

Village of Leonard Oakland County, Michigan



CODE OF ORDINANCES

ADOPTED: OCTOBER 9, 2017

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Chapter 1 GENERAL PROVISIONS

Sec. 1.1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, Village of Leonard, Oakland County, Michigan," and may be so cited. Such ordinances may also be cited as the "Village of Leonard Code."

State law reference— Authority to codify ordinances, MCL 66.3a.

Sec. 1.2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the village council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Civil infraction. The term "civil infraction" means an act or omission prohibited by law which is not a crime and for which civil sanctions may be ordered.

Code. The term "Code" means the Code of Ordinances, Village of Leonard, Oakland County, Michigan, as designated in section 1-1.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday, or legal holiday, the period or day is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

Conjunctions. In a provision involving two or more items, conditions, provisions, or events, which items, conditions, provisions, or events are connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:

1. The term "and" indicates that all the connected terms, conditions, provisions, or events apply.
2. The term "or" indicates that the connected terms, conditions, provisions, or events apply singly or in any combination.
3. The term "either...or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Oakland County, Michigan.

Crime. The term "crime" means an act or omission forbidden by law that is not designated as a civil infraction and that is punishable, upon conviction, by any one or more of the following:

1. Imprisonment.
2. A fine not designated as a civil fine.
3. Other penal discipline.

Delegation of authority. A provision that authorizes or requires a village officer or village employee to perform an act or make a decision or authorizes such officer or employee to act or make a decision through subordinates.

Fire Department. The term “fire department” shall mean Addison Township Fire Department.

Fire Chief. The term “fire chief” shall mean the Addison Township Fire Chief or a properly authorized designee.

Gender. Words of one gender include the other genders.

Health division. The term "health division" means the Oakland County Health Division.

Health officer. The term "health officer" means the director of the Oakland County Health Division or a properly authorized designee.

Highway. The term "highway" includes any street, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Includes and including. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

Joint authority. A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members as fixed by statute or ordinance.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

MCL. The abbreviation "MCL" means the Michigan Compiled Laws, as amended.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. The singular includes the plural and the plural includes the singular.

Oath, affirmation, sworn, affirmed. The term "oath" includes an affirmation in all cases where an affirmation may be substituted for an oath. In similar cases, the term "sworn" includes the term "affirmed."

Officers, departments, etc. References to officers, departments, boards, council, commissions, or employees are to village officers, village council, village departments, village boards, village commissions, and village employees.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or part of such property.

Person. The term "person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, limited liability company, governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

Personal property. The term "personal property" means any property other than real property.

Preceding and following. The terms "preceding" and "following" mean next before and next after, respectively.

Premises. The term "premises," as applied to real property, includes lands and structures.

Property. The term "property" means real and personal property.

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 3 of 1895 is a reference to Act No. 3 of the Public Acts of Michigan of 1895.) Any reference to a public act, whether by act number or by short title, is a reference to the Act as amended.

Public Right-of-way. "Right of Way" (R.O.W.) means the land owned or controlled by the Village, or other governmental agency or entity that has been designated for public use which shall include but not be limited to streets, curbs, sidewalks, shoulders, utilities, landscape, areas and other public uses. "Public right-of-way" means the area on, below, or above a public roadway, highway, street, alley, easement, or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Real property, real estate, land and lands. The terms "real property," "real estate," "land," and "lands" includes lands, tenements, and hereditaments.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature and subscription. The terms "signature" and "subscription" include a mark when the person cannot write.

State. The term "state" means the State of Michigan.

Street. Except as provided in section 34-1, the term "street" means any street, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Swear. The term "swear" includes affirm.

Tense. The present tense includes the past and future tenses. The future tense includes the present tense.

Village. The term "village" means the Village of Leonard, Oakland County, Michigan.

Village Council, council member, council. The terms "village council," council members, and "council" mean the village council of the Village of Leonard, Oakland County, Michigan.

Week. The term "week" means seven consecutive days.

Written. The term "written" includes any representation of words, letters, symbols or figures.

Year. The term "year" means 12 consecutive months.

State law reference— Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

Sec. 1.3. Catchlines of sections; history notes; state law references.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history. State law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

State law reference— Catchlines in state statutes, MCL 8.4b.

Sec. 1.4. Effect of repeal of ordinances.

(a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving provision in it.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any rights, privileges, suit, prosecution, or proceeding pending at the time of the amendment or repeal.

State law reference— Effect of repeal of state statutes, MCL 8.4.

Sec. 1.5. Amendments to Code; effect of new ordinances; amendatory language.

- (a) This Code shall be amended by ordinance.
- (b) Amendments to provisions of this Code may be made with the following language:" section _____ (chapter, division, or subdivision, as appropriate) of the Code of Ordinances, Village of Leonard, Oakland County, Michigan, is hereby amended to read as follows:...."
- (c) If a new section, subdivision, division, or chapter is to be added to the Code, the following language may be used:" section _____ (chapter, division or subdivision, as appropriate) of the Code of Ordinances, Village of Leonard, Oakland County, Michigan, is hereby created to read as follows:...."
- (d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

Sec. 1.6. Publication of Code.

- (a) Amendments to the Code shall be published in accordance with the law of the State of Michigan. A true copy of the amendment shall be maintained at the village office and available for public inspection during normal business hours.

Sec. 1.7. General penalty; continuing violations.

- (a) In this section, the term "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or a violation or by ordinance or by rule or regulation authorized by ordinance.
 - (4) Failure to comply with any provision of this Code which designates failure to comply as a misdemeanor, civil infraction, or municipal civil infraction.
- (b) In this section the term "violation of this Code" does not include the failure of a village officer or village employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) Except as specifically provided otherwise by state law, this Code or village ordinance, all violations of this Code are misdemeanors. Except as otherwise provided by law or ordinance, a

person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed \$500.00 and costs of prosecution or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment. However, unless otherwise provided by law, a person convicted of a violation of this Code which substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine not to exceed \$500.00 and costs of prosecution or by imprisonment for a period of not more than 93 days or by both such fine and imprisonment.

(d) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.

(e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(f) Violations of this Code that are intermittent or ongoing are a nuisance per se and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

State law reference— Penalty for ordinance violations, MCL 66.2; municipal civil infractions, MCL 600.8701 et seq.

Sec. 1.8. Civil infraction.

(a) Violations and penalties.

- (1) *Civil fines.* In the event of a determination of responsibility for a municipal civil infraction, the civil fines listed in subsection (b) of this section shall apply.
- (2) *Other remedies.* In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation of, this section.
- (3) *Continuing offense.* Each act of violation and each day upon which any such violation shall occur, shall constitute a separate offense.
- (4) *Remedies not exclusive.* In addition to any remedies provided for in this section, any equitable or other remedies available may be sought.
- (5) *Costs, damages, and expenses.* The court shall also be authorized to impose costs, damages, and expenses as provided by law.
- (6) *Default on payment of fines and costs.* A default in the payment of a civil fine, costs, damages or expenses ordered under subsection (a)(1) or (2) of this section or an installment of the fine, costs, damages or expenses as allowed by the court, may be collected by the village by a means authorized for the enforcement of a judgment under chapters 40 or 60 of the Revised Judicature Act, Public Act No. 236 of 1961 (MCL 600.101 et seq.).

- (7) *Failure to comply with judgment or order.* If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under subsection (a)(9) of this section.
- (8) *Failure to appear in court.* A defendant who fails to answer a citation or notice to appear in court for a violation of this section is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, plus costs and/or imprisonment not to exceed 90 days.
- (9) *Civil contempt.*
- a. If a defendant defaults in the payment of a civil fine, costs, other damages or expenses, or installment as ordered by the district court, upon motion of the village or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
 - b. If a corporation or an association is ordered to pay a civil fine, costs, damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
 - c. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
 - d. If it appears that the default in the payment of a civil fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, damages or expenses.
 - e. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, damages or expenses shall be specified in the order of commitment and shall not exceed one day for each \$30.00 due. A person committed for nonpayment of a civil fine, costs, damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of \$30.00 per day.
 - f. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, damages or expenses shall not be discharged from custody until one of the following occurs:
 1. Defendant is credited with an amount due pursuant to subsection (a)(9)e of this section.

2. The amount due is collected through execution of process or otherwise.
 3. The amount due is satisfied pursuant to a combination of subsections (a)(9)(f)(1) and (2) of this section.
- g. The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (a)(9)(f) of this section.
- (10) *Lien against land, building or structure.* If a defendant does not pay a civil fine, costs or installment ordered under subsection (a)(1) or (2) of this section within 30 days after the date upon which the payment is due for a violation of this ordinance involving the use or occupation of land, a building or other structure, the village may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the register of deeds for the county. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order.
- a. The lien is effective immediately upon recording of the court order with the register of deeds.
 - b. The court order recorded with the register of deeds shall constitute the pendency of the lien. In addition, a written notice of lien shall be sent by the village by first class mail to the owner of record of the land, building, or structure at the owner's last known address.
 - c. The lien may be enforced and discharged by the village in the manner described by its Charter, by the General Property Tax Act, Public Act No. 206 of 1893 (MCL 211.1 et seq.), or by an ordinance duly passed by the village. However, property is not subject to sale under section 60 of Public Act No. 206 of 1893 (MCL 211.60), for nonpayment of a civil fine or costs or an installment ordered under subsections (a)(1) or (2) of this section unless the property is also subject to sale under Public Act No. 206 of 1893 (MCL 211.1 et seq.) for delinquent property taxes.
 - d. A lien created under this section has priority over any other lien unless one or more of the following apply:
 1. The other lien is a lien for taxes of special assessments.
 2. The other lien is created before the effective date of the amended ordinance that added this section.
 3. Federal law provides the other lien has priority.
 4. The other lien is recorded before the lien under this section is recorded.
 - e. The village may institute an action in a court of competent jurisdiction for the collection of the fines and costs imposed by a court order for a violation of

this ordinance. However, an attempt by the village to collect the fines or costs does not invalidate or waive the lien upon the land, building, or structure.

f. A lien provided for by this subsection shall not continue for a period longer than five years after a copy of the court order imposing a fine or cost is recorded unless within that time an action to enforce the lien is commenced.

(b) *Fines.* Unless otherwise provided, the following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction:

- (1) *First offense.* The civil fine for a first offense violation shall be in the amount of \$100.00, plus costs and other sanctions, for each offense.
- (2) *First repeat of offense.* The civil fine for any offense which is a first repeat offense shall be in the amount of \$300.00, plus costs and other sanctions, for each offense.
- (3) *Second (or any subsequent) repeat of offense.* The civil fine for any offense which is a second or subsequent repeat offense shall be in the amount of \$500.00, plus costs and other sanctions, for each offense.

Sec. 1.9. Parking fines.

The schedule of fines payable to the parking violations bureau shall be as follows:

- 1. Parking within 500 feet of fire apparatus.....\$30.00
- 2. Parking in front of fire hydrant\$30.00
- 3. Parking in front of fire station.....\$30.00
- 4. Parking in posted fire lane\$30.00
- 5. Blocking fire department connection.....\$30.00
- 6. Blocking crosswalk, sidewalk, alley, drive or traffic.....\$30.00
- 7. Double parking.....\$30.00
- 8. Improper parking\$30.00
- 9. Parking over 24 hours\$30.00
- 10. Prohibited parking.....\$30.00
- 11. Prohibited parking, handicap\$75.00
- 12. Parking in violation of winter weather emergency\$100.00
- 13. Any other violation\$30.00

Sec. 1.10. Severability.

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Code that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Code are severable. If any provision of this Code or its application to any person or circumstance is held to be overbroad, that provision or application will nevertheless be enforced to the fullest extent permitted by law.

State law reference— Severability of state statutes, MCL 8.5.

Sec. 1.11. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the village relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

State law reference— Similar provisions as to state statutes, MCL 8.3u.

Sec. 1.12. Code does not affect prior offenses or rights.

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises which was in violation of any village ordinance on the effective date of this Code.

Sec. 1.13. Certain ordinances not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code affects the validity of:
- (1) Any ordinance or portion of any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
 - (2) Any ordinance or portion of any ordinance authorizing or approving any contract, deed, or agreement.
 - (3) Any ordinance or portion of any ordinance granting any right or franchise.
 - (4) Any ordinance or portion of any ordinance making or approving any appropriation or budget.
 - (5) Any ordinance or portion of any ordinance providing for the duties of village officers or employees not codified in this Code.

- (6) Any ordinance or portion of any ordinance providing for salaries or other employee benefits.
 - (7) Any ordinance or portion of any ordinance adopting or amending a comprehensive plan.
 - (8) Any ordinance or portion of any ordinance levying or imposing any special assessment.
 - (9) Any ordinance or portion of any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing, or vacating any street, sidewalk, or alley.
 - (10) Any ordinance or portion of any ordinance establishing the grade of any street or sidewalk.
 - (11) Any ordinance or portion of any ordinance dedicating, accepting, or vacating any plat or subdivision.
 - (12) Any ordinance or portion of any ordinance not codified in this Code that levies, imposes, or otherwise relates to taxes, exemptions from taxes and fees in lieu of taxes.
 - (13) Any ordinance or portion of any ordinance pertaining to zoning.
 - (14) Any ordinance or portion of any ordinance that is temporary, although general in effect.
 - (15) Any ordinance or portion of any ordinance that is special, although permanent in effect.
 - (16) Any ordinance or portion of any ordinance the purpose of which has been accomplished.
- (b) The ordinances or portions of ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.

Chapter 2 ADMINISTRATION

Sec. 2.1. Village Council.

- (a) Composition; powers and duties.
 - (1) The Village Council shall consist of a President and four Council members who are elected and have such powers and duties as are provided by law.
 - (2) Two village trustees shall be elected at each biennial village election.

Sec. 2.2. Village Clerk.

- (a) Pursuant to subsection (3), Section 1, Chapter II of the General Law Village Act (MCL 62.1(3)), the Village Clerk shall be appointed at the last regular meeting of the Village Council preceding the expiration of each term of office.
- (b) The President shall nominate a candidate for appointment by the Council to the position of Village Clerk.
- (c) Upon nomination by the President, the Council shall, by 2/3 majority vote, appoint the nominee to the position of Village Clerk.
- (d) A Clerk appointed pursuant to this ordinance shall hold office for two (2) years after the date of appointment or until the Village's next regular election, whichever is earlier, and until the Clerk's successor is appointed and qualified.
- (e) A vacancy resulting from the resignation or removal from office, of an appointed Clerk shall be filled by nomination and appointment in the same manner as provided above.

Sec. 2.3. Code Enforcement Officer.

- (a) Office established. The office of the village municipal code enforcement officer is hereby established.
- (b) Appointment. The village president is hereby authorized to hire and/or appoint any person/contractor to the office of municipal code enforcement officer, provided such person is not a member of the Council, for such term as may be designated in the employment agreement/contract and for such compensation as appropriated by the council. The president may further remove any person/contractor from such office.
- (c) Duties. The code enforcement officer's duties shall include the following: investigation of ordinance violations; issuing and serving ordinance violation notices; issuing and serving appearance tickets as authorized under 1968 Public Act 147, as amended (MCL 764.9c); issuing and serving municipal ordinance violation notices and municipal civil infraction citations as authorized under 1994 Public Act 12, as it may from time to time be amended (MCL 600.8701 et seq.); appearance in court or other judicial or quasi-judicial proceedings to assist in the prosecution

of ordinance violators; and such other ordinance enforcing duties as may be delegated by the village council.

Sec. 2.4. Reserved.

Sec. 2.5. Compensation.

- (a) Compensation of Village Officers. Village officers shall be paid monthly as follows:
 - (1) *President.* The president of the village shall be paid a sum of \$5,000 per year from all budgeted accounts and shall receive no other compensation from the village for other assignments, appointments, or positions, except as otherwise provided by law, and authorized by a resolution of the village council.
 - (2) *Trustees.* Each trustee of the village shall be paid a sum of \$45 per month from all budgeted accounts and shall receive no other compensation from the village for other assignments, appointments, or positions, except as otherwise provided by law, and authorized by a resolution of the village council.
 - (3) *Treasurer.* The treasurer of the village shall be paid a sum of \$5,000 per year from all budgeted accounts and shall receive no other compensation from the village for other assignments, appointments, or positions, except as otherwise provided by law, and authorized by a resolution of the village council.
 - (4) *Clerk.* The clerk for the village shall be paid a sum of \$5,000 per year from all budgeted accounts and shall receive no other compensation from the village for other assignments, appointments, or positions, except as otherwise provided by law, and authorized by a resolution of the village council.
- (b) Compensation of Planning Commission Members
 - (1) The planning commission members (except the member of the village council) shall receive compensation for each meeting attended, with the amount to be paid per meeting to be determined by a resolution of the village council. Payment to members for meetings attended shall be paid quarterly.

Sec. 2.6. Purchasing

- (a) Procedures
 - (1) The Leonard Village Council shall act as a Purchasing Agent for the Village of Leonard, and if they so desire, may designate a Village Council Member or an employee of the Village to act as the Purchasing Agent. Any such designation shall be in writing, filed with the Village Clerk.
 - (2) Every purchase order in excess of Five Hundred (\$500.00) Dollars shall be approved by The Village Council before being issued. The Village Council shall adopt any necessary rules respecting requisitions and purchase orders.

- (3) Purchases of supplies, materials, or equipment, the cost of which is less than Five Hundred (\$500.00) may be made in the open market but such purchases shall, where practicable, be used on at least three (3) competitive bids and the purchase shall be awarded to the lowest competent bidder. The Village Council or their designee may solicit bids verbally or by telephoning, or may contact prospective bidders by written communication. Where bids are solicited by written communication, a request for such bid shall also be posted in the Bulletin Board in front of Rowland Hall. Any or all bids may be rejected.
- (4) Any expenditure for supplies, materials, equipment, construction project or contracting, obligating the Village where the amount of the Village's obligation would be in excess of Three Thousand (\$3,000.00) Dollars shall be governed by the provisions of this section.
- a. Such expenditures shall be made the subject, of a written contract, if possible. A purchase order shall be a sufficient written contract in such cases where the expenditure is in the usual and ordinary course of the Village's affairs. In no case shall it be sufficient for the construction of public works or the contracting of supplies or services over any period of time or where the quality of the goods or materials or the scope of the services bargained for is not wholly standardized and cost is greater than Three Thousand (\$3,000.00) Dollars.
 - b. A brief notice inviting sealed competitive bids shall be published in one or more newspapers of general circulation in the Village at least five (5) days before the final date for submitting bids thereon.
 - c. The Village shall also solicit bids from a reasonable number of qualified prospective bidders as are known by them by sending each a copy of the notice requesting bids and notice thereof shall be posted on the Bulletin Board at Rowland Hall.
 - d. The Village Council shall prescribe the amount of any security to be deposited with any bid, which deposit shall be in the form of cash, certified or cashier's check, or bond written by a surety company authorized to do business in the state of Michigan. The amount of such security shall be expressed in terms of the percentage of the bid submitted. The Village Council shall fix the amount of the performance bond, if any, and in the case of construction contracts, the amount of the labor and material bond to be required of the successful bidder.
 - e. Bids shall be opened in public at the time and place designated in the notice requesting bids, in the presence of two (2) members of the Village Council. The bids shall thereupon be carefully examined and tabulated and reported to the Village Council. After tabulation, all bids may be inspected by competing bidders.
 - f. When such bids are submitted to the Village Council, the contract to be executed, in form approved by the Village Attorney, shall also be submitted and

if the Council shall find any of the bids to be satisfactory, it shall award the contract to the lowest bidder and shall authorize execution of the contract, upon execution of the contract by the successful bidder and the filing of any bonds which may have been required, which bonds shall first be approved by the Village Attorney as to form and content. Awarding of such bids may be by resolution or Ordinance. The Village shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.

g. All bids, deposits of cash, certified or cashier's checks may be retained until the contract is awarded or signed. Any successful bidder who fails or refuses to enter into the contract awarded to him within five (5) days after the same time, the deposit accompanying his bid shall be forfeited to the Village and the Council may in its discretion, award the contract to the next lowest bidder or said contract may be re-advertised.

(5) Competitive bidding shall not be required in respect to contract for professional services. In any other case where competitive bidding is not practical or where no advantage would result to the Village to require competitive bidding, the Village Council may authorize the execution of a contract without competitive bidding. Where a contract is let without competitive bidding, the proposed contract shall be approved by the Village Attorney as to form and content.

(b) Emergency Purchases. In the case of an emergency, the Village President, may purchase directly any supplies, materials, or equipment, the immediate procurement of which is necessary to the continuation of the work of the Village. Such purchases and the emergency causing them shall be reported in detail to the Village Council with the next regular Village Council Meeting.

(c) Sale of Village Property. Wherever any Village Personal Property is no longer needed for corporate or public purposes, the same may be offered for sale on the approval of the Village Council. Personal property not exceeding Five Hundred (\$500.00) Dollars in value may be sold for cash by the Village Council after receiving quotations or competitive bids therefor, for the best price obtainable. Property with a value in excess of Five Hundred (\$500.00) Dollars may be sold after advertising and receiving competitive bids as provided in the code and after approval of the sale has been, given by the Village Council.

Sec. 2.7. Fees.

(a) Adoption. The Village Council adopts fees for permits, applications, registrations, licenses, rates and charges, administrative costs and services provided by the Village, bonds or other security required by Village articles by ordinance from time to time, as kept on file in the office of the Village clerk. Such amounts shall be as currently established by article or ordinance or as hereafter adopted by the Village Council and established in the Village fee schedule resolution.

(b) Professional Consultation Fees

- (1) Definitions The following words, terms, and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - a. *Departments* includes any and all Village officers charged with the processing of the application and/or petitions or proposals as well as the Village Council, the planning commission, the building department, the zoning board of appeals and any and all other boards or committees whose attendance to the subject matter of the petition, application, or proposal is required by law in the processing thereof.
 - b. *Expenses* means any items or charges incurred by the Village incident to professional consultation which shall be reasonably required by the Village in the process of considering any application for building permits, rezoning, the grant of variances, special exception permits, the approval of site plans and/or any and all other agreements or contracts relating to the above which items of expense shall include, but not be limited to the consulting fees and expenses of engineers, professional land planner, attorneys or other professional consultants of any type or description reasonably required.
 - c. *Professional consultants* includes the Village attorney, Village engineer, Village land planner and any and all other professional services reasonably required to process and consider the subject matter of the particular application, petition, contract, or other proposal.
 - d. *Special fees* means extraordinary or additional fees and/or expenses required to be incurred by the Village, or any department thereof, for professional consultation relative to any application, petition, contract, or other proposal to be considered by the Village incident to any grant, license, or application to be acted upon by the Village, or any board or body thereof.
- (2) Applicants and fees contemplated
 - a. All applicants and/or petitioners whose applications and/or petitions have been submitted for permits, applications for rezoning or petitions for the grant of variances, special exception permits, approval of site plans and any agreements, contracts or proposals relating thereto, shall be required to reimburse the Village for any and all special professional fees and expenses incurred by the Village in the processing and consideration of any such application, properly process and consider any such matter so submitted.
 - b. A schedule of current rates and fees of the professional consultants shall be determined by reference to the Village fee resolution.
 - c. An itemized statement of any and all such special professional fees incurred shall be submitted to the applicants and/or petitioners prior to the grant of any final approval, the issuance of any permit, approval of any site plan

and/or the execution of any contract or agreement or the effecting of any change requested by the terms of any such application or petition.

- d. No final approval shall be granted by the Village or by any board or body thereof nor shall any permit be issued and/or contract or agreement executed relative thereto until the fees prescribed by this subdivision have been paid in full to the Village.
- e. Any objections by the petitioner or applicant as to the reasonableness or necessity of any fully itemized statement of such special professional fees shall be submitted to the Village Council who shall have the power to consider, modify, reduce, or abate all or any part of such charges to the applicant. Any such action by the Village Council shall be taken by it prior to the grant of any permit, license, rezoning, variance, special exception permit, site plan approval, or other action required by the Village Council or any Council, commission, or body of the Village in granting the relief sought by the applicant and/or petitioner to the extent of any such abatement, reduction, or modification. Any excess fees or charges shall be borne by the appropriate fund, department, or account of the Village.

Sec. 2.8. Insufficient Funds Check.

(a) Definitions. The following words, terms, and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Insufficient funds check means a check which is made payable to the Village when there is neither sufficient funds in or credit with the financial institution upon which it is drawn.

Person means any individual, firm, company, association, society, corporation, partnership, limited liability company, limited liability partnership, or group, including their officers, employees, members, or partners, who has responsibility for the debt, obligation, bill, fee, fine or cost owed to the Village, and which is paid for by an insufficient funds check.

Returned check fee means a fee charged by the Village to the person responsible for the obligation or debt which is paid for by an insufficient funds check.

(b) Insufficient funds check

The use of an insufficient funds check for the payment of money to the Village shall be prohibited. The person responsible for the obligation or debt to be paid by such insufficient funds check shall pay a returned check fee in an amount established in the Village fee resolution.

(c) Notice

Upon notification by the financial institution to the Village that a check which had been deposited by the Village and returned to the Village for insufficient funds, and which results in a charge to

the Village from the financial institution, the Village shall notify the person responsible for the obligation or debt, in writing and by first class mail, that the check has been returned for insufficient funds. The notice will set forth the amount due and owing to the Village. Said amount will include a returned check fee as defined above in section 2.8(a).

(d) Failure to pay procedures to recover costs

Any failure by the person described in this subdivision as liable or responsible for expenses of a returned check fee to pay said bill within seven (7) days of mailing or service of the bill shall constitute a default on the bill. In the case of default, the Village shall have the right and power to add all returned check fees to the tax roll of such property involved in the insufficient funds check and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property. The Village shall also have the right to bring an action in a court of competent jurisdiction to collect said costs if the Village deems such action to be necessary. All costs incurred by the Village in collecting the amount of the insufficient funds check, the returned check fee and administrative costs, including actual reasonable attorney's fees, shall be paid for by the person responsible for the obligation or debt to the Village.

Chapter 3 FREEDOM OF INFORMATION ACT

Sec. 3.1. Purpose.

This chapter is intended to implement provisions of the state's freedom of information act, Public Act No. 442 of 1976, as amended (MCL 15.231 *et seq.*) ("FOIA").

Sec. 3.2. Definitions.

The words, terms and phrases used in this chapter shall have the meanings ascribed to them in the FOIA.

Sec. 3.3. FOIA procedures and guidelines.

Preamble: Statement of Principles

These procedures and guidelines are intended to implement the state's Freedom of Information Act, Public Act 442 of 1976, as amended (MCL 15.231 *et seq.*) ("FOIA").

It is the policy of the Village of Leonard that all persons, except those incarcerated, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they fully participate in the democratic process.

The Village's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

The Village acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The Village acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

The Village will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The Village's policy is to disclose public records consistent with and in compliance with State law.

The Village Council has established the following written procedures and guidelines to implement the FOIA and has created a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests for information and explaining how to understand the Village's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary will be written in a manner so as to be easily understood by the general public.

(a) General Policies

The Village Council, acting pursuant to the authority at MCL 15.236, designates the Village President as the FOIA Coordinator. He or she is authorized to designate other Village staff to act

on his or her behalf to accept and process written requests for the Village's public records and approve denials.

If a request for a public record is received by facsimile or email, the request is deemed to have been received on the following business day. If a request is sent by email and delivered to a Village spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

The FOIA Coordinator shall review Village spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with available Village information technology staff to develop administrative rules for handling spam and junk-mail so as to protect Village systems from computer attacks which may be imbedded in an electronic FOIA request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these procedures and guidelines to administer the acceptance and processing of FOIA requests.

The Village is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other Village staff is obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all written requests for public records received by the Village on file for a period of at least one year.

Upon request by visitors to the Village Offices and in response to written requests for information, the Village shall provide a copy of these procedures and guidelines and the written Public Summary to the public without charge. No deposits or charge fees otherwise permitted under the FOIA shall be required until the Village is in compliance with this requirement.

These procedures and guidelines and the Village's written Public Summary shall be maintained on the Village's website at: <https://www.villageofleonard.org>. A link to those documents may be provided instead of providing paper copies of those documents.

(b) Requesting a Public Record

A request for a public record need not be made on a specific form; however, the FOIA Coordinator may make available a FOIA Request Form for use by the public.

Requests to inspect or obtain copies of public records prepared, owned, used, possessed, or retained by the Village may be submitted on the Village's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.

Verbal requests for records may be documented by the Village on the Village's FOIA Request Form.

If a person makes a verbal, non-written request for information believed to be available on the Village's website, where practicable and to the best ability of the employee receiving the request, the requesting person shall be informed of the pertinent website address.

A request must sufficiently describe a public record so as to enable Village personnel to identify and find the requested public record.

A request from a person, other than an individual who qualifies as indigent under Section 3.3(g)(1) of the Village Code of Ordinances, must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address.

Written requests for public records may be submitted in person or by mail to the Village Offices. Requests may also be submitted electronically by facsimile (fax) and electronic mail (email). Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that a response and public records be provided on non-paper physical media, emailed or otherwise provided to him or her in digital format in lieu of paper copies. The Village will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued, or disseminated by the Village on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

A person serving a sentence of imprisonment in a local, state, or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator shall deny all such requests.

(c) Processing a Request

Unless otherwise agreed to in writing by the person making the request, the Village shall issue a response within five (5) business days of receipt of a FOIA request. If a request is received by fax or email, the request is deemed to have been received on the following business day.

The Village shall respond to a request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating that due to the nature of the request the Village needs an additional ten (10) business days to respond, for a total of no more than fifteen (15) business days from the date the request is deemed received. Only one such extension is permitted.

- Issue a written notice indicating that the public record requested is available at no charge on the Village's website.

(1) When a request is granted:

If the request is granted, or granted in part, the FOIA Coordinator shall require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available.

The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request.

A copy of these procedures and guidelines and the written Public Summary shall be provided to the requestor free of charge with the response to a written request for public records, provided however, that because these procedures and guidelines, and the written Public Summary are maintained on the Village's website at: <https://www.villageofleonard.org>, a link to these procedures and guidelines and the written Public Summary may be provided instead of providing paper copies of those documents.

If the cost of processing a FOIA request is fifty (\$50.00) dollars or less, the requestor shall be notified of the amount due and where the documents can be obtained.

If the cost of processing a FOIA request is expected to exceed fifty (\$50.00) dollars based on a good-faith calculation, or if the requestor has not paid in full for a previously granted request, the Village may require a good-faith deposit pursuant to section 3.3(d) of the Village Code of Ordinances before processing the request.

In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the Village to process the request and also provide a best efforts estimate of a time frame it will take the Village to provide the records to the requestor. The best efforts estimate shall be nonbinding on the Village but will be made in good faith and shall be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

(2) When a request is denied or denied in part:

If the request is denied or denied in part, the FOIA Coordinator shall issue a notice of denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure;
or

- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the Village; or
- An explanation or description of the public record or information within a public record that is separated, deleted, or redacted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the office of the FOIA Coordinator or seek judicial review in the Oakland County Circuit Court; and
- An explanation of the requestor's right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.

The notice of denial shall be signed by the FOIA Coordinator.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, instead of issuing a notice of denial, indicate that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this section.

(3) Requests to inspect public records:

The Village shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect Village records from loss, alteration, mutilation, or destruction and to prevent excessive interference with normal Village operations. The FOIA Coordinator or other Village officials, appointees, staff, or consultants/contractors assisting with inspection of public records may require a person requesting records to make inspection at specified locations within the office, at a specific counter or table, and in view of Village personnel, and may restrict any person inspecting records from using pens or ink to take notes. The FOIA Coordinator may exercise his or her discretion to protect old or delicate original records and may provide copies for blacking out exempt information or because the original record is already in digital format or database and not available for public inspection. A person making the request may not remove books, records, or files from the place the Village has provided for the inspection. No original documents may be removed from Village offices without permission of the FOIA Coordinator, except by court order, subpoena or for audit purposes, in which case the Village shall be provided a receipt listing the records being removed.

(4) Requests for certified copies:

The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

(d) Fee Deposits

If the fee estimate is expected to exceed fifty (\$50.00) dollars based on a good-faith calculation, the requestor may be asked to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not paid the Village in full for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator may require a deposit of one hundred (100%) percent of the estimated processing fee before beginning to search for a public record for the current written request by that person when all of the following conditions exist:

- The final fee for the prior written request is not more than one hundred five (105%) percent of the estimated fee;
- The public records made available contained the information sought in the prior written request and remain in the Village's possession;
- The public records were made available to the individual, subject to payment, within the time frame estimated by the Village to provide the records;
- Ninety (90) days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- The individual is unable to show proof of prior payment to the Village; and
- The FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator may not require an increased estimated fee deposit if any of the following apply:

- The person making the request is able to show proof of prior payment in full to the Village;
- The Village is subsequently paid in full for the applicable prior written request; or
- Three hundred sixty-five (365) days have passed since the person made the request for which full payment was not remitted to the Village.

Notice of a deposit requirement sent to the requestor under section 3.3(d) of the Village Code of Ordinances is considered received by the requestor three days after it is sent, regardless of the means of transmission. If the Village does not receive a deposit that is required under section 3.3(d) of the Village Code of Ordinances within forty-five (45) days after the requestor has received notice that a deposit requirement is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 3.3(i) of the Village Code of Ordinances, the request shall be considered abandoned by the requesting person and the Village is no longer required to

fulfill the request. Notice of a deposit requirement under section 3.3(d) of the Village Code of Ordinances must include notice of the date by which the deposit must be received, which date is forty-eight (48) days after the date the notice is sent.

(e) Calculation of Fees

A fee may be charged for the labor cost of copying/duplication.

A fee shall not be charged for the labor cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Village because of the nature of the request in the particular instance, and the Village specifically identifies the nature of the unreasonably high costs.

Costs for the search, examination, review, and deletion and separation (redaction) of exempt from non-exempt information are “unreasonably high” when they are excessive and beyond the normal or usual amount for those services (Attorney General Opinion 7083 of 2001) compared to the costs of the Village’s usual FOIA requests, not compared to the Village’s operating budget. (*Bloch v. Davison Community Schools*, Michigan Court of Appeals, Unpublished, April 26, 2011).

The following factors shall be used to determine an unreasonably high cost to the Village:

- Volume of the public record requested.
- Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
- Whether the public records are from more than one Village department or whether records from various Village officials are necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The Michigan FOIA statute permits the Village to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- Labor costs associated with searching for, locating, and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the Village.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Village.

- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the Village's website if the requestor asks for the Village to make copies.
- The actual and most reasonably economical cost of any portable electronic or digital storage or similar non-paper physical media when the requestor asks for records in any format other than a physical paper medium. This may include the cost for copies of records already on the Village's website if the Village is asked to make copies.
- The cost to mail or send a public record to a requestor.

Labor costs shall be calculated based on the following requirements:

- All labor costs will be estimated and charged in fifteen (15) minute increments, with all partial time increments rounded down. If the time involved is fewer than fifteen (15) minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid Village employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- The Village may add up to fifty (50%) percent to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at an hourly rate equal to six times the state minimum hourly wage.

The cost to provide records on non-paper physical media when so requested shall be based on the following requirements:

- Any form of non-paper physical media (for example, USB drives, computer disks, or other similar portable electronic or digital media) will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will only be assessed if the Village has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- The Village will procure any non-paper media and will not accept media from the requestor in order to ensure integrity of the Village's technology infrastructure.

The cost to provide paper copies of records shall be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11-inch) or legal (8 ½ x 14-inch) sized paper will not exceed ten cents (\$.10) per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The Village may provide records using double-sided printing if it is cost-saving and available.

The cost to mail records to a requestor shall be based on the following requirements:

- The actual cost to mail public records using reasonably economical and justified means.
- The Village may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless specified by the requestor.

If the FOIA Coordinator does not respond to a written request in a timely manner, the Village must:

- Reduce the labor costs by five (5%) percent for each day the Village exceeds the time permitted under FOIA, up to a fifty (50%) percent maximum reduction, if any of the following applies:
 - The Village’s late response was willful and intentional,
 - The written request conveyed a request for information within the first two hundred fifty (250) words of the body of a letter, facsimile, email, or email attachment, or
 - The written request included the words, characters, or abbreviations for “freedom of information,” “information,” “FOIA,” “copy” or a recognizable misspelling of such, or legal code reference to MCL 15. 231, et seq. or 1976 Public Act 442 on the front of an envelope or in the subject line of an email, letter, or facsimile cover page.
- Fully note the charge reduction in the Detailed Cost Itemization Form.

(f) Waiver of Fees

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefitting the general public. The Village Council may also identify or deem specific records or types of records as those which should be made available for no charge or at a reduced cost.

(g) Discounted Fees

(1) Indigence

The FOIA Coordinator shall discount the first twenty (\$20.00) dollars of the processing fee for a request if the person requesting a public record submits an affidavit stating that he or she is:

- Indigent and receiving specific public assistance, or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

An individual is not eligible to receive the waiver if:

- The individual has previously received discounted copies of public records from the Village twice during the calendar year; or
- The individual requests information in conjunction with other persons who are offering or providing payment to make the request.

An affidavit is a sworn statement. The FOIA Coordinator may make a fee waiver affidavit form available for use by the public.

- (2) Nonprofit organization advocating for developmentally disabled or mentally ill individuals

The FOIA Coordinator shall discount the first twenty (\$20.00) dollars of the processing fee for a request from:

- A nonprofit organization formally designated by the State to carry out activities under subtitle C of the Federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals With Mental Illness Act, Public Law 99-319, or their successors, if the request meets all of the following requirements:
 - Is made directly on behalf of the organization or its clients.
 - Is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
 - Is accompanied by documentation of its designation by the State, if requested by the Village.

(h) Appeal of a Denial of a Public Record

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may appeal to the Village Council by filing an appeal of the denial with the office of the FOIA Coordinator.

The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial. The Village FOIA Appeal Form (To Appeal a Denial of Records), may be used.

The Village Council is not considered to have received a written appeal until the first regularly scheduled Village Council meeting following submission of the written appeal.

Within ten (10) business days of receiving the appeal, the Village Council will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- Reversing the disclosure denial in part and upholding the disclosure denial in part; or
- Under unusual circumstances, issuing a notice extending the date to respond by not more than ten (10) business days and detailing the reason or reasons for said extension. The Village shall not issue more than one (1) notice of extension for a particular written appeal.

If the Village Council fails to respond to a written appeal, or if the Village Council upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action in Oakland County Circuit Court.

Whether or not a requestor submitted an appeal of a denial to the Village Council, he or she may file a civil action in Oakland County Circuit Court within one hundred eighty (180) days after the Village's final determination to deny the request.

If a court that determines a public record is not exempt from disclosure, it shall order the Village to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Failure to comply with an order of the court may be punished as contempt of court.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in such an action, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or Village prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

If the court determines that the Village has arbitrarily and capriciously violated the Village Code of Ordinances by refusal or delay in disclosing or providing copies of a public record, the court shall order the Village to pay a civil fine of one thousand (\$1,000.00) dollars, which shall be deposited into the general fund of the State treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of one thousand (\$1,000.00) dollars to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual but shall be assessed against the Village.

- (i) Appeal of an Excessive FOIA Processing Fee

“Fee” means the total fee or any component of the total fee calculated under Section 4 of the FOIA, including any deposit.

If a requestor believes that the fee charged by the Village to process a FOIA request exceeds the amount permitted by State law or under this policy, he or she must first appeal to the Village Council by submitting a written appeal for a fee reduction to the office of the FOIA Coordinator.

The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The Village FOIA Appeal Form (To Appeal an Excess Fee) may be used.

The Village Council is not considered to have received a written appeal until the first regularly scheduled Village Council meeting following submission of the written appeal.

Within ten (10) business days after receiving the appeal, the Village Council will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or
- Under unusual circumstances, issuing a notice extending the date to respond by not more than ten (10) business days and detailing the reason or reasons for said extension. The Village Council shall not issue more than one (1) notice of extension for a particular written appeal.

Where the Village Council reduces or upholds the fee, the determination must include a certification from the Village Council that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and Section 4 of the FOIA.

Within forty-five (45) days after receiving notice of the Village Council’s determination of an appeal, the requesting person may commence a civil action in Oakland County Circuit Court for a fee reduction.

If a civil action is commenced against the Village for an excessive fee, the Village is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

An action shall not be filed in circuit court unless one of the following applies:

- The Village does not provide for appeals of fees,
- The Village Council failed to respond to a written appeal as required, or

- The Village Council issued a determination to a written appeal.

If a court determines that the Village required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or Section 4 of the FOIA, the court shall reduce the fee to a permissible amount. Failure to comply with an order of the court may be punished as contempt of court.

If the requesting person prevails in court by receiving a reduction of fifty (50%) percent or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

If the court determines that the Village has arbitrarily and capriciously violated the FOIA by charging an excessive fee, the court shall order the Village to pay a civil fine of five hundred (\$500.00) dollars, which shall be deposited in the general fund of the State treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of five hundred (\$500.00) dollars to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the Village.

(j) Conflict with Prior FOIA Policies and Procedures

To the extent that these procedures and guidelines conflict with previous FOIA policies promulgated by Village Council or the Village administration, these procedures and guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of these procedures and guidelines is found to be in conflict with any previous policy promulgated by the Village Council or the Village administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these procedures and guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control.

Sec. 3.4. Public Summary of FOIA procedures and guidelines.

In accordance with the requirements of the Michigan Freedom of Information Act (“FOIA”), Public Act 442 of 1976, the Village adopts the following Public Summary of its FOIA procedures and guidelines relevant to the general public. This Public Summary shall be provided without cost to persons as required by the FOIA and the Village Code of Ordinances. This is only a summary of the Village’s FOIA procedures and guidelines. For more details and information, copies of the Village’s FOIA procedures and guidelines are available at no charge at the Village Offices located at 23 E. Elmwood Street, P.O. Box 789, Leonard, MI 48367 and on the Village’s website: <https://www.villageofleonard.org>.

It is the public policy of this State that all persons (except those persons incarcerated in state or local correctional facilities) are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees.

The people shall be informed so that they may fully participate in the democratic process.

(a) How do I submit a FOIA request to the Village?

- A request must sufficiently describe a public record so as to enable the Village to find it.
- A request from a person, other than an individual who qualifies as indigent under MCL 15.234(2)(a), must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. Contact information must include a valid telephone number or email address. An address must be written in compliance with United States Postal Service addressing standards. Below is an example of a complying address and contact information:

JANE SMITH (or ABC MOVERS)
1500 E MAIN AVE STE 201
SPRINGFIELD VA 22162-1010
(555) 555-5555
Email Address @ email address.com

- Please include the words “FOIA” or “FOIA Request” in the request and/or as the subject line of the request to assist the Village in providing a prompt response.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed, or retained by the Village may be submitted on the Village’s FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.
 - No specific form to submit a written request is required. However, a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the Village’s website at <https://www.villageofleonard.org>, and at the Village Offices.
 - A verbal request can be documented by the Village on the Village’s FOIA Request Form.
- Written requests may be delivered to the Village Offices in person or by mail: 23 E. Elmwood Street, P.O. Box 789, Leonard, MI 48367
- Requests may be faxed to: (248) 628-8673. To ensure a prompt response, faxed requests should contain the term “FOIA” or “FOIA Request” on the first/cover page.
- Requests may be emailed to: villageofleonard@gmail.com. To ensure a prompt response, email requests should contain the term “FOIA” or “FOIA Request” in the subject line.

(b) What kind of response can I expect to my request?

- Within 5 business days after receiving a FOIA request the Village will issue a response. If a request is received by fax or email, the request is deemed to have been received on the following business day. The Village will respond to your request in one of the following ways:
 - Grant the request,
 - Issue a written notice denying the request,
 - Grant the request in part and issue a written notice denying in part the request,
 - Issue a notice indicating that due to the nature of the request the Village needs an additional 10 business days to respond, or
 - Issue a written notice indicating that the public record requested is available at no charge on the Village's website.
- If the request is granted, or granted in part, the Village might ask that a payment be made for the allowable fees associated with responding to the request before the public record is made available.
- If the cost of processing the request is expected to exceed fifty (\$50.00) dollars, or if you have not paid for a previously granted request, the Village will require a deposit before processing the request.

(c) What are the Village's deposit requirements?

- If the Village has made a good faith calculation that the total fee for processing the request will exceed fifty (\$50.00) dollars, the Village will require that you provide a deposit in the amount of fifty (50%) percent of the total estimated fee. When the Village requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.
- If the Village receives a request from a person who has not paid the Village for copies of public records made in fulfillment of a previously granted written request, the Village will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when **all** of the following conditions exist:
 - The final fee for the prior written request is not more than one hundred five (105%) percent of the estimated fee;
 - The public records made available contained the information sought in the prior written request and remain in the Village's possession;
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by the Village to provide the records;

- Ninety (90) days have passed since the Village notified the individual in writing that the public records were available for pickup or mailing;
- The individual is unable to show proof of prior payment to the Village; and
- The Village has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The Village will not require the one hundred (100%) percent estimated fee deposit if any of the following apply:
 - The person making the request is able to show proof of prior payment in full to the Village;
 - The Village is subsequently paid in full for all applicable prior written requests; or
 - Three hundred sixty-five (365) days have passed since the person made the request for which full payment was not remitted to the Village.
- Notice of a deposit requirement must include notice of the date by which the deposit must be received, which date is forty-eight (48) days after the date the notice is sent. If a deposit is not received by the Village within forty-eight (48) days from the date that the notice of deposit requirement is sent, and if the requesting person has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requesting person and the Village is no longer required to fulfill the request.

(d) How does the Village calculate FOIA processing fees?

The Michigan FOIA statute permits the Village to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- Labor costs associated with searching for, locating, and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the Village.
- Labor costs associated with a review of a record to separate and redact (black out) information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Village.
- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the Village's website if you ask for the Village to make copies.
- The cost of computer discs, USB drives, or other digital or similar electronically stored media when the requestor asks for, and the Village can provide, records in non-paper

physical format. This may include the cost for copies of records already on the Village's website if you ask for the Village to make copies.

- The cost to mail or send a public record to a requestor.

(1) Labor Costs.

- All labor costs will be estimated and charged in fifteen (15) minute increments, with all partial time increments rounded down. If the time involved is fewer than fifteen (15) minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid Village employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. Village may add up to fifty (50%) percent to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at an hourly rate equal to six times the state minimum hourly wage.

A labor cost will not be charged for the search, examination, review and the separation and redaction (blacking out) of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Village. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the Village's usual FOIA requests, because of the nature of the request in the particular instance. The Village must specifically identify the nature of the unreasonably high costs in writing.

(2) Copying and Duplication.

The Village must use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

(3) Non-paper Copies on Physical Media.

- The cost for records provided on non-paper physical media, such as computer discs, USB drives and/or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the Village has the technological capability necessary to provide the public record in the requested non-paper physical media format.

(4) Paper Copies.

- Paper copies of public records made on standard letter (8 ½ x 11-inch) or legal (8 ½ x 14-inch) sized paper shall not exceed ten cents (\$.10) per sheet of paper.
- Copies for non-standard sized sheets will reflect the actual cost of reproduction.

(5) Mailing Costs.

- The actual cost to mail public records will be based on a reasonably economical and justified means.
- The Village may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless you request it.

(6) Waiver of Fees.

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefitting the general public. The Village Council may identify or deem specific records or types of records as those that should be made available for no charge or at a reduced cost.

(e) How do I qualify for an indigence discount on the fee?

The Village will discount the first twenty (\$20.00) dollars of fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or
- If you are not receiving public assistance, stating facts demonstrating your inability to pay because of indigence.

You are **not** eligible to receive the twenty (\$20.00) dollar discount if you:

- Have previously received discounted copies of public records from the Village twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is a sworn statement. The Village may make a fee waiver affidavit form available for your use.

(f) May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is formally designated by the State to carry out activities under Subtitle C of the Federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, may receive a twenty (\$20.00) dollar discount if the request:

- Is made directly on behalf of the organization or its clients.
- Is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
- Is accompanied by documentation of its designation by the State, if requested by the public body.

(g) How may I challenge the denial of a public record or an excessive fee?

(1) Appeal of a Denial of a Public Record

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the Village Council by filing a written appeal of the denial with the office of the FOIA Coordinator.

The appeal must be in writing, specifically state the word “appeal,” and identify the reason or reasons you are seeking a reversal of the denial. You may use the Village FOIA Appeal Form (To Appeal a Denial of Records), which is available on the Village’s website: <https://www.villageofleonard.org>.

The Village Council is not considered to have received a written appeal until the first regularly scheduled Village Council meeting following submission of the written appeal. Within ten (10) business days of receiving the appeal the Village Council will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- Reversing the disclosure denial in part and upholding the disclosure denial in part.
- Issuing a notice detailing the reason or reasons for extending the deadline to respond to the written appeal, which extension shall not be longer than ten (10) business days.

Whether or not you submitted an appeal of a denial to the Village Council, you may file a civil action in Oakland County Circuit Court within one hundred eighty (180) days after the Village's final determination to deny your request. If you prevail in the civil action the court is allowed to award you reasonable attorneys’ fees, costs, and disbursements. If the court determines that the Village acted arbitrarily and

capriciously in refusing to disclose or provide a public record, the court is allowed to award you damages in the amount of one thousand (\$1,000) dollars.

(2) Appeal of an Excess FOIA Processing Fee

If you believe that the fee charged by the Village to process your FOIA request exceeds the amount permitted by state law, you must first appeal to the Village Council by filing a written appeal for a fee reduction to the office of the FOIA Coordinator.

The appeal must specifically state the word “appeal” and identify how the required fee exceeds the amount permitted. You may use the Village FOIA Appeal Form (To Appeal an Excess Fee), which is available at the Village Offices and on the Village’s website: <https://www.villageofleonard.org>.

The Village Council is not considered to have received a written appeal until the first regularly scheduled Village Council meeting following submission of the written appeal. Within 10 business days after receiving the appeal, the Village Council will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending its deadline for not more than ten (10) business days during which the Village Council will respond to the written appeal, which extension shall not be longer than ten (10) business days.

Within forty-five (45) days after receiving notice of the Village Council’s determination of the processing fee appeal, you may commence a civil action in Oakland County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of fifty (50%) percent or more of the total fee, the court may award all or appropriate amount of reasonable attorneys’ fees, costs, and disbursements. If the court determines that the Village acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of five hundred (\$500) dollars.

Sec. 3.5. Reserved.

Sec. 3.6. Fees.

The Village shall require a fee for the searching, copying, faxing, electronic transmission and mailing of the requested public record. The actual fees charged shall be established separately pursuant to the Village Fee Resolution, and which fees shall be subject to the below:

(a) Copy Duplication Costs.

(1) Materials:

a. Paper materials:

1. **Standard letter** (8 ½ by 11”) and **legal** (8 ½ by 14”) sized paper (single or double sided).....up to \$0.10/page
2. **Non-standardized sheets of paper:** No more than the actual cost of a non-standardized sheet of paper to the Village.
3. **Color copies:** No more than the actual cost to the Village per sheet of paper.

b. Non-paper physical media:

1. **Electronic Disc**.....Actual and most reasonable cost to the Village.
2. **USB Drive:** Actual and most reasonable cost to the Village.
3. **Other Digital Medium:** Actual and most reasonable cost to the Village.

(b) Mailing Cost. No more than the actual cost to the Village for envelope, postage, handling, confirmation (if applicable), and expedited shipping or insurance as requested.

(c) Labor Costs:

- (1) **Copy/Duplicating.** The hourly wage with fringe benefit cost of the Village’s lowest-paid employee capable of necessary duplication or publication in this particular instance regardless of whether that person is available or who actually performs the labor. The cost shall be estimated and charged in fifteen (15) minute increments. All partial time increments shall be rounded down. If the number of minutes is less than fifteen (15) minutes, there is no charge.
- (2) **To Locate (if applicable).** The hourly wage with fringe benefit cost of the Village’s lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance regardless of whether that person is available or who actually performs the labor. The cost shall be estimated and charged in fifteen

(15) minute increments. All partial time increments shall be rounded down. If the number of minutes is fewer than fifteen (15) minutes, there is no charge.

(3) **Separating Exempt and Non-Exempt (Redacting) (if applicable):**

- a. If performed by Village Employee: The hourly rate of the Village's lowest-paid employee with fringe benefit cost capable of separating and deleting exempt from nonexempt information in this particular instance regardless of whether that person is available or who actually performs the labor. The cost shall be estimated and charged in fifteen (15) minute increments. All partial time increments shall be rounded down. If the number of minutes is fewer than fifteen (15) minutes, there is no charge.
- b. If performed by Contracted Labor: Cost of labor of a contractor (i.e., outside attorney) including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to six (6) times the state minimum hourly wage rate. The cost shall be estimated and charged in fifteen (15) minute increments. All partial time increments shall be rounded down. If the number of minutes is fewer than fifteen (15) minutes, there is no charge.

(d) **Deposit.**

If based upon a good faith calculation, the estimated fee total for a public record request exceeds Fifty Dollars (\$50.00), the requestor will be asked to provide a deposit of fifty percent (50%) of the total fee prior to processing the request. For requests from an individual that has not paid the Village in full for a previously granted written request(s) the FOIA Coordinator will require a deposit of one hundred (100%) percent of the estimated fee before beginning when all of the conditions as provided in the Village's FOIA procedures and guidelines exist.

Sec. 3.7. Reserved.

Chapter 4 ALARM SYSTEMS

Sec. 4.1. Purpose.

- (a) The prohibition of false alarms and the registration and regulation of alarm systems is necessary in order to preserve peace and tranquility in the community and to reduce the frequency and defray the cost of responses to false alarms by law enforcement and fire department personnel.
- (b) Elimination of false alarms will allow public safety personnel to be more available and respond more readily to alarms requiring immediate attention.

Sec. 4.2. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) **Alarm system** means a detection device or assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which law enforcement or fire department personnel are expected to respond.
- (b) **Alarm system contractor** means a person, firm, company, partnership, or corporation engaged in the installation, maintenance, alteration, or servicing of alarm systems or who responds to an alarm system. The term "alarm system contractor" shall not include a business that only sells or manufactures alarm systems unless the business services alarm systems, installs alarm systems, or monitors or responds to alarm systems at the protected premises.
- (c) **False alarm** means the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the owner or lessee of an alarm system or their employees or agents. The term "false alarm" does not include an alarm caused by storm, earthquake, or other violent conditions beyond the control of the owner or lessee of an alarm system or their employees or agents.

Sec. 4.3. Duration of audible or visible alarms.

No person shall operate, install or direct the installation of any security alarm system that emits an audible or visible signal for a period exceeding 15 minutes.

Sec. 4.4. False alarm – civil fines.

False alarms are prohibited. Each occurrence shall be considered a separate offense chargeable to the owner or lessee of the alarm system.

- (a) Assessment. Civil fines shall be assessed to the alarm system owner or lessee as follows:
 - (1) The first two occurrences of a false alarm within a calendar year to which law enforcement or fire department personnel respond shall not be considered a municipal civil infraction offense and no fines shall be assessed. The alarm

system owner or lessee shall be advised, in writing, of both the occurrence of the false alarm and the existence of this Chapter.

- (2) The third and each subsequent occurrence of a false alarm within a calendar year to which law enforcement or fire department personnel respond shall be considered a municipal civil infraction offense and the penalties set forth in Chapter 24 shall apply except that for purposes of assessment of penalties, the third occurrence in a calendar year shall be treated as a first offense, the fourth occurrence in a calendar year shall be treated as a second offense, and the fifth or subsequent occurrences in a calendar year shall be treated as a third offense.

(b) **Payment due.** Payment of the fine shall be due within 30 days after the village's issuance of a notice of violation. The notice of violation shall be mailed to the address where the alarm system is located.

(c) The village president shall be authorized to waive the obligation to pay a civil fee under this Chapter if reliable written evidence is presented within 15 days of issuance, demonstrating all of the following:

- (1) The false security alarm resulted exclusively from a mechanical malfunction;
- (2) A waiver of a civil fee under this Chapter has never been granted with respect to the premises in question;
- (3) The cause of the mechanical malfunction has been fully and completely repaired, or a new security alarm system has been installed; and
- (4) It is certified that the security alarm system is in good and workable condition, and it is reasonably anticipated that the system will function properly in the foreseeable future.

(d) **Failure to pay fine.** If the fine set forth in the notice of violation is not paid within the time specified in subsection (c) of this section, a civil infraction citation shall be issued requiring the owner or lessee of the alarm system to appear in court and subjecting the owner or lessee of the alarm system to additional penalties.

(e) **Abatement of false alarm nuisances.** Law enforcement or fire department personnel responding to a false alarm shall have the authority to take reasonable measures to deactivate the alarm system where necessary in order to abate a public nuisance created by the audible or visible signal being emitted by the alarm system.

(f) **Civil infraction.** A violation of this article shall be deemed to be a municipal civil infraction.

Chapter 5 RESERVED

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Chapter 6 ALCOHOLIC LIQUORS (RESERVED)

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Chapter 7 RESERVED

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Chapter 8 AMUSEMENTS AND ENTERTAINMENTS (RESERVED)

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Chapter 9 RESERVED

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Chapter 10 ANIMALS

Sec. 10.1. Purpose.

- (a) The purpose of this chapter is to protect the health, safety and welfare of citizens and animals by regulating the ownership, harboring, or maintaining of animals; by preventing injury to person and property, limiting the number of certain animals that may be kept by regulating the confinement of animals, by prohibiting the keeping of certain animals, by requiring that sanitary conditions be maintained both inside structures and on premises within the village, by licensing certain animals, by requiring rabies shots for certain animals, and by regulating noise made by animals.
- (b) To identify and enumerate certain animals which, by their nature, are sufficiently dangerous, undesirable, or unsuitable for incorporation into the residential, agricultural, or commercial life of this community.
- (c) To impose prohibitory measures to discourage and ban the possession and maintenance of animals considered as exotic and not easily domesticated.
- (d) To establish guidelines and procedures to be utilized by Animal Control personnel in implementing this Chapter.
- (e) To provide for penalties and sanctions for violations hereof.

Sec. 10.2. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) **Abuse**, in addition to its common meaning, means failure of any owner to seek veterinary treatment for an injured domestic animal on his premises or failure to request and permit proper public authorities to remove stray domestic animals on property owned, leased, or occupied by them.
- (b) **Animal** means any living organism typically capable of moving about, but not of making its own nourishment by photosynthesis, including any mammal, reptile, bird, snake, turtle, fish, mollusk, crustacean, or any other vertebrate other than a human being.
- (c) **Animal Control Officer** shall mean any person designated by The Village of Leonard to enforce the provisions of this Chapter.
- (d) **Dangerous animal** means an animal that has menaced or scratched or which has bitten a person or animal so as to draw blood or break bones. An animal shall not be considered dangerous because it has bitten or attacked a person or an animal that has, without justification, provoked it by attacking or tormenting it, or attacking its owner, or tormenting its young nor shall an animal be considered dangerous because it bites or attacks a person who is trespassing, committing another tort, or committing a crime on the property of the animal's owner or if the animal is

responding in a manner that a reasonable person would conclude was intended to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

(e) **Domestic animal** means an animal that has traditionally, through a long association with humans, lived in a state of dependence upon humans or under the dominion and control of humans and has been kept as a tame household pet, including but not limited to, dogs, cats, hamsters, gerbils, ferrets, mice, rabbits, cockatiels, cockatoos, canaries, parrots, and tropical fish.

(f) **Exotic Animals** shall generally refer to the species of animal, which are not native to the State of Michigan or the United States or are introduced from another country.

(g) **Hybrid(s)** shall mean any animal which is the offspring of two different varieties or species.

(h) **Owner** means every person having any right of ownership in any animal, every person who keeps or harbors any animal, every person who has an animal in his care or possession, and every person who permits an animal to remain in or around premises owned, leased, or occupied by him.

(i) **Poisonous** shall mean a substance which, through its chemical action, usually kills, injures, or substantially impairs an organism.

(j) **Provoke** means to perform a willful act or omission that a reasonable person would conclude is likely to precipitate a bite or an attack by an animal.

(k) **Reasonable control** means having an animal on a suitable leash, confined in a suitable cage or location, confined to designated property by radio collar or similar device, or under the oral control of the owner or a responsible person designated by the owner at all times when the owner is not on private property with the permission of the person with the right of occupancy of that private property.

(l) **Torment** means a willful act or omission that causes pain, suffering or distress to an animal or causes physical, mental, or emotional anguish in an animal.

Sec. 10.3. Application of chapter provisions.

This chapter shall not apply to a person engaged in farming or agriculture and the keeping of farm animals or livestock in the ordinary course of that business, museum or demonstration project operated by governmental entities or bona fide nonprofit or charitable institutions, the business premises of a licensed veterinarian or veterinary hospital, an animal shelter owned or operated by a public entity, a bona fide private animal shelter located in a nonresidential zoning district, pet shops located in nonresidential zoning districts, commercial kennels located in a nonresidential zoning district, pet service establishments located in a nonresidential zoning district, public or private stables, or riding academies.

Sec. 10.4. Abuse.

A person shall not abuse, mistreat, torment, or treat any animal.

Sec. 10.5. Poison.

A person shall not knowingly leave or deposit any poison on any public place or exposed private place where it endangers, or is likely to endanger, any animal. This section shall not prohibit the use of poisonous bait upon vermin in any area which does not endanger any other animal nor does it prohibit the use of poisons by licensed exterminators in the course of their business.

Sec. 10.6. Harboring or maintaining animals.

A person shall not own, harbor, or maintain any animal within the village except a domestic animal as defined in section 10-2.

Sec. 10.7. Number of domestic animals.

A person shall not harbor or maintain more than three domestic animals of a species, except fish, six months of age or older on any premises at any time.

Sec. 10.8. Ferrets.

- (a) A person shall not own, harbor, or maintain more than one ferret.
- (b) A person shall not own, harbor, or maintain a ferret over 12 weeks of age unless the ferret has a current vaccination against rabies with an approved rabies vaccine administered by a veterinarian.
- (c) A person who owns, harbors, or maintains a ferret that has bitten, scratched, or injured any human being shall report the incident within 48 hours to the county health division.
- (d) A person who owns or harbors a ferret shall produce proof of a valid rabies certificate signed by a veterinarian upon the request of a village official or a law enforcement officer.
- (e) A person shall keep a ferret under reasonable control at all times.
- (f) A person shall not release a ferret into the wild or abandon a ferret.

Sec. 10.9. Keeping of dangerous animals.

A person shall not keep, harbor, or maintain any dangerous animal within the village.

Sec. 10.10. Noise.

A person shall not keep or harbor an animal which, by barking, howling, meowing, squawking, or producing any other sound made frequently or for a continued duration, annoys, endangers, injures, or disturbs a person of normal sensitivities who is located off of the premises occupied by the animal.

Sec. 10.11. Removal of animal waste.

(a) A person shall not permit an animal to discharge fecal material upon any public or private property within the village, unless the person has the permission of the owner, lessee, or occupant of the property or immediately cleans up and removes the fecal material.

(b) A person shall not walk or exercise any animal on any property not owned by the person walking the animal, whether public or private, unless the owner has an appropriate device or means for the collection of fecal material in his immediate possession and an appropriate container for the transportation of the fecal material for proper disposal.

Sec. 10.12. Maintaining sanitary conditions.

(a) A person shall maintain real property where an animal is harbored or maintained in a sanitary manner so that animals and humans are not harmed or affected by dangerous conditions, disease, odor, insects, or vermin.

(b) A person shall ensure that dog, cat, or animal food, urine, or fecal material on the property where an animal is harbored or maintained does not threaten human health, safety, or welfare or constitute a nuisance to others due to unsightly conditions, odor, disease, or the attraction of flies or vermin.

(c) All persons who own, manage, lease, rent, occupy, or control any dwelling, garage, outbuilding, or other structure shall be equally responsible for keeping each structure in a clean and habitable condition and shall take all necessary steps to prevent conditions detrimental to the public health, including but not limited to rotting food, garbage, trash, urine, fecal material, or unsanitary conditions which could lead to disease, odor, rodents or vermin.

Sec. 10.13. Vaccination.

A person shall not own, harbor, or maintain a dog, or cat that is six months or older without obtaining a certificate of vaccination for rabies and being able to produce proof of current vaccination at the request of any village official.

State Law reference— Proof of vaccination of dogs, MCL 287.266(8); rules for control of rabies, MCL 333.5111.

Sec. 10.14. Confinement and control.

(a) An owner shall not allow any dog, cat, or ferret to leave the owner's premises under any circumstances unless the dog, cat, or ferret is currently immunized against rabies. This section does not prevent an owner from taking his dog, cat, or ferret to the offices of a veterinarian for the purpose of having the dog, cat, or ferret immunized or has obtained a waiver for immunization from the appropriate authorities.

(b) A dog, cat, or other domestic animal shall be confined to the owner's premises at all times, except when the dog, cat, or other domestic animal is otherwise under the reasonable control of the owner.

Sec. 10.15. Prohibited Exotic, Rare or Dangerous Animals:

(a) It shall be unlawful and a violation of this Chapter for any person to possess or maintain within the Village of Leonard the following animals:

- (1) All animals, including snakes and spiders, whose bite or venom are poisonous or deadly to humans.
- (2) Apes, chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus).
- (3) Baboons (Papoi, Mandrillus).
- (4) Bears (Ursidae).
- (5) Cheetahs (Acinonyx jubatus).
- (6) Crocodilians (Crocodylus), and Alligators.
- (7) Constrictor snakes or other poisonous reptiles.
- (8) Coyotes (Canis latrans).
- (9) Elephants (Elephas and Loxondonta).
- (10) Game cocks and other fighting birds.
- (11) Hyenas (Hyaenidae).
- (12) Jaguars (Panthera onca).
- (13) Leopards (Panthera pardus).
- (14) Lions (Panthera Leo).
- (15) Lynxes (Lynx).
- (16) Ostriches (Sruthio).
- (17) Pumas (Felis concolor); also known as cougars, mountain lions, and panthers.
- (18) Wolves (Canis lupus).
- (19) Wolf Hybrids.
- (20) Raccoons (Procyon Lotor).
- (21) Skunks (Genus Mephitis).

(22) Tigers (*Felis Tigris*).

(b) The prohibitions above shall not apply to pet shops licensed by the U.S. Department of Agriculture, and accredited by the American Association for the accreditation of zoological parks and gardens, and circuses licensed by the U.S. Department of Agriculture if:

- (1) Their location conforms to the provisions of the Zoning Ordinance of the Village of Leonard.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
- (3) Animals are maintained in quarters so constructed as to prevent their escape, and so as to humanely provide for their biological and social needs.
- (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.

(c) The prohibitions above shall not apply to any person who is in possession of an injured animal listed in Section 10-20 under a valid care-givers permit issued by the Michigan Department of Natural Resources.

Sec. 10.16. Destruction or Removal of Prohibited Animals:

(a) Upon a sworn complaint that an animal is an animal prohibited by this chapter, and is currently being illegally possessed or maintained, a district court or district court magistrate shall issue a summons to the owner ordering him or her to appear to show cause why the animal should not be destroyed or removed from the Village.

(b) Upon the filing of a sworn complaint as provided herein, the court or magistrate may order the owner to immediately turn the animal over to the animal control officer, an incorporated humane society, a licensed veterinarian, or a boarding kennel, at the owner's option, to be retained by them until a hearing is held and a decision is made for the disposition of the animal. The expense of the boarding and retention of the prohibited animal is to be borne by the owner. After a hearing, the magistrate or court shall order the destruction of the animal, at the expense of the owner, or in the alternative, at the court's discretion, order the animal removed from the Village under the terms and conditions which insure such removal.

(c) Illegally possessed and/or maintained animals and lawfully possessed animals, who reasonably appear to have become dangerous, as defined by state law and Village codes, are subject to immediate seizure or pick-up under this chapter. The impounded animal shall be held at a facility designated by the Animal Control Office, at the owner's expense until such time as the dog is destroyed or removed from the Village by order of the district court, or by agreement between the owner and the Village.

Sec. 10.17. Civil infraction.

A violation of this chapter shall be deemed to be a municipal civil infraction.

Sec. 10.18. Injunctive relief.

The village may, in addition to the other remedies provided herein for violation of this chapter, enforce this chapter by seeking and obtaining equitable or injunctive relief from a court of competent jurisdiction.

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Chapter 11 RESERVED

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Chapter 12 BUILDING AND BUILDING REGULATIONS

Sec. 12.1. State Construction Code.

(a) Pursuant to the provisions of the Stille-DeRossett-Hale Single State Construction Act, Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the building official is designated as the enforcing agency to discharge the responsibility of the Village under the Act. The Village assumes responsibility for the administration and enforcement of the Act, which incorporates by reference the Michigan Mechanical Code, the Michigan Plumbing Code, and the Michigan Electrical Code, throughout the corporate limits of the Village.

(b) Appendix G of state building code;

(1) Code appendix enforced. Pursuant to the provisions of the state construction code, in accordance with section 8b(6) of Public Act No. 230 of 1972 (MCL 125.1508b(6)), Appendix G of the Michigan Building Code shall be enforced by the Village, through its building official, the enforcing agent within the Village.

(2) Designation of floodprone hazard areas. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Oakland County Michigan and Incorporated Areas dated September 29, 2006 and the Flood Insurance Rate Maps (FIRMS) Panel Numbers 26125C0456F, 0457F, 0458F, 0459F, 0466F, 0467F, 0469F, 0476F, 0477F, 0478F, 0479F, 0486F, 0487F, 0488F, and 0489F dated September, 29, 2006, are adopted by reference and declared to be a part of section 1612.3 of the Michigan Building Code.

(c) Fees. Permit and inspection fees for enforcement of the Single State Construction Code shall be as currently established or as hereafter adopted by Resolution of the Village Council from time to time. Fees collected shall only be used for the operation of the building department and construction board of appeals.

(d) Any person who violates or refuses to comply with any provision of this section shall be responsible for a municipal civil infraction.

(e) Performance guarantee. Upon application for any building permit, the applicant shall deposit with his application a building permit performance guarantee, in accordance with the requirements of this chapter, pertaining to performance guarantees, to guarantee that he shall satisfactorily complete the work called for by his application during the life of the permit and any extensions thereof; and in addition shall remove or cause to be removed all debris, rubbish, and trash from the building site and to establish ditches and culverts to properly drain the building area and reopen and re-establish any drainage that may have been interrupted by the building operation. All drains and culverts shall be established in accordance with the requirements and specifications of the county road commission when on county roads or in conformance with the requirements of Chapter 34, Streets, Sidewalks, and Other Public Places when on private roads or accesses covered by said chapter.

(f) Construction board of appeals.

- (1) Created. Pursuant to Public Act No. 230 of 1972 (MCL 125.1501 et seq.), a construction board of appeals is created that shall perform its duties and exercise its powers in such a way that the objectives and requirements of the Act are obtained.
- (2) Appointment. The construction board of appeals shall consist of five members, appointed by the Village President. Each member shall be qualified by experience or training to perform the duties of members of the board of appeals. All appointments shall be for five-year terms. Any vacancies that occur on the construction board of appeals shall be filled by the Village President for the remainder of the term.
- (3) Powers. The construction board of appeals shall prepare and adopt procedures as set forth in Public Act No. 230 of 1972 (MCL 125.1501 et seq.). It may, by rules, establish its own procedures, providing that those procedures are not inconsistent with the Act.
- (4) Meetings. All meetings of the construction board of appeals shall be held in accordance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Records of decisions of the construction board of appeals shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).

Sec. 12.2. Property Maintenance Code.

(a) Adopted. The International Property Maintenance Code of 2021, as published by the International Code Council, and all previous and future amendments thereto, is hereby adopted by the Village and its provisions will be effective from the effective date of the adoption of this code.

State Law reference— Authority to adopt technical codes by reference, MCL 66.4.

(b) Insertions. Following are any insertions to the property maintenance code:

- (1) Sec. 101.1. Insert "The Village of Leonard."
- (2) Sec. 104.1. Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be those as established by Resolution of the Village Council.
- (3) Sec. 110.4 Insert "75" in first blank space and 500 in second blank space.
- (4) Sec. 304.14. Insect screens to be used from May 31st to September 30th.
- (5) Sec. 602.3. Heat Supply for Residences from October 1st to April 30th.
- (6) Sec. 602.4. Heat Supply for Occupiable Work Spaces from October 1st to April 30th.

(c) Changes. Following are any changes to the property maintenance code:

- (1) 103. Delete.
- (2) 109.3. Presumption of Civil Infraction. Change:

A violation of this code shall be deemed to be a municipal civil infraction. If the notice of violation is not complied with, the code official may institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

- (3) 109.4. Violation penalties. Delete.
- (4) 302.4. Weeds. Change:

- a. All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight inches. Weeds are defined as all grasses, annual plants, vegetation and noxious weeds as defined by MCL 247.62, as amended. This term shall not include trees, shrubs, cultivated flowers and gardens, and this section shall not apply to vacant parcels of land greater than 2.5 acres and parcels of land subject to the Michigan Right to Farm Act, Public Act 93 of 1982.
- b. If the Village President or his designated representative determines that property has not been maintained as required under this section, then the owner or agent responsible for the property shall receive a notice of violation. Such notice shall be in writing, include a description of the property sufficient for identification, include a statement of the violation or violations and why the notice is being issued, include a correction order allowing ten days to cut or destroy the weeds after service of notice of violation, inform the property owner or agent of the right to appeal, include a statement of the Village's right to maintain the property and right to file a lien for the costs of such maintenance in accordance with section 109.3. Upon failure of the owner or agent having charge of the property to cut and destroy weeds after service of a notice of violation, the owner or agent shall be subject to penalties in accordance with section 109 and as prescribed by this chapter.
- c. When an owner or agent fails to bring the property into compliance with this chapter within ten days of the notice of violation, then any duly authorized employee of the Village or contractor hired by the Village shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be billed to and paid by the owner or agent responsible for the property. The bill shall include an account of the labor, material and service for which the expense was incurred and shall become a lien upon the property on which work has been done. Payment shall be due and payable to the Village within 30 days of the bill being served on the

property owner or agent. Such service shall be as provided in section 111.4. If payment is not received by the Village within 30 days after such billing, the Village treasurer shall add an additional penalty of one percent per month to the delinquent bill. The Village treasurer shall annually certify any delinquent billing, or any part thereof, together with all accrued interest and penalties, to the Village Council; and, it shall be transferred and reassessed, with an additional 15 percent penalty, on the next annual Village tax roll. Such charges so assessed shall be collected in the same manner as general Village taxes.

- d. The Village President may accept applications from contractors to remove weeds from properties found in violation of this section. The application shall include proof that the applicant is insured. Any contract entered into as a result of the proposal must include indemnification of the Village for all work performed on the properties upon which weeds are cut. The contract shall be subject to approval by the Village Council.

Sec. 12.3. Dangerous Buildings.

(a) **Purpose.** The purpose of this Section is to protect the health, safety, and welfare of the citizens of the Village of Leonard by prohibiting the keeping and maintaining of dangerous buildings; to establish procedures for the elimination or improvement of dangerous buildings as herein defined; to provide for orders for the demolition, maintenance or making safe of dangerous buildings; to provide for the enforcement of said orders; to provide for the reimbursement to the Village of Leonard for costs incurred in the demolition, maintenance or making safe of the dangerous building; and to provide for liens against real property in connection with such reimbursement.

(b) **Definitions.**

- (1) **Dangerous Buildings :** As used in this chapter, means a building or structure, residential or otherwise that has one or more of the following defects or is in one or more of the following conditions:
 - a. A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code, or building code of the Village in which the building or structure is located.
 - b. A part 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 catastrophe and the building or structure does not meet the minimum requirements of the Village building code.
 - 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 part of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less

resistance to winds than is required in the case of new construction by the Village building code.

- 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 purpose of support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building is likely to fall or give way.
- f. The building or structure or any portion 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 become an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
- h. A dwelling, because of dilapidation, decay, damage, or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation, is in a condition determined by the Oakland County Health Division to be likely to cause sickness or disease, or is likely to injure the health , safety, or general welfare of the people living in the dwelling.
- i. A building or structure is vacant, dilapidated, and open, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- j. A building or structure 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 being sections MCL 339.2501 to MCL 339.2518 of the Michigan Compiled Laws. This subdivision does not apply to either of the following:
 - 1. A building or structure as to which the owner or agent does both of the following:
 - i. Notifies the Village of Leonard Ordinance Enforcement Officer that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the Village Ordinance Enforcement Officer by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
 - ii. Maintains the exterior of the building and structure and adjoining grounds in accordance with the building code of the Village.
 - 2. 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 of Leonard

Ordinance Enforcement Officer that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given notice prescribed by this subparagraph shall notify the Village of Leonard Ordinance Enforcement Officer not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a building or structure 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) Hearing Officer shall be the individual appointed by the Village President to serve at his or her pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the enforcing agency shall not be appointed as hearing officer.
- (3) Village Building Code shall mean any applicable codes adopted by the Village.

(c) **Notice of Dangerous Building.**

- (1) Issuance of Notice. Notwithstanding any other provision of this chapter, if a building or structure is found to be a dangerous building, the Village of Leonard Building Official or Ordinance Enforcement Officer shall issue a notice that the building or structure is a dangerous building.
- (2) Service and Posting of Notice, Required Method of Service. This notice shall be served on each owner of, or party in interest of the building or structure in whose name the property appears on the last Village tax assessment records, or by a title search received by the Village from a licensed title insurance company, if the Village, in its sole discretion, determines that a title search is desirable in a particular instance.
- (3) Contents of Notice. 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.
- (4) Filing Notice. The Village Building Official or Ordinance Enforcement Officer shall file a copy of the notice that the building or structure is a dangerous building with the Hearing Officer.

(d) **Proceedings Before Hearing Officer.**

- (1) Testimony. At the hearing, the Hearing Officer shall take testimony of the Village Building Official or Ordinance Enforcement Officer, the owner of the property, and any interested party as he deems necessary to establish that the conditions of Section 12.3(b)(1) have been met.

- (2) Decision of Hearing Officer. 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. 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 lessee to comply with the order. If the building is a dangerous building under Section 12.3(b)(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.
- (3) Failure to Comply with Order. If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order issued under Section 12.3(d)(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. A copy of the findings and order of the Hearing Officer shall be served on the owner, agent, or lessee in the manner prescribed in Section 12.3(c).

(e) **Proceedings before Village Council.**

- (1) Date and Notice of Hearing. The Village Council shall fix a date not less than 30 days after the hearing prescribed in Section 12.3(d) for a hearing on the findings and order of the Hearing Officer and shall give notice to the owner, agent, or lessee in the manner prescribed in Section 12.3(c) of the time and place of the hearing.
- (2) Hearing. At the hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. If the Village Council approves or modifies the order, the Village Council shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee 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 damaged 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 lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection.
- (3) Decision of Village Council. Following the hearing, the Village Council shall either: approve, disapprove, or modify the order. If the Village Council approves or modifies the order, the Village Council shall take all necessary actions to implement the order.
- (4) Enforcement of Order. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within 60 days after the date of the hearing under this section, except in the case of an order of demolition where it has been determined that the building or structure has been substantially damaged 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, in which case the owner, agent, or lessee shall comply with the order within 21 days after the date of the hearing under this section. The 21 or 60 day period may be extended at the discretion of the Village President or Ordinance Officer if that individual in their sole discretion determines that the owner is proceeding in good faith to comply with the terms of the order.

- (5) Demolition by Village. Except for those circumstances set forth in Section 12.3(e)(4), in the case of an order of demolition, if the owner, agent, or lessee fails to apply for a demolition permit and remove the structure and all debris within sixty (60) days of the date of the hearing set forth in Section 12.3(e)(3), the Village Council or its agents or contractors may enter onto the property and take all necessary actions to implement the order, including actual demolition and removal of the debris.

(f) **Cost of Demolition, Collection, Lien.**

- (1) Reimbursement of Costs.

- a. 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 Chapter shall be reimbursed to the Village by the owner or party in interest in whose name the property appears on the last Village tax assessment records, or by the title search if the Village has elected, pursuant to Section 12.3(c), to secure a title search.
- b. The cost described in this section shall include all administrative costs incurred by the Village in the dangerous building proceedings including, without limitation, attorney fees, postage cost, meeting fees, title search fees, photographic costs, and employee salaries and benefits.

- (2) Notification of Costs Lien. The owner or party in interest in whose name the property appears on the last Village tax assessment record, or by a title search received by the Village pursuant to Section 12.3(c), shall be notified by the Village Clerk of the amount of the cost of the demolition, of making the building safe, or maintaining the exterior of the building or structure or grounds adjoining the building or structure by certified mail, return receipt requested, at the address shown. If the owner or party in interest fails to pay the cost within thirty (30) days after mailing by the Clerk of the notice of the amount of cost, the Village shall have a lien for the cost incurred by the Village to bring the property into conformance with this Chapter.

- (3) Court Action to Collect Reimbursement. In addition to other remedies under this Chapter or provided by law, the Village may bring 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 the judgment obtained pursuant to this subsection.

(g) Any person who violates or refuses to comply with any provision of this section shall be responsible for a municipal civil infraction.

Sec. 12.4. Property Identification.

(a) The purpose of this Chapter is to protect the health, safety, and welfare of the citizens of the Village of Leonard by requiring the correct numbering and proper identification of all buildings and premises within the Village of Leonard by means of posting street numbers for the ready identification of buildings by police, fire, health, welfare and emergency services, public or private, in the event of an emergency and to provide for the enforcement thereof.

(b) The Village Clerk shall have the sole authority and responsibility for the uniform assignment of property identification numbers for any property, lot or building within the Village according to assignment standards and procedures set forth by the Village. This authority includes the right to assign new or different property identification numbers to existing structures. Property identification numbers shall be assigned sequentially with odd numbers on the left side of the road when traveling from low to high numbers.

(c) The principal buildings on each premise fronting on a village street shall bear a distinctive street number as assigned by the Village Clerk's Office. The appropriate street number for each new building hereafter constructed shall be issued along with the building permit therefore.

(d) It shall be the duty of each owner, occupant or agent in charge of a building, premise or dwelling unit to place and maintain the correct identifying number on the front, (or rear identification when required), of any building, residence or premise, and to properly identify by letter or number each unit of a multiple dwelling residence. No property identification number shall be created, altered and/or changed without the express permission of the Village of Leonard and the Township of Addison Fire Department.

(e) If the structure is a mobile home located in a mobile home park the property identification shall be numerals rather than script words and shall not be less than four inches in height. The property identification numbers must face the adjacent roadway and the color of the numbers shall be in contrast with the immediate background on which they are mounted.

(f) Location:

(1) Numbers shall be placed on all new and existing buildings in such a position near the principal entrance no less than five feet above the ground, so as to be readily visible and legible from a vehicle on the street fronting the property.

(2) Numbers shall be placed on or near the principal entrance of each unit as to readily and adequately identify each unit.

- (3) Numbers shall be placed on all new and existing commercial or industrial buildings located on premises that have frontage on two parallel streets or a parallel street and alley, in such a position on the rear of the building no less than five feet, nor more than twelve feet above the ground so as to be visible and legible from a vehicle on the street or alley to the rear of such building.
 - (4) If premises are located at a distance making three inch letters indiscernible from closest public roadway, then a second numerical sign (not mailbox post) must be located nearest the point of access to said premises discernible from nearest public roadway.
- (g) Multiple Family Dwellings shall be identified by one placard containing the building number. The individual apartment numbers of each family dwelling must be posted on or near the principal entrance of each unit, so as to readily and adequately identify each unit. Placards shall be a color which contrasts with the immediate background on which they are mounted.
- (h) Buildings with four or more family units shall contain at least two such placards placed at opposite corners of the building and shall be facing the street on which the building fronts. A map with all units properly drawn out and identified will be filed with all local emergency service agencies and the Village Clerk's Office.
- (i) Building's numeral and letter identification requirements:
- (1) Be colored to readily and visible contrast with background.
 - (2) Be a minimum height of three inches.
 - (3) Be readily legible from closest public roadway, in numerical form (i.e., not spelled out in words.)
 - (4) Not be mounted on a door covered by screen or storm doors, or under awnings projecting out.
- (j) Any person who violates or refuses to comply with any provision of this section shall be responsible for a municipal civil infraction.

Sec. 12.5. Rental Unit Requirements.

- (a) The Village of Leonard recognizes the need for an organized inspection and registration program for rental properties located within the Village in order to ensure rental units meet all applicable building, existing structures, fire, health, safety, and zoning codes, and to provide an efficient system for compelling both absentee and local landlords to correct violations and maintain, in proper condition, rental property within the Village. The Village recognizes that the most efficient system is the creation of a program requiring the registration and inspection of rental property within the Village as defined in this section so that orderly inspection schedules can be made by the Village officials.

(b) **Intent.** To maintain all residential buildings in the Village of Leonard in a safe, sanitary and habitable condition in accordance with state and Village building, property maintenance and housing codes and to prevent deterioration and blight within the Village.

(c) **Definitions.**

- (1) “Dwelling unit” means a building, or portion thereof, designed for occupancy for living purposes and having cooking facilities and sanitary facilities, including single family residences.
- (2) “Landlord” means any person who owns or controls a dwelling, Dwelling Unit, or Rental Unit and rents such unit, either personally or through a designated agent, to any person.
- (3) “Owner” means the legal title holder of a Rental Unit or the Premises within which the Rental Unit is situated. The word owner applied to single-family or multi-family dwellings to be rented or occupied under any lease or agreement for any consideration shall include any part-owner, joint-owner, tenant-in-common, joint tenant or tenant by the entirety, of the whole or part of said dwellings, or any person who delivers or purports to deliver possession of said dwellings, with or without a possessory interest therein, their agents, servants, employees or others acting on their behalf
- (4) “Owner-Occupied Rental Unit” means a Rental Unit that is occupied in whole or in part by an individual whose name specifically appears on the deed for the property where the Rental Unit is located.
- (5) “Person” means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or receiver, executor, personal representative, trust, trustee, conservator or other representative appointed by order of any court.
- (6) “Rental unit” means any Dwelling Unit or a unit containing sleeping quarters, including but not limited to hotels, motels, bed and breakfast establishments, boarding houses, sleeping rooms, residential, commercial or industrial property, including structures which are leased or rented by the Owner or other Person in control of such units, to any tenant, whether by day, week, month, year or any other term.
- (7) “Responsible local agent” means a natural Person designated by the property Owner as the agent responsible for operating such rental property in compliance with the ordinances adopted by the Village.
- (8) “Tenant” means any Person who has the temporary use and occupation of real property owned by another Person in subordination to that other person’s title and with that other person’s consent; for example, a Person who rents or lease.

(d) **Registration of Multiple and Rental Units.** Every owner of a multiple dwelling or a rental unit in the Village shall file with the Village Clerk a notice on the form provided by the Village, which shall contain his name and address, a description of the property by street number, and the number of dwelling units and/or rooming units contained in the multiple dwelling, the maximum number of occupants permitted for each dwelling unit or sleeping room, and may file a designation of a name and address of an agent for the purpose of receiving service of process; such notice shall be amended from time to time by the owner to insure that the information contained thereon shall be current at all times. The registration shall expire after two (2) years and must be renewed within thirty (30) days of the expiration.

(e) **Accountability/Responsibility.** Every notice, order, letter or other mailing required or permitted to be sent to or served upon the owner of any multiple dwelling or rental dwelling may be sent or served by regular mailing to the most recent address supplied to the Village Clerk by the owner pursuant to the requirements set forth by this Chapter; such address shall be conclusively presumed to be the current address of the owner or agent in any dispute regarding the propriety of service upon him and, further, the said address shall be conclusively presumed to be the usual place of abode of the owner.

(f) **Registration Fee.** The Village Clerk is required to assess the fee established by Resolution of the Village Council for each rental dwelling unit and/or multiple dwelling units as held forth in this chapter. Such fee is required upon presentation of notice to the Village Clerk. The fee is non-refundable for any reason, and shall be non-assignable. Upon payment and registration no further fee for address changes for continuous ownership shall be required; provided however, that in the event a transfer of ownership occurs or sale of said residential rental dwelling unit, or in the event that the number of rental units located on a parcel shall be increased or decreased, the new owner or present owner, respectively, shall be required to re-register with the Village within thirty (30) days after the date of said transfer, sale or change in the number of residential rental dwelling units.

- (1) All existing rental units shall be registered as provided herein on or before ninety (90) days of the effective date of this code. Structures subsequently becoming a rental unit shall be registered within thirty (30) days after any part of the premises is offered for occupancy and will be assessed a registration fee.

(g) **Inspection.** Rental units shall be inspected to insure compliance of said rental units with the Property Maintenance Code. Where six (6) or fewer rental units exist upon any given parcel, same shall be inspected by the Code Official every three years. Where more than six (6) rental units exist upon any given parcel a minimum of seven (7) dwelling units, plus no less than ten percent (10%) of the dwelling units over six (6), shall be inspected by the Code Official every three (3) years and/or with a change in tenant. For regular scheduled inspections as herein before provided, the Code Official shall give written notice of the date and time of said inspection to the owner or local agent, mailed by first class mail, on or before ten (10) days prior to said inspection date. In addition said Code Official shall inspect rental units, upon reasonable notice as required in the property maintenance code, under any of the following circumstances:

- (1) Upon receipt of an oral or written complaint based upon the personal knowledge of an owner, occupant, or other individual, that the premises are in violation of this Chapter.

- (2) Upon receipt of an oral or written complaint, or a referral from the police department, or other public agencies or departments, indicating that the premises are in violation of this Chapter.
- (3) Upon receipt of information by the Code Official that a residential rental dwelling unit is not registered with the Village as required by this Chapter.

(h) **Transfer of Ownership inspections.** When there is a transfer of ownership of any rental unit, including an owner occupied rental unit, and a current Certificate of Compliance exists for the unit, then the Code Official shall waive the inspection if a Certificate of Compliance was issued within one (1) year prior to the transfer of title. However, the new owner must re-register the rental unit as required by this Chapter.

(i) **Issuance of Certificate of Compliance.** After each initial inspection, if the rental dwelling unit has been registered and is found to be in compliance with the rules, regulations, laws, codes, and Ordinances of the Village, the Code Official shall issue a Certificate of Compliance in the name of the owner.

(j) **Procedure where Inspection Discloses Violations.**

- (1) Where an inspection by the Code Official discloses a violation of the Property Maintenance Code the Code Official shall issue all necessary notices as provided in said code(s) to insure compliance with said code's requirements.
- (2) A temporary Certificate of Compliance may be issued when any violation does not constitute an immediate hazard to the health or safety of those who may occupy the premises. Said temporary Certificate of Compliance may be revoked by the Code Official if the owner or his agent fails to correct the noted violation(s) within the time allowed by the Code Official.
- (3) No residential rental dwelling unit shall be occupied unless a Certificate of Compliance has been issued by the Code Official,

(k) **Inspection fees.**

- (1) The Owner of a property subject to this Chapter shall pay an inspection fee for any inspection made under this Chapter. The inspection fees shall be in such amount as shall be established from time to time by Resolution of the Village Council and shall be paid at the time of such inspection.
- (2) Where an inspection discloses a violation of the Property Maintenance Code, and re-inspection is necessary to insure compliance with the Property Maintenance Code, the Owner shall pay a re-inspection fee in such amount as shall be established from time to time by Resolution of the Village Council.
- (3) If an inspection is scheduled and the owner or responsible local agent fails to appear, an inspection fee shall be assessed against the owner and/or responsible

local agent, and an additional inspection fee shall be charged for the actual inspection.

(l) **Failure to have Residential Rental Dwelling Unit Inspected.** Should the owner of any residential rental dwelling unit fail to make said dwelling unit available for any scheduled inspection, or fail to notify the Village of the necessity to reschedule an inspection, at least 24 hours prior to a scheduled inspection, additional fees may apply in such amounts as shall be established from time to time by Resolution of the Village Council.

(m) **Violation.** Any person who violates or refuses to comply with any provision of this section shall be responsible for a municipal civil infraction.

(n) **Injunctive Relief.** The Village may, in addition to the other remedies provided herein for violation of this Ordinance, enforce this Ordinance by seeking and obtaining equitable or injunctive relief from a court of competent jurisdiction.

Sec. 12.6. Performance Guarantees.

(a) **Performance guarantee requirements.**

(1) Amount of guarantee.

a. The amount of the performance guarantee shall be as determined by the Village in accordance with the applicable sections of this Code and when the code specifies no other standard shall be 125 percent of the estimated cost for which the guarantee is required.

b. Projects and developments subject to multiple performance guarantee requirements shall post a master performance guarantee.

(b) Form. Performance guarantees shall be in the following form:

(1) Performance guarantees in amounts less than \$10,000.00 shall be in the form of cash or certified check deposited with the Village. The Village may, in its discretion, alternatively accept an irrevocable bank letter of credit, in a form acceptable to the Village, for amounts less than \$10,000.00.

(2) Performance guarantees in amounts equal to or greater than \$10,000.00 shall be in the form of cash, or an irrevocable bank letter of credit acceptable to the Village. The Village may, in its discretion, alternatively accept a performance bond, in a form acceptable to the Village, for amounts equal to or greater than \$10,000.00. Such letter of credit or performance bond shall run to the Village and shall be forfeitable by its terms and conditions, automatically, when the conditions or improvements have not been completed, or the requirements of the applicable ordinances have not been met, within the time specified therein.

(3) If at any time the performance guarantee is deemed insufficient by the Village to cover all costs and expenses that may be incurred under Section 12.6, the applicant shall increase the performance guarantee by an amount sufficient to satisfy the

requirements of this Chapter. Failure to submit the required increase will constitute a violation of this Chapter and will result in the issuance of a stop work order or the withholding or revocation of a certificate of occupancy.

(b) Forfeiture of performance guarantee.

- (1) Automatic forfeiture.
 - a. Performance guarantees shall be automatically forfeited at the earlier of: 30 days after notice by Village that the terms of the performance guarantee or the requirements of this Code have not been met; or 30 days prior to the expiration of the performance guarantee.
 - b. Upon forfeiture, the Village shall have the authority to go onto the property and complete the improvements in accordance with the requirements of Village ordinances, an approved site plan, plat, master deed, development agreement, soil erosion permit, building permit, certificate of occupancy and/or other plan or document subject to the performance guarantee.
- (2) Administrative, legal and enforcement expenses. The Village may retain 20 percent of the cost of such completion as construction administrative expenses and refund any balance to the applicant. Actual attorney fees and enforcement costs incurred as a result of the applicant's failure to complete the required improvements shall also be paid from the performance guarantee.

(c) Release and return of performance guarantee.

- (1) Release. A performance guarantee shall continue until satisfactory performance of the conditions and/or completion of the improvements for which the performance guarantee was posted. Satisfactory performance and completion shall be determined by the building and zoning official or his designee.
- (2) Partial release. As work progresses, the Village shall rebate cash deposits in reasonable proportion to the ratio of work completed on the required improvements, but only if the Village determines that sufficient funds remain to pay for all work and Village expenses covered by the performance guarantees. The Village may, in its discretion, also agree to accept a substitute performance guarantee in an amount equivalent to that required by Village ordinances to ensure the satisfactory completion of the remaining incomplete conditions or improvements.
- (3) Return. The performance guarantee shall be released, and returned to the applicant, by U.S. mail upon satisfactory completion of all of the conditions for which it was posted within the time specified. The performance guarantee shall be conclusively presumed to have been returned to the applicant if enclosed in an envelope with postage fully prepaid, addressed to the applicant at the last address furnished by the applicant and deposited in the U.S. mail. The Village is not obligated to conduct a search or attempt to locate an applicant who, after reasonable effort, cannot be reached at the last address furnished to the Village. Performance guarantees not

claimed by the applicant within five years from the date of mailing shall be deemed to be unclaimed property and shall escheat to the State of Michigan.

Sec. 12.7. Conflict with existing ordinances. Where any requirement or condition imposed by any provision of this Chapter is either more or less restrictive than any comparable requirement or condition imposed by any other provision of this Chapter or any provision of any other federal, state, or local law, statute, or ordinance, that provision which is more restrictive or imposes a higher standard or requirement shall govern.

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Chapter 13 RESERVED

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Chapter 14 CEMETERIES (RESERVED)

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Chapter 15 RESERVED

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Chapter 16 COMMUNITY DEVELOPMENT (RESERVED)

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Chapter 17 RESERVED

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Chapter 18 ENVIRONMENT

Sec. 18.1. Nuisances

(a) Public Nuisances

- (1) Purpose. The purpose of this Chapter is to protect the health, safety, and welfare of the citizens of the Village of Leonard and to define and prohibit certain public nuisances which annoy, injure, or endanger the safety or health of the public; to regulate the keeping of animals; and to provide the Village with the means of abating noxious weeds and blight.
- (2) Definitions:

 - a. Public nuisance means any act or omission to act on the part of any person, which creates or permits the existence of a situation which annoys, injures or endangers the peace, welfare, order, health or safety of the public in their persons or property. The term "public nuisance" includes, but is not limited to, emanations from noise, glare, lights, vibration, dust, smoke, odor, gas, steam, fly-ash, soot, acids, chemicals, fumes, cinders, worms, insects, rodents, flies, decaying matter, whether such effects and emanations are natural or result from human or mechanical alteration or manipulation of materials. The term "public nuisance" also includes the accumulation of personal property for future use or sale, garbage containers, building materials and equipment, scaffolding, and other personal property that offends public decency or aesthetic sensibilities. The term "public nuisance" includes a condition which is indecent, obnoxious, or offensive to the senses.
 - b. "Noxious Weeds" shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*ambrosia elatior*) and poison ivy (*rhus toxicodendron*), poison sumac (*toxicodendron vernix*) or other plants which in the opinion of the village, is regarded as a common nuisance. Noxious Weeds does not include (1) weeds in fields devoted to growing any small grain crop such as wheat, oats, barley, rye or hay; (2) cultivated gardens; and (3) plots of shrubbery.
 - c. "Managed natural landscaping" means native and naturalized plants to any heights, including ferns, wildflowers, grasses, forbs, shrubs, and trees, in a managed landscape design when said plants were obtained not in violation of local, state, or federal laws. This landscaping shall be maintained by a barrier around the entire landscaping and not exceed 50 percent of the total lot. This landscaping shall not contain any structures except those for decorative purposes only.

- d. "Managed" as used in this ordinance means a planned and designed yard or landscape with the intent to control, direct, and maintain the growth of natural vegetation and limiting the growth of noxious weeds.
 - e. "Barrier" as used in this ordinance means either a 12 foot wide mowed path and to be no more than 8 inches high, or a solid barrier no less than 3 feet in height.
 - f. Litter means debris, metal or plastic cans, waste, rubbish, garbage, filth, refuse, vermin, decaying or dead matter, abandoned vehicles, wrecked or dismantled vehicles, vehicles and/or trailers without current license plates, unusable vehicles, vehicles unmoved from the premises for 90 days, junk or industrial wastes. This chapter shall not prevent the storage or parking of any vehicle or trailer in a completely enclosed building.
- (3) Throwing debris, etc. on public streets, sidewalks or public places. It shall be unlawful for any person to throw, place or cause to be placed upon any street, sidewalk or any public place or building in the village any debris, metal or plastic cans, wastepaper, waste rubbish, garbage, filth, refuse, dust, vermin, decaying or dead matter or any other substance which is or may become offensive to the immediate neighborhood in any manner whatever, or which does or will be likely to detract from the appearance, cleanliness and neatness of the village or the immediate neighborhood.
 - (4) Depositing litter on private premises in other than authorized receptacle. It shall be unlawful for any person to throw, or deposit litter on any private premises within the village, whether owned by such person or not, except that the owner or person in control of occupied private premises may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.
 - (5) Duty of owner to maintain premises litter free. The owner or person in control of any private premises shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.
 - (6) Occupations or trades emitting odors, gas, fumes, dust, smoke, etc.
 - a. It shall be unlawful for the owner or occupant of any premises or any building, yard, field or grounds within the village to permit or suffer to remain on the premises any trade or occupation, condition or activity which will or may be likely to create, and/or emit odor, gas fumes, stench, dust smoke, vibration or noise, which may become obnoxious, offensive or dangerous to the public peace and/or safety of the surrounding neighborhood and/or the general public.
 - b. This section shall not apply to a farm or farm operation that conforms to generally accepted agricultural and management practices as determined by the Michigan Commission of Agriculture.

- (7) Maintenance of Sanitary Conditions When Keeping Birds, Dogs, or Other Domesticated Household Pets.
- a. It shall be unlawful for any person to maintain or permit to be maintained an unclean building, yard or premises. All manure and excreta shall be removed and disposed of daily in such manner so as to prevent the breeding or harboring of insects and vermin.
 - b. All yards where animals are kept shall be well drained, maintained in a sanitary condition, and treated so as to effectively prevent the breeding or harboring of flies, mosquitoes, or rodents.
 - c. No animals shall be allowed in any commercial establishment where foodstuffs are prepared, sold or packaged for public consumption; provided, however, that this section shall not apply to service dogs when held on a leash by their owner and when the owner of the premises grants permission. The keeping of animals by a business establishment for temporary promotional purposes is allowed provided that said establishment is not in the business of preparing, selling or packaging foodstuffs for public consumption, and provided further that such display of animals does not exceed three days per month.
 - d. Piggeries.
 1. It shall be unlawful for any person to keep or establish a piggery wherein garbage, whether cooked or otherwise, is in any way stored, accumulated, or used for the maintenance of same.
 2. No person shall maintain or store any accumulations of garbage, refuse, debris or manure which are conducive to the harboring or breeding of insects, vermin, rats or other rodents.
 - e. Public Nuisance. No person shall permit a public nuisance to exist on property under his or her control within the Village of Leonard.
 - f. Grass and Noxious Weeds.
 1. Intent. The Village of Leonard has determined that noxious weeds, untended and unmanaged growth of vegetation on any property within the Village of Leonard which is visible from any public way, street, sidewalk or alley is declared to be a public nuisance.
 2. Duties of the Owner, Agent or Occupant. All premises and exterior property shall be maintained free from noxious weeds or plant growth in excess of eight inches. The owner, agent, or occupant of land on which noxious weeds or plant growth in excess of eight inches are found growing shall destroy the weeds before they reach a seed bearing stage and prevent their regrowth, or shall prevent them from becoming a public nuisance .

3. Authority. The Village President or his duly authorized designate shall be charged with the responsibility of enforcement of this section and shall be the commissioner of noxious weeds as provided in Act 359 of 1941.
4. Notice to Owners. The commissioner shall notify by certified mail with return receipt requested the owner, agent, or occupant of land on which noxious weeds or plant growth in excess of eight inches are found growing. The notice shall describe methods of treating and eradicating the noxious weeds, shall include a summary of the provisions of this section, and shall allow ten (10) days to cut or destroy the weeds.
5. Enforcement and Abatement. If the owner, agent, or occupant refuses to destroy the noxious weeds within ten (10) days after receiving notice as required above, the commissioner, or his authorized designate shall enter upon the land and destroy the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the land, and the Village of Leonard shall have a lien against the land for the amount of the expense. The lien shall be enforced in the manner provided by law for the enforcement of construction liens.
6. Exemptions. This section does not apply to the following:
 - i. Vacant parcels of land in the Agricultural or Recreation/Conservation Zoning Districts greater than 2.5 acres and parcels of land subject to the Michigan Right to Farm Act, Public Act 93 of 1981.
 - ii. Undeveloped wooded areas where tree growth is in excess of ten feet in height.
 - iii. Lands where occupied lots have been developed without removing the original natural cover.
 - iv. Provided that the owner of the land petitions for exemption from the provisions of this subsection in writing to the Village council: Lands for which, by reason of exceptional narrowness, shallowness, shape, inaccessibility, topographic features, or other extraordinary or exceptional conditions, the strict application of this article would result in peculiar or exceptional practical difficulties to, or exceptional undue hardships upon, the owner of such property; provided, however, that such relief may be granted without substantially impairing the intent and purpose of this section. In granting this exception, the council may attach thereto such conditions regarding the location, character and other features of the proposed uses, as it may deem reasonable in furtherance of the purpose of this section. In granting this exception, the council shall state the grounds upon which it relies.

Sec. 18.2. Attractive Nuisances.

(a) Purpose. The purpose of this section is to protect the health, safety, and welfare of the citizens of the Village of Leonard by providing for the protection of the public, especially children, through the regulation of what would otherwise become an attractive nuisance.

(b) Excavations.

(1) Exploration Pits and Holes. Any person who shall sink, dig or cause to be sunk or dug, any shaft, pit, hole, or trench on any unoccupied or unenclosed land within the Village of Leonard to a depth of four (4) or more feet for the purpose of mining or exploring, shall erect and maintain a fence at least four (4) feet in height, to completely enclose said pits.

(2) Wells or Cisterns. No person shall abandon or fail to keep safely covered or fenced any well or cistern of a depth of four (4) or more feet and a width of twelve (12) or more inches.

(3) Basements. Any person who shall dig or cause to be dug, an excavation or a partially constructed basement for any building or structure shall safely cover same or erect and maintain a fence at least four (4) feet in height to enclose said excavation.

(c) Abandoned Refrigerators. Any person who abandons or discards any icebox, refrigerator, or other container large enough to permit the entrapment or suffocation of a child therein must first remove the lid or cover thereof.

(d) Swimming pools.

(1) Permit and Inspection.

a. A permit shall be applied for and issued from the Village before construction shall begin on any swimming pool. The application for the permit shall be accompanied by a complete and detailed set of plans and specifications of the swimming pool. Before any permit shall be issued such plans and specifications shall be approved by the Village . And before any swimming pool shall be used, a final inspection and approval must be had from the Village.

b. The application fee for said permit shall be established by Resolution of the Village and payable when the plans are submitted.

(2) Regulations.

a. Swimming pools shall not be any nearer than six (6) feet from the side or rear lot lines or from any house, building, or residence unless the Village shall approve shorter distances based on the unique circumstances of the situation that are not generally applicable to other Properties within the Village.

- b. No exposed electric wires shall be nearer than ten (10) feet from the water's edge. Any exposed and permanently installed wires within twenty-five (25) feet from the water's edge of the pool shall not be less than ten feet above the ground unless otherwise approved by the Village. Under no circumstances shall wires of any kind cross or be over the water's surface.
 - c. The construction of the pool shall be made in such a manner that all scum, splash and deck water shall not return to the pool except through a filter system.
 - d. The pool shall be kept free at all times of floating material, sediment and debris either by an automatic surface skimmer, scum gutter or by some other means approved by the Village . However, no scum controller shall be extended beyond the inside edge of the pool.
 - e. The entire recirculating system shall be capable of filtering and recirculating the entire volume content of the pool during a 12-hour period. The rate of application of pool water on the filters shall not be greater than three (3) gallons per minute per square foot of filter area, unless the Village shall approve other rates of recirculating or rates of application of water on the filters.
 - f. All swimming pools shall be enclosed by a fence which shall be at least six (6) feet in height and which shall be of a type not readily climbed by children. The gate shall be of a self-closing and latching type with the latch on the inside of the gate, not readily available for children to open. If the entire premises of the residence are enclosed, this provision may be waived by the Village upon inspection and approval of the residence's enclosure.
- (3) Right of Entry for Inspection. The Village building official shall have the right at any reasonable hour to inspect any swimming pool for the purpose of determining that provisions of this Chapter are complied with.
- (e) All-Terrain Vehicles (ATV) and Dirt Bikes.
- (1) Purpose.

The purpose of this subsection is to regulate the use of all-terrain vehicles and dirt bikes to protect the operators of such vehicles, and to protect the health, safety, and welfare of the residents of the Village of Leonard.
 - (2) Definitions.
 - a. All-terrain vehicle (ATV) means any motorized off-road recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain, including but not limited to a multitrack, multi-wheel or low-pressure-tire vehicle or related two-wheel, three-wheel, four-wheel or belt-driven vehicle, or an amphibious machine. The definition of ATV excludes golf carts, construction machines, utility vehicles used for utility or business operations, agriculture, yard work, landscaping, snow removal or otherwise

being used in the reasonable maintenance of a person's private property, or motorized vehicles being used for law enforcement, fire, emergency, military or other authorized governmental purposes.

- b. Dirt bike means a motorcycle with tires and suspension designed and built for riding on unpaved roads and over rough terrain. The term includes motorcycles not equipped with the required equipment or instruments to pass Michigan Department of State registration requirements.
- c. Operate means to use in any manner within the Village of Leonard.
- d. Private property means any land, rights-of-way, roads, or other real property owned, maintained, or otherwise under the control of any person or entity other than local, county, or state government not available for general use by the public.
- e. Racetrack means an unpaved track or pathway on land that is either man-made or naturally formed through frequent traffic and use, which incorporates two or more turns with or without banking, which may also, but need not, include changes in elevation, ramps, or jumps.

(3) Operation and Use.

- a. Owner or occupant. Only the owner or occupant of private property, or their guests or invitees, shall be permitted to operate an ATV or dirt bike on private property.
- b. Access limitation. No person shall go on or cross the land of another with an ATV or dirt bike without the written permission of the owner or occupant, which written permission shall be carried on the person of the operator. No person shall operate an ATV or dirt bike on public roads unless properly registered and licensed for such purpose.
- c. Acreage and setback requirements. No ATV or dirt bike shall be operated on any property with a gross lot size of less than two (2) acres to provide for adequate separation from adjacent properties and occupied structures on adjacent properties. A person operating an ATV or dirt bike on private property must remain at least fifty (50') feet from any adjoining property line.
- d. Time limitations. It shall be unlawful for any person to operate an ATV or dirt bike for recreational purposes between the hours of 8:00 p.m. and 7:00 a.m. Operation of ATVs and dirt bikes will be limited to a sixty (60) minute session with a one (1) hour rest before the next operation of the vehicle. The rest period must be provided in order to avoid any disturbance of the peace within the Village. A maximum total of four (4) hours of cumulative operation per day is the maximum period of operation. For purposes of this subsection, a day shall mean a calendar day. Operation within this prohibited period shall be considered a disturbance of the peace within the Village.

- e. Noise limitation. No person shall operate an ATV or dirt bike without an effective and suitable muffling device on its engine, which efficiently deadens or muffles the noise of the exhaust. Operation of an ATV or dirt bike shall be subject to and compliant with the noise limitations, restrictions and requirements set forth in this Code and the Village's Zoning Ordinance, as may be amended from time to time.
- f. Dust limitation. No person shall operate an ATV or dirt bike in a manner which creates dust which crosses onto any adjoining or adjacent property. Visible dust, mud, or debris shall not leave the property boundaries of the parcel where vehicles governed by this Chapter are operated.
- g. Environmental limitations. No person shall operate, allow or permit the operation of an ATV or dirt bike within a stream, creek, waterway, drainage way, wetland, or floodplain.
- h. Racetracks prohibited. No person shall operate an ATV or dirt bike on a racetrack.

(4) Injunctive Relief.

The Village may, in addition to the other remedies provided herein for violation of this Chapter, enforce this subsection by seeking and obtaining equitable or injunctive relief from a court of competent jurisdiction.

Sec. 18.3. Violation.

A violation of this Chapter shall be deemed to be a municipal civil infraction.

Chapter 19 RESERVED

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Chapter 20 FIRE PREVENTION AND PROTECTION

Sec. 20.1. FIRE CODE.

(a) Definitions.

- (1) Where the words “name of jurisdiction” are used in the International Fire Code, they shall be held to mean the Village of Leonard.
- (2) Where reference is made in the International Fire Code to the “International Building Code,” it shall be held to mean the Michigan Building Code.
- (3) Where reference is made in the International Fire Code to the “International Mechanical Code,” it shall be held to mean the Michigan Mechanical Code.

(b) Code Adoption. The International Fire Code of 2021, including all Appendices A through N, as published by the International Code Council, Inc., and all previous and future amendments thereto, is hereby adopted as the Fire Code of the Village of Leonard, in the State of Michigan regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the village are hereby referred to, adopted, and made part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes as set forth herein.

(c) State Regulations Prevail. When state law or regulations apply a higher standard or requirement than is provided in the Fire Code, the higher requirement or standard of state law shall prevail.

(d) Changes in the Code. The following sections and subsections of the Fire Code are hereby amended or deleted as set forth, and additional sections and subsections are added as indicated. Subsequent section numbers used in this chapter shall refer to like-numbered sections of the Fire Code.

- (1) Section 101.1 shall be amended to read as follows:

101.1 TITLE. These regulations shall be known as the Fire Prevention and Protection Code of the Village of Leonard and are herein referred to as such or as “this code”.

- (2) Section 103.1 shall be amended to read as follows:

103.1 GENERAL. The department of fire prevention is established within the jurisdiction under the direction of the fire code official. The function of the department shall be the implementation, administration, and enforcement of the provision of this code. It shall be the duty and responsibility of the Addison Township Fire Chief as the designated fire code official to enforce the provisions of this code.

(3) Section 104.1 shall be amended to read as follows:

104.1 GENERAL. The fire code official is hereby authorized to enforce the provisions of this code and shall have the authority to render interpretations of this code, and to adopt policies, procedures, rules, and regulations in order to clarify the application of its provisions. Such interpretations, policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this code and shall not have the effect of waiving requirements specifically provided for in this code. The foregoing notwithstanding, if an interpretation of a provision is in conflict with other Village Ordinances, the Village Council shall retain final jurisdiction of the provision requirements.

(4) Section 112.4 shall be amended to read as follows:

112.4 VIOLATION PENALTIES. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be responsible for a municipal civil infraction. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(5) Section 113.4 shall be amended to read as follows:

113.4 FAILURE TO COMPLY. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be responsible for a municipal civil infraction.

(6) Section 307 shall be amended to read as follows:

- a. No person shall kindle, set, or maintain any fire or authorize any open fire in which rubbish or waste materials would be burned on any privately owned land, road, street, or alley within the Village of Leonard without first having secured a permit from the fire code official, or his representative, servicing the area in which such fire is to be set.
- b. No person shall start or maintain any fire within the Village of Leonard to burn grass, rubbish, or waste materials unless such person shall have secured a permit as heretofore provided; and then, in such event, no such fire shall be closer than fifteen (15) feet from any wood or frame structure, fence, tree, hedge, or property line. Adequate provisions shall be made to prevent such fire from spreading. Any person setting or maintaining such a fire shall remain at such fire until the same is completely extinguished and shall do whatever is necessary to prevent such fire from spreading to other lands.
- c. No person shall start or maintain any fire on land owned by another without securing both a permit and written permission from such owner or the owner's authorized agent.

- d. The fire code official, or his representative, may make reasonable conditions in any permit to burn as provided herein to prevent the spreading of such fires, and he may prohibit any burning of grass or rubbish when atmospheric conditions or local circumstances may make such fires hazardous.
- e. No person, firm, or corporation shall burn or dispose of waste materials in such a manner as to cause or permit the smoke, dust, cinders, or ashes to escape and settle upon, or permeate the air above, any adjoining or nearby premises in such a manner as to become a nuisance or a danger to health.
- f. Any person, real or corporate, who starts or permits any other person to start, without a permit, a fire on their property or neglectfully or carelessly permits a fire within the Village of Leonard to spread or go out of control shall be liable to the Village for the actual costs of extinguishing such fire, shall be liable to other persons damaged thereby, and shall be responsible for a municipal civil infraction.
- g. In order to more fully comply with the requirements as set forth in the Natural Resources and Environmental Protection Act, being Public Act 451 of 1994, as amended, it is hereby provided that the following guidelines shall be adhered to by the fire code official, or his representative, in the administration of this Ordinance and the issuance of burning permits:
 - 1. The burning of refuse shall be allowed without permit in incinerators that comply with the Natural Resources and Environmental Protection Act, being Public Act 451 of 1994, as amended, and the rules and regulations of the State Fire Marshall.
 - 2. The open burning of refuse from multiple dwellings is prohibited.
 - 3. The open burning of refuse at commercial and industrial sites is prohibited.
 - 4. The open burning of building demolition material is prohibited.
 - 5. The open burning of automobile bodies is prohibited.
 - 6. The burning of trees, logs, brush, and stumps at land clearing operations may be permitted unless it creates a nuisance or hazard to health. Tires, plastics, and similar materials are not to be used in such fires.
 - 7. The burning of trees, logs, brush, and stumps may be permitted at a licensed disposal site on an intermittent basis under a schedule approved by the local Health Department. Tires, plastics, and similar materials are not to be used in such fires.
 - 8. The burning of highly flammable, toxic, or explosive materials is prohibited without special approval.

9. The plans and construction of all refuse incinerators, except for household use, must be reviewed and approved by the appropriate agency or the state of Michigan.
10. Special or unusual burning problems not covered in the above listing shall be reviewed with local Health Department representatives or representatives of the appropriate agency of the state of Michigan and the fire code official or his representative.

(7) Section 5701.3 shall be amended to read as follows:

5701.3 REFERENCED DOCUMENTS. The provisions of this chapter, the Michigan Building Code, the Michigan Mechanical Code and NFPA 30 and 30A shall apply to the storage, handling and processing of flammable and combustible liquids in addition to the requirements of this code.

(8) Section 5704.2.9.6.1 shall be amended to read as follows:

5704.2.9.6.1 LOCATIONS WHERE ABOVE-GROUND TANKS ARE PROHIBITED. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited in accordance with NFPA 30.

(9) Section 5706.2.4.4 shall be amended to read as follows:

5706.2.4.4 LOCATIONS WHERE ABOVE-GROUND TANKS ARE PROHIBITED. The storage of Class I and II liquids in above-ground tanks is prohibited in accordance with NFPA 30.

(10) Section 5806.2 shall be amended to read as follows:

5806.2 LIMITATIONS. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited in accordance with NFPA 55.

(11) Section 6104.2 shall be amended to read as follows:

6104.2 MAXIMUM CAPACITY WITHIN ESTABLISHED LIMITS. The storage of liquefied petroleum gas for the protection of heavily populated or congested areas is prohibited in accordance with NFPA 58; however, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L).

Exception: In particular installations, this capacity limit shall be determined by the fire code official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided and capabilities of the local fire department.

(e) MUNICIPAL CIVIL INFRACTION

A violation of this Chapter shall be deemed to be a municipal civil infraction.

(f) **INJUNCTIVE RELIEF**

The Village may, in addition to the other remedies provided herein for violation of this Ordinance, enforce this Ordinance by seeking and obtaining equitable or injunctive relief from a court of competent jurisdiction.

Sec. 20.2. FIREWORKS.

(a) **Definitions.** The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) Agricultural and wildlife fireworks means firework devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of Interior or the Michigan Department of Natural Resources.
- (2) APA means American Pyrotechnics Association.
- (3) Articles pyrotechnic means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.
- (4) Commercial fireworks includes display fireworks, articles pyrotechnic, special effects and agricultural and wildlife fireworks.
- (5) Consumer fireworks means fireworks devices that are designed to produce visible or audible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR Parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.
- (6) Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 16 CFR 1500 and 1507, 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.
- (7) Firework or fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.
- (8) Low-impact fireworks means ground and an handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

- (9) NFPA means National Fire Protection Association.
 - (10) Special effects means a combination of chemical elements or chemical compounds designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.
 - (11) State fire marshal means the Michigan State Fire Marshal appointed under section 1b of the Michigan Fire Prevention Code, 1941 PA 207, MCL 29.1b.
- (b) Consumer fireworks. Consistent with the Michigan Fireworks Safety Act, Public Act 256 of 2011, as amended, no person shall ignite, discharge or use consumer fireworks in the township except, this ordinance shall not regulate the ignition, discharge, or use of consumer fireworks on the following national holidays after 11 a.m.:
- (1) December 31 until 1 a.m. on January 1
 - (2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days
 - (3) June 29 to July 4 until 11:45 p.m. on each of those days
 - (4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - (5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- (c) Commercial fireworks. Commercial fireworks shall not be discharged in the village without a permit issued by the clerk.
- (d) Low impact fireworks. The display of low impact fireworks is regulated by state law and is not regulated by this Chapter.
- (e) Permits.
- (1) Permit required. A permit is required for the discharge of commercial fireworks.
 - (2) Permit application.
 - a. A person seeking a permit to discharge commercial fireworks shall complete an application for a permit. The application shall include:
 - 1. Proof that the this applicant is over 18 years in age;
 - 2. A license or permit to operate commercial fireworks from the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

3. A scale drawing of the site, including but not limited to surrounding buildings, the display site as described by NFPA 1123, the spectator viewing area and the parking areas;
 4. Proof of insurance as set forth in this Chapter;
 5. Information as to the competency and qualifications of the fireworks display operators as required by NFPA 1123;
 6. A completed application for fireworks display permit from the State of Michigan;
 7. A description of the display, including the type and number of fireworks to be discharged; and
 8. Payment of a fee as established by Resolution of the Village Council.
- (3) A person seeking a permit to discharge commercial fireworks shall demonstrate to the fire chief or his designee, knowledge of the recommended safety requirements outlined in NFPA 1123.
- (4) A nonresident applicant shall appoint in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.
- (5) A permit application shall be submitted to the village clerk's department at least 45 days in advance of the proposed discharge date.
- (f) Permit approval process.
- (1) The fire chief or his designee shall review a permit application and make a recommendation to the village council.
 - (2) The village council shall review the application and issue a permit if it finds that the following standards have been satisfied:
 - a. The permit application is complete and conforms with the requirements of this Chapter.
 - b. The fire chief has recommended the application be approved.
 - c. The proposed discharge of fireworks shall not have an adverse effect upon public safety.
 - d. The time, duration and location of the fireworks will not unreasonably disturb the peace of neighboring property owners.

- (g) Requirements of permit holders.
 - (1) A permit holder shall be responsible for the discharge of fireworks which shall conform with the approved permit and this Chapter.
 - (2) A permit holder shall be responsible for all shells being fired. In the event one or more shells do not explode, the permit holder shall take appropriate measures to locate and properly dispose of the unexploded shell(s).
- (h) Fee. The village clerk shall collect the sum required by this Code and the Resolutions of the Village Council for each permit applied for pursuant to this Chapter.
- (i) Transfer. Permits cannot be transferred or assigned without prior review and approval of the village as set forth in this Chapter.
- (j) Revocation. Permits shall be revoked and inventory seized if at any time during the term of the permit the terms and conditions of this Chapter are violated.
- (k) Insurance. To protect the public, the applicant shall provide proof of financial responsibility by insurance to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant. At a minimum, the applicant shall maintain:
 - (1) Worker's Compensation and Employers Liability coverage covering the statutory requirements of the State of Michigan and insuring the applicant with an employer's liability limit of at least \$500,000.00
 - (2) Occurrence based commercial general liability coverage covering liability arising out of the operations of the applicant, with an endorsement applying the policy's aggregate limits by location or project, and having minimum liability limits of \$1,000,000.00 combined single limit per occurrence, and a general aggregate limit of at least \$2,000,000.00. The policy shall be issued by an insurer with an A.M. Best rating of "A" or better. The village shall be named as an additional insured if the applicant utilizes village owned property during the display.
- (l) A violation of this section is a municipal civil infraction. A civil fine of \$1,000.00 shall be imposed for each violation of said section. \$500.00 of said fine imposed for each violation of this section shall be remitted to law enforcement.
- (m) Determination of Violation; Seizure; Destruction; and Storage Costs Under This Article.
 - (1) If the Oakland County Sheriff's Office determines through its investigation that a violation of this section has occurred, its officers may seize the firework(s) as evidence of the violation. The Oakland County Sheriff's Office shall store, or cause to be stored, the evidence seized under this section pending disposition of any proceedings arising from the violation.

- (2) Following a final disposition of a finding of responsibility under this Article, the Oakland County Sheriff's Office may dispose of or destroy any fireworks retained as evidence in that proceeding.
- (3) A person from whom fireworks are seized under this Section shall pay the actual costs of storage and disposal of the seized fireworks if found responsible for a violation of this section.

Chapter 21 RESERVED

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Chapter 22 LAND DIVISIONS, SUBDIVISIONS, AND DEVELOPMENT

Sec. 22.1. Land Divisions.

(a) Purpose. The purpose of this Chapter is to protect the health, safety, and welfare of the citizens of the Village of Leonard and to carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended, (the "Act"), in order to prevent the creation of parcels of land which do not comply with the Act or with applicable Village ordinances; to provide for the orderly development of land and otherwise to provide for the health, safety and welfare of the residents and property owners of the Village by establishing minimum requirements for review and approval of certain land divisions within the Village.

(b) Definitions.

- (1) "Applicant" means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- (2) "Assessor" means the person(s) or firm in charge of assessing property in the Village, as designated by the Village Council.
- (3) "Board of Appeals" means the Village of Leonard Council.
- (4) "Divide" or "Division" means the partitioning or splitting of a parcel or tract of land by the owner thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Michigan Land Division Act.
- (5) "Exempt split" means the partitioning or splitting of a parcel or tract of land by the owner thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than forty (40) acres or the equivalent.
- (6) "Land" means all land areas occupied by real property.
- (7) "Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.
- (8) "Owner" means any person who holds legal or equitable title to the parcel of property proposed to be divided pursuant to this Chapter.
- (9) "Registered land surveyor" or "civil engineer" means a person so licensed by the State of Michigan.
- (10) "President" means the Village of Leonard President.
- (11) "Village" means the Village of Leonard, Oakland County, Michigan.

- (12) Terms not defined in this Section shall have those meanings set forth in Act 288, Public Acts of 1967, as amended, the Michigan Land Division Act.

(c) Prior Approval for Land Divisions. Land in the Village shall not be divided without the prior review and approval of the Village assessor or other municipally designated official, in accordance with this Chapter and the Michigan Land Division Act; provided that the following shall be exempted from this requirement:

- (1) A parcel proposed for subdivision through a recorded plat pursuant to the Michigan Land Division Act.
- (2) An exempt split as defined in this Chapter, or other partitioning or splitting that satisfies the requirements section 109b of the Act.
- (3) A condominium development approved by the Village.

(d) Application for Land Division Approval.

- (1) An applicant shall file all of the following with the Village's designated official for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one (1) year, or for building development:
 - a. A completed application, on such written form as the Village may provide, including exhibits described therein;
 - b. Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land.
 - c. A land title search, abstract of title, or other evidence of land title acceptable to the assessor or other Village's designated official which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997.
 - d. A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions.
 - e. A tentative parcel map drawn to scale showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. A tentative parcel map shall include:
 1. Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map;
 2. Proposed boundary lines and the dimensions of each parcel;

3. An adequate and accurate description of each resulting parcel;
 4. A drawing or written description of all previous land divisions, occurring on or after March 31, 1997, from the same parent parcel or parent tract, identifying the number, area and date of such divisions;
 5. The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets; and
 6. The location of any public or private street, driveway or utility easement existing, or to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.
- f. Other information reasonably required by the assessor or other official Designated by the Village in order to determine whether the proposed land division qualifies for approval. The Village may also require that all corners of the proposed resulting parcels be staked for field verification.
 - g. A notarized statement under oath, by the applicant, that all information contained in the application is true and accurate.
 - h. Payment of the application fee and other applicable fees and charges established by Resolution of the Village Council.
- (2) A proposed division shall not be considered filed with the Village, nor shall the time period stated in Section 22.1(e)(2) commence, until all of the requirements for an application for land division approval have been complied with.
- (e) Procedure for Review of Applications for Land Division approval.
- (1) The Village Council of the Village shall designate by resolution the individual(s) responsible for reviewing applications and granting approval under this Chapter.
 - (2) The Village designee shall approve or disapprove the land division applied for within forty-five (45) days after receipt of a complete application conforming to this Chapter's requirements and the Michigan Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
 - (3) Any person or entity aggrieved by the decision of the assessor or other municipally designated official may, within thirty (30) days of said decision, appeal the decision to the Board of Appeals which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for notices as required by law. The Board of Appeals shall review the decision using the same standards and procedures as found in the Village of Leonard Zoning Ordinance regarding variance applications.

- (4) The Clerk or other municipally designated official Designated by the Village shall maintain an official record of all approved and accomplished land divisions or transfers.
 - (5) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
 - (6) The Village and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.
- (f) Standards for Approval of Land Divisions.
- (1) A proposed land division shall be approved by the assessor or other official designated by the Village upon satisfaction of all of the following requirements:
 - a. The application requirements of Section 22.1(d)
 - b. Each resulting parcel shall have a means of vehicular access to an existing street or road from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road. If a driveway or access easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the requirements of subsection 22.1(f)(2).
 - c. The proposed division, together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
 - d. Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.
 - e. Each resulting parcel shall have the depth to width ratio specified by the Village Zoning Ordinance for the zoning district(s) in which the resulting parcel is located.
 - f. All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements of the Village Zoning Ordinance for the zoning district(s) in which the resulting parcels are located, unless said resulting parcel(s) is to be sold and conveyed to an adjoining owner, and combined so that the final resulting parcel(s) has a width and area in excess of the minimum requirements or shall result in an increase in the area of the adjacent parcels. In such cases, the adjoining owner shall agree, in writing, with the owner requesting the division, to combine the parcels.

- g. The proposed land division(s) comply with all requirements of this Chapter and the Michigan Land Division Act.
- (2) If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the following requirements are satisfied:
- a. The resulting parcel shall be accessible to an existing road or street, without requiring significant topographic grade changes or filling to accomplish such accessibility.
 - b. If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(s) within which the easement is to be located. Such easement shall provide a lawful means of access over and across such parcel(s), in compliance with all Village ordinances.
 - c. If a new public street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith, and has accepted the road for maintenance.
- (3) A proposed division shall not be granted if any taxes which are due or have become delinquent as to the subject property have not been paid. For purposes of this Section, summer taxes become due on July 1 of each year and winter taxes become due on December 1 of each year.
- (4) Following the granting of approval, the applicant shall submit the following information:
- a. A survey of the resulting parcels, together with legal descriptions of all resulting parcels, as prepared by a registered land surveyor or civil engineer. The survey shall:
 - 1. Show any existing buildings, structures, wells and septic systems.
 - 2. Verify that stakes and monuments have been set on the property.
 - 3. Generally conform to the scale drawing submitted with the initial application.
 - 4. Show existing or proposed easements.
 - 5. Show means of access to an existing road or street.
 - b. If the information submitted fails to verify that all resulting parcels contain suitable area for a building site and any required septic system; then the applicant shall submit, in addition, a fully executed Affidavit in a form legally

sufficient for recording with the Oakland County Register of Deeds and signed by all persons who have any legal or equitable interest in the parcel, acknowledging that they understand that until approval for on-site sewage disposal is received from the governmental agency with jurisdiction:

1. The partitioned or divided parcel or parcels may not thereafter be divided or used separately;
 2. A building permit will not be issued for such separate parcel;
 3. The assessment on said parcel cannot be developed separately;
 4. Such parcel only may be used in conjunction with an adjoining parcel or parcels of land; and
 5. The affidavit will be recorded at the office of the Oakland County Register of Deeds.
- (5) Within forty-five (45) days following submission of the information described in Section 22.1(f)(4), the assessor shall process the division, issue new parcel identification numbers, and make necessary changes to the tax and assessment records.
- (g) Consequences of Non-compliance with Land Division Approval Requirement; Penalties.
- (1) Any division of land in violation of any provision of this Chapter shall not be recognized as a land division on the Village tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The Village shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Chapter.
 - (2) An unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefor, together with any damages sustained by the purchaser, recoverable in an action at law.
 - (3) Any violation of this Chapter shall constitute a misdemeanor. Any person who is convicted of violating this Chapter shall be fined, in addition to the costs of prosecution, not more than five hundred (\$500.00) dollars for each offense, or shall be punished by imprisonment for not more than 90 days for each offense, or both, at the discretion of the Court. Each day a violation occurs or continues shall constitute a separate offense.
 - (4) The rights and remedies provided in this Chapter are cumulative and shall be deemed to be in addition to, and shall not adversely affect, any and all other rights and remedies provided by law.

Chapter 23 RESERVED

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Chapter 24 LAW ENFORCEMENT

Sec. 24.1. Municipal Civil Infractions.

(a) Purpose. A Municipal Ordinance Violation Bureau shall be established and certain regulations and procedures pertaining to municipal civil infractions shall be adopted pursuant to Public Act 12 of 1994, as amended (Section 600.8701, *et. seq.* of the Michigan Compiled Laws)

(b) Definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) Municipal civil infraction shall mean a violation of a provision of the Village Ordinances for which the remedy and/or penalty is prescribed to be a civil fine, or other sanction other than a criminal penalty. A municipal civil infraction is not a lesser included offense of a criminal offense or of an ordinance violation that is not a civil infraction.
- (2) Municipal civil infraction determination means a determination that a defendant is responsible for a municipal civil infraction by one of the following:
 - a. An admission of responsibility for the municipal civil infraction.
 - b. An admission of responsibility for the municipal civil infraction, "with explanation".
 - c. A preponderance of the evidence at an informal hearing or formal hearing.
 - d. A default judgment for failing to appear at a schedule appearance.
- (3) Repeat offense shall mean a determination of responsibility for a second or any subsequent municipal civil infraction with regard to the same ordinance provisions, committed by the same person within any three (3) year period, unless some other period is specifically provided with regard to a specific ordinance provision.
- (4) Responsible or Responsibility shall mean a determination entered by a court that a person is in violation of a provision of any Village ordinance prescribed to be a municipal civil infraction.
- (5) Violation shall mean any act which is prohibited, made or declared to be unlawful or any offense under this code, including affirmative acts as well as omissions and/or failures to act where the act is required by any Village ordinance.
- (6) Bureau shall mean the Municipal Ordinance Violations Bureau established by this Chapter.

- (7) Municipal Civil Infraction - Notice of Violation shall mean a written notice prepared by an authorized official, directing a person to appear at the Village Ordinance Violations Bureau for the purpose of paying a civil fine and/or costs for a violation which is prescribed to be a municipal civil infraction.
- (c) Commencement of Municipal Civil Infraction.
- (1) A municipal civil infraction action may be commenced upon the issuance by an authorized official of either of the following:
- a. A municipal civil infraction citation directing the person alleged to be responsible to appear in court;
 - b. A municipal civil infraction violation notice directing the person alleged to be responsible to appear at the Village Ordinance Violation Bureau; or
 - c. A complaint filed in a court of competent jurisdiction.
- (2) The form of citations used to charge municipal civil infraction violations shall be in accordance with state law, being Section 600.8709 of the Michigan Compiled Laws.
- (3) The basis for issuance of a Municipal Civil Infraction Citation shall be as set forth below:
- a. An authorized official who witnesses a person violate an ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three (3) copies of a Municipal Civil Infraction Citation, unless such official issues a Municipal Civil Infraction - Notice of Violation.
 - b. An authorized official may issue a Municipal Civil Infraction Citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.
 - c. An authorized official may issue a Municipal Civil Infraction Citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction, and if the prosecuting attorney or other attorney for the Village for whom the authorized local officer is acting approves, in writing, the issuance of a citation.
- (4) Municipal civil infraction citations shall be served in the following manner:
- a. Except as otherwise provided below, the authorized official shall personally serve a copy of the citation upon the alleged violator.

- b. A municipal civil infraction action involving the use or occupancy of land, building, or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building, or structure by posting a copy on the land or attaching a 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 owners last known address.
- c. A citation served as provided in Paragraph (b) above, for a violation involving the use or occupancy of land, building or structure, shall be processed in the same manner as a citation served personally upon a violator.

(d) Code/Ordinance Enforcement Officer.

- (1) The Village Council is hereby authorized to appoint by motion or resolution any person or persons as code and ordinance enforcement officers for such term or terms as may be designated in the motion or resolution for purposes of carrying out the duties and responsibilities in Village ordinances and this code for officials charged with the enforcement of Village ordinances and code. The Village Council may further, by motion or resolution, remove any person from such office, in the discretion of the Village Council.
- (2) An appointed ordinance enforcement officer is authorized to enforce all provisions of Village ordinances, whether or not any particular provision specifies or designates a different enforcing official. Where a particular officer is designated in any ordinance provision, that officer's authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this section, and the authority of the ordinance enforcement officer shall be in addition and supplementary to the authority to such specific officer.
- (3) The ordinance enforcement officer's duties shall include the following:
 - a. Investigation of ordinance or code violations.
 - b. Issuance and service of Municipal Civil Infraction - Notice of Violation and Municipal Civil Infraction Citations.
 - c. Appearance in court or other judicial or quasi-judicial proceedings in the administration of Village ordinances

(e) Establishment of a Municipal Ordinance Violation Bureau.

- (1) The Village Municipal Ordinance Violation Bureau is hereby established for the purpose of accepting admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices.
- (2) Payments made to the Bureau shall be retained and accounted for as fines and costs, respectively, and shall be deposited into the general fund.

- (3) The Bureau shall be located in the Village Hall and shall be under the supervision and control of the Village Treasurer.
 - (4) The expense of operating the Municipal Ordinance Violations Bureau shall be borne by the Village.
- (f) Service of Municipal Civil Infraction – Notice of Violation.
- (1) Except as provided in subparagraph 2, below, an authorized official shall personally serve a copy of the Municipal Civil Infraction - Notice of Violation upon alleged violator.
 - (2) In a municipal civil infraction action involving the use or occupancy of land, building or other structure, a copy of the Municipal Civil Infraction - Notice of Violation need not 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 notice shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.
- (g) Authority of Municipal Ordinance Violation Bureau.
- (1) The Bureau is authorized to accept payment of fines and costs in response to Municipal Civil Infraction - Notice of Violation, and shall not be authorized to accept monies or omissions of responsibility in response to Municipal Civil Infraction Citations.
 - (2) The Bureau shall not accept payment of a fine or cost from any person who denies having committed a municipal civil infraction charged in a Municipal Civil Infraction - Notice of Violation.
 - (3) The Bureau shall not have authority or jurisdiction to determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- (h) Election of a Person Charged with a Violation.
- (1) Any person receiving a Municipal Civil Infraction - Notice of Violation shall be permitted to dispose of the charge alleged in the notice by making payment of the fine and costs to the Bureau. However, a person shall have the right to elect not to have the violation processed by the Bureau and have the alleged violation processed in a court of competent jurisdiction. Unwillingness of any person to dispose of a violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.
 - (2) A person electing to have the alleged violation processed at the Bureau shall appear at the Bureau and pay the specified fines and costs within the time specified for appearance in the Municipal Civil Infraction - Notice of Violation. Such appearance may be made by mail, in person, or by representation, provided

that if the appearance is made by mail, the person charged in the notice shall have the responsibility for timely delivery of the fines and costs within the time specified in the Municipal Civil Infraction - Notice of Violation.

(i) Procedure for Persons Electing Not to Respond to Municipal Civil Infraction Violation Notices. In the event a person elects not to admit responsibility and pay the specified civil fines and costs prescribed for the respective violation, a Municipal Civil Infraction Citation may be filed with the 52-3 District Court, in which case a copy of the citation shall be served by first class mail upon the person charged with the municipal civil infraction at such person's last known address. The citation filed with the court shall consist of a sworn complaint containing allegations stated in the Municipal Civil Infraction - Notice of Violation and shall fairly inform the violator how to respond to the citation.

(j) Schedule of Fines Established.

(1) A schedule of civil fines payable to the Bureau for admissions and responsibility by persons served with a municipal ordinance violation notice is hereby established. The fines for the violations listed below shall be as follows:

a. The First Offense. The civil fine for a first offense violation shall be in an amount of Seventy-Five Dollars (\$75.00), plus costs and other sanctions, for each offense.

b. First Repeat of Offense. The civil fine for any offense which is a first repeat offense shall be in an amount of One Hundred Fifty Dollars (\$150.00), plus costs and other sanctions, for each offense.

c. Second (or any subsequent) Repeat of Offense. The civil fine for any offense which is a second or subsequent repeat offense shall be in an amount of Five Hundred Dollars (\$500.00), plus costs and other sanctions, for each offense.

(2) Nothing in this Chapter shall be construed to limit the remedies available to the Village in the event of a violation of its ordinances or this code.

(3) Additional penalties.

a. Authorization. In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages, and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation of, this Code.

b. Continuing offense. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.

c. Remedies not exclusive. In addition to any remedies provided for in this Code, any equitable or other remedies available may be sought.

- d. Judge or magistrate. The judge or magistrate shall also be authorized to impose costs, damages, and expenses as provided by law.
- e. Default on payment of fines and costs. A default in the payment of a civil fine, costs, damages, or expenses ordered under this section, or an installment of the fine, costs, damages or expenses as allowed by the court, may be collected by the Village by a means authorized for the enforcement of a judgment under chapter 40 or 60 of the Revised Judicature Act of 1961, Public Act No. 236 of 1961 (MCL 600.101 et seq.).
- f. Failure to comply with judgment or order. If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under subsection (j)(4) of this section.
- g. Failure to appear in court. A defendant who fails to answer a citation or notice to appear in court for a violation of this Code is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, plus costs and/or imprisonment not to exceed 90 days.

(4) Civil Contempt:

- a. If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the district court, upon motion of the Village or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
- b. If a corporation or an association is ordered to pay a civil fine, costs, damages, or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages, or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
- c. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court, or to a failure on his part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
- d. If it appears that the default in the payment of a civil fine, costs, damages, or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, or reducing the amount of payment or of each installment.
- e. The terms of imprisonment on civil contempt for nonpayment of a civil fine, costs, damages, or expenses shall be specified in the order of commitment and shall not exceed one day for each \$30.00 due. A person committed for nonpayment of a civil fine, costs, damages, or expenses shall be given credit

toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of \$30.00 per day.

- f. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, damages or expenses shall not be discharged from custody until one of the following occurs:
 - 1. Defendant is credited with the amount due pursuant to subsection (j)(4)(e) of this section.
 - 2. The amount due is collected through execution of process or otherwise.
 - 3. The amount due is satisfied pursuant to a combination of subsections (j)(4)(f)(1) and (2) of this section.
 - g. The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (j)(4)(f) of this section.
- (5) Lien against land, building or structure. If a defendant does not pay a civil fine, costs or installment ordered under this section within 30 days after the date upon which the payment is due for a violation of this code involving the use or occupation of land, a building or other structure, the Village may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the register of deeds for the county. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order.
- a. The lien is effective immediately upon recording of the court order with the register of deeds.
 - b. The court order recorded with the register of deeds shall constitute the pendency of the lien. In addition, a written notice of lien shall be sent by the Village by first class mail to the owner of record of the land, building, or structure at the owner's last known address.
 - c. The lien may be enforced and discharged by the Village in the manner described by its Charter, by the general property tax act, Public Act No. 206 of 1893 (MCL 211.1 et seq.), or by an ordinance duly passed by the Village. However, property is not subject to sale under section 60 of Public Act No. 206 of 1893 (MCL 211.60), for nonpayment of a civil fine or costs or an installment ordered under this section, unless the property is also subject to sale under Act No. 206 of Public Acts of 1893 for delinquent property taxes.
 - d. A lien created under this section has priority over any other lien unless one or more of the following apply:
 - 1. The other lien is a lien for taxes or special assessments.

2. Federal law provides the other lien has priority.
 3. The other lien is recorded before the lien under this section is recorded.
- e. The Village may institute an action in a court of competent jurisdiction for collection of the fines and costs imposed by a court order for a violation of this Code. However, an attempt by the Village to collect the fines or costs does not invalidate or waive the lien upon the land, building, or structure.
 - f. A lien provided for by this subsection shall not continue for a period longer than five years after a copy of the court order imposing a fine or cost is recorded unless within that time an action to enforce the lien is commenced.

Sec. 24.2. Appearance Tickets.

(a) Purpose: The purpose of this Chapter is to identify and authorize certain public servants of the Village of Leonard to issue and serve appearance tickets as provided by Act Number 175 of Public Acts of 1927, as amended, and Chapter 87 of Act 236 of Public Acts of 1961, as amended.

(b) Definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) Appearance Ticket: means a complaint or written notice on a form determined by the Attorney General, State Court Administrator and Director of the Department of State Police as modified with the prior approval of said State Officials to accommodate local enforcement and court procedures and practices, issued and subscribed by a police officer or other public servant authorized by this Ordinance, directing a designated person to appear in a designated local civil or criminal court at a designated future time in connection with an alleged commission of a designated violation of a Village Ordinance or code provision for which the maximum permissible penalty does not exceed 93 days in jail and/or a fine of \$500.00, or both.
- (2) Issue: Means preparing an appearance ticket by placing on it all known and available information required on the ticket for the alleged violation and person to whom it is directed.
- (3) Serve: Means personal delivery, or mailing by registered or certified mail, return receipt requested, delivery restricted to addressee, receipt of which is acknowledged by signature of the addressee on the return receipt, or by posting as provided by law.

(c) Authorization: In accordance with the provisions of Section 9(c) and 9(f) of Public Act 175 of 1927, as amended, being Sections 764.9(c) and 764.9(f) of the Michigan Compiled Laws, and Chapter 87 of the Revised Judiciary Act, MCL 600.8700, et sec., the Village President, the President Pro Tem, and the Ordinance Enforcement Officer of the Village of Leonard, and such

other officers and inspectors are authorized to issue and serve appearance tickets, municipal civil infraction citations, and municipal notice of violations with respect to violations of this code or for any Village ordinance and any amendments thereto.

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Chapter 25 RESERVED

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Chapter 26 MESSAGE (RESERVED)

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Chapter 27 MISCELLANEOUS PROVISIONS

Sec. 27.1. Marihuana Establishments.

(a) Title. This ordinance shall be known as the “Village of Leonard Prohibition of Marihuana Establishments Ordinance.”

(b) Findings. The voters of the State of Michigan approved Initiated Law 1 of 2018 entitled the Michigan Regulation and Taxation of Marihuana Act (“RTMA”). Section 6 of the RTMA states that a municipality may completely prohibit the number of marihuana establishments within its boundaries.

(c) Definitions. Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

(d) No Marihuana Establishments. The Village of Leonard hereby prohibits all marihuana establishments within the boundaries of the Village pursuant to Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

(e) Violations and Penalties.

- (1) Any person who disobeys, neglects, or refuses to comply with any provision of this ordinance, or who causes, allows, or consents to any of the same shall be deemed responsible for a violation of this ordinance and a violation of this Code. A violation of this ordinance is deemed to be a nuisance per se.
- (2) A violation of this ordinance is a municipal civil infraction.
- (3) This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Village or by such other person(s) as designated by the Village Council from time to time.

Chapter 28 OFFENSES

Sec. 28.1. In General:

(a) Definition.

- (1) Whenever any words and phrases used in this chapter are not defined, but are defined in the Michigan penal code (MCL 750.1 et seq.) any such definition therein shall be deemed to apply to such words and phrases used herein.
- (2) Public place means a place to which the public or a substantial group of persons have access, and shall include, but is not limited to, any street, alley, public building, park, transportation facility, school, place of amusement, parking area and playground, and hallways and stairs, lobbies, and other portions of apartment houses not constituting rooms or apartments designated for actual residences.

(b) Aiding and abetting. Any person who is concerned in the commission of an offense, whether he directly commits the act constituting the offense or procures, counsels, aids, or abets in its commission may hereafter be prosecuted, indicted, tried, and on conviction, shall be punished as if he had directly committed such offense.

(c) Solicit or accost. Any person who shall solicit or accost any other person for the purpose of inducing the commission of any illegal act shall be guilty of a misdemeanor.

Sec. 28.2. Offenses Affecting Governmental Functions.

(a) False reports, information to police. Any person who knowingly and intentionally makes or furnishes false or fictitious information to any member of the Michigan State police or county sheriff's department, regarding the occurrence of a criminal offense or the details of a criminal offense which actually occurred shall be guilty of a misdemeanor.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- (1) Government means any principal subdivision or agency of the United States of America, the state, the village, or any agency of local governmental operation within the village.
- (2) Governmental function means any activity which a public agency or public servant is legally authorized to perform.
- (3) Property means any money, personal property, real property, thing in action, evidence of debt or contract, or article of any kind.

(c) Any person who intentionally obstructs, impairs, or hinders the legal performance of a governmental function, or the legal use of government property, by using or threatening to use force, violence, physical interference, or obstacle or otherwise shall be guilty of a misdemeanor.

(d) Resisting and opposing officer. Any person who obstructs, resists, hinders, assaults or wounds or attempts to obstruct, resist, hinder, assault or wound any member of the Michigan State police, sheriff's department or fire department, any peace officer or code/ordinance enforcement officer in the discharge of his duties shall be guilty of a misdemeanor.

(e) Failure to cooperate with booking process. Any person who fails to cooperate during the booking process, including without limitation, producing identification, fingerprinting, photographing, and supplying arrest card information, shall be guilty of a misdemeanor.

(f) False impersonation of officers. Any person who falsely assumes or pretends to be an employee of the village, an employee of the county, and an employee of any utility or employee of the state shall be guilty of a misdemeanor.

(g) False police, fire, or emergency medical alarms. Any person who summons, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, a police department and/or a sheriff's department, or a fire department, or any public or private ambulance to go to any address where the service called is not needed shall be guilty of a misdemeanor.

(h) Obstructing access to polling places. Any person who shall solicit, petition, canvass, or in any way interfere with the access of persons to and from polling places in local, state or national elections, either at or within such polling places or within 100 feet from the entrance of such polling places shall be guilty of a misdemeanor.

Sec. 28.3. Offenses Against the Person.

(a) Assault and/or battery. Any person who shall assault and/or batter any other person shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine.

(b) Domestic assault and/or battery. Any person who shall assault and/or batter his spouse or former spouse, an individual with whom he has a dating relationship, an individual with whom he has had a child in common, or a resident or former resident of his household shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine.

(c) Harassment. Any person who shall engage in a course of conduct or by repeatedly committing acts that insult, accost, molest, or otherwise alarm or annoy, either by word of mouth, sign, or motion, any person in any public place shall be guilty of a misdemeanor. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(d) Window peeping. Any person who shall look, peer, or peer into, or be found loitering within view of any window not on his own property, with the intent of looking or peering through such window in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy without the occupant's consent shall be guilty of a misdemeanor:

(e) Malicious use of service provided by communications common carrier and/or internet service provider. Any person who maliciously uses any service provided by a communications common carrier and/or internet service provider, with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy any other person, or to disturb the peace and quiet of any other person by any of the following shall be guilty of a misdemeanor:

- (1) Threaten physical harm or damage to any person or property in the course of a telephone conversation, email transmission, internet communication, or any other form of electronic communication;
- (2) Falsely and deliberately reporting by telephone, modem, email or facsimile that any person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime, or of an accident;
- (3) Deliberately refusing or failing to disengage a connection between a telephone and another telephone or between a telephone and other equipment provided for the transmission of messages by telephone, thereby interfering with any communication service;
- (4) Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of a telephone conversation, email transmission, internet communication, or any other form of electronic communication;
- (5) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone is answered;
- (6) Deliberately calling a telephone of another person in a repetitive manner, which causes interruption in telephone service or prevents the person from utilizing his telephone service.

Sec. 28.4. Offenses Against Property.

(a) Larceny. Any person who shall commit the offense of larceny by stealing, or unlawfully taking any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange, or other bill, draft, order or certificate, or any book of accounts for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release of defeasance or any writ, process or public record, or any other property of another person, and the value of the property is less than \$200.00, shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine.

(b) Larceny from vacant buildings. Any person who shall steal or unlawfully remove or in any manner damage any fixture, attachment, or other property belonging to, connected with, or used in the construction of any vacant structure or building, whether built or in the process of construction, or to break into any vacant structure or building with the intention of unlawfully removing, taking therefrom, or in any manner damaging any fixture, attachment, or other

property belonging to, connected with, or used in the construction of such vacant structure or building, whether built or in the process of construction shall be guilty of a misdemeanor.

(c) Retail fraud, third degree. Any person who does any of the following in a store or in its immediate vicinity is guilty of retail fraud in the third degree, a misdemeanor punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine:

- (1) While a store is open to the public, alters, transfers, removes and replaces, conceals, or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale, if the resulting difference in price is less than \$200.00.
- (2) While a store is open to the public, steals property of the store that is offered for sale at a price of less than \$200.00.
- (3) With the intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store, if the amount of money, or the value of property obtained or attempted to obtain is less than \$200.00.

(d) Breaking and entering coin box. Any person within the village who maliciously and willfully, by and with the aid and use of any key, instrument, device, or explosive, blows or attempts to blow, or forces or attempts to force an entrance into any coin box, or other receptacle established and maintained for the convenience of the public, or of any person not making payment for any articles of merchandise or service, or for any person to extract or obtain or attempt to extract or obtain therefrom any such money or thing of value so deposited or contained therein shall be guilty of a misdemeanor.

(e) Frauds unlawful. Any person within the village who engages in any fraudulent scheme, device, or trick to obtain money or other valuable thing, or to aid or abet, or in any manner to be concerned therein, or to convert money or property lawfully in one's possession to one's use without authority shall be guilty of a misdemeanor.

(f) Bad checks. Any person who, with intent to defraud, shall make or draw or utter or deliver within the village any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, in the amount less than \$100.00, knowing at the time of such making, drawing, uttering, or delivering, that the maker, or drawer, has not sufficient funds in or credit with such bank or other depository, for the payment of such check, draft, or order, in full, upon its presentation, except where such lack of funds is due to garnishment, attachment, levy, or other lawful cause, and such fact was not known to the person who made, drew, uttered, or delivered the instrument at the time of so doing shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine.

(g) Revoked or cancelled financial transaction device. Any person who knowingly and with intent to defraud uses for the purpose of obtaining of goods, property, services, or anything of

value, a financial transaction device which has been stolen or which has been revoked or cancelled by the issuer thereof, as distinguished from expired, and notice of such revocation or cancellation has been received by such person, and the value of such goods, property, or services, or anything of value is less than \$100.00, is guilty of a misdemeanor punishable by imprisonment of not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine.

(h) Receiving, concealing, stolen property. Any person who purchases, receives, possesses, conceals, or aids in the concealment of stolen, embezzled, or converted money, goods, or property, with a value of less than \$200.00, knowing the money, goods, or property to be stolen, embezzled or converted shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine. For purposes of this section, any person who is a dealer in or collector of merchandise or personal property, or the agent, employee, or representative of a dealer or collector who fails to make reasonable inquiry that the person selling or delivering the stolen, embezzled, or converted property which has a registration, serial, or other identifying number altered or obliterated on an external surface of the property, shall be presumed to have bought or received stolen property knowing the property to be stolen, embezzled, or converted. This presumption may be rebutted by proof.

(i) Fraud on hotel, motel, inn, restaurant, tavern, or bar. Any person who is a guest in any hotel, inn, restaurant, bar, or tavern who procures any food, entertainment, or accommodation without paying therefor, except when credit is given therefor, by express agreement, with intent to defraud such establishment out of the payment therefor, shall be guilty of a misdemeanor. For purposes of this section, obtaining such food, lodging, or accommodation by false pretense, or refusal or neglect to pay therefor on demand, or payment therefor with check, draft, or order upon a bank or other depository on which payment was refused, or absconding without paying or offering to pay therefor shall be prima facie evidence of such intent to defraud.

(j) Malicious destruction of property. Any person who shall willfully and maliciously destroy, damage, injure, or in any manner deface the personal property of another, or any house, barn or other building of another, or the appurtenances thereof, including, but not limited to, any public building, bridge, fire hydrant, alarm box, street lights, street signs, traffic control device, railroad sign or signal, fence, tree or pole within the village, or any other property belonging to the village; or willfully and maliciously destroy, take or meddle with property belonging to the village or remove the same from the building or place where it may be kept, placed or stored, without proper authority; or willfully cut, break, obstruct, injure, destroy, tamper with or manipulate any machinery, tools or any other property of any utility without authority, with the intention to interrupt or disrupt communications or electric, gas, water or steam heat service, or to curtail or impair the utilization thereof, and the amount of the destruction is less than \$200.00 shall be guilty of a misdemeanor punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine. For purposes of this section, the term "utility" shall mean any gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation, internet, communication or any other system operated for the public use.

(k) Damaging a vehicle. Any person who shall engage in any of the following conduct shall be guilty of a misdemeanor.

- (1) Intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of such motor vehicle; or
- (2) Intentionally cut, mark, scratch, or damage the chassis, running gear, body, sides, top, covering, or upholstery of any motor vehicle, the property of another or intentionally cut, mash, mark, destroy, or damage such motor vehicle, or any of the appurtenances, or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof; or
- (3) Intentionally release the brake upon any standing motor vehicle, with intent to injure said machine and cause the same to be removed without the consent of the owner; provided that this section shall not apply in case of moving or starting of motor vehicles by the police under authority of local code or ordinance or by members of fire departments in case of emergency in the vicinity of a fire.

(l) Trespass unto lands or premises of another. Any person who shall willfully enter unto lands or premises of another without lawful authority, after having been forbidden to do so, or after such lands or premises have been previously posted with conspicuous notice forbidding any trespass thereon by the owner or occupant, or agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, or agent or servant of either, who, without lawful authority neglects or refuses to depart therefrom shall be guilty of a misdemeanor.

(m) Prowling. Any person who shall prowl about any alley or the private premises of any other person, without authority or the permission of the owner of such premises shall be guilty of a misdemeanor.

(n) Breaking and entering, entering without authority. Any person who breaks and enters or enters without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, or any other building, boat, or structure used or kept for public or private use, or garage, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof shall be guilty of a misdemeanor. This section shall not apply to entering without breaking, any place which at the time of the entry was open to the public, unless the entry was expressly denied; nor does it apply to a law enforcement officer or his designee while in the performance of his duties as a law enforcement officer.

(o) Unauthorized entrance upon private parking area.

- (1) Any person who enters upon or loiters upon any private parking area either in vehicle or on foot, without the express or implied permission of the owner, lessee, occupant, or agent is guilty of a misdemeanor.

- (2) Before this section shall be effective in any parking area, suitable signs must be first posted which would apprise the ordinarily observant person of the restricted use of the parking area. For the purpose of this section, implied permission shall be deemed granted to any person for the use designated by such signs. Implied permission shall not be deemed granted to any person found upon any private parking area after business hours of the owner, lessee, occupant, or agent of the parking area.
- (3) The posting of signs upon a parking area pursuant to this section shall constitute authority by the owner, lessee, occupant, or agent of the property for the village or the sheriff's department to enforce this section.
- (4) Complaint for violation of this section may be made by the owner, lessee, or occupant of the parking area, or the agent thereof, or the county sheriff's department, and the county sheriff's department shall enforce this section.

Sec. 28.5. Offenses Against Public Peace.

(a) Breach of peace. Any person who shall make or assist in making any noise, disturbance, fight or quarrel, by which the public peace is disturbed; or to knowingly permit or suffer any place occupied or controlled by him to be a resort for noisy, boisterous or disorderly conduct shall be guilty of a misdemeanor.

(b) Disorderly conduct. Any person who shall engage in any disturbance, fight, or quarrel in a public place; or disturb the public peace and quiet by loud, boisterous, or vulgar conduct shall be guilty of a misdemeanor.

(c) Language or gestures causing public disorder. A person shall be deemed guilty of a misdemeanor if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, such person willfully uses abusive or obscene language or makes an obscene gesture to any other person when such words, by their very utterance, inflict injury or tend to incite an immediate breach of the peace and invade the right of others to pursue their lawful activities.

(d) Disorderly intoxication. Any person who shall be intoxicated or under the influence of any alcoholic liquor or controlled substance or any combination thereof in any public place so as to cause a public disturbance or endanger directly the safety of another person or property shall be guilty of a misdemeanor.

(e) Begging and soliciting alms by accosting or forcing oneself upon the company of another.

(1) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- a. Accosting means approaching or speaking to a person in such a manner as would cause a reasonable person to fear imminent bodily harm or the

commission of a criminal act upon the person or property in his immediate possession.

- b. Ask, beg or solicit means, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.
 - c. Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed, or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.
- (2) Exceptions. Except when performed in the manner and locations set forth in subsections (c) and (d) of this section, it shall not be unlawful to ask, beg or solicit money or other things of value.
- (3) Location. It shall be unlawful for any person to solicit money or other things of value:
- 1. On private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property;
 - 2. Within 15 feet of the entrance to, or exit from, any public toilet facility;
 - 3. Within 15 feet of an automatic teller machine, provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance to, or exit from, the automated teller machine facility;
 - 4. Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance to, or exit from, the telephone booth or facility;
 - 5. In any public transportation vehicle, bus or subway station, or within 15 feet of any bus stop or taxi stand;
 - 6. From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passenger of such vehicle;
 - 7. From any person who is waiting in line for entry to any building, public or private, including any residence, business or athletic facility; or

8. Within 15 feet of the entrance to, or exit from, a building, public or private, including any residence, business or athletic facility.

(4) Manner. It shall be unlawful for any person to solicit money or other things of value by:

a. Accosting another; or

b. Forcing oneself upon the company of another.

(f) Jostling. Any person who shall jostle or roughly crowd persons in any street, alley, park or public place shall be guilty of a misdemeanor.

(g) Loitering. Any person who shall loiter, wander, stand or remain idle in a public street, sidewalk, park or public place so as to hinder or impede or attempt to hinder or impede the passage of pedestrians or vehicles after having been told to move on by a police officer or other authorized person shall be guilty of a misdemeanor. For purposes of this section, the term "loiter" shall mean remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; or to stand around. For purposes of this section, the term "public place" shall mean any place to which the general public has access and a right of resort for business, entertainment or for lawful purpose.

(h) Unlawful assembly. Any person within the village who shall assemble or act in concert with four or more persons for the purpose of engaging in conduct constituting the crime of riot, or any other illegal or mischievous purpose, or who shall be present at such an assembly shall be guilty of unlawful assembly, a misdemeanor.

Sec. 28.6. Offenses Against Public Morals.

(a) Indecent exposure. Any person within the village who shall knowingly make any open or indecent exposure of his person or the person of another shall be guilty of a misdemeanor.

(b) Indecent or obscene conduct. Any person within the village who engages in any indecent or obscene conduct in any public place shall be guilty of a misdemeanor.

(c) Prostitution. Any person within the village who shall engage in prostitution, or to solicit, accost, or invite another in a public place or any vehicle by word, gesture, or any other means to commit prostitution shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine. This section shall not apply to a law enforcement officer while in the performance of his duties as a law enforcement officer.

(d) Gambling. Any person within the village who shall engage in illegal gambling; to keep or maintain a gaming room, gaming tables, or any policy or pool tickets, used for gaming; or to knowingly permit a gaming room, gaming tables, or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him shall be guilty of a misdemeanor.

(e) Loitering in a premises of illegal business. Any person within the village who shall attend, frequent, operate, be an occupant or inmate of, or knowingly transport any person to any place where prostitution, illegal gambling, illegal pornography, or where other illegal business or occupation is permitted or conducted shall be guilty of a misdemeanor.

Sec. 28.7. Offenses Against Public Safety.

(a) Airtight containers. Any person who shall knowingly leave, either inside or outside of any building, structure or dwelling, or in a place accessible to children, any abandoned, unattended, or discarded icebox, refrigerator, trunk, or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of the icebox, refrigerator, trunk, or other container without first removing the locks or doors therefrom shall be guilty of a misdemeanor.

(b) Throwing object from moving vehicle. Any person who wrongfully throws or propels any snowball, missile or object from any moving vehicle; or wrongfully throws or propels any snowball, missile or object toward any person or vehicle shall be guilty of a misdemeanor.

(c) Consumption of alcoholic liquors on public highways and streets. Any person who shall consume alcoholic liquors on any public highway or street, in a vehicle which is moving, standing, or parked on a public highway or street shall be guilty of a misdemeanor.

Sec. 28.8. Offenses on School Grounds.

(a) Disorderly conduct on or near school property. Any person who shall willfully or maliciously make or assist in making any noise, disturbance, or improper diversion by which peace, quietude, or good order of any public or private school is disturbed shall be guilty of a misdemeanor.

(b) Admission restrictions. Any person who is not a regularly enrolled student or parent or guardian thereof or a school official, teacher, or other public or private school employee who enters or trespasses upon or loiters in or upon any public, or private school building or school property in the village for any reason whatever unless such person has received written permission from the principal or other person designated by the principal to be in or upon or to remain in or upon such public, private, or parochial school building or school property; provided, however, that such written permission need not be secured by persons engaging in or attending a school authorized activity or by persons using school playground or playground equipment after school hours or when school is not in session unless such entry or use shall have been otherwise prohibited by a rule or regulation of the school board, school principal, or other person, board, or committee with the authority to prohibit such use or entry shall be guilty of a misdemeanor.

(c) Duty of person creating disturbance to leave premises. Any person, whether lawfully or unlawfully in or upon any public or private school building or school property who is found to be creating a disturbance in or upon any such school building or property and refuses to leave immediately when so directed by the principal or by any other person designated by the principal shall be guilty of a misdemeanor.

(d) Extortion. Any person who uses violence, threats of violence, or other forms of coercion, force, or attempt to force any public or private school student or other person to give or to lend any money or other thing of value to any person at any time shall be guilty of a misdemeanor.

(e) Destruction of school property. Any person who damages, destroys, or defaces any public or private school building or the grounds, outbuildings, fences, trees, or other appurtenances or fixtures belonging thereto shall be guilty of a misdemeanor.

Sec. 28.9. Offenses Pertaining to Underage Persons.

(a) Person less than 21 years of age in possession of alcohol.

(1) Any person less than 21 years of age who shall purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, or have any bodily alcohol content shall be guilty of a misdemeanor. As used in this section, the term "any bodily alcohol content" means either of the following:

a. An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

b. Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(2) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor may request that the person submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor.

(3) The penalty for a violation of this section is as follows:

a. For the first violation a fine of not more than \$100.00, and may be ordered by the court to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services, and may be ordered to perform community service, and to undergo substance abuse screening and assessment at his own expense.

b. For a violation of this section following a prior conviction or juvenile adjudication for a violation of this section, or a violation of state law or local code or ordinance substantially corresponding to this section, by imprisonment for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a

fine of not more than \$200.00, or both, and may be ordered by the court to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services, and may be ordered to perform community service, and to undergo substance abuse screening and assessment at his own expense.

- c. For a violation of this section following two or more prior convictions or juvenile adjudications for a violation of this section, or a violation of state law or local code or ordinance substantially corresponding to this section, by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$500.00, or both, and may be ordered by the court to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services, and may be ordered to perform community service, and to undergo substance abuse screening and assessment at his own.

(b) Furnishing alcohol or controlled substances to persons less than 21. Any person who shall knowingly sell or furnish alcoholic beverages or controlled substances to any person less than 21 years of age shall be guilty of a misdemeanor. This section shall not be construed to limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this section.

(c) Use of fraudulent identification. Any person less than 21 years of age who shall use or possess fraudulent, false, or altered identification to purchase, obtain, or possess alcoholic liquor or beverage shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both imprisonment and fine.

(d) Furnishing fraudulent identification to minor. Any person who shall furnish fraudulent, false or altered identification to a person less than 21 years of age shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$100.00, or both imprisonment and fine.

(e) Contributing to the delinquency of minors. Any person within the village who shall, by act or word, contribute towards, assist, aid, abet, allow, permit or encourage any person under the age of 17 years to violate the provisions of this Code shall be guilty of a misdemeanor.

(f) Social gatherings. Any person having control over any premises, residence, or other real property who shall allow an open house party to take place at said premises, residence, or other real property if any alcoholic liquor or controlled substance is possessed or consumed at said premises, residence, or other real property, where the person knew or reasonably should have known that an alcoholic liquor or controlled substance was in the possession of or being consumed by a minor at said premises, residence, or other real property, shall be guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than \$500.00, or both imprisonment and fine. Such disposition with regard to juveniles as the probate

court shall adjudicate. As used in this section, the term "person" shall mean an adult or a minor; the term "minor" shall mean a person not legally permitted by reason of age to possess alcoholic liquors; the term "control" shall mean the authority to regulate, direct, restrain, superintend, control, or govern the conduct of other individuals on or within that premises, residence, or other real property, and includes, but is not limited to, a possessory right; the term "controlled substance" shall mean controlled substance as defined in Public Act No. 368 of 1978 (MCL 333.1101 et seq.).

(g) Unlawful use of the internet or computer. Any person who shall use the internet or computer to communicate with any person for the purpose of committing, attempting to commit, conspiring to commit, or soliciting another person to commit any illegal act, in which the victim or the intended victim is a minor or is believed by that person to be a minor shall be guilty of a misdemeanor.

(h) Curfew.

(1) Prohibited acts.

- a. It shall be unlawful for any minor to be in any public street, school, playground, vacant land, park, theater, bowling alley, restaurant, pool or billiard room, store, or other place of public gathering or establishment except as hereafter provided, unless accompanied by a parent or guardian, or an adult delegated by the parent or guardian to accompany the minor. This Chapter shall not apply to any minor upon an errand or other business specifically directed by his parent or guardian.
- b. The following is a schedule of curfew hours for each age group of minors for the village:
 1. Minors ten years of age or younger shall not be permitted in any of the above described public places between the hours of 10:00 p.m. and 6:30 a.m.
 2. Minors between the ages of 11 years and 15 years inclusive shall not be permitted in the above described public places between the hours of 11:00 p.m. and 6:30 a.m.
 3. Minors age 16 and 17 shall not be permitted in the above described public places between the hours of 12:00 midnight and 6:30 a.m., except on Friday and Saturday nights, at which time the curfew hours for such age group only shall be 1:00 a.m. and 6:30 a.m. of the following morning.

(2) Prohibited acts of owners of public establishments. It shall be unlawful for the owner, operator, person in charge or employee of any theater, bowling alley, restaurant, pool or billiard room, school, park, vacant land or store to permit a minor or a child whom he reasonably believes to be a minor to remain in such establishment contrary to the provisions and prohibited hours established by this division.

- (3) Aiding and abetting a minor to violate the provisions of this division. It shall be unlawful for any person to assist, aid, abet or encourage any minor to violate the provisions of this division.
 - (4) Exemptions. The following activities shall be exempt from the curfew requirements of this division where the minor is:
 - a. Accompanied by his parent, guardian or any other person 21 years of age or older who is authorized by a parent as the caretaker for the minor;
 - b. On an errand, without any detour or stop, at the direction of his parent, guardian or caretaker;
 - c. In a vehicle involved in interstate travel;
 - d. Engaged in a certain employment activity, or going to or from employment, without any detour or stop;
 - e. Involved in an emergency;
 - f. On the sidewalk that abuts the minor's or the next door neighbor's residence, if the neighbor has not complained to the police;
 - g. In attendance at an official school, religious or other recreational activity sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor, or going to or from such an activity, without any detour or stop, and supervised by adults;
 - h. Exercising First Amendment rights, including free exercise of religion, freedom of speech and the right of assembly.
 - (5) Presumption of civil infraction. A violation of this subsection (h) "Curfew" shall be deemed to be a municipal civil infraction.
- (i) Parental Responsibility..
- (1) Definitions. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - a. Criminal act means those acts which violate the laws of the United States, statutes of the state, or codes or ordinances of the village, including traffic violations.
 - b. Minor means any juvenile 17 years of age or younger who resides with a parent as defined above.

- c. Parent means mother, father, legal guardian or any other person, 18 years of age or older who has the care or custody of a minor and with whom the minor resides.
- d. Person means any person, partnership, corporation, association, municipal corporation, county, village, school district, department of state, or incorporated or unincorporated religious organization.

(2) Prohibited acts.

- a. It shall be unlawful for the parent of any minor to fail or neglect to exercise reasonable parental control over a minor which neglect or failure results in the minor committing any criminal act or becoming delinquent in accordance with the Probate Code as it pertains to juveniles; and it shall further be unlawful for any parent to allow, aid, abet or encourage any minor to commit any criminal act or become delinquent in accordance with the Probate Code as it pertains to juveniles. Neglect or failure of a parent to exercise reasonable control shall include, but not necessarily be limited to the following acts or omissions:
 - 1. Knowingly permit the minor to violate any village curfew law which is presently in force or which may be enacted.
 - 2. Knowingly permit the minor to associate with known juvenile delinquents or adult criminals or persons the parent has reason to believe are juvenile delinquents or adult criminals.
 - 3. Knowingly permit the minor to keep stolen property or property the parent has reason to believe has been stolen.
 - 4. Knowingly permit the minor to be absent without cause from regular school sessions.
 - 5. Knowingly permit the minor to possess alcoholic liquors, unlawful controlled substances, or substances which the parent has reason to believe are alcoholic liquors or controlled substances.
 - 6. Knowingly permit the minor to operate a motor vehicle without a license or knowingly permit a minor with a license to operate a motor vehicle in a careless, reckless or negligent manner upon the streets of the village.
 - 7. Knowingly permit the minor to loiter around abandoned buildings.
 - 8. Knowingly permit the minor to gamble or associate with known gamblers.
 - 9. Knowingly permit the minor to willfully or maliciously destroy the real or personal property of others.

10. Knowingly permit the minor to be without proper supervision in the absence of the parents.

11. Knowingly permit the minor to commit any act with a firearm, knife, explosive or other dangerous instrument which might endanger the health, safety and welfare of any person.

12. Knowingly permit a minor to operate a boat, motorcycle, snowmobile or other mechanically propelled vehicle of any description in a careless, reckless or wanton manner upon any private or public lands or water in the village.

b. It shall be presumed that a parent has knowledge of any of the above acts of a minor if the act was committed during the hours of curfew when the minor was required to be at his residence and under the care, custody and control of the parent.

Sec. 28.10. Reserved.

Sec. 28.11. Reserved.

Sec. 28.12. Reserved.

Sec. 28.13. Offenses Against Village Property.

(a) Establishment of Parks.

(1) Tax Parcel 05-11-303-010 (a part of Lots 19 & 20 Supervisor's Plat No. 3 Liber 54A Page 78, a part of the SW ¼ of Section 11, Town 5N Range 11 E. Village of Leonard, Oakland County, Michigan (Leonard Nature Park) shall operate under the provisions of this section.

(2) The real property commonly known as 158 East Elmwood, Leonard, Michigan 48367 (Hoffman Mill Park and Trailhead) and described as follows:

a. Land in the Village of Leonard, County of Oakland, State of Michigan, A parcel of land in the Northwest 1/4 of the Southwest 1/4 of Section 11, Town 5 North, Range 11 East, Township of Addison, Oakland County, Michigan, described as: Beginning at a point on the South line of Elmwood Street, a distance of 3.5 feet East of the Northeast corner of Lot 13, Block 2 of The Village of Leonard, according to the Plat recorded in Liber 1, Page 49 of Plats, Oakland County Records; thence East to the West line of the Grand Trunk Railroad Right of Way; thence Southwest along said Right of Way to the North line of Division Street; thence West 30 feet; thence Northeast to the point of beginning. Tax Parcel No.: 05-11-301-016.

shall operate under the provisions of this Section.

(b) Definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) Camping means the overnight lodging or sleeping of a person or persons on any premises or waters within any park and recreation area.
- (2) Motor vehicle means a vehicle which is self-propelled as well as every device in, on, upon or by which any person or property is or may be transported or drawn upon a highway except devices moving by human power.
- (3) Off-road vehicle means a vehicle designed for use on natural terrain, trails, or roads, including, but not limited to, mini-bikes, motorcycles, dune mobiles, snowmobiles and amphibious vehicles.
- (4) Overnight means the period of time from 10:00 p.m. to 8:00 a.m.
- (5) Park and recreation land or park and recreation areas means all lands, waters, and property administered by or under the jurisdiction of the village parks and recreation commission.
- (6) Proper written permission means a written permit issued by the village parks and recreation commission.
- (7) Refuse or waste materials means waste materials resulting from housekeeping, yard maintenance, trades, manufacturing, offices, building and construction, industrial processing, food processing and other commercial or residential activities including, but not limited to, waste matters such as slag, stone, broken concrete, bedding, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals, other mineral wastes, auto parts, junked cars, cardboard, wood, tree branches, grass trimmings, dead animals, contents of waste receptacles or any similar or related matters or combinations thereof.
- (8) Vehicle includes all devices included within the terms "motor vehicle" and "off-road vehicle" as defined herein.

(c) General Rules. General Rules that may be posted at the park's access point(s) are as follows:

- (1) Hours of Operation - The Park shall be open to the public from sunrise to sunset, unless otherwise posted at the park entrance(s) and at the publication board of the Village of Leonard Village Office 23 E. Elmwood, Leonard, Michigan.
- (2) Pedestrian use shall be limited to marked or designated trails, designated picnic areas or designated play areas.

- (3) Pets shall be on a leash and under control of owner or owner's designee at all times.
- (d) Unlawful to enter:
- (1) Prohibited. It shall be unlawful for any person to enter, use, or occupy park and recreation lands for any purpose when the lands are posted against such entry, use or occupancy.
 - (2) Penalty. Violation of this section is a misdemeanor.
- (e) Destroy, damage or remove vegetation.
- (1) Prohibited. It shall be unlawful for any person to destroy, damage, or remove any tree, shrub, wild flower, or any other village property without proper written permission.
 - (2) Penalty. Violation of this section is a misdemeanor.
- (f) Peddle or solicit business on park and recreation area; signs, handbills.
- (1) Commercial solicitation in any park and recreation area is prohibited. For purposes of this section, the term "solicitation" means any activity which seeks to obtain customers or orders for the purchase of goods, wares, merchandise, food stuffs, or services of any kind, character or description whatever, for any kind of consideration.
 - (2) Noncommercial handbills or similar printed materials may be distributed within the park and recreation areas only by hand distribution and only in automobile parking lots, or in any other specific areas for such distribution as designated by the commission. Distribution of these materials may only be done by individuals who have received written permission from the parks director to do so. Application for permission shall be made at least seven days in advance.
 - (3) No person shall post, fasten, paint, or affix any placard, bill, notice, sign, or similar materials upon any structure, tree or automobile within the park and recreation areas, except that temporary directional signs for group picnics or similar events may be placed in areas designated for such purposes by the commission, which signs must be removed at the conclusion of the event.
 - (4) This section shall not apply to any solicitation conducted by the committee, or that is approved in conjunction with an activity or event sponsored by the committee.
- (g) Loud noises without permission.
- (1) It shall be unlawful for any person to use a loudspeaker, public address system or sound amplifying equipment of any kind without proper written permission.

- (2) No noise amplification detectable beyond the boundaries of the parkland shall be allowed, unless otherwise approved by the Village Council.
 - (3) It shall be unlawful for any person to operate any motor, motor vehicle, stereo or tape player, radio, television or any other device in such a manner to produce sounds of such volume or of such a nature as to constitute a nuisance or annoyance to other persons by disturbing the public peace and quiet.
- (h) Motor vehicles.
- (1) No motorized vehicles are allowed beyond any designated parking area except official Village maintenance vehicles. An exception of handicapped access is made.
 - (2) No snowmobiles are allowed on the parkland.
- (i) Prohibited conduct. Prohibited conduct.
- (1) It shall be unlawful for any person to engage in any violent, abusive, loud, boisterous, vulgar, lewd, wanton, obscene or other disorderly conduct which disturbs the public peace and quiet or constitutes an annoyance or nuisance to other persons.
 - (2) A violation of this section is a misdemeanor.
- (j) Loitering. It shall be unlawful for any person to lounge, sit or lay upon walks, passages, steps or porches so as to obstruct the free and uninterrupted passage of other persons.
- (k) Fire in designated areas only. It shall be unlawful for any person to build fires except in designated places or stoves and grills, as approved by the Village and committee.
- (l) Deposit of refuse from outside park.
- (1) It shall be unlawful for any person to deposit refuse or waste material which has originated outside a park in receptacles within the park, set fire to the contents of a refuse basket or trash container, or to place or burn waste material in a fire ring, stove or grill.
 - (2) A violation of this section is a misdemeanor
- (m) Refuse to be deposited in receptacles and containers only.
- (1) It shall be unlawful for any person to deposit, place or leave any refuse or waste material on park and recreation land or waters except in the receptacles and containers provided.
 - (2) A violation of this section is a misdemeanor.

(n) Camping. It shall be unlawful for any person to camp without a camping permit issued by the Village and recreation committee ..

(o) Special Use Permit. As provided in the Leonard Village Zoning Ordinance #19, special uses may be permitted following approval of a special use permit by the Village of Leonard Village Council.

(p) Penalty: Except as stated otherwise, a violation of this Section shall be deemed to be a municipal civil infraction.

Sec. 28.14. Controlled Substances.

(a) Definitions. Whenever any words and phrases are used in this Chapter are not defined, but are defined in Public Act No. 368 of 1978 (MCL 333.1101 et seq.), any such definition therein shall be deemed to apply to such words and phrases used herein. For purposes of this Chapter, the following definitions shall apply:

- (1) Act means the Michigan Public Health Code, Public Act No. 368 of 1978 (MCL 333.1101 et seq.).
- (2) Controlled substance means any substance as that term is defined in the Act.
- (3) Deliver or delivery means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.
- (4) Manufacture means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.
- (5) Sale includes barter, exchange or gift, or offer therefor, and each such transaction made by any person, principal, proprietor, agent, servant or employee.

(b) Possession, sale prohibited.

- (1) Possession. Any person who uses, or possesses with intent to use, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of state or local law shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine.
 - a. A registered qualifying patient as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended, shall not be subject to arrest, prosecution, or the penalties provided in this subsection if the registered

qualifying patient is using, possessing with intent to use, storing, containing, concealing, growing, ingesting, inhaling or otherwise introducing marihuana into his or her body in accordance with the Michigan Medical Marihuana Act.

b. A registered qualifying caregiver as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended, shall not be subject to arrest, prosecution, or the penalties provided in this subsection if the registered qualifying caregiver is possessing, producing, growing, testing, analyzing, packing, repacking, storing, containing, or concealing marihuana to provide to a registered qualifying patient or patients for medical use in accordance with the Michigan Medical Marihuana Act.

(2) Manufacture, delivery or sale. Any person who delivers, sells, or possesses with intent to deliver or sell, or manufactures with intent to deliver or sell a controlled substance, knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body in violation of state or local law shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine.

a. A registered qualifying caregiver as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended, shall not be subject to arrest, prosecution, or the penalties provided in this subsection if the registered qualifying caregiver is delivering, possessing with intent to deliver, growing or manufacturing with intent to deliver marihuana to a registered qualifying patient or patients for medical use in accordance with the Michigan Medical Marihuana Act.

(3) Advertisement. Any person who places in a newspaper, magazine, handbill, sign, poster, or other publication, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of controlled substances shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than \$500.00, or both imprisonment and fine.

(c) Fraud and deceit in obtaining drugs, syringes. Any person who commits any fraud, deceit, misrepresentation, subterfuge, concealment of a material fact or the use of a false name or the giving of a false address for the purpose of obtaining any controlled substances or barbituric acid or any derivative, compound, preparation, or mixture thereof, or hypodermic syringes or needle or other instrument or implement or empty gelatin capsules or false statement on any prescription blank shall be guilty of a misdemeanor. No person who shall have obtained the possession of any controlled substances, hypodermic syringes, needles, or other instruments or implements adapted for the use of such substances or empty gelatin capsules pursuant to the terms of this section shall use the same or permit or authorize for use for any purpose other than that specifically authorized in the prescription or order by means of which such possession was obtained.

(d) Fraud and deceit in sale, prohibited. Any person who commits any fraud, scheme, device, trick, deceit, misrepresentation, subterfuge, or any other form of concealment for the purpose of obtaining money or any other thing of value by the sale, furnishing, supplying, or giving away of any substance represented to be a drug as described in section 28-334, when the same may or may not be the same, shall be guilty of a misdemeanor.

(e) Loitering about places where substances stored, kept.

(1) Any person who knowingly loiter about, frequent, or live in any building, apartment, store, automobile, boat, boathouse, airplane, or other place of any description whatsoever where controlled substances, hypodermic syringes, needles, or other instruments or implements or empty gelatin capsules are manufactured, administered, delivered, possessed, distributed, prescribed, dispensed, stored, or kept illegally, shall be guilty of a misdemeanor.

(2) A registered qualifying patient or registered primary caregiver as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended, shall not be subject to arrest, prosecution, or the penalties provided in this subsection if the registered qualifying patient or registered primary caregiver is working within, visiting or frequenting a building where marihuana is being grown and/or provided for medical use in accordance with the Michigan Medical Marihuana Act.

(f) Sensory observation of expert witness to constitute prima facie evidence as to identification of marijuana. In all cases in which alleged marijuana is presented to the court as evidence, the opinion of an expert witness based upon his sensory observation only shall be sufficient to constitute prima facie evidence that the substance constituting the exhibit is marijuana without the necessity of presenting microscopic or chemical test results.

Sec. 28.15. Drug Paraphernalia.

(a) Definitions. Whenever any words and phrases used in this Chapter are not defined, but are defined in Public Act No. 368 of 1978 (MCL 333.1101 et seq.), any such definition therein shall be deemed to apply to such words and phrases used herein. For purposes of this Chapter, the following definitions shall apply:

(1) Act means the Michigan Public Health Code, Public Act No. 368 of 1978 (MCL 333.1101 et seq.).

(2) Controlled substance means any substance as that term is defined in the Act.

(3) Deliver or delivery means the actual, constructive or attempted transfer from one person to another of drug paraphernalia, whether or not there is an agency relationship.

(4) Drug paraphernalia means all equipment, products, and materials of any kind, or a combination of equipment, products or materials, which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting,

manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of state or local law.

a. The term "drug paraphernalia" includes, but is not limited to:

1. An isomerization device used, intended for use, or designed for use in increasing the potency of any species of plant which plant is a controlled substance.
2. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of a controlled substance.
3. A diluent or adulterant, including, but not limited to quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use with a controlled substance.
4. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
5. A device commonly known as a cocaine kit used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.
6. A device commonly known as a bullet, that is used, intended for use, or designed for use in delivering a measured amount of controlled substances to the user's nose.
7. A device commonly known as a snorter, that is used, intended for use, or designed for use in carrying a small amount of controlled substance to the user's nose.
8. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
9. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
10. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
11. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging controlled substances.

12. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
13. A device commonly known as an automotive safe, that is used, intended for use, or designed for use in carrying and concealing a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.
14. A spoon, with or without chain attached, that is used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body.
15. Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
16. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or other controlled substances into the human body, such as:
 - i. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - ii. Water pipes.
 - iii. Smoking and carburetion masks.
 - iv. Roach clips (meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand).
 - v. Miniature straws, cocaine spoons, and cocaine vials.
 - vi. Chamber pipes.
 - vii. Carburetor pipes.
 - viii. Miniature locket, rings, or vials designed, marketed, or used for the storing of controlled substances.
 - ix. Bongs.
- b. In determining whether or not an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant facts, the following:

1. Statements by an owner, or by anyone in control of the objects, concerning its use.
 2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances.
 3. The proximity of the object, in time and space, to a direct violation of the state law.
 4. The proximity of the object to the controlled substance.
 5. The existence of any residue of controlled substances on the object.
 6. Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of state or local law or of this section; the innocence of an owner, or of anyone in control of the object, as to a direct violation of state, local law or this Code, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
 7. Instructions, oral or written, provided with the object concerning its use.
 8. Descriptive materials accompanying the object which explain or depict its use.
 9. National and local advertising concerning its use.
 10. The manner in which the object is displayed for sale.
 11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
 12. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
 13. The existence and scope of legitimate uses for the object in the community.
 14. Expert testimony concerning the use of the object.
- (5) Sale includes barter, exchange or gift, or offer therefor, and each such transaction made by any person, principal, proprietor, agent, servant or employee.
- (b) Possession, sale prohibited.
- (1) Possession. Any person who uses, or possesses with intent to use, drug paraphernalia to manufacture, compound, convert, produce, process, prepare, test,

analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of state or local law shall be guilty of a misdemeanor.

- (2) Manufacture, delivery or sale. Any person who delivers, sells, possesses with intent to deliver or sell, or manufactures with intent to deliver or sell drug paraphernalia, knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of state or local law shall be guilty of a misdemeanor.
- (3) Advertisement. Any person who places in a newspaper, magazine, handbill, sign, poster, or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia shall be guilty of a misdemeanor.

(c) Exemptions.

- (1) This Chapter shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, pharmacists, and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma, or any other medical condition requiring self-injection.
- (2) A person shall not be subject to arrest, prosecution, or the penalties provided in this Chapter for providing a registered qualifying patient or a registered primary caregiver with marihuana paraphernalia for purpose of a qualifying patient's medical use of marihuana in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended.

(d) Civil forfeiture. Any drug paraphernalia used, sold, or processed with intent to use or sell, or manufactured with intent to use or sell, in violation of this section shall be seized and forfeited to the village, except that any marihuana paraphernalia or licit property that is possessed, owned, or used in connection with the medical use of marihuana, in accordance with the Michigan Medical Marihuana Act, MCL 333.26241 et seq., as amended, shall not be seized or forfeited.

Sec. 28.16. Synthetic Marijuana and Dangerous Products.

(a) Findings, intent and purpose.

- (1) The village finds that synthetic marijuana, consisting of plant or other material treated with chemicals or other substances that have not been approved for human consumption, is being marketed and sold as herbal incense or other products not normally associated with human consumption and is being used in the same manner and for the same purposes as marijuana, with that use having become increasingly popular, particularly among teens and young adults.

- (2) The village further finds based on information and reports from poison control centers, hospitals, emergency room doctors, and police agencies, that individuals who use synthetic marijuana sometimes experience dangerous side effects including convulsions, tremors, seizures, hallucinations, unconsciousness, anxiety attacks, dangerously elevated heart rates, increased blood pressure, vomiting, and disorientation, evidencing that these products are harmful if consumed and present an imminent and significant public health danger to persons consuming such products and other persons coming in contact with them.
 - (3) The village further finds that, notwithstanding the high potential for abuse, and lack of any accepted medical use, the ability of the state to prohibit all forms of synthetic marijuana as a controlled substance has been frustrated due to the changing nature of the chemicals used in the manufacturing process.
 - (4) The village further finds that in addition to synthetic marijuana, there may be other products or materials containing chemicals or substances, that while not approved for human consumption, are or may be marketed and sold in a form that allows for such consumption and which, upon consumption, may result in the same serious side effects and public health dangers as synthetic marijuana.
 - (5) Based on these findings, this Chapter is adopted for the purpose and with the intent to protect the public health and safety of the village and its residents from the threat posed by the availability and use of synthetic marijuana and other dangerous products by prohibiting persons from trafficking in, possessing, and using them in the village.
- (b) Definitions and adoption by reference.
- (1) As used in this Chapter, the following words and phrases have the meanings indicated.
 - a. Act means the controlled substances provisions in Article 7 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.7101 to MCL 333.7545, as amended, which is hereby adopted by reference as a part of this Chapter.
 - b. Chemical agent means any chemical or organic compound, substance, or agent that is not made, intended and approved for consumption by humans.
 - c. Consumable product or material means a product or material, that regardless of packaging disclaimers or disclosures that it is not for human consumption or use, is in a form that readily allows for human consumption by inhalation, ingestion, injection, or application, through means including but not limited to smoking, or ingestion by mouth with or without mixing with food or drink.
 - d. Controlled substance means a substance included as a controlled substance in schedules 1 through 5 of the Act or a substance temporarily scheduled or rescheduled as a controlled substance as provided in the Act.

- e. Controlled substance analogue has the same meaning as defined in the Act, which is a substance, the chemical structure of which is substantially similar to that of a controlled substance in schedules 1 and 2 of the Act.
- f. Dangerous product means a consumable product or material containing a dangerous substance.
- g. Dangerous substance means: (i) a chemical agent that under section 2451 of the Act, MCL 333.2451, has been determined by the local health officer to be or present an imminent danger to the health or lives of humans when present in a consumable product or material; and, (ii) a chemical agent in a consumable product or material unless that chemical agent is conspicuously identified and described in writing on the packaging of the product, and has not been previously determined by the village or other governmental authority to be or present an imminent danger to the health or lives of humans when present in that type of consumable product or material.
- h. Synthetic cannabinoid means a chemical compound, substance or agent identified in the Synthetic Cannabinoid Appendix that is part of this Chapter.
- i. Synthetic marijuana means a consumable product or material that contains a synthetic cannabinoid or other dangerous substance, which on the date this Chapter was added to the Code, included herb and herbal incense products marketed and most commonly known as K-2 and Spice.
- j. Synthetic stimulants include any material, compound, mixture, or preparation, except bupropion, which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers whenever the existence of such salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers is possible within any of the following specific chemical designations:
 - 1. Naphthylpyrovaleron, whether or not further substituted in the naphthyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the naphthyl ring by one or more other univalent substituents, or whether or not further substituted in the carbon chain at the 3-, 4-, or 5-position with an alkyl substituent.
 - 2. 2-amino-1-phenyl-1-propanone (cathinone) or variation in any of the following ways:
 - i. By substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents.
 - ii. By substitution at the 3-position with an alkyl substituent.

iii. By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, or benzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

k. Traffic and trafficking means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, sell, or transfer.

l. Transfer means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(c) Trafficking prohibitions. It shall be unlawful for any person to traffic, or knowingly allow trafficking on property owned or controlled by that person, in any of the following:

(1) A consumable product or material containing a controlled substance or controlled substance analogue.

(2) A dangerous product.

(3) Synthetic marijuana.

(4) Synthetic stimulants.

(d) Possession and use prohibitions. It shall be unlawful for any person to possess or use, or knowingly allow the possession and use on property owned or controlled by that person, of any of the following:

(1) A consumable product or material containing a controlled substance or controlled substance analogue.

(2) A dangerous product.

(3) Synthetic marijuana.

(4) Synthetic stimulants.

(e) Probable cause evidentiary presumption. In recognition that the presence of a controlled substance, controlled substance analogue, synthetic cannabinoid, synthetic stimulant or dangerous substance in a consumable product or material may require laboratory testing that cannot be done at the time a violation of this Chapter is believed to have occurred, for purposes of determining the existence of probable cause, it shall be presumed that a consumable product or material contains one or more of those substances if it is being or has been marketed or sold for a price that is substantially higher than the price at which the same quantity of a similar and comparable product or material that is known to not contain such substances can be purchased.

(f) Penalties. The sanction for a violation of this Chapter shall be as a misdemeanor, punishable by a fine of not more than \$500.00 and/or imprisonment for not more than 90 days as provided in Section 24 of this Code.

(g) Synthetic Cannabinoid Appendix.

- (1) Synthetic cannabinoids. As used in this Chapter includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in Schedule 1 of Section 7212 of Public Act 368 of 1978, as amended; Schedule 2 of Section 7214 of Public Act 368 of 1978, as amended; Schedule 3 of Section 7216 of Public Act 368 of 1978, as amended; Schedule 4 of Section 7218 of Public Act 368 of 1978, as amended; Schedule 5 of Section 7220 of Public Act 368 of 1978, as amended, is not approved by the Federal Food and Drug Administration as a drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), unless specifically excepted, whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:
- a. Any compound containing a 3-(1-naphthoyl)indole structure, also known as naphthoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-007, JWH-015, 1-pentyl-3-(1-naphthoyl) indole, also known as JWH-018, JWH-019, 1-butyl-3-(1-naphthoyl) indole, also known as JWH-073, JWH-081, JWH-122, 1-2-[(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole also known as JWH-200; JWH-210, JWH-398, AM-1220, AM-2201, AND WIN-55, 212-2.
 - b. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure, also known as naphthylmethylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-175, AND JWH-184.
 - c. Any compound containing a 3-(1-naphthoyl)pyrrole structure, also known as naphthoylpyrroles with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not further substituted in the indene ring to any extent, and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-370, JWH-030.
 - d. Any compound containing a naphthylideneindene structure; also known as naphthylmethylindenenes with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-

methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-176.

- e. Any compound containing a 3-phenylacetylindole structure, also known as phenylacetylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to: RCS-8 (SR-18), JWH-250, JWH-203, JWH-251, AND JWH-302.
- f. Any compound containing a 2-(3- hydroxycyclohexyl)phenol structure, also known as cyclohexylphenols, with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to: CP-47,497 (5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol); (and Homologues (analogues)), cannabicyclohexanol, 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclo-hexanol; CP-47, 497 C8 homologue), CP-55,940 and all "CP Cannabinoids" being synthetic chemical compounds, substances or agents identified as (C6)-CP-47,497; (C7)-CP-47, 497; (C8J)-CP-47, 497; (C9)-CP-47, 497; CP-50, 556-1; CP-55,244; CP-55, 940; CP-945, 598; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.
- g. Any compound containing a 3-(benzoyl)indole structure, also known as benzoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4- morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. examples of this structural class include but are not limited to: pravadoline (WIN-48,098), RCS-4, and "AM Cannabinoids" being synthetic chemical compounds, substances or agents created by Alexandras Makriyannis or his research group and identified as AM-087; AM-251; AM-281; AM-356; AM-374; AM-381; AM-404; AM-411; AM-630; AM-661; AM-678; AM-679; -694; AM-855; AM-881; AM-883; AM-905; AM-906; AM-919; AM-926; AM-938; AM-1116; AM-1172; AM-1221; AM-1235; AM-1241; AM-2212; AM-2213; AM-2232; AM-2233; AM-2102; AM-4030; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that

require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

- h. Any compound containing a 11-hydroxy-/8-tetrahydrocannabinol structure, also known as dibenzopyrans, with further substitution in the 3-pentyl group by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group. Examples of this structural class include but are not limited to: 14 HU-210, JWH-051, and JWH-133.
- i. Any compound containing a 3-(1-adamantoyl) indole structure, also known as adamantoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to: AM-1248.
- j. Any other synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids that is not listed in schedules ii through v and is not approved by the Federal Food and Drug Administration as a drug.
- k. "HU Cannabinoids" being synthetic chemical compounds, substances or agents synthesized at the Hebrew University and identified as HU-211; HU-243; HU-308; HU-320; HU-331; HU-336; HU-345; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.
- l. "JWH Cannabinoids" being synthetic chemical compounds, substances or agents created by John W. Huffman or his research group and identified as JWH-047; JWH-048; JWH-057; JWH-098; JWH-116; JWH-120; JWH-139; JWH-147; JWH-148; JWH-149; JWH-161; JWH-164; JWH-166; JWH-167; JWH-171; JWH-181; JWH-182; JWH-185; JWH-192; JWH-193; JWH - 194; JWH-195; JWH-196; JWH-197; JWH-198; JWH-199; JWH-205; JWH-213; JWH-229; JWH-234; JWH-249; JWH 250; JWH-253; JWH-258; JWH-300; JWH-307; JWH-336; JWH-350; JWH-359; JWH-387; JWH-424; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.
- m. 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)-pyrrolo-[1,2,3-de]-1,4-benzoxaziN-6-yl]-1-naphthalenylmethanone.

- n. 9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methylocta N -2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c] chrome N -1-ol.
- o. Adamantoylindoles: any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N -methyl-2-piperidinyl)methyl, or 2-(4- morphonyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent.

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Chapter 29 RESERVED

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Chapter 30 PEDDLERS, SOLICITORS, AND BUSINESS LICENSING

Sec. 30.1. Purpose.

The purpose of this chapter is to protect the health, safety, and welfare of the citizens of the village by providing for the regulation and licensing of canvassers and solicitors, hawkers and peddlers, retail route deliveries, advertising signs, garage sales, dance halls, pool halls, bowling alleys, restaurants, theaters, junkyards, and the collection of garbage and to improve and protect the public health, safety, and welfare by protecting the privacy of citizens, protecting the quiet enjoyment of citizens' homes and protecting citizens from unwanted solicitation. It prevents fraud and deceptive practices, prevents crime, and protects citizens and solicitors from personal injury. It protects citizens from excessive noise, regulates conduct in and around streets for the appropriate use of streets without interference, prevents danger to persons and property, prevents delays, and avoids interference with traffic flow. It is intended to avoid distractions for drivers and to protect the public from abusive conduct of persons engaged in solicitation by imposing reasonable restrictions on solicitation while respecting the constitutional rights of free speech for all citizens. It protects citizens from aggressive conduct which causes fear, intimidation, disorder, and impairs citizens' use of public areas. It will inform the public and citizens of the nature, purpose, and background of charitable, service, religious, and other organizations that seek to solicit donations from occupants of vehicles on streets and roadways.

Sec. 30.2. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- (1) "Charitable solicitation" means using spoken, written, or printed words, gestures, pictures, or other means with the goal of obtaining the donation of money, property, or anything of value, or the selling or offering for sale of any property whether of any value or not, upon the express or implied representation that the proceeds will be used for a charitable purpose.
- (2) "Charitable purpose" means philanthropic, religious, or other non-profit objectives, including the benefit of poor, needy, sick, refugees, or handicapped persons; the benefit of any church or religious society, section, group, or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social, service, or civic organization, or the benefit of any education institution, except:
 - a. Charitable purpose" does not include the direct benefit of the individual making the solicitation; and,
 - b. "Charitable purpose" does not include the benefit of any political group or political organization that is subject to financial disclosure under Michigan or federal law.

- (3) "Commercial solicitation" means using spoken, written, or printed words, gestures, pictures, or other means with the goal of selling or offering for sale a thing of value or soliciting the sale of goods or services. Commercial solicitation includes the conduct of a "hawker" or "peddler." "Commercial solicitation" does not apply to any person engaged in the wholesale sale or distribution of goods, wares, or merchandise to a merchant or dealer in those goods, or to any person selling the products of his or her own farm, orchard, or garden.
- (4) "Drummer" means any person who solicits or takes orders for a merchant employer whether or not that person exhibits samples for the purpose of effecting such sales.
- (5) "Person" means any individual person, firm, partnership, corporation, or association.
- (6) "Public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, streets, highways, sidewalks, parking lots, schools, parks, playgrounds and any publicly accessible portions of business premises.
- (7) "Solicit" or "solicitation" means using spoken, written, or printed words, gestures, pictures, or other means with the goal of obtaining a donation of money or other thing of value or requesting or promoting the sale of goods or services. "Solicit" or "solicitation" includes commercial or charitable solicitation as defined in this Ordinance.

Sec. 30.3. Solicitation In General.

Any person engaged in solicitation is subject to the following provisions:

- (a) A person shall not call upon, go upon the property of, or in any way disturb the occupant of a building to solicit, whether residential or commercial, if that building has prominently displayed on or near the front door or front window of the building a sign with letters at least one and one-half inches high stating: "No Solicitors," "No Soliciting," or substantially equivalent language.
- (b) A person shall not solicit in an aggressive manner in any public place. "Aggressive manner" means any of the following:
 - (1) Approaching or speaking to a person, or following a person before, during or after soliciting, if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, damage to or loss of property, or otherwise be intimidated into giving money, or any other thing of value, or purchasing anything whether it has value or not.
 - (2) Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting.

- (3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact.
- (4) Using violent or threatening gestures toward a person solicited either before, during, or after soliciting.
- (5) Persisting in closely following or approaching a person, after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor.
- (6) Using profane, offensive, or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during, or after solicitation.

(c) A person shall not solicit after dark. For purposes of this paragraph, "after dark" means any time from one-half hour after sunset to one-half hour before sunrise.

(d) A person shall not solicit within 15 feet of any entrance or exit of any financial institution, automated teller machine or check cashing business during business or operating hours. This paragraph does not prohibit the lawful vending of goods and services within these areas.

(e) A person shall not solicit in any outdoor or indoor dining area of a restaurant or other establishment serving food for immediate consumption. A person is guilty of a municipal civil infraction under this paragraph if he or she continues to solicit after being asked to leave by the owner, manager, or owner's agent.

(f) A person shall not solicit within the limits of the village using either audible sound in excess of 55 decibels in residential areas, 65 decibels in commercial areas, and 70 decibels in industrial or other areas, or by a visible signal which is unreasonably distracting to operators of vehicles, pedestrians, or bicyclists, or which poses a threat to the health, safety, and welfare of the public.

Sec. 30.4. Commercial Solicitation.

(a) A person shall not engage in commercial solicitation within the limits of the village without obtaining a license in accordance with this Ordinance.

(b) A person shall not act as an agent, helper, or assistant to a person engaging in commercial solicitation without obtaining a commercial solicitation license.

(c) A vehicle or other equipment shall not be operated, propelled, located, or otherwise used on the public streets, sidewalks, parks or other public ways or places after dark by any person licensed under this chapter, for the purpose of carrying on commercial solicitation. For purposes of this paragraph, "after dark" means any time from one-half hour after sunset to one-half hour before sunrise.

(d) A person may apply for a commercial solicitation license by applying to the village clerk, on an application form to be furnished by the Clerk. An application must be signed by the applicant and state the manner in which the applicant intends to travel, trade, and conduct business. An application must include the applicant's address, physical description, name, and type of solicitation license desired, two current photographs of the applicant, and a completed fingerprint card.

(e) Applicants seeking to engage in commercial solicitation shall pay a non-refundable fee as established by the Village Council by Resolution, except:

- (1) There is no fee required for a license to pursue the business of Drummer within the limits of the village.
- (2) Persons who are veterans and who have procured a State Peddler's License under MCL 35.441 et seq., are exempt from paying a fee for or procuring a license under this Ordinance while engaged in activity allowed under a State Peddler's License.

(f) The Clerk shall issue a license upon determining that an applicant has properly and accurately completed the application and that:

- (1) The goods or services to be sold, or for which orders are to be solicited, do not constitute a threat to the health, safety, or welfare of the citizens of the village;
- (2) The manner in which the goods or services are to be sold or for which orders are to be solicited does not constitute a threat to the health, safety, or welfare of the citizens of the village;
- (3) All applicable Federal, State, and local laws have been complied with;
- (4) Any previous license issued under this or a predecessor Ordinance has not been revoked or not renewed because of a violation of an ordinance or law within the previous year;
- (5) A complaint has not been filed by anyone against the applicant or his or her employer or employees; and,
- (6) There is no other cause or reason to deny the applicant's request for a license.

(g) If the Clerk determines, after a review of an application and all other relevant factors, that a license cannot be issued under this Section of the Ordinance, the applicant may request that the village council consider the application in the same manner prescribed for bringing all matters before the council.

(h) Each license granted under this Section shall contain a current photograph of the licensee, the address, physical description and the type of license granted.

- (i) Licensees shall carry licenses with them at all times while engaging in the licensed activity.
- (j) A licensee shall not alter, remove, or obliterate any information on a license.
- (k) All licenses issued under this Section shall expire on December 31st following the date of issue, unless a different date of expiration has been determined by the Clerk.
- (l) The Clerk may suspend any license issued under this Section if the licensee violates a Village Ordinance or any condition or regulation under which the license was granted. The Clerk shall report all suspensions to the village council, which may, for cause shown, revoke or reinstate the license after giving the licensee reasonable notice and an opportunity to be heard. A person whose license has been revoked shall not be granted another license for a period of one year after a revocation. In the event of revocation, the license fee shall not be refunded.
- (m) All commercial solicitation is prohibited in the following specified locations:
 - (1) A person shall not approach an operator or occupant of a motor vehicle for the purpose of commercial solicitation while the vehicle is located in any public place.
 - (2) A person shall not stand, sit, or remain next to the traveled part of any street in village for the purpose of commercial solicitation of the operators or occupants of vehicles using the street.

Sec. 30.5. Charitable Solicitation.

- (a) A person shall not engage in charitable solicitation on the streets or roadways within the limits of the village without obtaining a charitable solicitation license from the village clerk in accordance with this Section.
- (b) A person shall only engage in charitable solicitation within time periods and locations granted in and shown on the license that authorizes his or her charitable solicitation.
- (c) An individual person engaged in charitable solicitation shall carry his or her license at all times during the licensed activity and must display a copy of the license to police or village officials upon request, and provide positive identification upon request.
- (d) A person engaged in charitable solicitation on behalf of a licensed partnership, corporation, or association shall carry a copy of the partnership, corporation, or association's license, and must display a copy of the license to police or village officials upon request, and provide positive identification upon request.
- (e) A person may apply for a charitable solicitation license by applying to the village clerk, upon an application form to be furnished by the Clerk. An application must be signed by the applicant and state the following:

- (1) The name of the individual or organization applying for a license to solicit funds for charitable purposes.
 - (2) A brief description of the charitable purpose for which the funds are to be solicited and an explanation of the intended use of the funds towards that purpose.
 - (3) Whether the person registering is an individual, partnership, corporation, or association;
 - a. If an individual, the business and residence addresses and telephone numbers of the individual must be given;
 - b. If a partnership, the names of all partners, the principal business address, the telephone numbers of all partners;
 - c. If a corporation, the jurisdiction in which the corporation is organized, the name, address, and telephone number of the corporation's Michigan Registered Agent, the mailing address, business location, telephone, name of the individual in charge of the Michigan office; and,
 - d. If an association, the principal business address and telephone number, a list of all association members and their telephone numbers if there are less than 10 or a list of the officers and directors and telephone numbers of the officers and directors if the members are more than 10. If the association is a multi-state entity, the name, address, and telephone number of its central office.
 - (4) The names, addresses, and telephone numbers of the person or persons in direct charge of the charitable solicitation of funds, if more than one individual will be soliciting; and,
 - (5) A daily schedule of the manner of solicitation, the location or locations, dates, times, and names of persons who will be soliciting funds.
- (f) The manner in which the applicant and any agents intend to travel and conduct the charitable solicitation.
- (g) Applicants seeking to engage in charitable solicitation in the streets and roadways will not be charged a license fee.
- (h) The Clerk shall issue a license within fifteen (15) days of receipt of a properly and accurately completed application and endorse upon it the location(s), days, and times charitable solicitation is authorized upon determining that an applicant has properly and accurately completed the application and that:
- (1) The manner in which the charitable solicitation is to be conducted does not constitute a threat to the health, safety, or welfare of the citizens of the village;
 - (2) All applicable Federal, State and local laws have been complied with;

- (3) Any previous license issued under the provisions of this or a previous ordinance has not been revoked or not renewed by reason of violation of ordinance or law in the previous year;
 - (4) A complaint has not been filed by anyone against the applicant or his employer or employees; and,
 - (5) There is no other cause or reason to deny the applicant's request for a license.
- (i) If the Clerk determines, after a review of an application and all other relevant factors, that a license cannot be issued under this Section of the Ordinance, the applicant may request that the village council consider the application in the same manner prescribed for bringing all matters before the council.
- (j) A licensee, agent, or helper shall not alter, remove or obliterate any information on a license.
- (k) All licenses issued under this Section shall authorize charitable solicitation by a given individual, partnership, corporation, or association for no more than 3 days within the calendar year during which the solicitation on the roadway may occur. For purposes of this paragraph, a "day" means the period of daylight beginning one hour after sunrise and ending one hour before sunset. Any solicitation conducted on a particular calendar date shall be deemed to be a "day."
- (l) The clerk may suspend any license issued under this Section if the licensee violates a village ordinance or any condition or regulation under which the license was granted. The Clerk shall report all suspensions to the village council, which may, for cause shown, revoke or reinstate the license after giving the licensee reasonable notice and an opportunity to be heard. A person whose license has been revoked shall not be granted another license for a period of one year after a revocation. In the event of revocation, the license fee shall not be refunded.
- (m) Public disclosure. All license applications filed with the clerk, whether or not a license has been granted, shall be a public record available for inspection in the clerk's office during regular business hours and copies may be obtained at a cost as established by the village council.
- (n) FEE. Each registrant shall pay to the village clerk a registration fee in an amount established by Resolution of the Village Council for the period expiring thirty (30) days after the date of said registration. .

Sec. 30.6. Regulating and Licensing Hawkers and Peddlers.

- (a) No person, firm or corporation shall engage in the business of hawking, peddling or vending any goods, wares, merchandise, fruits, vegetables, foodstuffs or services from door to door, or upon streets alleys and public places, or from any hotel or rooming house, either by sample or by taking orders, or otherwise, for delivery then or in the future, without first obtaining a license as hereinafter provided.
- (b) Each person desiring to obtain a license for the aforementioned purposes shall make application therefor to the clerk. Said application shall be in writing, shall state the name and

permanent address of the applicant, the length of the time this applicant expects to continue in said business in the village, the article or articles for sale, and any other information which may be required by the clerk. If acting as agent for any person, corporation or firm in the sale of such, the applicant shall also state the name and address of such principal.

(c) Upon receipt of the application provided for in the preceding section, and the payment of the appropriate fee, the village clerk shall issue to the applicant a license to hawk, peddle, or vend the article or articles mentioned in the application for the length of time therein specified, said license shall show on its face the information required in the application, date of issuance and expiration, and shall be signed by the village clerk. No license shall be issued for a period greater than one (1) year; nor shall any license be transferable or assignable.

(d) Each person to whom a license is granted under this Chapter shall pay the fees established by Resolution of the Village Council based on the time period covered by the license.

(e) **EXCEPTIONS.** The provisions of this Article shall not apply to persons owning an established place of business within the village, or to non-profit organizations from schools, churches, or other community groups.

(f) Any license granted under this Chapter shall be accepted upon the express condition that it may be suspended by the village president whenever in his judgment it is for the best interest for the community for him to do so, having in mind the welfare, safety and health of the village; and may be revoked by the village president after giving the licensee reasonable notice and an opportunity to be heard.

Sec. 30.7. Regulating Garage Sales.

(a) The sale of goods, wares, or merchandise from residentially zoned property in the village is hereby prohibited except as hereinafter provided.

(b) The prohibition contained herein does not apply to isolated garage sales. An isolated garage sale being defined as the sale of used personal property from a person's residence for a continuous period of not more than ten (10) days and conducted not more than two (2) each year provided that each instance is at least four (4) months apart.

Sec. 30.8. Prohibiting the Operation of Junkyards.

(a) No person shall operate a junkyard within the village limits of Leonard.

(b) A "junkyard" as used herein, is defined to be any establishment or premises, where worn out or discarded material is bought, kept, sold, or stored and any premise upon which two or more unlicensed used motor vehicles are kept or stored, for a period of fifteen (15) days or more.

Sec. 30.9. Regulation and Licensing of the Collection of Garbage.

(a) No one shall deposit garbage or other waste in any alley, street, or other public place in the village, nor shall such person burn any garbage in any container other than an approved incinerator.

(b) No collector, person, firm, or corporation shall collect garbage in the village without first obtaining a license for the collection of same.

(c) Collection schedule, equipment, vehicles, personnel, disposal, insurance, and sanitary conditions of the collector must meet with the approval of the village council. The clerk is hereby authorized to issue to any collector, person, firm, or corporation that meets with the approval of the village council, a license for the collection of garbage within the limits of the village.

(d) The village council has the express authority at any time to grant an exclusive license on a yearly basis providing that same is done pursuant to a one (1) to three (3) year contract between the village and the collector.

(e) Each person to whom a license is granted under this Chapter shall pay an annual registration fee in an amount established by Resolution of the Village Council.

(f) No owner, occupant or agent shall deposit any garbage or trash unless same shall be contained in a proper covered container and constructed of non-combustible material.

Sec. 30.10. Municipal Civil Infraction.

A violation of this Ordinance shall be deemed to be a municipal civil infraction.

Chapter 31 RESERVED

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Chapter 32 SOLID WASTE (RESERVED)

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Chapter 33 (RESERVED)

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Chapter 34 STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

Sec. 34.1. Streets.

(a) Purpose. The purpose of this chapter is to protect the health, safety, and welfare of the citizens of the village by providing for regulation and establishment of standards for the approval, construction, maintenance, and closing of streets within the village.

(b) Definitions. For the purpose of this chapter, the following terms, phrase, words, and derivatives shall have the meaning given herein, unless the context otherwise requires:

(1) Driveway:

a. Residential - A road or way for the exclusive use of one residence and leading from a residential garage (or parking space accessory to a residential use) to a public or private street which services more than one residence. Only that portion which is intended for the exclusive use of a single family residence shall be considered a driveway.

b. Other than residential:

1. A way for ingress or egress leading from a public or private street to a parking lot or other area accessory to a non-residential permitted use that is under the same ownership as the non-residential use being served.

2. In unified developments such as shopping centers, office parks, or similar uses that have received site plan review by the planning commission, and that share common parking facilities, a way for access, ingress, and egress to or from such parking facilities may be considered a driveway notwithstanding that the uses served are not under common ownership; provided, that control over the way is established by a maintenance agreement approved by the Village Council and recorded at the Oakland County Register of Deeds.

(2) Private Street:

a. For residential uses: Any road or way not under the jurisdiction of the Road Commission for Oakland County or the Village of Leonard other than a driveway as defined herein, and shall include private and public easements, private ways deeded or dedicated to public use, and ways where it is intended that same shall serve as a means of ingress and egress for more than one (1) family or residence whether or not deeded or dedicated.

b. In other than residential uses: Any way complying with the definition in Section 34.1(b)(2)(a) but serving parcel(s) of land with a use other than residential, i.e. commercial, industrial, etc.

- (3) Partition or Divide: The act of creating additional interests in land pursuant to the Land Division Act (Public Act 288 of 1967, as amended).
- (4) Residence: A place where a single family lives, as the word family is defined in the Village Zoning Ordinance.
- (5) Person: A natural person or business firm regardless of the legal form of organization.
- (6) Public Utility: Any person or municipal department or board, duly authorized to furnish and furnishing under state or municipal regulations to the public: electricity, gas, steam, communications, cable television, broadband services, telegraph, transportation, or water, sanitary and/or storm sewer.
- (7) Public Street: A road or way paved with concrete or asphalt and built to the standards for the Road Commission for Oakland County and accepted by the Road Commission for Oakland County as coming under its ownership, jurisdiction, and control or a road or way built to the standards of the village and accepted by the village as coming under its ownership, jurisdiction, and control.
- (8) New Private Street: A private street that is proposed for construction including the extension or expansion of an existing private street.

(c) All New Streets in Subdivisions and Condominiums to be Paved Public Streets. No newly established street shall be established in a subdivision created under The Land Division Act (Public Act 288 of 1967, as amended) or a condominium created under The Condominium Act (Public Act 59 of 1978, as amended) or serving more than one previously vacant parcel of land unless such street shall be a public street paved with concrete or asphalt meeting the standards of the Road Commission for Oakland County applying to streets of the service requirements applicable to streets of the character being constructed.

(d) No New Private Streets. No person shall partition or divide any parcel of land within the corporate limits of the village wherein said parcel has frontage on any new private street nor shall any person construct a new private street to serve more than existing one (1) principal permitted use in any district.

(e) Standards for Existing Private Streets.

- (1) All existing single-family residential private streets serving sixteen (16) units or less and in place on or before September 1, 2017 may be extended or improved only in conformance with current Road Commission for Oakland County standards for Type C roads and shall be recorded at the Oakland County Register of Deeds as a perpetual easement for roadway purposes and public utility purposes.
- (2) All commercial or industrial private streets constructed and approved for use before September 1, 2017 may be extended or improved only in conformance with current Road Commission for Oakland County Standards for Type A roads

and shall be a minimum width of seventy feet (70') unless higher standards are required by the village pursuant to Section 34.1(f)(5), and shall be recorded at the Oakland County Register of Deeds as a perpetual easement for roadway purposes and public utility purposes.

(f) Procedures for Consideration of Plans for Streets.

- (1) A survey of the parcel to be partitioned or divided, or a survey showing the location of a new or extended street in relationship to the land uses it will serve where no partitions or division of land is contemplated, indicating the description of the proposed street, the intended use of the street, and those parcels or uses which shall be served by the street shall be filed with the Village Clerk. The Village Planning Commission shall approve, deny, or grant conditional approval of requests for new streets.
- (2) All drawings involving new streets shall contain legal descriptions and specifications and shall be drawn and sealed by a Registered Civil Engineer or Registered Land Surveyor, and shall be subject to recording under Public Act 288 of 1967, as amended, and Public Act 132 of 1970, as amended.
- (3) Construction permits shall be obtained from the Road Commission for Oakland County before entrances are constructed into County right-of-ways.
- (4) The village reserves the right to require construction to higher standards where warranted by special conditions.
- (5) All plans shall be submitted for review and approval, and for consideration of the general layout, accessibility to parcels divided, and all ordinance and code requirements of the village.
- (6) All plans submitted shall contain sufficient information to permit planning and engineering review including the following minimum requirements:
 - a. A drainage plan submitted on a topographic map, indicating a manner in which surface drainage is to be disbursed. In no case shall runoff from a street be diverted beyond the limits of that street onto adjacent streets or property lines unless appropriate easements are provided.
 - b. The precise location of the street shall be shown.
 - c. The street grade, route, elevation, and dimensions shall be depicted.
 - d. A written legal description of the right-of-way shall be included.
 - e. Existing features within 300 feet of the proposed street shall be shown including structures, topographic features, lakes, rivers, streams, wetlands, and significant natural features.

- f. Public utilities shall be depicted.
- (7) No Building Permit shall be issued for new development fronting on any new street until said street is improved to the specifications contained in this chapter. The village shall inspect and approve the street prior to issuing any building permits along said street. Applicant shall pay a fee to cover the cost of such inspections as set established by Resolution of the Village Council.
- (8) The Village Planning Commission may require security for completion of a new street in an amount and type determined to be reasonable to assure completion in the event street construction completion must be delayed due to weather or other circumstances.
- (g) Naming of Streets and Driveways.
 - (1) All streets in the village shall be named in accordance with the provisions of this chapter.
 - (2) Street names shall be reviewed by the Village Fire Department and approved by the Village Planning Commission.
 - (3) Street names shall not be permitted which might cause confusion with names of existing streets in or near the village.
- (h) Private Street Name Changes.
 - (1) Private street name changes are not favored by the village. Private street name changes are permitted provided there is a showing by the requesting party that the current private street name causes confusion with an existing street name and is necessary to secure the health, safety, and welfare of the residents and property owners of the village.
 - (2) Requirements For Private Street Name Changes:
 - a. A person requesting a private street name change must complete and file a Private Street Name Change Petition with the Village Clerk. The petition shall include a statement setting forth the reasons for the requested private street name change and shall be accompanied by an application fee in an amount established by Resolution of the Village Council.
 - b. The petition shall be reviewed by the Village Fire Department and referred to the Village Planning Commission with the Village Fire Department's recommendation to grant or deny the private street name change.
 - c. The Village Planning Commission shall fix a time and place to meet and hear any objections to the petition and shall serve notice of the hearing on each record owner of all property which adjoins or abuts the private street wherein Petitioner proposes the private street name change.

- d. Notice of the hearing shall be sent to the record owners of the property which adjoins or abuts the private street whose name Petitioner proposes to change by first class mail, at least ten (10) days before the date of the hearing.
 - e. The Village Planning Commission may grant, deny, or amend the proposed private street name change.
 - f. The Village Planning Commission, in granting a proposed private street name change, may condition the approval upon Petitioner paying all expenses, fees, and charges related to the private street name change.
- (3) The Village Planning Commission may, on its own initiative, change a private street name upon a determination that the current private street name causes confusion with an existing street name or is necessary to secure the health, safety, and welfare of the village. A hearing must be scheduled as set forth above.

(i) Closing of Private Streets. The Village Council, upon recommendation of the Village Planning Commission, may permit the closure of private streets previously established. All applications for private street closure shall be accompanied by a traffic study detailing the current use of the private street and the impact closure would have on surrounding traffic circulation. The Village Planning Commission in making its recommendation and the Village Council in making its decision must determine that the interests of public health, safety, and welfare will be advanced by a closure of the private street taking into consideration the following factors:

- (1) If the private street is located within an established subdivision or condominium: that the amount of vehicular traffic from outside of the development that is utilizing the private street is of sufficient quantity to change the character of the private street from an internal service road to a thoroughfare.
- (2) Is the use of the private street or the character and amount of the traffic utilizing the private street different than that considered at the time the private street was established owing to subsequent changes in development, traffic patterns, or other considerations?
- (3) Does the use of the private street by those who are not paying for its maintenance constitute an undue burden on those responsible for maintenance taking into consideration the reciprocal right of the Petitioners to use other private streets in the village without contributing to the maintenance of those private streets?
- (4) Does the use of the Private Street as a general thoroughfare impose an undue liability burden upon the property owners who are responsible for its upkeep and maintenance and who have an ownership interest in the private street?
- (5) What effect will the proposed closure have on private streets and public streets that would receive the additional traffic following the proposed closure?

- (6) How would closure of the private street impact police, fire, and Emergency Medical Service response time?
 - (7) Would closure of the private street significantly reduce multiple means of accessing property currently served by the private street?
 - (8) Would closure of the private street present potential confusion taking into consideration existing street layout designs?
 - (9) Would closure of the private street establish a precedent which might be unsatisfactory in other settings?
 - (10) How will homeowners that purchased property in reliance on the existing street connections be affected?
 - (11) Does the Petitioner have authority to act on behalf of those with ownership interest in the private street?
 - (12) Would any alternative short of closure address the concerns raised by the Petitioner or by the traffic study submitted in support of the private street closure petition?
- (j) Expenses related to Private Street Closure.
- (1) The Village Council may conditions its approval of private street closure upon the petitioners payment of all costs incurred by the village which are associated with the private street closure, including but not limited to engineering, planning, and attorney fees.
 - (2) Any petition for private street closure shall be accompanied by a proposed site plan demonstrating how closure will occur and insuring that the following items are adequately addressed:
 - a. If appropriate, adequate turnarounds for vehicles encountering street terminus;
 - b. Landscaping;
 - c. Drainage;
 - d. If appropriate, emergency access;
 - e. Pedestrian access;
 - f. Signage;
 - g. Other factors deemed relevant by the Village Planning Commission.

- (3) The Village Council shall condition its approval of any private street closure upon the Petitioners modification of existing site plans, subdivision plats, or condominium master deeds to reflect the private street closure.
 - (4) The Village Council may impose conditions upon its approval of a petition for private street closure that are necessary to protect the public health, safety, and welfare or that are appropriate to enhance the harmonious integration of the new private street configuration into the surrounding area.
- (k) Maintenance. All property served by new private streets shall be made subject to a covenant and restriction recorded at the office of the Oakland County Register of Deeds, which covenant and restriction shall run with the land. The covenant and restriction shall state substantially as follows: Ingress and egress to this parcel of land shall be made only over the private street easement recorded at the Oakland County Register of Deeds office. Construction, maintenance, and replacement of this private street are the responsibility of those property owners whose property is accessed by the private street. Neither Oakland County, Addison Township, nor the village are responsible for construction, maintenance, or replacement of this private street.
- (l) Appeals.
 - (1) A Board of Appeals shall be designated to hear requests for variances from the standards of Section 34.1(e) and shall be empowered to grant variances from such standards when a finding of fact of unnecessary hardship or practical necessity is made.
 - (2) The Board of Appeals shall consist of the same members that constitute the Zoning Board of Appeals and shall be governed by the same procedures and rules as used in Zoning Appeals under the Zoning Ordinance.
 - (m) Assistance. The Village Planning Director, Building and Zoning Administrator, and Assessor may request the assistance of other Village Agencies or Consultants. Any fees normally charged for these services shall be borne by the Petitioner or Applicant and an appropriate deposit in an amount established by Resolution of the Village Council to cover such fees shall be placed with the Village Treasurer before review.
 - (n) Movement of Heavy Machinery on Streets.
 - (1) It shall be unlawful for any person, firm, or corporation to move any traction engine, or similar heavy equipment over the public streets or sidewalks of the village, by its own power or otherwise, if the roads are in soft condition rendering them unfit for the passage over them of such heavy machinery without damage to the streets; or if the streets or sidewalks are not capable of withstanding the passage of said machinery over them without damage; or if the engines or machines are equipped with lugs, metal wheels, or other devices likely to cause damage to the streets or sidewalks of the village, except by written permission from the Village Council.

- (2) Any person, firm or corporation desiring permission to move any traction engine or heavy equipment or machinery over the public streets or sidewalks of the village, must first file a written application with the Village Clerk, setting forth the name and address of the applicant; the number, size, type and weight of machinery or equipment to be moved; and the time at which said machinery or equipment shall be moved. Said application shall also contain a promise by the applicant to pay any damage resulting to the streets, sidewalks, trees or other property in the village from the moving or transporting of any such machinery or equipment.
 - (3) Upon the receipt of any application, the Village Council shall consider same, and may in its discretion grant a permit for same; providing however, that before a permit is granted, the Council shall require a Corporate Surety Bond, or a cash bond, deposited with the Village Clerk, in an amount of not less than \$1,000.00 or more than \$10,000.00. The bond as required herein shall guarantee the faithful performance of the applicant's moving of machinery or equipment, without damage to the streets, sidewalks, trees or other property in the village, and said bond shall guarantee the payment to the village for any such damages sustained.
 - (4) The permit granted hereunder shall be good for only one trip for the machinery or equipment stated on the date as stated in such permit.
 - (5) Any person, firm, association, or corporation which shall violate Section 34.1(n) shall be deemed guilty of a misdemeanor and, on conviction thereof; shall be punished by a fine not exceeding Five hundred dollars (\$100.00) or by imprisonment in the County jail not to exceed ninety (90) days, or both such fine and imprisonment at the discretion of the Court.
- (o) **Parking Regulations.**
- (1) No parking of vehicles will be permitted on any village Right-of-Way, Street, or Alley between the hours of 2:00 a.m. and 6:00 a.m.
 - (2) This Regulation will be enforced November 1st of each year and remain in force until removed April 30th of the following year. This Regulation is made to insure an efficient removal of snow from the Streets throughout the winter months.
 - (3) Signs stating "NO PARKING BETWEEN THE HOURS OF 2:00 A.M. AND 6:00 A.M. ON ANY VILLAGE STREET" will be maintained at the four directional village street boundaries.

Sec. 34.2. Sidewalks.

- (a) **Merchandise on Sidewalks.** No person, company or corporation shall use any of the sidewalk within the village for the storage, keeping or displaying thereon of any goods, wares, merchandise, produce, provisions, vegetables, boxes, barrels or show cases except within the distance of three (3) feet from the wall of the building used or occupied by such person, company or corporation in the business portion of the village.

(b) Sidewalk Openings. No person, company, or corporation shall cut, keep or have any opening through any sidewalk over any area, vault or window unless having the same safely and securely covered, all covering to be on the level with the walks.

(c) Snow and Rubbish Removal from Sidewalks.

(1) Whenever snow has fallen or ice has formed on the sidewalk adjacent to any house, premises, building or lot, the owner, occupant or person or corporation in control thereof shall, within twenty-four (24) hours after the same has fallen or formed, remove said snow or ice in such manner as to render the sidewalk safe to persons or property traveling thereon.

(2) No person, firm or corporation shall permit any snow or ice to remain on the sidewalk adjacent to any house, premises, building or lot owned, occupied or controlled by him or it, longer than twenty-four (24) hours after the same has fallen or formed thereon.

(3) For the purpose of this Chapter the phrase "sidewalk adjacent to any house, premises, building, or lot" shall mean the sidewalk forming a part of the public street.

(d) Signs, Awnings, and Canopies on Sidewalks.

(1) No person, company or corporation shall put up, erect keep, use or maintain on or in any sidewalk in the village, any post or fixture for the support of any sign, awning, canopy or advertisement or for any other purpose without first having obtained permission of the Village President.

(2) No person, company or corporation shall put up, erect, keep, maintain or use any awning or canopy over any sidewalk in the village extending a greater distance than eight (8) feet from the wall or the side of the building to which the same is attached, or coming nearer than seven feet five inches (7'5") of the sidewalk underneath it, nor shall any curtain fringe or other appendage be attached or be maintained, on any awning or canopy so that any part of it shall be within six feet five inches (6'5") of the sidewalk underneath it.

Sec. 34.3. DRAIN OR GUTTER OBSTRUCTIONS.

It shall be the duty of every owner or occupant of any house, building, or premises within the village to keep at all times the drain or gutter in front of the same clear and free from any obstructions that may hinder or interfere with the free passage of water in or through any public drain or sewer.

Sec. 34.4. OBSTRUCTION OF STREETS, ALLEY, SIDEWALK OR PUBLIC PLACE.

No person shall obstruct or place or permit anything to obstruct, the free passage or proper use of any public street, alley, sidewalk or public place, except as may be temporarily permitted by the Village Council, or while loading or unloading goods, merchandise, materials or persons.

Sec. 34.5. REMOVAL OF BARRICADES.

It shall be unlawful for any person to remove any barricade, fence, railing, barrier or other obstruction erected to protect persons passing along the streets or alleys of the village, at or near any crosswalk, pavement, sewer, or other village improvement which has been constructed, or which is in the course of being constructed or repaired or to remove or extinguish any light at or near the place or places where any improvement is being made, or at or near any obstruction or dangerous place in the streets or alleys of the village.

Sec. 34.6. FAULTY STRUCTURES.

No person shall permit any building, fence, or chimney or other structure adjacent to or adjoining any street, alley, or public place to be unsafe or dangerous to the right of public travel in any street, alley or public place.

Sec. 34.7. STREET EXCAVATING.

(a) No person, firm, or corporation shall dig or tear up any pavement, sidewalk, or crosswalk, or dig any hole, ditch, drain, or sewer in any street alley, or public property without first obtaining a permit therefor from the Village Clerk and without providing necessary notifications and obtaining necessary permits required by Public Act 174 of 2013. This requirement shall apply to all persons, firms or corporations whether or not they may have a right, license or franchise to use the village alleys, streets, or public property.

(b) It shall be the duty of such person, firm or corporation, upon being granted a permit as hereinabove required, to maintain all traffic control devices and to immediately refill and restore, resurface or repave such street, alley or other public property so that the same will be in as good a condition as before. It shall further be the duty of such person, firm, or corporation to erect and maintain during the progress of the work a good and sufficient barrier around any such cut, trench, or excavation in such manner as to prevent accidents and to place and keep upon such barrier suitable and sufficient colored lights during the night.

(c) A separate permit must be obtained for each occasion and such permit shall specify the location of the cut, trench, or excavation to be made.

Sec. 34.8. PUBLIC TREE REGULATIONS.

(a) Public Tree Removal. The village shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to insure safety or to preserve the symmetry and beauty of such public grounds. The village may remove or cause or order to be removed, any tree or part

thereof which is in an unsafe condition or which is affected with any injurious disease, fungus, insect or other pest. Whenever the village shall remove any tree, plant or shrub, solely for the purpose of constructing any public work, the village shall if practicable, replace the same at public expense, at some nearby location by planting another tree, plant or shrub, not necessarily of the same type.

(b) Public Tree Protection. No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within ten (10) feet of any tree or permit any fire or the heat thereof to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain, or be emptied on, near or about any trees. No electric wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage thereto, and no person shall attach any electric insulation to any tree. No material shall be fastened or hung on any tree. All persons having under their care, custody and control, facilities which may interfere with the trimming or removal of any tree, shall after notice thereof by the village promptly abate such interference in such a manner as shall permit the trimming or removal of such tree by the village.

(c) Excavation Near Trees. Excavation and driveways shall not be placed within five (5) feet of any tree without written permit from Council. Any person making such excavation or construction shall guard any tree within six (6) feet thereof and all building material or other debris shall be kept at least four (4) feet from any tree.

(d) Covering Surface Near Trees. No person shall place within the street right-of-way, any stone, brick, sand, concrete, or other material which will in any way impede the full and free passage of water, air, or fertilizer to the roots of any tree, except, a sidewalk of authorized width and location.

(e) Private Trees - Clearance. Every owner of any tree on private property over-hanging any street right-of-way within the village shall trim the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of ten (10) feet above the surface of the street. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The village shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street, from a street light, or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.

(f) Corner Clearance. All shrubs, bushes and signs located on the triangle formed by two right-of-way lines at the intersection of two streets and extending for a distance of twenty-five (25) feet each way from the intersection of the right-of-way lines on any corner lot within the village shall not be permitted to grow to a height of more than thirty (30) inches in height from top of curb at street level, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of ten (10) feet above the roadway surface. Any owner of any property failing to trim any trees, shrubs, or bushes in conformity with this section shall be notified by the village to do so and such notice shall require trimming in conformity with this Section within ten (10) days after the

date of such notice. Upon the expiration of such period, the village may cause the trimming to be done and the cost thereof may be collected from the owner of said property as a single lot assessment.

Sec. 34.9. FENCES.

(a) It shall be unlawful for any person, firm, or corporation to erect or maintain a fence closer than six (6) inches measured from the front property line to any public sidewalk, highway, or street.

Sec. 34.10. DEFACING AND WRITING.

No person shall deface or place any advertisement, picture, word, or symbol upon any street, alley sidewalk, crosswalk, lamppost, hydrant, tree, park, or other public place.

Sec. 34.11. Municipal Civil Infraction.

(a) Unless stated otherwise, a violation of this Chapter shall be deemed to be a municipal civil infraction.

(b) The village may, in addition to the other remedies provided herein for violation of this Chapter, enforce this Chapter by seeking and obtaining equitable or injunctive relief from a court of competent jurisdiction.

Chapter 35 RESERVED

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Chapter 36 TELECOMMUNICATIONS

Sec. 36.1. CABLE COMMUNICATIONS

(a) No Person shall provide cable or video services within the village without first complying with the provisions of the Uniform Video Services Local Franchising Act (Public Act 480 of 2006, MCL 484.3301, et seq.) and entering into a Uniform Video Services Franchising Agreement as defined in Public Act 480 of 2006, as amended.

Sec. 36.2. Purpose. Use of Public Right-of-Way by Telecommunications Providers.

(a) Purpose. The purpose of this chapter is to protect the health, safety, and welfare of the citizens of the village and to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act") and other applicable law, and to ensure that the village qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(b) Conflict. Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.

(c) Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.
- (2) Village means the Village of Leonard.
- (3) Village Council means the Council of the Village of Leonard or its designee. This Section does not authorize delegation of any decision or function that is required by law to be made by the Village Council.
- (4) Village President means the Village President or his or her designee.
- (5) Permit means a non-exclusive permit issued pursuant to the Act and this chapter to a telecommunications provider to use the public rights-of-way in the Village for its telecommunications facilities.
- (6) All other terms used in this chapter shall have the same meaning as defined or as provided in the Act, including without limitation the following:
 - a. Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

- b. MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Commission" in the Act.
- c. Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
- d. Public Right-of-Way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.
- e. Telecommunication Facilities or Facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of Part I of Title III of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.
- f. Telecommunications Provider, Provider and Telecommunications Services means those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a provider also includes all of the following:
 - 1. A cable television operator that provides a telecommunications service.
 - 2. Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
 - 3. A person providing broadband internet transport access service.

(d) Permit Required.

- (1) Permit Required. Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the Village for its telecommunications facilities shall apply for and obtain a permit pursuant to this chapter.

- (2) **Application.** Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file four copies of the application with the Village Clerk. Upon receipt, the Village Clerk shall distribute a copy to the Village President, Village Attorney, and Village Engineer. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.
- (3) **Confidential Information.** If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- (4) **Application Fee.** Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.
- (5) **Additional Information.** The Village Council may request an applicant to submit such additional information, which the Village Council deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Village Council. If the Village and the applicant cannot agree on the requirement of additional information requested by the Village, the Village or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- (6) **Previously Issued Permits.** Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the Village under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the Village to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.
- (7) **Existing Providers.** Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the Village as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the Village an application for a permit in accordance with the requirements of this chapter. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act.

(e) Issuance of Permit.

- (1) Approval or Denial. The authority to approve or deny an application for a permit is hereby retained by the Village Council. Pursuant to Section 15(3) of the Act, the Village Council shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under this chapter for access to a public right-of-way within the Village. Pursuant to Section 6(6) of the Act, the Village Clerk shall notify the MPSC when the Village Council has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Village Council shall not unreasonably deny an application for a permit.
- (2) Form of Permit. If an application for permit is approved, the Village Clerk shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.
- (3) Conditions. Pursuant to Section 15(4) of the Act, the Village Council may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (4) Bond Requirement. Pursuant to Section 15(3) of the Act, and without limitation on subsection (3) above, the Village Council may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(f) Construction/Engineering Permit. A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the Village without first obtaining a construction or engineering permit for construction within the public rights-of-way. No fee, bond, or other financial guarantee of any kind shall be charged to a telecommunication provider for such a construction or engineering permit.

(g) Conduit or Utility Poles. Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(h) Route Maps. Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the Village, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the Village. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

(i) Repair of Damage. Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the Village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations

under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(j) Establishment and Payment of Maintenance Fee. In addition to the non-refundable application fee paid to the Village set forth above, a telecommunications provider with telecommunications facilities in the Village's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.

(k) Modification of Existing Fees. In compliance with the requirements of Section 13(1) of the Act, the Village hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the Village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the Village's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The Village shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the Village's policy and intent, and upon application by a provider or discovery by the Village, shall be promptly refunded as having been charged in error.

(l) Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees above shall be void from the date the modification was made.

(m) Use of Funds. Pursuant to Section 10(4) of the Act, all amounts received by the Village from the Authority shall be used by the Village solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the Village from the authority shall be deposited into a separate account designated for that purpose.

(n) Annual Report. Pursuant to Section 10(5) of the Act, the Village Clerk shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

(o) Cable Television Operators. Pursuant to Section 13(6) of the Act, the Village shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of the Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services, unless Section 8 of the Act is found to be invalid or unconstitutional.

(p) Existing Rights. Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the Village may have under a permit issued by the Village or under a contract

between the Village and a telecommunications provider related to the use of the public rights-of-way.

(q) Compliance. The Village hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The Village shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (1) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in this chapter;
- (2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with this chapter;
- (3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with this chapter;
- (4) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the Village, in accordance with this chapter;
- (5) Notifying the MPSC when the Village has granted or denied a permit, in accordance with this chapter;
- (6) Not unreasonably denying an application for a permit, in accordance with this chapter;
- (7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in this chapter;
- (8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with this chapter;
- (9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with this chapter;
- (10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with this chapter;
- (11) Providing each telecommunications provider affected by the Village's right-of-way fees with a copy of this chapter, in accordance with this chapter;
- (12) Submitting an annual report to the Authority, in accordance with this chapter; and

- (13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with this chapter.
- (r) **Reservation of Police Powers.** Pursuant to Section 15(2) of the Act, this chapter shall not limit the Village's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the Village's authority to ensure and protect the health, safety, and welfare of the public.
- (s) **Authorized Village Officials.** The Village President or his or her designee, including but not limited to the Village Building and Zoning Administrator, are hereby designated as authorized Village officials to issue municipal civil infraction citations or municipal civil infraction violation notices for violations under this chapter.
- (t) **Municipal Civil Infraction.** A person who violates any provision of this article or the terms or conditions of a permit is responsible for a municipal civil infraction.

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Chapter 37 RESERVED

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Chapter 38 TRAFFIC AND VEHICLES

Sec. 38.1. Adoption of Uniform Traffic Code.

(a) The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated, and its provisions will be effective in the village from the effective date of the adoption of this code.

(b) References in the Uniform Traffic Code for Cities, Townships, and Villages to a “governmental unit” shall mean the Village of Leonard.

(c) Penalties. The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.

Sec. 38.2. Adoption of Michigan Vehicle Code.

(a) The Michigan Vehicle Code, Public Act 300 of 1949, as amended being MCL 257.1 to 257.923, and all future amendments and revisions to the Michigan Vehicle Code when they are effective in this state are incorporated and adopted by reference, and its provisions will be effective in this village from the effective date of the adoption of this code.

(b) References in the Michigan Vehicle Code to “local authorities” shall mean the Village of Leonard.

(c) Penalties.

(1) The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the Village may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

(2) Adoption of MCL 257.625(1)(c) (Super Drunk). The village hereby adopts by reference the provisions of MCL 257.625(1)(c) and according to MCL 66.4 and provides that a violation of that ordinance is a misdemeanor punishable by 1 or more of the following:

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

Sec. 38.3. Adoption of State Motor Carrier Safety Act.

(a) The Michigan Motor Carrier Act, Public Act No. 181 of 1963 (MCL 480.11 et seq.); and all future amendments and revisions to the Michigan Motor Carrier Safety Act when they are promulgated and effective in this state are hereby adopted by reference, and its provisions will be effective in this village from the effective date of the adoption of this code.

(b) References in code. References in the Michigan Motor Carrier Safety Act to "local authorities" shall mean the Village of Leonard.

(c) Penalties. The penalties provided by the Michigan Motor Carrier Safety Act are adopted by reference, provided, however, that the village may not enforce any provision of the Michigan Motor Carrier Act for which the maximum period of imprisonment is greater than 93 days or for which the maximum fine is greater than \$500.00.

Sec. 38.4. Snowmobile law adopted.

(a) Part 821 of the natural resources and environmental protection act, Public Act No. 451 of 1994 (MCL 324.82101 et seq.), and all future amendments and revisions to such law when they are promulgated and effective in the state are incorporated by reference, and its provisions will be effective in the village from the effective date of the adoption of this code.

(b) References in Act. References in such law to the term "local unit of government" mean the Village of Leonard.

(c) Penalties. The penalties provided by such law are adopted by reference, provided, however, that the village may not enforce any provision of such law for which the maximum period of imprisonment is greater than 93 days.

Sec. 38.5. Truck routes.

State Law reference— Size, weight and load of vehicles, MCL 257.716 et seq.

(a) Definitions incorporated by reference. The definitions found in the Uniform Traffic Code for Cities, Townships, and Villages in the state previously adopted by this chapter, and the definitions found in the state vehicle code, Public Act No. 300 of 1949 (MCL 257.1 et seq.), are hereby adopted and incorporated into this Chapter by reference.

(b) Designation of truck routes. The following streets and roads located in the village are designated as truck routes:

- (1) Rochester Road.
- (2) Leonard Road.
- (3) Gerst Road.
- (4) Forest Street.

(5) Elmwood Street.

(c) Prohibitions. Subject to certain exceptions hereinafter set forth, no person, partnership, firm, or corporation shall operate or have or cause to be operated or hauled any commercial vehicle, including motor truck, truck-tractor, or semi-trailer, having more than two axles, on any street, road, or highway in the village other than those designated herein as truck routes.

(d) Exceptions. This Chapter shall not apply to fire trucks or other emergency vehicles, public utility vehicles, county road commission vehicles, vehicles on emergency business involved in the saving of life or property, or to farm tractors incidentally moved upon a village street, road, or highway.

(e) Pickups, deliveries, and service calls. A vehicle which would otherwise be restricted to truck routes and which is making pickups, deliveries, or service calls in the village, including a vehicle going to and from construction sites, on streets other than designated truck routes shall restrict its travel on streets not designated as truck routes to a minimum and shall not be driven or moved on other than truck routes except when making pickups, deliveries, or service calls in the village. Said vehicle shall be driven in such a manner as to leave a permitted truck route and proceed to its destination or destination in the village by the most direct route from the nearest permitted truck route unless a route has been designated by the village council or traffic engineer, in which event such route so designated shall be followed, and upon completion of its pickups, deliveries, or service calls shall return to the nearest permitted truck route by the most direct route. This section shall not be interpreted as permitting a vehicle otherwise restricted to a truck route from entering the village by other than a truck route.

(f) Leaving or returning to place of business. Nothing herein contained shall prevent a truck, tractor, trailer, or semi-trailer from leaving or returning to its customary storage location at a place of business at a commercial or industrial location in the village, not on a truck route, provided the most direct route to and from a truck route is utilized.

(g) Special permits.

(1) The village council shall have authority to grant a written permit in special cases which would otherwise be in violation of the provisions of this Chapter. Said permit shall describe the vehicle, the time and dates of travel, and the route to be taken by the vehicle. The village council may restrict or prescribe conditions of operation and routes of vehicles when necessary to ensure against undue damage to the road foundations, surfaces, structures, or installations, and may require a reasonable inspection fee and such other security as may be deemed necessary to compensate for any damages caused by movement.

(2) This section shall not be deemed to preempt the statutory authority of the county road commission and state department of transportation with regard to streets and roads under their jurisdiction. Nothing in this section shall be deemed to affect the obligation of a person, partnership, firm, or corporation to secure permits required by the state department of transportation or county road commission as required by law.

(h) Signs. The Road Commission for Oakland County or the village, as appropriate, are hereby authorized and is directed to procure and post the necessary signs as required by the laws of the state to give notice of the terms of this Chapter.

(i) Authority of traffic engineer. The provisions of this Chapter shall not be interpreted as restricting the duties and powers of the traffic engineer to prohibit the use of designated streets by truck or other commercial vehicles, to impose limitations as to weight of vehicles on designated streets, or to perform such other duties or to exercise such other powers vested in him by the Uniform Traffic Code for Cities, Townships, and Villages, as previously adopted by Section 38.1 of this Chapter.

(j) Relation to zoning regulations. Nothing herein shall be construed as authorizing or legitimizing any business or operation which would otherwise be in violation of the village zoning ordinance.

(k) Penalties. Any person who violates the provisions of this article shall be guilty of a civil infraction.

Sec. 38.6. Golf Cart Operation on Village Streets

(a) Pursuant to the authority granted to the Village of Leonard by MCL 257.657a, operation of golf carts shall be permitted on Village Streets as provided in this section.

(b) Definitions.

- (1) *Driver license* means an operator's or chauffeur's license or permit issued to an individual by the Secretary of State under Chapter III of the Michigan Vehicle Code, 1949 PA 300, MCL 257.301 to MCL 257.329, as amended, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- (2) *Golf cart* means a vehicle designed for transportation while playing the game of golf.
- (3) *Maintained portion* means that portion of a road improved, designated or ordinarily used for vehicular traffic.
- (4) *Operate* means to ride in or on, or be in actual physical control of the operation of the golf cart.
- (5) *Operator* means a person who operates or is in actual physical control of the operation of a golf cart.
- (6) *Registration* means the process through which every person intending to operate a motorized golf cart on roads or streets within the Village must follow.

- (7) *Street* means a road, roadway, street or right-of-way within the Village of Leonard street system, but does not include a private road. The terms road, roadway, street and right-of-way are interchangeable.
- (8) *Sunset* and *sunrise* mean that time determined by the National Weather Service on any given day.
- (9) *Village* means the Village of Leonard, County of Oakland, State of Michigan.

(c) Operation of golf carts on Village streets.

A person may operate a golf cart on Village streets, subject to the following restrictions:

- (1) A person shall not operate a golf cart on any street unless he or she is at least 16 years old and is licensed to operate a motor vehicle.
- (2) The operator of a golf cart shall comply with the signal requirements of MCL 257.648, as amended, that apply to the operation of a vehicle.
- (3) All golf carts are required to have a red reflector on the rear of the golf cart that shall be visible from all distances up to 500 feet when in front of lawful low beams of headlamps on a motor vehicle.
- (4) The operator of a golf cart shall obey all sections pertaining to traffic in the Michigan Vehicle Code and the Uniform Traffic Code.
- (5) A person operating a golf cart upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction
- (6) Where a usable and designated path for golf carts is provided adjacent to a road or street, a person operating a golf cart shall be required to use that path. A golf cart shall not be operated on a sidewalk constructed for the use of pedestrians.
- (7) A person operating a golf cart shall not pass between lines of traffic, but may pass on the left of traffic moving in his or her direction in the case of a two-way street, or on the left or right of traffic, in an unoccupied lane, in the case of a one-way street.
- (8) A golf cart shall be operated at a speed not to exceed 15 miles per hour and shall not be operated on a roadway or street with a speed limit of more than 30 miles per hour except to cross that roadway or street. The Village may designate roads or classifications of roads for use by golf carts.
- (9) A golf cart shall not be operated on the streets of the Village during the time period from one-half hour before sunset to one-half hour after sunrise.

- (10) A person operating a golf cart or who is a passenger in a golf cart is not required to wear a crash helmet.
 - (11) A golf cart shall not be used to carry more persons at one time than the number for which it is designed and equipped.
 - (12) A golf cart operated on a street of the Village is not required to be registered under this Act for purposes of Section 3101 of the Insurance Code of 1956, 1956 PA 218, MCL 500.3101, as amended.
 - (13) A golf cart shall not be operated during weather events with snow and/or ice on the ground.
 - (14) Golf carts shall not be operated on a road or street in a negligent manner, endangering any person or property, or obstructing, hindering, or impeding the lawful course of travel of any motor vehicle or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways or parks.
 - (15) Off-road vehicles, all-terrain vehicles (ATVs), a multitrack or multi-wheel drive vehicle, dune buggy, or like-vehicles are not considered golf carts. See examples in Figure 38.6-1.
 - (16) This section does not apply to a police officer, Village officials, employees, contractors or volunteers in the performance of Village duties.
- (d) Violations and penalties.
- (1) Any person violating any provision of this section shall be responsible for a civil infraction and the penalties set forth in Section 1.8 of this Code.
 - (2) A court may order a person who causes damage to the environment, a road, or other public property as a result of the operation of a golf cart to pay full restitution for that damage above and beyond the penalties paid for civil infractions.

Sec. 38.7. Use of Engine Brakes and Exhaust Devices

- (a) Operation of Engine Brakes Declared a Nuisance.

The Village of Leonard, Oakland County, Michigan, finds that the operation of an engine brake, exhaust brake, a compression release engine device (also known as Jake Brakes or Jacobs Brakes), or other similar devices on a gasoline powered or diesel powered motor vehicle not equipped with exhaust mufflers, or equipped with defective or modified exhaust mufflers, so as to create excessive noise through the use of said engine, brake or exhaustive device, adversely affects the public health, safety and welfare of the residents of the Village of Leonard, and is a nuisance in fact.

- (b) Prohibition.

No gasoline powered or diesel-powered motor vehicle shall be operated on the streets, roads, alleys, or highways within the Village of Leonard utilizing, in said operation, an engine brake, exhaust brake, a compression release engine device (also known as Jake Brakes or Jacobs Brakes), or other similar device designed to aid in the braking or deceleration of any motor vehicle by altering the normal compression of the engine and subsequently releasing that compression that causes, in the process, excessive noise to be created by said motor vehicle.

(c) Signage.

Signs stating “ENGINE BRAKE ORDINANCE ENFORCED” may be installed at locations deemed appropriate by the Village of Leonard council to advise motorist of the prohibitions contained in this Section.

(d) Emergency Vehicles Excepted.

This article shall not apply to emergency vehicles, including, but not limited to, fire engines, ambulances, and other emergency responders.

(e) Penalty.

Any violation of this section, or any part thereof, shall be deemed a municipal civil infraction. Any driver and/or the firm of a corporation by whom the driver is employed and who shall violate any provision of this article shall be responsible for the payment of fines assessed upon a determination of responsible.

FIGURE 38.6-1

Vehicles Permitted – Golf Carts



Vehicles NOT Permitted - Off-Road Vehicles, All-Terrain Vehicles (ATVs), Multitrack or Multi-Wheel Drive Vehicle, Dune Buggy, or Like-Vehicles



Chapter 39 TRAILWAYS

Sec. 39.1. General

This chapter provides for the operation, control, and maintenance of the Polly Ann Trail and other public trailways, subject to the control of the Polly Ann Trailways Management Council established pursuant to 1967 pa 7, as amended, by the Charter Townships of Oxford and Orion, Township of Addison, and the Villages of Oxford and Leonard, and the County of Oakland, adopted in fulfillment of the purposes of 1976 PA 204, as amended, and 1982 PA 223, as amended; and to provide for the operation, control, enforcement and maintenance of the Village safety paths, sidewalks and trails, and providing penalties for the violation of its provisions.

Sec. 39.2. Title

This chapter shall be known and cited as the Village of Leonard "Uniform Trailways Chapter"; and it shall be deemed sufficient, in any action for enforcement of the provisions hereof, to define the same by such short title and by reference to the number hereof.

Sec. 39.3. Purpose

The purpose of this chapter shall be:

- (a) To further secure and protect the general welfare and safety of the citizens and other persons within the Village of Leonard.
- (b) To regulate and control the operation and maintenance of the Polly Ann Trailway property under the ownership of the Polly Ann Trailway Management Council (PATMC) established pursuant to 1967 PA 7, as amended, by the Charter Townships of Orion and Oxford, Township of Addison and the Villages of Oxford and Leonard.
- (c) To regulate and control the operation, maintenance and enforcement of all safety paths, sidewalks and trails within the Village of Leonard.
- (d) To provide for the enforcement of the provisions of this chapter.
- (e) To provide for penalties upon the violation of these provisions.

Sec. 39.4. Definitions

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section:

Motor Vehicle - Any power driven vehicle or remote controlled vehicle, whether propelled by means of wheels, tracks, runners, skis, or other means, and whether or not eligible for licensing and registration under the Michigan Motor Vehicle Code.

Person - Any individual, partnership, corporation, organization other entity.

Trail – Unless specifically stated otherwise, trail shall include Polly Ann Trailway Management Council and Michigan Department of Natural Resources land commonly referred to as the Polly Ann Trail and safety paths owned or controlled by the Village of Leonard.

Trailways - Land owned by the PATMC or Village of Leonard as more specifically described in Section 39.5 of this chapter.

Safety Paths – Land owned by the Village of Leonard or otherwise under the control of the Village and used as part of the village sidewalk system and/or path system.

Sec. 39.5. Applicability

This chapter shall apply to and be in effect for all Safety Paths located within the Village of Leonard and all Trailways owned or managed by the Michigan Department of Natural Resources or PATMC.

Sec. 39.6. Regulations and Prohibitions

(a) **Hours** - No person shall enter or occupy any area of the Trailways land or Safety Paths when it is closed, except by written permission of the PATMC and Village of Leonard. All areas shall be deemed to be open from ½ hour before sunrise to ½ hour after sunset, as determined by the U.S. Naval Observatory for Detroit, Michigan.

(b) **Alcoholic Beverages and Illegal Drugs** - It shall be unlawful for any person to bring in, have in possession, or use alcoholic beverages or illegal drugs within the Trailways land or Safety Paths.

(c) **Bicycles** - Bicycles shall not be operated on Trailways land or Safety Paths in an unsafe manner so as to endanger the operator or others. Bicycles and operators should yield right of way to pedestrians, horses and horse carriages on the Trailways. Maximum speed on the Trailways is 15 mph unless otherwise posted.

(d) **Camping** - No person shall camp or establish temporary lodging places within the boundaries of the Trailways land or Safety Paths.

(e) **Dogs and other animals** - No person shall allow a dog or other animal to run at large on the Trailways land or Safety Paths. Any person with a dog or other animal on Trailways land or Safety Paths shall, at all times, maintain and demonstrate control of the dog or animal and keep it held securely on a leash of suitable strength and length.

(f) **Disposal of Animal Waste** - It shall be unlawful for any person in control of a horse, dog, or other animal within the boundaries of Trailways land or Safety Paths to fail to pick up and remove from the improved surface of the Trailway such animal's feces, manure, or solid waste.

(g) **Emergency Powers** - Nothing in this Article shall prohibit the PATMC or its designee(s) or the Village of Leonard or its designee(s) from establishing emergency rules designed to

protect the health, welfare, and safety of Trailways or Safety Path visitors, to protect Trailways land, and Safety Paths, and to maintain order.

(h) **Fires** - No person shall start or maintain a fire within the boundaries of the Trailways land or Safety Paths.

(i) **Hunting & Weapons** - No person shall hunt, or discharge any firearm or weapon including, but not limited to, a bow or BB gun, within the Trailways land or Safety Paths.

(j) **Disposal and Littering**

(1) No person shall deposit or abandon in or on any lands or water areas within the Trailways land or Safety Paths any garbage, glass, trash, waste, sewage or other obnoxious or polluting material, except in receptacles provided for that purpose.

(2) Trailways or Safety Path users shall carry out, or dispose of in trash receptacles (barrels), their personal trash, including but not limited to, glass, plastic, Styrofoam, or paper beverage or food containers, wraps, lids or bags. Pet waste and soiled diapers shall be bagged and also may be deposited in trash receptacles.

(3) No household waste, hazardous waste or dangerous material may be deposited into the trash receptacles or upon the Trailways or Safety Path or in its waters, including but not limited to, paint, petroleum products, chemicals, cleaning supplies, flammable liquids, or construction debris.

(4) Additionally, no person shall drop, throw, place, or otherwise scatter any material, object, or substance on the Trailways Land or Safety Paths, nor shall any person not pick up and remove such material, object or substance as they may have inadvertently deposited on said premises.

(k) **Damage to Property** - No person shall injure, deface, disturb, befoul, change or remove any portion of any marker, structure, equipment, fence or any other property within the Trailways land or Safety Paths.

(l) **Natural Features** - No person shall dig for, remove, injure, prune, plant or destroy any tree, flower, shrub, plant or growing thing or any wild bird or animal, or any earth, rock or other material within the boundaries of the Trailways land or Safety Paths without written permission from the PATMC or Village of Leonard.

(m) **Closed Areas** - No person shall enter or occupy any portion of the Trailways land or Safety Paths which has been designated as *closed* to public use or entry.

(n) **Horses** - No person shall ride or lead a horse within the boundaries of the Trailways land or Safety Paths except in designated areas. Horses shall not be ridden in an unsafe manner as to endanger the rider, the horse, or other Trailways users. Horses must be held to a canter, no galloping is permitted. Horse and carriage operators must be able to reverse direction within the width of the Trailways in order to be permitted on the Trailway.

(o) **Obstruction** - No person shall locate or deposit any bicycle, equipment, or material upon the Trailways land or Safety Paths, or loiter, sit or lie upon the Trailways land or Safety Paths so as to obstruct other persons in their use of the trail.

(p) **Disorderly Conduct** - No person shall engage in any drunken, loud, boisterous, or disorderly or lewd conduct, nor shall any person or group of persons engage in any activity which shall endanger or annoy other persons or disturb the peace or good order within the boundaries of the Trailways land or Safety Paths.

(q) **Noise** - No person shall operate or play any musical instrument, radio, or other sound amplifying equipment of any kind within the boundaries of the Trailways land or Safety Paths in such a manner as to create excessive noise which disturbs the peace.

(r) **Sales** - No person shall sell or offer for sale any article, privilege or service within the Trailways land or Safety Paths without a written permit from the PATMC, or Village of Leonard for Safety Paths.

(s) **Advertising** - No person shall display, distribute or place any sign, advertisement, circular notice, or statement, or display any banner within the Trailways land or Safety Paths without a written permit from the PATMC, or Village of Leonard for Safety Paths.

(t) **Groups** - No person shall promote, arrange for, or participate in any group organized event, activity, or function occurring within the PATMC land or Safety Paths without a written permit from the PATMC or Village of Leonard for Safety Paths. The PATMC and/or Village may impose such conditions upon the issuance of such permit as it deems necessary to maintain the public use of the Trailways or Safety Path, to prevent damage to the Trailways or Safety Path or any part thereof, and to protect the public safety.

(u) **Trespass to Adjacent Lands** - No person shall go onto land adjacent to Trailways land or Safety Paths which is in private ownership, without the express permission of the landowner.

(v) **Motor Vehicles** - No person shall drive, propel or park a motor vehicle or motorized sports equipment of any nature upon the Trailways land or Safety Paths, except motor vehicles used by authorized law enforcement or maintenance personnel, or mobility disabled visitors following the Polly Ann Trailways Management Council for Other Power Driven Mobility Devices policy, except in areas specifically designated and posted for parking.

(1) **Vehicles Illegally Parked.**

a. **Citation or Impoundment** - Any motor vehicle or equipment which is parked in violation of this chapter may be issued a citation for the violation, or may be towed away and impounded as provided in this section, or both, in the discretion of the enforcement officer.

b. **Ownership; Presumption** - In the prosecution for a violation of parking a motor vehicle in violation of this chapter, proof that the particular motor vehicle described in the complaint was parked in violation of the chapter, together with proof, by verifying ownership of the motor vehicle with the

Secretary of State, that the defendant named in the complaint was at the time of the violation the registered owner of the motor vehicle, shall create in evidence a presumption that the registered owner of the motor vehicle was the person who parked or placed the motor vehicle at the point where and for the time during which the violation occurred. If it appears that the motor vehicle was at the time of the violation leased, proof that the defendant named in the complaint was the lessee of the motor vehicle at the time of the violation, shall create in evidence a presumption that the lessee of the motor vehicle, not the registered owner, was the person who parked or placed the motor vehicle at the point for the time during which the violation occurred.

- c. Parking Violations; Civil Infractions - All violations of this chapter pertaining to the parking of motor vehicles are hereby declared to be civil infractions. Authority is hereby granted for issuance of Parking Violation Notices or appearance citations, the procedure after issuance, fines to be assessed and all other provisions relating to violations of parking provisions of this chapter.

(2) Towing.

- a. Authority Granted - The Oakland County Sheriff's Department is hereby authorized to remove and tow away, or have removed and towed away by a commercial towing service, any motor vehicle parked in violation of this chapter.
- b. Impounding - Motor vehicles so towed away for illegal parking shall be stored in a safe place.
- c. Payment of Fine and Charges - Motor vehicles so towed away for illegal parking shall be restored to the owner or operator of such motor vehicle upon payment of the fine as provided in Section 39.8 and the reasonable towing and storage charges.

Sec. 39.7. Enforcement

This chapter shall be enforceable by any Deputy Sheriff of the Oakland County Sheriff's Department or any Michigan State Police Officer. Said officers shall have the authority to issue and serve appearance citations pursuant to Michigan Statute, C.L. 1979, Sec. 764.9f, as amended. In addition, the Village Council may appoint a limited duty officer who shall have authority to issue Parking Violation Notices and Complaints for vehicles illegally parked.

Sec. 39.8. Violation and Penalties

(a) A person who violates Subsections 39.6(a),(b),(e),(f),(g),(h),(j),(k)or(l) of this chapter shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500) plus costs and/or ninety (90) days in jail.

(b) A person who violates Subsections 39.6(c),(d),(i),(m),(n) or (o), upon an admission or a finding of responsibility for such violation, shall be deemed responsible for a municipal civil

infraction as that term is defined and used in MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended, and shall pay a civil fine as prescribed by this code or as determined by the district court, district court judge, or district court magistrate.

- (1) **Costs.** A person, firm, or corporation ordered to pay a fine under Subsection 39.8(b) shall be ordered by the district court judge or magistrate to pay costs of not less than Nine Dollars (\$9) or more than Five Hundred Dollars (\$500), which costs may include all expenses, direct or indirect, to which the Village of Leonard has been put in connection with the violation of the chapter up to the entry of the court's judgment or order to pay fines and costs.
- (2) **Additional Writs and Orders.** A person who admits or is found responsible for violation of this chapter shall comply with any order, writ, or judgment issued by the district court to enforce this chapter pursuant to Chapter 83 and Chapter 87, of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.
- (3) **Default on Payment of Fines and Costs.** A default in payment of a civil fine, costs, or damages, or expenses ordered under Subsection 39.8(b) or (b)(1) or an installment of the fine, costs, or damages or expenses as allowed by the court, may be collected by the Village of Leonard by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.
- (4) **Failure to Comply with Judgment or Order.** If a defendant fails to comply with an order or judgement issued pursuant to this section within the time prescribed by the court, the court may proceed under Subsection 39.8(b)(6) below.
- (5) **Failure to Appear in Court.** A defendant who fails to answer a citation or notice to appear in court for a violation of this chapter is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500) plus costs and/or imprisonment not to exceed ninety (90) days.
- (6) **Civil Contempt.**
 - a. If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Village of Leonard or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
 - b. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.

- c. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
- d. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, or damages or expenses.
- e. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one (1) day for each Thirty Dollars (\$30) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.
- f. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:
 - 1. Defendant is credited with an amount due pursuant to Subsection 39.8(b)(6)(e).
 - 2. The amount due is collected through execution of process or otherwise.
 - 3. The amount due is satisfied pursuant to a combination of Subdivisions 39.8(b)(6)(f)(1) and (2).
- g. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection 39.8(6)(f).

(c) Violation of Subsection 39.6(p).

- (1) A person who violates Subsection 39.6(p) of this chapter by the operation of a vehicle shall be deemed responsible for committing a municipal civil infraction and may be subject to penalties specified in Subsection 39.8(b) of this chapter as well as those specified in this subsection.
- (2) An authorized local official may seize and impound a vehicle operated in the commission of a municipal infraction in violation of this chapter. Upon impoundment, the vehicle is subject to a lien subordinate to a prior lien of record, and the amount of any fine and cost the defendant may be ordered to pay under Subsection 39.8(b) and any expenses the defendant may be ordered to pay under Subsection 39.8(c). The defendant or a person with an ownership interest in the

vehicle may post with the court a cash or surety bond in the amount of Seven Hundred Fifty Dollars (\$750.00). If such bond is posted, the vehicle shall be released from impoundment. The vehicle shall also be released, and the lien shall be discharged, upon a judicial determination that the defendant is not responsible for the municipal civil infraction or upon payment of the fine, costs, damages, and expenses.

- (3) A person who is found or admits responsibility to a municipal civil infraction may be ordered by the court to pay one or both of the following:
 - a. The amount of damages to any land, water, wildlife, vegetation, or other natural resource or to any facility damaged by the violation of the chapter. Money collected under this subsection shall be distributed to Village of Leonard.
 - b. The reasonable expenses of impoundment. Money collected under this subsection shall be distributed to Village of Leonard.
- (4) If the court determines the defendant is responsible for a municipal civil infraction and the defendant defaults on the payment of the fines, costs, damages, or expenses or in any installment as ordered pursuant to this chapter, any bond posted under this section shall be forfeited and applied to the fines, costs, damages, expenses, or installment. The court shall certify any remaining unpaid amount to the township attorney for the Village of Leonard. The Village attorney for the Village of Leonard may enforce the lien by a foreclosure sale. The foreclosure sale shall be conducted in the manner provided and subject to the same rights as apply in the case of execution sales under Section 6031, 6032, 6041, 6042, and 6044-6047 of the Revised Judicature Act of 1961, Act No. 236 of the Public Acts of 1961, being Section 600.6031, 600.6032, 600.6041, 600.6042, and 600.6044-600.6047 of the Michigan Compiled Laws.
- (5) Not less than twenty-one (21) days before the foreclosure sale, the attorney for the Village of Leonard shall, by certified mail, send written notice of the time and place of the foreclosure sale to each person with a known ownership interest and/or lien of record on the vehicle. In addition, not less than ten (10) days before the foreclosure sale, the attorney shall twice publish notice of the time and place of the foreclosure sale in a newspaper of general circulation in the county in which the vehicle was seized. The proceeds of the foreclosure sale shall be distributed in the following order of priority:
 - a. To discharge any lien on the vehicle that was recorded prior to the creation of the lien under this chapter.
 - b. To the clerk of the court for payment of the fines, costs, damages, and expenses the defendant was ordered to pay under this chapter.
 - c. To discharge any lien on the vehicle that was recorded after the creation of the lien under this chapter.

- d. To the owner of the vehicle.
- (6) An authorized local official issuing a citation for a municipal civil infraction shall require the defendant to appear at a formal hearing if either or both of the following apply:
- a. The municipal civil infraction caused damage to a natural resource or a facility.
 - b. The authorized local official impounds the vehicle.
- (7) **Parking Violations.** A violation of Subsection 39.6(p) of this chapter which involves the parking of a vehicle shall be a municipal civil infraction punishable as provided in Subsection 39.8(b) of this chapter and the following provisions shall be applicable:
- a. The vehicle may be removed by a law enforcement official by the impoundment of the vehicle. Before the owner or person in charge of such impounded vehicle shall be permitted to remove the same from the custody of the Village, he or she shall:
 - 1. Furnish evidence of his or her identity and/or ownership.
 - 2. Sign a receipt for the vehicle
 - 3. Pay reasonable and customary fees (minimum of Twenty-Five Dollars(\$25)) to cover the cost of removal and storage.
 - 4. Pay an additional storage fee of Five Dollars (\$5) per day for each day after the first twenty-four (24) hours the vehicle remains in the Village's custody.
 - b. Any such impounded vehicle unclaimed after six (6) months may be sold at public auction.

Sec. 39.9. INJUNCTIVE RELIEF

The Village may, in addition to the other remedies provided herein for violation of this Ordinance, enforce this Ordinance by seeking and obtaining equitable or injunctive relief from a court of competent jurisdiction.

Chapter 40 UTILITIES

Sec. 40.1. GRANT and TERM.

(a) The Village of Leonard, Oakland County Michigan, hereinafter “Village”, hereby grants to Consumers Energy Company, its successors and assigns, hereinafter called “Consumers” the right and authority to lay, maintain and commercially operate gas lines and facilities including but not limited to mains, pipes, services and valves on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local gas business in the Village of Leonard, Oakland County Michigan, for a period of thirty years.

Sec. 40.2. CONDITIONS.

(a) No public place used by Consumers shall be obstructed longer than necessary during construction or repair, and shall be restored to the same order and condition as when work was commenced. All of Consumers’ gas lines and related facilities shall be placed as not to unnecessarily interfere with the public’s use of public places. Consumers shall have the right to trim or remove trees if necessary in the conducting of such business.

Sec. 40.3. HOLD HARMLESS.

(a) Consumers shall save the village free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the lines and related facilities hereby authorized. In case any action is commenced against the Village on account of the permission herein given, Consumers shall, upon notice, defend the Village and its representatives and hold them harmless from all loss, costs and damage arising out of such negligent construction and maintenance.

Sec. 40.4. EXTENSIONS.

(a) Consumers shall construct and extend its gas distribution system within said Village, and shall furnish gas service to applicants residing therein in accordance with applicable laws, rules and regulations.

Sec. 40.5. FRANCHISE NOT EXCLUSIVE.

(a) The rights, power and authority herein granted, are not exclusive.

Sec. 40.6. RATES and CONDITIONS.

(a) Consumers shall be entitled to provide gas service to the inhabitants of the Village at the rates and pursuant to the conditions as approved by the Michigan Public Service Commission. Such rates and conditions shall be subject to review and change upon petition to the Michigan Public Service Commission.

Sec. 40.7. REVOCATION.

(a) The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by either party. Upon revocation this ordinance shall be considered repealed and of no effect past, present or future, except with respect to those obligations set forth in Section 40.3 hereof which shall survive revocation and continue in effect.

Sec. 40.8. MICHIGAN PUBLIC SERVICE COMMISSION JURISDICTION.

(a) Consumers remains subject to the reasonable rules and regulations of the Michigan Public Service Commission applicable to gas service in the Village and those rules and regulations preempt any term of any ordinance of the Village to the contrary.

Sec. 40.9. REPEALER.

(a) This ordinance, when enacted, shall repeal and supersede the provisions of any previous Consumers' gas franchise ordinance adopted by the Village including any amendments.

(b) Appendix A of the Code of Ordinances, Village of Leonard, Oakland County, Michigan, is hereby repealed in its entirety.

Chapter 41 RESERVED

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Chapter 42 WATERWAYS (RESERVED)

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APPENDIX A FRANCHISES

*Printed herein is the franchise granted by the village that is still in effect. For stylistic purposes, a uniform system of headings, catchlines, and capitalization has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets.

Sec. A-1. Title.

[This Ordinance shall be known as the Village of Leonard Ordinance No. 23 Consumer Power Company Gas Franchise.]

Sec. A-2. Purpose.

[The purpose of this Ordinance is to grant] to Consumers Power Company, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the Village of Leonard, Oakland County, Michigan, for a period of thirty years.

Sec. A-3. Grant Term.

The Village of Leonard, Oakland County, Michigan, hereby grants to the Consumers Power Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the Village of Leonard, Oakland County, Michigan for a period of thirty years.

Sec. A-4. Consideration.

In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

Sec. A-5. Conditions.

No highway, street, alley, bridge or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's pipes and mains shall be so placed in the highways and other public places as not to unnecessarily interfere with the use thereof for highway purposes.

Sec. A-6. Hold Harmless.

Said Grantee shall at all times keep and save the Village free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the Village on account of the permission herein given, said Grantee shall, upon notice, defend the Village and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

Sec. A-7. Extensions.

Said Grantee shall construct and extend its gas distribution system within said Village, and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

Sec. A-8. Franchise Not Exclusive.

The rights, power and authority herein granted, are not exclusive. Either manufactured or natural gas may be furnished hereunder.

Sec. A-9. Rates.

Said Grantee shall be entitled to charge the inhabitants of said Village for gas furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said Village, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Village, acting by its Village Council, or by said Grantee.

Sec. A-10. Revocation.

The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

Sec. A-11. Michigan Public Service Commission Jurisdiction.

Said-Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said Village.

Sec. A-12. Effective Date.

This ordinance shall take effect upon the date after publication, provided however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Village Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said Village and said Grantee.

[The foregoing ordinance was duly enacted by the Village Council of the Village of Leonard, Oakland County, Michigan, on the 29th of December 1991.]