

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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GENERAL PROVISIONS

' 10.01 HOW CODE DESIGNATED AND CITED.

This code shall constitute and be designated as the AThe Village of Port Sanilac Code@.

' 10.02 DEFINITIONS.

(A) Terms used in this code, unless otherwise specifically defined, have the meanings prescribed by the statutes of the state for the same terms.

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

CIVIL INFRACTION. An act or omission that is prohibited by this code or any ordinance of the village, but which is not a crime under this code or any other ordinance of the village, and for which civil sanctions, including without limitation, fines, damages, expenses and costs may be ordered, as authorized by Ch. 87 of Public Act 236 of 1961, being M.C.L. ' ' 600.8701 through 600.8735, as amended. A municipal ***CIVIL INFRACTION*** is not a lesser included offense of any criminal offense in this code.

CODE. The Village of Port Sanilac Village Code, as designated in ' 10.01.

COMPUTATION OF TIME. The time within which an act is to be done, as provided in this code or in any order issued pursuant to this code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Sunday or a legal holiday it shall be excluded; and when the time is expressed in hours, the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded.

COUNCIL. The Village Council of Port Sanilac, Michigan.

COUNTY. The County of Sanilac, Michigan.

JUVENILE. Any person under 17 years of age.

MINOR. A person under 21 years of age.

OFFICER, DEPARTMENT, BOARD AND THE LIKE. Whenever any officer, department, board or other public agency is referred to by title only, the reference shall be construed as if followed by the words Aof the Village of Port Sanilac, Michigan@. Whenever, by the provisions of this code, any officer of the village is assigned any duty or empowered to perform any act or duty, reference to the ***OFFICER*** shall mean and include the officer or his or her deputy or authorized subordinate.

ORDINANCES. The ordinances of Port Sanilac and all amendments thereto.

PERSON. Any natural individual, firm, trust, partnership, association or corporation. Whenever the word **PERSON** is used in any section of this code prescribing a penalty or fine, as applied to partnerships or associations, the word includes the partners or members thereof and, as applied to corporations, the word includes officers, agents or employees thereof who are responsible for any violations of the section. The singular includes the plural. The masculine gender includes the feminine and neuter genders.

PUBLIC PLACE. Any place to or upon which the public resorts or travels, whether such place is owned or controlled by the village or any agency of the state or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied. The term **PUBLIC PLACE** shall include any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

SIDEWALK. The portion of a street, between the curb-lines or lateral lines and the right-of-way lines, which is intended for the use of pedestrians.

STATE. The State of Michigan.

STREET, HIGHWAY AND ALLEY. The entire width, subject to an easement for public right-of-way or owned in fee by the village, county or state, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public, as a matter of right, for purposes of public travel. The word **ALLEY** shall mean any such way or place providing a secondary means of ingress and egress from a property.

VILLAGE. The Village of Port Sanilac, Michigan.
(1989 Code, ' 1.010)

' 10.03 SECTION CATCHLINES AND OTHER HEADINGS.

The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of the sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or reenacted. No provision of this code shall be held invalid by reason of deficiency in any catchline or in any heading or title to any chapter, subchapter or division.

' 10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.

Nothing in this code or the ordinance adopting this code shall affect any ordinance not in conflict with or inconsistent with this code, as follows:

(A) Promising or guaranteeing the payment of money for the village, authorizing the issuance of any bonds of the village, any evidence of the village's indebtedness, any contract or obligations assumed by the village;

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(B) Containing any administrative provisions of the Village Council;

(C) Granting any right or franchise;

(D) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating and the like, any street or public way in the village;

(E) Making any appropriation;

(F) Levying or imposing taxes;

(G) Establishing or prescribing grades in the village;

(H) Providing for local improvements and assessing taxes therefore;

(I) Dedicating or accepting any plat or subdivision in the village;

(J) Extending or contracting the boundaries of the village;

(K) Prescribing the number, classification or compensation of any village officers or employees;

(L) Prescribing specific parking restrictions, no parking zones, specific speed zones, parking meter zones and specific stop or yield intersections or other traffic ordinances pertaining to specific streets;

(M) Pertaining to re-zoning; and

(N) Any other ordinance, or part thereof, which is not of a general and permanent nature; and all ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code. The ordinances are on file in the Village Comptroller=s office.

' 10.05 CONTINUATION OF ORDINANCES.

The provisions of this code, so far as they are the same in substance as those of heretofore existing ordinances, shall be construed as a continuation of these ordinances and not as new enactments.

' 10.06 PRIOR RIGHTS, OFFENSES AND THE LIKE.

Any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time of adoption of this code, shall not be affected by the adoption, but may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if the adoption had not been effected.

' 10.07 ORDINANCES REPEALED NOT REENACTED.

(A) No ordinance or part of any ordinance heretofore repealed shall be considered re-ordained or reenacted by virtue of this code, unless specifically reenacted.

(B) The repeal of any curative or validating ordinances shall not impair or affect any cure or validation already effected thereby.

' 10.08 AMENDMENTS TO CODE.

(A) Amendments to any of the provisions of this code shall be made by amending the provisions by specific reference to the section number of this code in the following language: AThat section _____ of the Village of Port Sanilac Code, is hereby amended to read as follows: ...@ The new provisions shall then be set out in full as desired.

(B) If a new section not heretofore existing in the code is to be added, the following language shall be used: AThat the Village of Port Sanilac Code is hereby amended by adding a section, to be numbered _____, which the section reads as follows: ...@ The new section shall then be set out in full as desired.

' 10.09 SUPPLEMENTATION OF CODE.

(A) By contract or by village personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the Village Council. A supplement to the code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(B) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by the omission thereof from reprinted pages.

(C) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate divisions;

(2) Provide appropriate catchlines, headings and titles for sections and other divisions of the code printed in the supplement, and make changes in catchlines, headings and titles;

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(3) Assign appropriate numbers to sections and other divisions to be inserted in the code and, where necessary, to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter", "this subchapter", "this division" and the like, as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code); and

(5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

' 10.10 APPEARANCE TICKETS.

The following public servants are hereby authorized to issue and serve appearance tickets with respect to ordinances of the village, as provided by Public Act 147 of 1968, being M.C.L. ' ' 764.9a through 764.9e, as amended, when the public servant has reasonable cause to believe that a person has committed an offense in violation of a village ordinance: Director of Public Safety.

' 10.11 SEPARABILITY OF PROVISIONS.

Each section, division, sentence, clause and provision of this code is separable and if any provision shall be held unconstitutional or invalid for any reason, the decision shall not affect the remainder of this code, or any part thereof, other than that part affected by the decision.

CIVIL INFRACTIONS

' 10.25 DEFINITIONS.

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

ACT. The State Revised Judicature Act, Public Act 236 of 1961, as amended, being M.C.L. ' ' 600.101 et seq.

AUTHORIZED VILLAGE OFFICIAL. A police officer or other personnel of the village authorized by this code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

BUREAU. The Village of Port Sanilac Municipal Ordinance Violations Bureau as established by ' 10.29 of this chapter.

MUNICIPAL CIVIL INFRACTION ACTION. A written complaint or notice prepared by an authorized village official, directing a person to appear in court regarding the occurrences or existence or a municipal civil infraction violation by the person cited.

MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE. A written notice prepared by an authorized village official.

(1989 Code, ' 6.1000) (Ord. passed 10-1-2013)

' 10.26 MUNICIPAL CIVIL INFRACTION ACTION.

A municipal civil infraction action may be commenced upon the issuance by an authorized official of:

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

(B) A municipal civil infraction violation notice directing the alleged violator to appear at the Municipal Ordinance Violations Bureau.

(1989 Code, ' 6.2000) (Ord. passed 10-1-2013)

' 10.27 CITATION ISSUANCE AND SERVICE.

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

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

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

(C) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the village and issued to the alleged violator as provided by Public Act 236 of 1961, M.C.L. ' 600.8705.

(D) A citation for a municipal civil infraction signed by an authorized village official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: AI declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief.@

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

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

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

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

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

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

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

(1989 Code, ' 6.3000) (Ord. passed 10-1-2013)

' 10.28 CONTENTS OF CITATIONS.

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

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

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

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

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

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

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

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

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

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

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

(4) At an informal hearing, the alleged violators must appear in person before a judge or District Court magistrate, without the opportunity of being represented by an attorney.

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

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

(1989 Code, ' 6.4000) (Ord. passed 10-1-2013)

' 10.29 ORDINANCE VIOLATIONS BUREAU.

(A) *Bureau established.* The village hereby establishes a Municipal Ordinance Violations Bureau (ABureau@), as authorized under Public Act 236 of 1961, M.C.L. ' 600.8396, to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized village officials, and to collect and retain civil fines and costs as prescribed by this code or any ordinance.

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

(C) *Disposition of violations.* The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as

opposed to a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this subchapter shall prevent or restrict an official of the village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction

(D) *Bureau limited to accepting admissions of responsibility.* The scope of the Bureau=s authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no matter shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation. No person shall be required to dispose of a municipal civil infraction violation at the Bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person=s rights, privileges and protection according to law.

(E) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as provided for citations as provided in ' 10.27(F) and (G) of this chapter. In addition to any other information required by this code or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the telephone number of the Bureau, hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation and the consequences for failure to appear and pay the required fine within the required time.

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

(G) *Procedure where admission of responsibility not made or fine not paid.* If an authorized village official issues and serves a municipal ordinance and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a municipal civil infraction citation may be filed with the District Court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator=s last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Public Act 236 of 1961, M.C.L. ' ' 600.8705 and 600.8709, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(1989 Code, ' 6.5000) (Ord. passed 10-1-2013)

' 10.99 GENERAL PENALTY.

(A) (1) Unless another penalty is expressly provided by this code for any particular provision or

section, every person convicted of a violation of any provision of this code or any rule or regulation adopted or issued in pursuance thereof shall be punished by a fine of not more than \$500 and costs of prosecution or by imprisonment for not more than 90 days or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this code, whether or not such penalty is re-enacted in the amendatory ordinance.

(2) The list of municipal civil infraction violation fines are located in the Village of Port Sanilac Annual Fee Schedule, which is set out below.

<i>Village of Port Sanilac Annual Fee Schedule</i>						
	<i>Code Section(s)</i>	<i>Fee/Fine</i>	<i>Imprisonment</i>	<i>1989 Code Section</i>	<i>Ord. No.</i>	<i>Date Passed</i>
<i>Social Security Number Privacy Policy</i>	32.15 C 32.18	\$500 plus costs of prosecution	90 days	C	07-01	2-20-2007
<i>Public Safety</i>	Ch. 34	Subject to ' 10.99(A)	Subject to ' 10.99(A)	C	C	9-18-2012
<i>Garbage and Trash</i>	Ch. 50	Subject to ' 10.99(A)	Subject to ' 10.99(A)	13.060	09-04 C C	6-16-2009 6-7-2011 10-1-2013
<i>Water</i>	Ch. 51	Grade 4 civil infraction		App. C, 11.010	C	C
<i>Sewers</i>	52.01C52.06	Not more than \$100 plus costs of prosecution	Not more than 30 days	App. B, 8.000	C	C
<i>Sewer use charges</i>						
Churches	Ch. 52	1 sewer use charge for each 100 pews	C	App. A. Schd.	C	C
Commercial	Ch. 52	1 sewer use charge for each business unless unusual sewer capacity is required in which case the Village Council shall set the sewer use charge	C	App. A. Schd.	C	C
Dance Hall	Ch. 52	1 sewer use charge for each 10 persons, based on maximum capacity of the hall	C	App. A. Schd.	C	C
		1 sewer use		App. A.		

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<i>Village of Port Sanilac Annual Fee Schedule</i>						
	<i>Code Section(s)</i>	<i>Fee/Fine</i>	<i>Imprisonment</i>	<i>1989 Code Section</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Industrial	Ch. 52	charge for each 10 employees	C	Schd.	C	C
Mobile Home Parks	Ch. 52	1 sewer use charge for each home site	C	App. A. Schd.	C	C
Motel	Ch. 52	1 sewer use charge for each 2 motel units; if 1 unit is occupied by the manager, it shall be considered as a residential unit	C	App. A. Schd.	C	C
Recreation Center	Ch. 52	1 sewer use charge for each 20 persons, based on normal use of building	C	App. A. Schd.	C	C
Schools	Ch. 52	1 sewer use charge for each 20 pupils and teachers	C	App. A. Schd.		
Two-family or Multiple-family apartments	Ch. 52	1 sewer use charge for each residential unit	C	App. A. Schd.	C	C
<i>Uniform Traffic Code</i>	Ch. 70, 70.05	5.15(3) PENALTY: violation of subsection (1), (1a) or (2) of this section may be punished not less than \$50 nor more than \$500 plus actual costs of prosecution.	Not more than 90 days	28.040	C	C
<i>Rental Dwellings</i>	Ch. 110	Any violation of this chapter is hereby declared to be a nuisance. In addition to any other relief provided by this chapter, the Village Attorney may apply to a court of competent jurisdiction for an injunction to		22.10.01		

<i>Village of Port Sanilac Annual Fee Schedule</i>						
	<i>Code Section(s)</i>	<i>Fee/Fine</i>	<i>Imprisonment</i>	<i>1989 Code Section</i>	<i>Ord. No.</i>	<i>Date Passed</i>
		prohibit the continuation of any violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction or permanent injunction. Grade C civil violation for each offense		22.11.01	C	C
<i>Farmers= Markets</i>	Ch. 111	Temporary or permanent expulsion from the use of the Farmers= Market for violating any rule as laid out in the Farmers= Market agreement	C	12.07.00	C 02-5 10-02 11-02	11-12-2002 11-17-2002 3-2-2010 5-3-2011
<i>Alcohol; Minors</i>	112.20	Subject to ' 10.99(A)	Subject to ' 10.99(A)	2.016	C 08-6	2-26-1985 1-20-2009
<i>Peddlers and Auctioneers</i>	Ch. 113	Subject to ' 10.99(A)	Subject to ' 10.99(A)	20.100	C	C
<i>Offenses Against Order and Decency</i>	Ch. 130	Subject to ' 10.99(A)	Subject to ' 10.99(A)	18.120	C	2-26-1985
<i>Building Regulations; Construction</i>	150.01C150.10	Grade 1 infraction		1A.10.00	02-1 13-06	5-14-2002 10-1-2013
<i>Streets; Alleys; Rights-of-Way; Sidewalks; Snow Removal</i>	Ch. 151	Subject to ' 10.99(A)	Subject to ' 10.99(A)	23.180	C	C

(B) In addition to the penalties provided in division (A)(1) above, the village may enjoin or abate any violation of this code by appropriate action.

(1989 Code, ' 1.050)

(Ord. passed 10-1-2013)