

Chapter 8

NUISANCES*

Article I. In General

- Sec. 8-1. General definition and prohibition.
- Sec. 8-2. Enumeration.
- Sec. 8-3. Noise control.
- Sec. 8-4. Operation of motor vehicles.
- Sec. 8-5. Radio, television interference.
- Sec. 8-6. Exceptions.
- Sec. 8-7 Dangerous Buildings
- Secs. 8-8--8-30. Reserved.

Article II. Open Storage

- Sec. 8-31. Definition.
- Sec. 8-32. Conditions creating nuisance.
- Sec. 8-33. Time limit for storage.
- Sec. 8-34. Complaints.
- Sec. 8-35. Appeals.
- Sec. 8-36. Hearing and determination.
- Sec. 8-37. Penalty for failure to comply with notice.
- Sec. 8-38. Removal by village.
- Sec. 8-39. Establishment of pounds.
- Sec. 8-40. Poundmaster.
- Sec. 8-41. Impounding property.
- Sec. 8-42. Impoundment of abandoned vehicles.
- Sec. 8-43. Factors constituting abandonment.
- Sec. 8-44. Unlawfully parked vehicles deemed abandoned.
- Sec. 8-45. Impoundment of vehicles involved in traffic violations.
- Sec. 8-46. Impounding fees.
- Sec. 8-47. Sale of unclaimed property--Authorized; notice.
- Sec. 8-48. Same--Claim after notice.
- Sec. 8-49. Same--Disposition of proceeds.
- Sec. 8-50. Care of impounded property.
- Sec. 8-51. Taking property from pound.
- Sec. 8-52. Licensed junkyards, established farms.

* **Cross References:** Business licensing, Ch. 4; offenses, Ch. 9; traffic and motor vehicles, Ch. 12; utilities, Ch. 13.

State Law References: Air pollution act, MCL 336.11 et seq., MSA 14.58(1) et seq.; environmental protection act, MCL 691.1201 et seq., MSA 14.528(201) et seq.

ARTICLE I
IN GENERAL

Sec. 8-1. General definition and prohibition.

Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this chapter. No person shall commit, create or maintain any nuisance.

(Ord. No. 108, § 108.1)

Sec. 8-2. Enumeration.

The following acts, services, apparatus and structures are hereby declared to be public nuisances:

- (1) The maintenance of any pond, pool of water or vessel holding stagnant water.
- (2) The throwing, placing, depositing, burning or leaving in any street, highway, lane, alley, public place, square or sidewalk, or any private place or premises where such throwing, placing, depositing or leaving is in the opinion of the health officer dangerous or detrimental to public health, or likely to cause sickness or attract flies, insects, rodents and/or vermin, by any person of any animal or vegetable substance, dead animal, fish, shell, tin cans, bottles, glass, or other rubbish, dirt, excrement, filth, unclean or nauseous water, or fluids, hay, straw, soot, garbage, swill, animal bones, hides or horns, rotten soap, grease or tallow, offal or any other offensive article or substance whatever.
- (3) The pollution of any stream, lake or body of water by, or the depositing into or upon any highway, street, lane, alley, public street or square, or into any adjacent lot or grounds of, or depositing or permitting to be deposited any refuse, foul or nauseous liquid or water, creamery or industrial waste, or forcing or discharging into any public or private sewer or drain any steam, vapor or gas.
- (4) The emission of noxious fumes or gas in such quantities as to render occupancy of property uncomfortable to a person of ordinary sensibilities.
- (5) Any vehicle used for any immoral or illegal purpose.
- (6) Any person or instrument shall not use any obscene language in a public

place or broadcast upon a public street.

- (7) Betting, bookmaking and all apparatus used in such occupations.
- (8) All gambling devices.
- (9) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses.
- (10) The distribution of undesirable literature, samples of medicines or drugs unless such samples are placed in the hands of an adult person.
- (11) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount contrary to the provisions of this Code or any statute of the state.
- (12) Any use of the public streets and/or sidewalks which causes large crowds to gather, obstructing the free use of the streets and/or sidewalks.
- (13) All buildings, walls and other structures which have been damaged by fire, decay or otherwise and all excavations remaining unfilled or uncovered for a period of ninety (90) days or longer, and which are so situated so as to endanger the safety of the public.
- (14) All dangerous, unguarded excavations or machinery in any public place, or so situated, left or operated on private property as to attract the public.
- (15) The owning, driving or moving upon the public streets and alleys of trucks or other motor vehicles which are constructed or loaded so as to permit any part of its load or contents to blow, fall or be deposited upon any street, alley, sidewalk or other public or private place, or which deposits from its wheels, tires or other parts onto the street, alley, sidewalk or other public or private place, dirt, grease, sticky substances or foreign matter of any kind. However, under circumstances determined by the village council to be in the public interest, it may grant persons temporary exemption from the provisions of this subsection conditioned upon cleaning and correcting the violating condition at least once daily and execution of an agreement by such person to reimburse the village for any extraordinary maintenance expenses incurred by the village in connection with such violation.
- (16) The placing or causing to be placed in or on any motor vehicle parked upon any street, alley or other public place within the corporate limits of the village any paper, posters, signs, cards or other advertising matter.
- (17) Garage sales, etc. Garage sale signs may be posted for advertising a sale of this type twenty-four (24) hours in advance, but must be registered with the clerk prior to posting. This sign must be taken down immediately after the sale within eight (8) hours maximum. No sign can be over two (2) feet by two (2) feet in size and shall not obscure any vision to motorists.

(Ord. No. 108, § 108.2)

Sec. 8-3. Noise control.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disrupts, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the village. Specifically, the following acts are prohibited:

- (1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, car or other vehicle on any street or public place of the village, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- (2) *Radios, phonographs, etc.* The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle, street, outdoor meeting place or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- (3) *Loudspeakers, amplifiers, etc.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproduction of sound which is cast upon the public streets for the purposes of commercial advertising or attracting the attention of the public to any building or structure.
- (4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office; or in any dwelling, hotel or other type of residence; or of any persons in the vicinity.
- (5) *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any

person in the vicinity.

- (6) *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper village authorities.
- (7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (8) *Defect in vehicle or load.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (9) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (10) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturb or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (11) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.
- (12) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creations of noise to any performance, show or sale.
- (13) *Metal rails, pillars and columns, transportation thereof.* The transportation of rails, pillars or columns of iron, steel or other materials over and along streets and other public places upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
- (14) *Pile drivers, hammers, etc.* The operations between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

- (15) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of the operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- (16) *Operation of motorcycles.* It will be unlawful for a person to operate a machine of this nature between the hours of 10:00 p.m. and 7:00 a.m. The only exception to this operation will be a person passing through the village or transportation in or out of the village or to the person's dwelling.
- (17) *Snow removal.* It shall be unlawful for any person or business to place any snow too close or upon any sidewalk or driveway or to place snow into the street of the village.
- (18) *Snowmobiles.* No riding of snowmobiles on village streets or sidewalks.
 - a. The only exception to this will be the riding of snowmobiles on the streets in the instance of an extreme emergency.
 - b. Riding of snowmobiles will be permitted on the extreme right side of the streets for operators entering or leaving the village. At no time will this permit operators to joyride back and forth in and out of the village.
 - c. A fifteen (15) miles per hour speed limit will be observed by all operators and will also include traveling in single file.
 - d. Absolutely no riding or operating snowmobiles within one (1) block of the Main Street stop light in the village.
 - e. No riding or operating snowmobiles within one hundred (100) feet of a dwelling between the hours of 12:00 midnight and 6:00 a.m.
 - f. All rules set down by the state regulating snowmobiles will be strictly enforced within the village.
 - g. Snowmobiling on private property without permission of the owner shall be prohibited, as referred to in state trespass laws.
- (19) *Public gatherings.* It shall be unlawful to have public gatherings, parades, and street dances without obtaining a permit for such gatherings from the village clerk or mayor.

(Ord. No. 108, § 108.3)

Sec. 8-4. Operation of motor vehicles.

(a) The creation of any noise by the speeding up in lower gears of any car, truck, tractor, motorcycle, motor bike or any other motor vehicle beyond what is necessary to increase the speed of the motor vehicle sufficiently to orderly shift into the next higher gear shall be unlawful.

(b) Any person who shall operate any such motor vehicle by speeding it up in fast acceleration, shifting quickly from one gear to another and then going only a short distance before slowing down or stopping, or any person who shall make successive fast accelerations shifting gears quickly and racing the motor only to slow down soon after and immediately repeat the fast acceleration and shifting of gears, shall be guilty of a violation of this Code.

(c) Any person who shall race the motor of any such motor vehicle unnecessarily while the motor vehicle is standing still, is moving but not in gear, or with the clutch out shall be guilty of a violation of this Code.

(d) In the event of a jail sentence for a violation of this section, the judge may suspend the sentence or any part of the jail term if the defendant and the owner of the motor vehicle which was involved in the violation shall voluntarily surrender possession of the motor vehicle to the judge and, in writing, consent to the court's impounding the motor vehicle for not less than five (5) or more than thirty (30) days, at the discretion of the court. (Ord. No. 108, § 108.4)

Sec. 8-5. Radio, television interference.

(a) It shall be unlawful for any person knowingly or wantonly to operate or cause to be operated any machine, device, apparatus or instrument of any kind whatsoever within the corporate limits of the village between the hours of 6:00 a.m. and 12:00 midnight, the operation of which shall cause reasonably preventable electrical interference with radio or television reception within the municipal limits; provided, however, that X-ray pictures, examinations or treatments may be made at any time if the machines or apparatus used therefore are properly equipped to avoid all unnecessary or reasonably preventable interference with radio or television reception and are not negligently operated.

(b) This section shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce or the operation of which instrument, apparatus, or device is licensed by or under the provisions of any act of the Congress of the United States.

(Ord. No. 108, § 108.5)

Sec. 8-6. Exceptions.

Under circumstances determined by the village council, the village president or the chief of police to be in the public interest, they may grant exceptions from any provision of this chapter.

(Ord. No. 108, § 108.7)

Sec. 8-7 Dangerous Buildings.

Sec. 8.7(a) Definitions

(1) **“Dangerous Building”** means a building or structure that has one or more of the following conditions:

- (a) A door, aisle, passageway, stairway, or other means of exit that does not conform to the approved fire code of the Village.
- (b) A portion of the building or structure is damaged by fire, wind, flood, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the damage and does not meet the minimum requirements of the building code of the Village.
- (c) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (d) A portion of the building has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required by the building code of the Village.
- (e) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinnings of the building or structure is likely to fall or give way.
- (f) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (g) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants or criminals, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

- (h) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.
- (i) A building or structure that is vacant, dilapidated, or open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers, or becomes a haven for vermin, rodents, or other animals.
- (j) A building or structure that remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease or rent with a real estate broker licensed under Article 25 of the occupational code, Act No. 299 of the Public Acts of 1980, amended. This subdivision does not apply to any of the following:
 - (i) A building or structure as to which the owner or agent does both of the following:
 - (A) Notifies the Village that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the Village by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
 - (B) Maintains the exterior of the building or structure and adjoining grounds in accordance with the ordinances of the Village.
 - (ii) A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the Village that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the Village not more than 30 days after the dwelling no longer qualifies for this exemption. As used in this subparagraph, “secondary dwelling” means a dwelling such as a vacation home, hunting cabin, or summer home that is occupied by the owner or a member of the owner’s family during part of a year.

- (2) **“Act”** means Public Act 167 of 1917, as amended, being the Housing Law of Michigan.
- (3) **“Owner”** means any person, corporation, partnership, or other entity that holds the legal or equitable title to a building or structure, alone or jointly with others; or that is the land contract purchaser of a building or structure; or that has the charge, care, custody, possession or control of any building or structure as owner or agent of the owner or as a fiduciary.

8.7(b) Dangerous Buildings; Prohibited.

It is unlawful for any owner or agent thereof to keep or maintain a dangerous building.

8.7(c) Notices; Hearing Officer.

- (1) If a building or structure is found to be a dangerous building, the Village shall issue a notice that the building or structure is a dangerous building.
- (2) The notice shall be served on each owner, agent, or party in interest in the building or structure in whose name the property appears on the last tax assessment records.
- (3) The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.
- (4) The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- (5) The hearing officer shall be appointed by the Village Council and serve at its pleasure. The hearing officer is preferably a person with some experience in housing matters, and/or experience in conducting informal administrative hearings. An employee or agent of the Village shall not be appointed as a hearing officer. The Village shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

8.7(d) Hearing

- (1) At the hearing, the hearing officer shall take testimony of Village inspectors, the owner of the property, and any interested party. Not more than 5 days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.
- (2) If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall so order, fixing a time in the order for the owner, agent or other party in interest to comply with the order. If the building is a dangerous building under Sec. (1) (j), the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building including, but not limited to, the maintenance of lawns, trees, and shrubs. A copy of the findings and order of the hearing officer shall be served on the owner, agent or other party in interest in the manner prescribed in Sec. 3 (3).
- (3) If the owner, agent or other party in interest fails to appear or neglects or refuses to comply with the order issued under subsection (2), the hearing officer shall file a report of the findings and a copy of the order with the Village Council not more than 5 days after noncompliance by the owner and request that necessary action be taken to enforce the order.
- (4) The Village Council shall fix a date not less than 30 days after the hearing before the hearing officer for a hearing on the findings and order of the hearing officer and shall give notice to the owner, agent or other party in interest in the manner prescribed in Sec. 3(3) of the time and place of the hearing. At the hearing, the owner, agents or other party in interest shall be given the opportunity to show cause before the Village Council why the order should not be enforced.
- (5) The Village Council shall either approve, disapprove, or modify the order of the hearing officer. If the Village Council approves or modifies the order, the Village shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or other party in interest shall comply with the order within 60 days after the date of the hearing under this subsection. In the case of an order of demolition, if the Village Council determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or other party in interest shall comply with the order of demolition within 21 days after the date of the hearing under this subsection.

- (6) The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure, or grounds adjoining the building or structure incurred by the Village to bring the property into conformance with this ordinance shall be reimbursed to the Village by the owner or party in interest in whose name the property appears.
- (7) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the Village of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the Village of the notice of the amount of the cost, the Village shall have a lien on the cost incurred by the Village to bring the property into conformance with the Act. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, Act No. 206 of the Public Acts of 1983, as amended.
- (8) In addition to other remedies under this act, the Village may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The Village shall have a lien on the property for the amount of a judgment obtained pursuant to this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances. The lien will be collected and treated in the same manner as provided for a property tax lien under the general property tax act.

8.7(e) Judgments.

- (1) A judgment in an action brought pursuant to Sec. 3(8) may be enforced against assets of the owner other than the building or structure.
- (2) The Village shall have a lien for the amount of judgment obtained pursuant to Sec. 3(8) against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

8.7(f) Fines; Penalties.

A person who fails or refuses to comply with an order approved or modified by the Village Council under Sec. 4 within the time prescribed by that section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500 or both.

8.7(g) Appeal.

An owner, agent, or other party in interest aggrieved by any final order of the Village Council may appeal the decision or order to circuit court by filing a petition for an order for superintending control within 20 days from the date of the decision.

(Ord. No.108, § 108.7, 2-26-07)

Secs. 8-8--8-30. Reserved.

ARTICLE II.**OPEN STORAGE****Sec. 8-31. Definition.**

An open field, lot or part of a lot is hereby defined for the purpose of this article as any field, lot or part of a lot which is not enclosed with a building or a noncombustible fence at least eight (8) feet high, so constructed and maintained that rats, mice and other rodents cannot enter or leave; so constructed as to prevent children from entering; and so constructed as to prevent lighted cigarettes, cigar butts or other burning objects from being tossed into the field, lot or part of a lot.

(Ord. No. 103, § 103.2, 8-24-81)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 8-32. Conditions creating nuisance.

Inasmuch as old, discarded and nonoperating cars, vehicles unlicensed more than ninety (90) days, car parts, tractors, machinery, household appliances, old iron, used lumber, debris and other unsightly junk, if allowed to remain in the open, is dangerous to the health of the village in that it allows weeds, high grass and brush to grow up around it in which rats and other rodents frequent; is dangerous to the safety of the citizens in that it is an attractive nuisance to children from which children can receive serious injury because of the nuisance or possibly suffocate; and in that it creates a fire hazard because of the dead grass and weeds around and is detrimental to the general welfare of the village in that it adversely affects the values of the adjoining properties, detracts from the general appearance of the village and thereby causes citizens to go elsewhere for their business trading and their homes. Therefore, the storing thereof in an open field, lot or part of a lot in the village is hereby declared to be a public nuisance.

(Ord. No. 103, § 103.1, 8-24-81)

Sec. 8-33. Time limit for storage.

It shall be unlawful for any owner, occupant, possessor or any person having control of any open lot, field or open part thereof to allow any old, discarded and nonoperating cars, vehicles unlicensed more than ninety (90) days, car parts, tractors, machinery, household appliances, old iron, used lumber, debris and other unsightly junk, or other personal property that because of age, wear and tear, lack of repair or other causes is no longer usable as such in its current condition to be stored or remain in any such open lot, field or open part of either for a period of more than thirty (30) days.

(Ord. No. 103, § 103.3, 8-24-81)

Sec. 8-34. Complaints.

Upon complaint from any person, either oral or otherwise, of any violation of section 8-33, the police department shall make an investigation thereof, and if it is found that any of the items mentioned in section 8-32 have been stored, placed or allowed to remain in any open lot, field or open part of either for a period of more than thirty (30) days, the police department shall serve upon the owner, occupant, possessor or person having control thereof a written notice to remove the items therefrom within ten (10) days after receipt of the notice. The notice shall be served by a police officer. If it is not possible for the police officer to serve the written notice, it will be sent by certified mail with a return receipt required.

(Ord. No. 103, § 103.4, 8-24-81)

Sec. 8-35. Appeals.

Any person believing that the notice issued pursuant to this article is not proper, that the removal of the items within ten (10) days would be an undue hardship, or who is aggrieved otherwise may appeal to the village council by leaving a written claim of appeal stating the reasons for appeal with the village clerk within ten (10) days.

(Ord. No. 103, § 103.5, 8-24-81)

Sec. 8-36. Hearing and determination.

(a) An appeal under this article shall be heard by the village council at the next regular meeting thereof, and the appellant shall appear before the council and show cause supporting the appeal. Any officer of the village or any resident may also appear and present any facts they have regarding the matter.

(b) After hearing the facts so presented to the village council, the council may uphold the notice as given, may extend the time for removal of the items or may set aside the notice entirely, in accordance with the proofs so presented.

(c) If a notice is upheld by the council, the appellant shall have ten (10) days thereafter, or such additional time as granted by the council, in which to so remove the items.

(Ord. No. 103, § 103.6, 8-24-81)

Sec. 8-37. Penalty for failure to comply with notice.

Any person who shall fail, refuse or neglect to remove the items within ten (10) days after notice is so served upon the owner pursuant to this article, or within ten (10) days after the decision on the appeal, if an appeal is taken and the notice is upheld or within such additional time as may be granted by the village council on the appeal, then such person shall be subject to a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than thirty (30) days, or both, for a first offense. For a second or subsequent offense charged as such, the person shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or by imprisonment of not less than three (3) days nor more than ninety (90) days, or both, at the discretion of the court.

(Ord. No. 103, § 103.7, 8-24-81)

Sec. 8-38. Removal by village.

Any personal property found in violation of this article may be removed, at the request of the village president, to the village personal property pound or to an area designated by the village council. This removal will be done at the expense of the property owner.

(Ord. No. 103, § 103.8, 8-24-81)

Sec. 8-39. Establishment of pounds.

The village president, with the consent and approval of the council, may establish one (1) or more pounds for the keeping and storing of tangible personal property, either within or without the village limits, and either on public or private property.

(Ord. No. 103, § 103.9, 8-24-81)

Sec. 8-40. Poundmaster.

The chief of police shall be the poundmaster.

(Ord. No. 103, § 103.10, 8-24-81)

Sec. 8-41. Impounding property.

When any tangible personal property is found abandoned on the streets or any public ground within the village, or abandoned on private property not owned by the owner of the tangible personal property, the tangible personal property is hereby declared to be a public nuisance, and the Poundmaster may take possession thereof and transport it or cause it to be transported to the village pound, there to be kept until the owner thereof claims the tangible personal property and pays the fees, costs and expenses of such transportation and storage thereof, or until the tangible personal property is sold as provided in this chapter.

(Ord. No. 103, § 103.11, 8-24-81)

Sec. 8-42. Impoundment of abandoned vehicles.

When any motor vehicle, trailer, tractor farm implement, or other mobile item of personal property shall be unlawfully parked in the village streets in such a manner as to interfere with the traffic upon the streets, alleys or public thoroughfares, or upon any public or private driveway, the Poundmaster may take possession thereof and do with the abandoned vehicle as is provided for in section 8-41.

(Ord. No. 103, § 103.12, 8-24-81)

Sec. 8-43. Factors constituting abandonment.

Any disabled motor vehicle or other mobile personal property which cannot be moved on its own power, or which due to flat tires, broken wheels or other visible mechanical damage cannot be moved on its own power or the usual power applied thereto without making repairs thereto, which shall remain parked upon any public street, alley or other public grounds for a period of forty-eight (48) hours or more, shall be deemed to be abandoned and may be dealt with as provided in section 8-41.

(Ord. No. 103, § 103.13, 8-24-81)

Sec. 8-44. Unlawfully parked vehicles deemed abandoned.

Any motor vehicle, even though not interfering with traffic, which shall be unlawfully parked in a public street, alley or other public grounds within the village, and shall remain so unlawfully parked for a period of twelve (12) hours or more, shall be deemed to be abandoned and may be dealt with as provided in section 8-41.

(Ord. No. 103, § 103.14, 8-24-81)

Sec. 8-45. Impoundment of vehicles involved in traffic violations.

Any motor vehicle being operated in the village by a person while under the influence of intoxicating liquor or without an operator's or chauffeur's license and/or found to be unsafe for operation on the public streets and highways; any motor vehicle being operated in the village by a person who could not at that time prove ownership thereof, or the right to operate the motor vehicle; and/or any motor vehicle lawfully seized by the police officers of the village, the sheriff of the county or any of his deputies, or the state police may be transported to the village pound and there dealt with as is provided for in section 8-41.

(Ord. No. 103, § 103.15, 8-24-81)

Sec. 8-46. Impounding fees.

The owner of any tangible personal property which shall be impounded pursuant to this article shall, before recovering possession thereof, pay to the poundmaster for the village the actual expense of transporting the tangible personal property to the pound.

(Ord. No. 103, § 103.16, 8-24-81)

Sec. 8-47. Sale of unclaimed property--Authorized; notice.

If any tangible personal property shall remain in the pound for a period of thirty (30) days or more without the owner thereof paying the costs, expenses and fees provided for in this chapter, the tangible personal property may be sold by the Poundmaster at public auction to the highest bidder after having given to the last known owner thereof a written notice of the date, time and place of the sale. The written notice shall be personally served on the owner at least ten (10) days before the sale, or it may be served at least ten (10) days before the sale by mailing the notice by certified mail, addressed to the owner at his last known address. If the owner is unknown or he has no address known to the Poundmaster, the notice shall be published once at least ten (10) days before the sale in a newspaper of general circulation in the village. Proof of mailing the notice shall be deemed to be notice to the owner thereof, whether the owner actually receives the notice or not.
(Ord. No. 103, § 103.17, 8-24-81)

Sec. 8-48. Same--Claim after notice.

The owner of impounded tangible personal property may claim the property after notice is given pursuant to this article and before the sale thereof by paying the costs, expenses and fees provided for in this chapter, plus the cost and expense incurred in the service and in preparing for the sale.
(Ord. No. 103, § 103.18, 8-24-81)

Sec. 8-49. Same--Disposition of proceeds.

Out of any money received from the sale of tangible personal property as provided in this chapter, the Poundmaster shall pay the costs and expenses of sale, the costs of transportation and the storage fees. Any money remaining from the sale shall be paid over to the owner of the tangible personal property. If the owner is unknown or cannot be located, or refuses to accept the money, the surplus of the sale shall be paid over to the treasurer of the village to be held by the treasurer for the owner. If the owner of the tangible personal property refuses or fails to claim the money within eighteen (18) months after the date of the sale, the treasurer shall pay the money over to the general fund of the village. If the sale of the tangible personal property is not enough to pay the costs of removal, storage and sale of the items, any remaining sums shall be charged to the defendant, and the village shall have all legal and equitable remedies available to enforce payment thereof, including levying the amount thereof as a special assessment against the lands from which the items were so removed.
(Ord. No. 103, § 103.19, 8-24-81)

Sec. 8-50. Care of impounded property.

The Poundmaster, in seizing, holding, transporting, storing and selling tangible personal property, shall not be an insurer thereof, nor shall he be required to give more than reasonable and ordinary care.
(Ord. No. 103, § 103.20, 8-24-81)

Sec. 8-51. Taking property from pound.

Any person rescuing or attempting to rescue any tangible personal property from the pound without paying the amount therefore due, shall be guilty of a violation of this Code punishable by the same fine or imprisonment as detailed in section 8-37.
(Ord. No. 103, § 103.21, 8-24-81)

Sec. 8-52. Licensed junkyards, established farms.

This article shall not apply to a junkyard duly licensed as such in the village, or to an established farm on which there is the carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.
(Ord. No. 103, § 103.22, 8-24-81)

[The next page is 457]