) 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 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7101 to 333.7545 and 333.17766a of the Michigan Compiled Laws.

(b) The Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.1 to 750.568 of the Michigan Compiled Laws.

(c) Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(d) The Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws.

(e) Part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws.

(f) The aeronautics code of the state of Michigan, Act No. 327 of the Public Acts of 1945, being sections 259.1 to 259.208 of the Michigan Compiled Laws.

(g) Part 821 (snowmobiles) of Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82159 of the Michigan Compiled Laws.

(h) Part 811 (off-road recreation vehicles) of Act No. 451 of the Public Acts of 1994, being sections 324.81101 to 324.81150 of the Michigan Compiled Laws.

(i) Sections 351 to 365 of the railroad code of 1993, Act No. 354 of the Public Acts of 1993, being sections 462.351 to 462.365 of the Michigan Compiled Laws.

(j) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.

History: Add. 1994, Act 15, Eff. May 1, 1994;—Am. 1996, Act 42, Imd. Eff. Feb. 26, 1996.

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78.25b Recreational trailway; posting of ordinance; prohibited violation of ordinance as municipal civil infraction; penalty.

Sec. 25b. (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 25a prohibits an ordinance from designating as a municipal civil infraction.

History: Add. 1994, Act 86, Eff. Oct. 1, 1994.

78.26 Prohibited powers; computation of indebtedness.

Sec. 26. (1) A village shall not do any of the following:

(a) Submit to the electors a charter or a revision of a charter more often than once in every 2 years or file it with the village clerk less than 90 days before the election. This subdivision does not apply to the submission and resubmission of charters to villages that may be incorporated under this act until they have first adopted a charter.

(b) Call more than 2 special elections within 1 year. This prohibition does not apply to elections that may be held in the submission and resubmission of charters to villages that may be incorporated under this act until they have first adopted a charter.

(c) Change the salary or emoluments of a public official after his or her election or appointment, or during his or her term of office, if the office is held for a fixed term, or shorten or extend the term of a public official from the period for which he or she was elected or appointed, unless he or she is removed for cause.

(d) Adopt a charter or amendment to a charter, unless approved by a majority of the electors voting on the charter or amendment at a general or special election.

(e) Authorize an issue of bonds unless approved at an election by a majority of the electors of the village voting on the issuance of the bonds. This subdivision does not apply to special assessment bonds, bonds for the village portion of local improvements, not to exceed 40% of the cost of the improvement, refunding bonds, bonds for relief from fire, flood, or calamity, or for payment of judgments, or bonds that the legislative body is authorized by specific statute to issue without vote of the electors.

(f) Adopt a scheme for exemption from municipal taxation.

(g) Repudiate a debt by a change in its charter or by consolidation with any other municipality.

(h) Incur indebtedness by the issue of bonds, or otherwise, in a sum that, including existing indebtedness, exceeds 10% of the assessed valuation of the real and personal property within the village subject to taxation, as shown by the last assessment roll of the village. Bonds issued in anticipation of the collection of special assessments, even though they are a general obligation of the village, motor vehicle highway fund bonds, revenue bonds, and bonds issued, or contract or assessment obligations incurred, to comply with an order of the department of environmental quality or a court of competent jurisdiction, even though they are a general obligation of the village, bonds issued, or contract or assessment obligations incurred, for water supply, sewerage, drainage, or refuse disposal projects necessary to protect the public health by abating pollution, even though they are a general obligation of the village, and bonds issued or assessments or contract obligations incurred for the construction, improvement, or replacement of a combined sewer overflow abatement facility are not included in this limitation. Money on hand in a sinking fund limited to the payment of indebtedness may be treated as a reduction of the indebtedness to that extent. If, because of fire, flood, or other calamity, an emergency fund is required for the relief of the inhabitants of the village or for the repairing or rebuilding of any of its municipal buildings, works, bridges, or streets, the legislative body of the village may borrow money due in not more than 3 years and in an amount not exceeding 1/4 of 1% of the assessed valuation of the village, notwithstanding that the loan may increase the indebtedness of the village beyond the limitations fixed by its charter or in this subdivision. If a village is authorized to acquire or operate a public utility, it may issue mortgage bonds for that purpose beyond the general limit of bonded indebtedness prescribed by law. The mortgage bonds issued beyond the limit of general indebtedness prescribed by law must not impose a liability upon the village, but must be secured only upon the property and revenues of the public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the public utility. The franchise must not extend for a period longer than 20 years from the date of the sale of the public utility and franchise on foreclosure. Bonds issued, or contract or assessment obligations incurred, before July 31, 1973 are validated. As used in this subdivision:

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(*i*) "Combined sewer overflow" means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded.

(*ii*) "Combined sewer overflow abatement facility" means works, instrumentalities, or equipment necessary or appropriate to abate combined sewer overflows.

(*iii*) "Combined sewer system" means a sewer designed and used to convey both storm water runoff and sanitary sewage, and that contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(*iv*) "Construction" means any action taken in the designing or building of a combined sewer overflow abatement facility. Construction includes, but is not limited to, all of the following:

(A) Engineering services.

(B) Legal services.

(C) Financial services.

(D) Design of plans and specifications.

(E) Acquisition of land or structural components.

(F) Building, erection, alteration, remodeling, or extension of a combined sewer overflow abatement facility.

(G) Village supervision of the project activities described in sub-subparagraphs (A) to (F).

(*v*) "Improvement" means any action undertaken to expand, rehabilitate, or restore a combined sewer overflow abatement facility.

(*vi*) "Replacement" means action taken to obtain and install equipment, accessories, or appurtenances during the useful life of a combined sewer overflow abatement facility necessary to maintain the capacity and performance for which the equipment, accessories, or appurtenances are designed and constructed.

(i) Lay or collect taxes for municipal purposes except as otherwise provided by law, at a rate in excess of 2% of the assessed value of all real and personal property in the village.

(j) Issue bonds without creating a sinking fund for the payment of the bonds, except special assessment bonds that are a charge upon a special district created for the payment of the bonds, and serial bonds payable annually.

(2) In computing the net indebtedness for the purposes of subsection (1)(h), there may be added to the assessed value of real and personal property in a village for a fiscal year an amount equal to the assessed value equivalent of certain village revenues as determined under this subsection. The assessed value equivalent must be calculated by dividing the sum of the following amounts by the village's millage rate for the fiscal year:

(a) The amount paid or the estimated amount required to be paid by the state to the village during the village's fiscal year for the village's use under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, and the amount of any eligible reimbursement to the village under the local community stabilization authority act, 2014 PA 86, MCL 123.1341 to 123.1362, except any amount distributed under section 17(4)(c) of the local community stabilization authority act, 2014 PA 86, MCL 123.1357, in excess of the village's qualified loss. The department of treasury shall certify these amounts upon request. As used in this subdivision, "qualified loss" means that term as defined in section 5 of the local community stabilization authority act, 2014 PA 86, MCL 123.1345.

(b) The amount levied by the village for its own use during the village's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(c) The amount levied by the village for its own use during the village's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

(3) Beginning on September 13, 2011, a village shall not adopt a village charter or ordinance that includes any minimum staffing requirement for village employees. Any provision in a village charter or ordinance adopted on or after September 13, 2011 that contains a minimum staffing requirement for village employees is void and unenforceable.

History: 1909, Act 278, Eff. Sept. 1, 1909;—Am. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—CL 1915, 2868;—Am. 1921, Act 349, Eff. Aug. 18, 1921;—Am. 1925, Act 303, Eff. Aug. 27, 1925;—Am. 1929, Act 153, Eff. Aug. 28, 1929;—CL 1929, 1788;—CL 1948, 78.26;—Am. 1966, Act 145, Imd. Eff. June 24, 1966;—Am. 1973, Act 80, Imd. Eff. July 31, 1973;—Am. 1993, Act 32, Imd. Eff. Apr. 23, 1993;—Am. 1995, Act 211, Imd. Eff. Nov. 29, 1995;—Am. 2011, Act 139, Imd. Eff. Sept. 13, 2011;—Am. 2018, Act 88, Eff. June 24, 2018.

78.26a Locomotives; enforceability of ordinance prescribing maximum speed limit.

Sec. 26a. Notwithstanding any other provision of this act, on and after the effective date of a passenger railroad maximum speed limit specified in a final order of the director of the state transportation department,

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an ordinance of a village prescribing the maximum speed limit of locomotives used in passenger train operations or of passenger railroad trains shall not be enforceable as to a speed limit other than the limit set forth in the order.

History: Add. 1984, Act 14, Imd. Eff. Feb. 16, 1984.

78.27 Village charter; prohibited conflicts.

Sec. 27. No provision of any village charter shall conflict with or contravene the provisions of any general law of the state, except as in section 25 of this act otherwise provided.

History: 1909, Act 278, Eff. Sept. 1, 1909;—CL 1915, 2869;—Am. 1921, Act 349, Eff. Aug. 18, 1921;—CL 1929, 1789;—CL 1948, 78.27.

78.28 Construction of act.

Sec. 28. It is hereby intended by this act to reenact sections 17, 18, 19 and 20, as above amended, pursuant to the adoption of the amendment to section 21 of article 8 of the state constitution by vote of the electors on November fifth, 1912, so that villages under existing charters heretofore granted by the legislature shall have the same right and power to amend such charters as villages that have adopted complete charter revisions under the act hereby amended.

History: Add. 1913, Act 95, Imd. Eff. Apr. 21, 1913;—CL 1915, 2870;—CL 1929, 1790;—CL 1948, 78.28.

Compiler's note: In this section, "section 21 of article 8 of the state constitution" refers to the Constitution of 1908. See now Const. 1963, Art. VII, § 22.

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