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PLANNING COMMISSION**§ 30.01 SHORT TITLE.**

This subchapter shall be known and may be cited as the “Planning Commission Ordinance”.
(Ord. 115, passed 12-14-1977)

§ 30.02 ESTABLISHING OF COMMISSION.

A Planning Commission is hereby established in and for the village, pursuant to the provisions of Public Act 285 of 1931, as amended, being M.C.L.A. §§ 125.3811 to 125.3825.
(Ord. 115, passed 12-14-1977)

§ 30.03 COMPOSITION AND APPOINTMENT OF MEMBERS.

The Commission shall consist of nine members who shall be composed of the following: the Village President, one administrative official of the village to be selected by the President, one member of the Village Council to be selected by the Village Council, as members ex officio, and six persons who shall be appointed by the President, subject to the approval by a majority vote of the members elect of the Village Council. Of the six persons appointed by the Village President, one may be a member of the Zoning Board of Appeals, but the remaining five shall hold no other village office.
(Ord. 115, passed 12-14-1977)

§ 30.04 COMPENSATION OF MEMBERS.

All members of the Commission may be compensated at a rate to be determined by the Village Council.
(Ord. 115, passed 12-14-1977)

§ 30.05 TERM OF OFFICE.

The terms of ex-officio members shall correspond to their respective official tenures; except that, the term of the administrative official selected by the President shall terminate with the term of the President selecting him or her. The term of each of the six appointed members shall be three years or until a successor takes office; except that, the respective terms of two of the members first appointed shall be for one year and two for two years. All members shall hold office until their successors are appointed.
(Ord. 115, passed 12-14-1977)

§ 30.06 VACANCIES.

Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Village President in the case of members appointed by him or her and by the Village Council in the case of members appointed by it.

(Ord. 115, passed 12-14-1977)

§ 30.07 REMOVAL OF MEMBERS.

A member may, after a public hearing, be removed by the Village President for inefficiency, neglect of duty or malfeasance in office.

(Ord. 115, passed 12-14-1977)

§ 30.08 OFFICERS.

The Planning Commission shall elect a Chairperson and a Secretary from the appointed members; provided, however, the Village President and any representative from the Village Council or Zoning Board of Appeals shall not be entitled to hold the Office of Chairperson. The Commission shall have the authority to elect other officers as it may deem necessary. The term of the officers shall be for one year with eligibility for re-election.

(Ord. 115, passed 12-14-1977)

§ 30.09 RULES AND PROCEDURES.

(A) The Commission shall adopt a set of rules to govern its own meetings and procedures. The rules may be amended from time to time, but only upon notice to all members that the proposed amendment shall be acted upon at a specified meeting. A majority vote of the Commission shall be required for the approval of the proposed amendment.

(B) All formal actions of the Commission shall be subject to and governed by the requirements as set forth in Public Act 285 of 1931, as amended, being M.C.L.A §§ 125.31 through 125.45.

(Ord. 115, passed 12-14-1977)

§ 30.10 MEETINGS.

(A) *Regular meetings.* The Commission shall meet in regular session at least once a month at a time and place selected by vote of its members.

(B) *Special meetings.* The Village Council, the Chairperson or any three members of the Commission shall have the authority to call special meetings of the Commission. Notice of special meetings shall be given to all members.

(C) *Conduct and notice of meetings.* Regular and special meetings shall be public and any person having business to be considered at the meeting shall be entitled to a hearing.
(Ord. 115, passed 12-14-1977)

§ 30.11 EFFECT OF ABSENCE OF MEMBERS.

Absence from four consecutive regular meetings without the formal consent of the Commission shall be deemed to constitute a retirement of a member, and the vacancy thus created shall be filled thereafter by the Village Council by the appointment of a successor to fill the unexpired term of office.
(Ord. 115, passed 12-14-1977)

§ 30.12 POWERS AND DUTIES.

The Planning Commission shall have all those powers and duties set forth in Public Act 285 of 1931, as amended, being M.C.L.A. §§ 125.3801 through 125.3885, specifically including, but not limited to, the following:

(A) To exercise all powers heretofore granted by the laws of the state to a Village Zoning Commission;

(B) To develop and adopt a master plan for the physical development of the village and, from time to time amend, extend or add to the plan;

(C) To confer with and advise the Village Council on all matters concerning the planning and development of the village;

(D) To provide for and ensure proper zoning and orderly development of the village;

(E) To periodically survey the overall condition of the village from the standpoint of zoning and planning;

(F) To evaluate and adopt land use controls in order to provide for implementation of the master plan;

(G) To aid the village in the attraction of new industries and businesses and the encouragement of expansion of existing industries and businesses in the village;

(H) To review and approve or disapprove any proposed plat of a subdivision or development of land within the village;

(I) To review and approve or disapprove requests for zoning variances and special exceptions and advise the Zoning Board of Appeals in this regard;

(J) To review and approve or disapprove any proposed public works construction; and

(K) To adopt a five-year capital improvements program and to update that program annually in accordance with the Village Council's schedule.

(Ord. 115, passed 12-14-1977)

§ 30.13 EXPENDITURES; APPROPRIATIONS.

Expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts made available by appropriation by the Village Council, which shall provide the funds, equipment and accommodations necessary for the Planning Commission work. Neither the Planning Commission, nor any member thereof, shall incur any financial liability in the name of the village.

(Ord. 115, passed 12-14-1977)

ZONING BOARD OF APPEALS

§ 30.25 ESTABLISHMENT.

There is herewith established a Zoning Board of Appeals. The Board shall consist of the current members of the Village Council.

(Ord. 116, passed 12-14-1977)

§ 30.26 ORGANIZATION.

(A) The Board of Appeals shall organize, elect its Chairperson and adopt rules for its own government. Meetings of the Board shall be held at the call of the Chairperson and at other times as the Board may determine.

(B) All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question.

(Ord. 116, passed 12-14-1977)

§ 30.27 QUORUM.

Four members of the Board of Appeals shall constitute a quorum. The Board shall act by resolution or motion.

(Ord. 116, passed 12-14-1977)

§ 30.28 APPLICATIONS, APPEALS, HEARINGS AND THE LIKE.

(A) *Filing of applications.* An application, in cases in which the Board of Appeals has original jurisdiction, may be taken by any property owner or option holder with the consent of the property owner, tenant, governmental officer, department, board or bureau.

(B) *Report on application.* The Secretary shall investigate the application and submit a report thereon, together with his or her recommendations, to the Board.

(C) *Filing of appeals.* An appeal to the Board may be taken by any person aggrieved by a decision of the Village Building Inspectors. The appeal shall be taken within 20 days after the decision.

(D) *Hearings.* The Board shall fix a reasonable time for the hearing of the application of the appeal, give notice to an official newspaper in circulation in the area and to all interested parties and decide the same within reasonable time.

(E) *Decision of the Board.* The Board shall decide all applications and appeals within 30 days after the final hearing thereon. A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Building Inspector.

(Ord. 116, passed 12-14-1977)

§ 30.29 POWERS.

The Board of Appeals shall have the following powers.

(A) The Board shall have the power to hear and decide applications filed as herein provided, in this subchapter, for conditional uses, special exceptions or for interpretation of the zoning map or for decisions upon other special questions.

(B) Where there may be discrepancies between the street and lot layout actually on the ground and the street and lot lines as shown on the zoning map, the Board, after notice to the owners of the property and a public hearing, shall interpret the map in a way as to carry out the intent and purpose of the zoning ordinances.

(C) The Board shall have the power to hear and decide appeals, filed as provided in this subchapter, where it is alleged by the appellant that there is error in any order, requirement, decision made by any administrative official in the enforcement and interpretation of the zoning ordinances.

(D) The Board shall have the power to authorize upon application or appeal in specific cases, filed as provided in this subchapter, the variances from the terms, provision or requirements of the zoning ordinances as will not be contrary to the public interest.

(E) In exercising its powers, the Board may, in conformity with the provisions of statute and of this subchapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make the order, requirement, decision or determination as ought to be made and, to that end, shall have all powers of the office from whom the appeal is taken.
(Ord. 116, passed 12-14-1977)

CHAPTER 31: VILLAGE OFFICIALS

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GENERALLY

§ 31.01 TRAFFIC ENGINEER.

(A) *Short title.* This section shall be known and may be cited as the “Traffic Engineer Ordinance”.

(B) *Creation.* The position of a Traffic Engineer is hereby created.

(C) *Appointment and compensation.*

(1) The Traffic Engineer shall be appointed by the majority vote of the Village Council.

(2) Compensation for the Traffic Engineer shall be set by the Village Council, from time to time as it shall determine.

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(D) *Removal.* The Traffic Engineer shall be removed at any time by a majority vote of the Village Council.

(E) *Duties, authority and limitations.*

(1) The Traffic Engineer shall design and set up traffic patterns, install all necessary signs, signals, street painting, parking meters and the like to control traffic in the interest of public safety and convenience.

(2) All necessary signs, signals and the like shall be authorized by the Traffic Engineer in the form of an order executed by him or her. Each order shall be submitted to the Village Council and shall be subject to veto or approval thereof.

(Ord. 117, passed 1-11-1978)

§ 31.02 VILLAGE CLERK AND TREASURER APPOINTED POSITIONS.

(A) *Authority.* The General Law Charter provides that an ordinance adopted pursuant to Public Act 255 of 1998 to provide for the appointment of the Village Clerk and Treasurer.

(B) *Clerk and Treasurer appointed.* The Village President may nominate and the Council may appoint the Clerk and Treasurer.

(C) *Term.* The terms of the Clerk and Treasurer shall each be for two years; terms beginning the second Monday in March or when office is vacated and a successor is appointed.

(Ord. 164, passed 8-11-1999)

§ 31.03 (RESERVED).**§ 31.04 (RESERVED).****§ 31.05 SINGLE STATE CONSTRUCTION CODE; DESIGNATION OF ENFORCING AGENCY.**

(A) The Building Inspection Department of the village is designated as the enforcing agency to discharge the responsibility of the village under the provisions of M.C.L.A. §§ 125.1501 et seq. for the administration and enforcement of the State Construction Code.

(B) Pursuant to M.C.L.A. § 125.1523(3), all violations of M.C.L.A. §§ 125.1523(1) and 125.1523(2) are hereby designated as municipal civil infractions and shall be handled in accordance with Chapter 33 of this Code of Ordinances.

(Ord. 04-07, passed 12-8-2004; Ord. 12-08, passed 12-12-2012)

§ 31.06 BUILDING OFFICIAL.

(A) *Agency designated.* Pursuant to the provision of the Michigan Building Code of 2009 and the Michigan Residential Building Code of 2009, in accordance with § 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of Gaines is hereby designated as the enforcing agency to discharge the responsibility of the village under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The village assumes responsibility for the administration and enforcement of the Act throughout its corporate limits.

(B) *Code appendix enforced.* Pursuant to the provisions of the State Construction Code, in accordance with Public Act 230, § 8b(6), of 1972, being M.C.L.A. §§ 125.1501 through 125.1531, as amended, Appendix G of the State Building Code shall be enforced by the enforcing agency within the village.

(C) *Designation of regulated flood prone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Genesee County, MI (all jurisdictions) and dated and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26049c:0268d.0269d.0382d and dated 9-25-2009 are adopted by reference for the purposes of administration of the State Construction Code, and declared to be a part of § 1612.3 of the State Building Code, and to provide the content of the “Flood Hazards” section of Table R301.2(1) of the State Residential Code.

(D) Pursuant to M.C.L.A. § 125.1523(3) of Public Act 230 of 1972, all violations of M.C.L.A. §§ 125.1523(1) and 125.1523(2) of Public Act 230 of 1972 (M.C.L.A. § 125.1501 *et seq.*) are hereby designated municipal civil infractions and shall be handled in accordance with Chapter 33 of the Code of Ordinances.

(Ord. 2009-01, passed 11-11-2009; Ord. 399.2-A, passed 10-13-2010; Ord. 2013-03, passed 2-13-2013)

§ 31.07 COMPENSATION OF VILLAGE OFFICERS.

The President of the village and each Council person of the village shall receive compensation for the performance of the duties of their offices. The compensation shall be set by the Village Council annually and paid quarterly.

(Ord. 03-08, passed 9-10-2008)

ORDINANCE ENFORCEMENT OFFICER**§ 31.20 GENERALLY.**

There is hereby established the Office of Ordinance Enforcement Officer within the village.
(Ord. 04-08, passed - -2008)

§ 31.21 APPOINTMENT.

The Village Council is hereby authorized, by resolution, at any regular meeting of the Council to appoint any person or persons to the Office of Ordinance Enforcement Officer for the term or terms as may be designated in the resolution. The Council may further, by resolution, remove any person from the office in the discretion of the Council.

(Ord. 04-08, passed - -2008)

§ 31.22 DUTIES.

The Ordinance Enforcement Officer is hereby authorized to enforce all ordinances of the village, whether heretofore or hereafter enacted and whether the ordinances specifically designate a different official to enforce the same or do not designate any particular enforcing officer. Where a particular officer is so designated in any ordinance, the authority of the Ordinance Enforcement Officer to enforce the same shall be in addition and supplementary to the authority vested by the Village President by stature. The ordinance enforcing authority of the Village President and the other officers specifically designated in any village ordinance shall continue in full force and effect and shall, in no way, be diminished or impaired by the terms of the ordinance.

(Ord. 04-08, passed - -2008)

§ 31.23 DEFINITIONS.

The *ORDINANCE ENFORCEMENT DUTIES* herein authorized shall include, among others, the following: investigation of ordinance violations; serving notice of violations; serving appearance tickets as authorized under Public Act 175 of 1927, as amended, being M.C.L.A. §§ 764.1 *et seq.*; appearance in court or other judicial proceedings to assist in the prosecution of ordinance violators; and other ordinance-enforcing duties as may be delegated by the Village President or assigned by the Village Attorney.

(Ord. 04-08, passed - -2008)

CHAPTER 32: FEES, TAX AND FINANCE

Section

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GENERALLY

§ 32.01 IMPOUNDED VEHICLE FEE.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

REGISTERED OWNER. The person holding the legal title and/or registration to a vehicle.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn up highway.

(B) A fee, which shall be set by resolution of the Village Council, shall be paid to the village prior to the release of any vehicle taken into custody by the Police Department.

(C) The fee provided in division (B) above may be waived at the discretion of the village in those instances where the vehicle was impounded by order of the Police Department under circumstances where no unlawful activity resulted in the vehicle being impounded.

(Ord. 165, passed 10-27-1999)

SPECIAL ASSESSMENTS

§ 32.15 PURPOSE.

(A) It is hereby deemed by the Village Council to allow for special assessments.

(B) These assessments shall be for “public improvement” and including, but not limited to, Police, Fire and DPW Departments in the village and for the village.

(Ord. 166, passed 2-9-2000)

§ 32.16 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHAPTER VIII. Chapter VIII of Public Act 3 of 1895, as added by Public Act 4 of 1974, being M.C.L.A. §§ 61.1, 67.25, 68.31 through 68.35, 69.6, 69.21 through 69.23, 69.25, 71.3 and 71.4. All provisions of Chapter VIII are incorporated herein by reference. In case of conflict between Chapter VIII and other provisions of this code, the provisions of Chapter VIII shall prevail.

COST. The cost of any public improvement and shall include the cost of surveys, plans, land, rights-of-way, spreading of rolls, notices, advertising, financing, construction, legal fees and all other costs incident to the making of the improvements, the special assessment therefor and the financing thereof.

PUBLIC IMPROVEMENT. Any improvement upon public property, right-of-way or easement and shall include, but not be limited to, Police, Fire and DPW Departments and all improvements for the benefit of the village.

(Ord. 166, passed 2-9-2000)

§ 32.17 SPECIAL ASSESSMENTS.

The entire cost or any part thereof of any and all improvements may be defrayed by special assessment upon the lands especially benefitted by the improvement in the manner hereinafter provided.

(Ord. 166, passed 2-9-2000)

§ 32.18 INITIATION OF PUBLIC IMPROVEMENTS.

Proceedings for making public improvements may be initiated by resolution of the Council or by a petition of a majority of the owners of the land liable to be assessed in any proposed special assessment district. All public improvements shall be made at the discretion of the Council and no petition shall be mandatory upon the Council.

(Ord. 166, passed 2-9-2000)

§ 32.19 FORM OF PETITIONS.

All petitions for public improvements shall be on forms supplied by the village and shall include an affidavit by one or more of the circulators that the signatures appearing thereon are genuine and each signer declares himself or herself to be the owner of the interest in the land indicated. All petitions shall be filed with the Village Clerk who shall record the filing date thereon and report the receipt of all petitions to the Village Council at the next regular meeting following receipt of any petition.

(Ord. 166, passed 2-9-2000)

§ 32.20 INVESTIGATION.

All petitions for public improvement shall be investigated by the Village Clerk to determine whether a sufficient number of valid signatures have been obtained and, if the investigation discloses a deficiency, the petition shall be returned to the circulator with notice of the fact. Where any lot or parcel of land is owned by more than one person, each person having an interest must join in the petition. A petition containing the required number of valid signatures shall be acted upon by the Council, to accept, defer or reject the petition.

(Ord. 166, passed 2-9-2000)

§ 32.21 PREPARATION OF A REPORT.

A report describing the improvement and determining the feasibility thereof will be prepared. It will address such factors as the need for the project, estimates of the cost and other pertinent information reflecting this policy and special conditions of the project, if any.

(Ord. 166, passed 2-9-2000)

§ 32.22 NOTICE OF HEARING.

The feasibility report and all other relevant material shall be presented to the Village Council at the public hearing set forth in the notice.

(Ord. 166, passed 2-9-2000)

§ 32.23 ACTION AT FIRST HEARING.

The Village Council shall consider the report, evaluation and benefit information, the petitions and the written or oral comments of property owners attending the hearing and shall determine whether to defer or proceed with the project. The provisions of the Village Charter or ordinances and of state law concerning protests shall be adhered to by the Village Council. If the Village Council resolves to proceed, it shall appoint a board of assessors consisting of two Village Council members and the Village Treasurer, which shall function as set forth in § 32.24.

(Ord. 166, passed 2-9-2000)

§ 32.24 DECISION TO PROCEED.

In the event the village resolves to proceed with the improvement and the requisite number of votes therefor are cast, the Council shall direct the preparation of a special assessment roll and shall further order the village staff to proceed with project design, preparation of specifications and bidding process as appropriate. The Treasurer shall prepare financing plans including submission of applications to the State Department of Treasury, beginning of bonding proceedings or other preparation called for by this policy or as is appropriate. The financing plans shall include the interest rate to be paid on the assessment. If bonds are to be sold, the interest rate shall be determined by the interest rate on bonds, plus 1%.

(Ord. 166, passed 2-9-2000)

§ 32.25 SUBMISSION OF MATERIALS TO BOARD OF ASSESSORS.

The information reviewed by the Village Council at the first hearing together with all materials prepared by staff shall be submitted to the Board of Assessors, which shall prepare the assessment roll. The assessment roll shall be based upon the lowest bid recommended by staff.

(Ord. 166, passed 2-9-2000)

§ 32.26 SECOND HEARING.

After official notice has been given to each affected property owner according to state law and Charter, the second hearing shall be held to give affected property owners an opportunity to be heard on the matter of the amount of the actual assessments being levied and the roll to be confirmed. After

the second hearing, the Village Council shall determine whether or not to confirm the assessment roll. If it determines not to confirm, but still intends to proceed, it shall return the assessment roll to the Board of Assessors who shall review it and resubmit it at an adjourned hearing noticed in accordance with the law. As the assessment roll is confirmed, the assessment shall be considered levied. Copies of the confirmed roll shall be sent to Treasurer's office and the Village Clerk. In addition, the confirmed roll and other relevant records shall be sent to bond counsel for review in the event bonding is to be used for the payment of the cost of the project.

(Ord. 166, passed 2-9-2000)

§ 32.27 COLLECTION OF THE ROLL.

After Council has confirmed the roll, the Treasurer shall notify, by mail, each property owner on the assessment roll that the roll has been confirmed and filed, stating the amount assessed. Failure to receive notice shall not invalidate any special assessment nor excuse the payment of interest or collection fees, or both. Each property owner shall have 90 days from the date of confirmation of the roll to pay the assessment in full or any part thereof as set by the Council, without interest, fees or penalty. Following the 90 days, the property owner may pay all of this assessment at any time, but shall be required to pay interest thereon as fixed by Council. If a special assessment or the first installment thereof remains unpaid as of the last day of February, assessment shall be spread upon the then current tax roll for the collection of taxes in the village and collected in the same manner and subject to the same fees and penalties as taxes. The second and remaining installments shall be spread upon the succeeding village tax rolls, together with interest beginning 90 days from date of confirmation of the roll, until all installments are paid.

(Ord. 166, passed 2-9-2000)

§ 32.28 TREASURER'S OFFICE PREPARES AND MAILES ASSESSMENT BILLINGS.

Procedures shall be followed to add special assessments to the tax rolls in the event of nonpayment. Special assessments shall be a lien on the property on the date of confirmation.

(Ord. 166, passed 2-9-2000)

§ 32.29 DEFERRAL.

Request for deferrals under village procedures shall be handled through the Village Clerk's office.

(Ord. 166, passed 2-9-2000)

CHAPTER 33: MUNICIPAL CIVIL INFRACTIONS; ENFORCEMENT

Section

- 33.01 Definitions
- 33.02 Municipal civil infraction action; commencement
- 33.03 Municipal civil infraction citations; issuance and service
- 33.04 Municipal civil infraction citations; contents
- 33.05 Municipal Ordinance Violations Bureau

- 33.99 Penalty

§ 33.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. Act No. 236 of the Public Acts of 1961, as amended.

AUTHORIZED VILLAGE OFFICIAL. A Village Police Officer, Village Building Inspector, Fire Marshal, Zoning Administrator, Code Enforcement Official, or any other village employee specially designated in writing by the Village President to issue municipal civil infraction citations or municipal civil infraction violation notices.

BUREAU. The Village of Gaines Municipal Ordinance Violations Bureau as established by this chapter.

MUNICIPAL CIVIL INFRACTION ACTION. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or notice prepared by an authorized village official directing a person to appear in court regarding the occurrence or existence of one or more municipal civil infraction violations by the person cited.

MUNICIPAL ORDINANCE VIOLATION NOTICE. A written notice prepared by an authorized village official directing a person to appear at the Village of Gaines Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the Village of Gaines, as authorized under §§ 8396 and 9107(6) of the Act. (Ord. 08-06, passed 11-12-2008)

§ 33.02 MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT.

A municipal civil infraction action may be commenced upon the issuance by an authorized village official with respect to an ordinance violation designated a civil infraction of:

(A) A municipal civil infraction citation directing the alleged violator to appear in court; or

(B) A municipal ordinance violation notice directing the alleged violator to appear at the Municipal Ordinance Violations Bureau.
(Ord. 08-06, passed 11-12-2008)

§ 33.03 MUNICIPAL CIVIL INFRACTION CITATIONS; ISSUANCE AND SERVICE.

Municipal civil infraction citations shall be issued and served by authorized village officials as follows:

(A) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued;

(B) The place for appearance specified in a citation shall be the 67th District Court;

(C) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the village and issued to the alleged violator as provided by § 8705 of the Act;

(D) A citation for a municipal civil infraction signed by an authorized village official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official:

I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief.

(E) An authorized village official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation;

(F) An authorized village official may issue a citation to a person if:

(1) Based upon investigation the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

(2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or village approves in writing the issuance of the citation.

(G) Municipal civil infraction citations shall be served by an authorized village official as follows:

(1) Except as provided by division (G)(2) below, an authorized village official shall personally serve a copy of the citation upon the alleged violator;

(2) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.

(Ord. 08-06, passed 11-12-2008)

§ 33.04 MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS.

(A) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(B) Further, the citation shall inform the alleged violator that he or she may do one of the following:

(1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance;

(2) Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance, or in person, or by representation;

(3) Deny responsibility for the municipal civil infraction by doing either of the following:

(a) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the village; or

(b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

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(C) The citation shall also inform the alleged violator of all of the following:

(1) That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance;

(2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing unless a hearing date is specified on the citation;

(3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the village;

(4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney; and

(5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(D) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. 08-06, passed 11-12-2008)

§ 33.05 MUNICIPAL ORDINANCE VIOLATIONS BUREAU.

(A) *Bureau established.* The village hereby establishes a Municipal Ordinance Violations Bureau ("Bureau") as authorized under § 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal ordinance violation notices issued and served by authorized village officials and to collect and retain civil fines and costs as prescribed by any ordinance.

(B) *Location and administration.* The Bureau shall be located at the Village of Gaines Hall and shall be under the supervision of the village. The Village Treasurer, subject to the approval of the Board of Trustees, shall adopt rules and regulations for the operation of the Bureau and subject to the approval of the Village Personnel Committee shall appoint any necessary qualified village employees to administer the Bureau.

(C) *Disposition of violations.* The Bureau may dispose only of municipal violations for which a fine has been scheduled by ordinance and for which a municipal ordinance violation notice (as compared with a citation) has been issued. Nothing in this chapter shall prevent or restrict the village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of

competent jurisdiction. No person shall be required to dispose of a municipal ordinance violation at the Bureau and the alleged violator may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

(D) *Bureau limited to accepting admissions of responsibility.* The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation. The Bureau shall not accept less of a fine and cost for a violation than the amount specified by the ordinance.

(E) *Municipal ordinance violation notices.* Municipal ordinance violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same person as provided for citations as provided in § 33.03(F) and (G). In addition to any other information required by this chapter, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(F) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal ordinance violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal ordinance violation notice. An appearance may be made by mail, in person or by a representative.

(G) *Procedure where admission of responsibility not made or fine not paid.* If an authorized village official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines and costs for the violation are not paid at the Bureau, a municipal civil infraction citation shall be filed with the district court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by §§ 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator of how to respond to the citation.

(Ord. 08-06, passed 11-12-2008)

§ 33.99 PENALTY.

(A) A schedule of the civil fines to be imposed for violation of a municipal civil infraction is established as follows:

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- (1) *First offense.* The civil fine for a first offense violation shall be no less than \$150;
- (2) *Second offense.* The civil fine for a second offense violation shall be no less than \$250; and
- (3) *Repeat offense.* The civil fine for any offense which is a third or greater offense shall be no less than \$500.

(B) In addition to the above civil fines, upon an admission or finding of responsibility for a municipal civil infraction, the village shall also be entitled to reimbursement for all costs / expenses / charges incurred by the village in the cleanup and/or abatement of a municipal civil infraction violation. If the municipal civil infraction affects real property (i.e., blight, illegal fences, and the like), and the owner of said property is found responsible for said municipal civil infraction, the court may order the owner to abate the violation. If the owner of said real property fails to abate the violation in the time allowed by the court, the village shall have the right to enter upon the land to abate the municipal civil infraction violation and shall have the right and power to add any and all costs incurred by the village for the abatement and cleanup of the violation to the tax roll of the property upon which the violation was located and to levy and collect such costs in the same manner as provided for the levy and collection of ad valorem real property taxes against said property. The village may also utilize all other sanctions authorized and provided for in Chapter 600 of the Revised Judicature Act of 1961, Subchapter 87, being M.C.L.A. §§ 600.8701 through 600.8735, as amended, in prosecuting municipal civil infraction violations.

(C) Failure of an alleged violator to appear within the time specified in a municipal civil infraction citation or at the time scheduled for hearing or appearance shall be a misdemeanor and the penalty shall be a fine not to exceed \$500 or imprisonment in the Genesee County Jail for a term not exceeding 90 days, or both fine and imprisonment.

(D) A municipal civil infraction action brought for any violation of this chapter shall follow the procedures set forth in Chapter 600 of the Revised Judicature Act of 1961, including Subchapter 87 therein, specifically M.C.L.A. §§ 600.8701 through 600.8735, as amended.
(Ord. 08-06, passed 11-12-2008)

CHAPTER 34: VILLAGE POLICIES

Section

34.01 Sale or lease of public property

§ 34.01 SALE OR LEASE OF PUBLIC PROPERTY.

(A) *Authorized.* The village is hereby authorized to sell at public auction or private sale any public buildings or real estate, or any part thereof, owned by the village.

(B) *Parks.* A public park shall not be sold without the consent of a majority of the electors of the village voting on the question at an election.
(Ord. 12-03, passed 1-11-2012)

