

CODIFIED ORDINANCES OF SHELBY

PART EIGHT - BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

Chap. 810. Cable Television.

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CHAPTER 810

Cable Television

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CROSS REFERENCES

Construction and maintenance of facilities - see
M.C.L.A. §§247.183 et seq.
Television and radio generally - see M.C.L.A.
§§484.301 et seq., 750.507 et seq.
Cables improperly located; insurance - see
M.C.L.A. §500.3123
Franchises - see ADM. Ch. 208

810.01 PURPOSE; INTERPRETATION.

The purpose of this chapter is to adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation, and to prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the Village. This chapter shall be implemented and interpreted consistent with the Act and FCC Rules.

(Ord. 169. Passed 10-6-93.)

810.02 DEFINITIONS.

For purposes of this chapter, "Act" shall mean the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, P.L. 103-385), and as may be amended from time to time; "FCC" shall mean the Federal Communications Commission; "FCC Rules" shall mean all rules of the FCC promulgated from time to time pursuant to the Act; "basic cable service" shall mean "basic service" as defined in the FCC Rules, and any other cable television service which is subject to rate regulation by the Village pursuant to the Act and the FCC Rules; "associated equipment" shall mean all equipment and services subject to regulation pursuant to 47 CFR §76.923; and an "increase" in rates shall mean an increase in rates or a decrease in programming or customer services as provided in the FCC Rules. All other words and phrases used in this chapter shall have the same meaning as defined in the Act and the FCC Rules.

(Ord. 169. Passed 10-6-93.)

810.03 RATE REGULATIONS PROMULGATED BY FCC.

In connection with the regulation of rates for basic cable service and associated equipment, the Village of Shelby shall follow all FCC Rules.

(Ord. 169. Passed 10-6-93.)

810.04 FILING OF RATE SCHEDULE; ADDITIONAL INFORMATION;
BURDEN OF PROOF.

(a) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC Rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC Rules. The cable operator shall file ten copies of the schedule or proposed increase with the Village Clerk. For purposes of this chapter, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the Village Clerk. The Village Council may, by resolution or otherwise, adopt rules and regulations as allowed by law prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

(b) In addition to information and data required by rules and regulations of the Village pursuant to subsection (a) hereof, a cable operator shall provide all information requested by the Village President that is related and helpful in connection with the Village's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The Village President may establish reasonable deadlines for submission of the requested information and the cable operator shall comply with such deadlines.

(c) A cable operator has the burden of proving that its schedule of rates for the basic tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC Rules, including, without limitation, 47 U.S.C. §543 and 47 CFR §§76.922 and 76.923.

(Ord. 169. Passed 10-6-93.)

810.05 PROPRIETARY INFORMATION.

(a) If this chapter, any rules or regulations adopted by the Village pursuant to Section 810.04(a), or any request for information pursuant to Section 810.04(b), requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the Village determines that the preponderance of the evidence shows that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. §522. The Village shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

(b) Any interested party may file a request to inspect material withheld as proprietary with the Village. The Village shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may

grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with the appropriate forum. Disclosure will be stayed pending resolution of any appeal.

(c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality, including, without limitation, 47 CFR §0.459.

(Ord. 169. Passed 10-6-93.)

810.06 PUBLIC NOTICE RE INITIAL REVIEW OF RATES.

Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to Section 810.04(a), the Village Clerk shall publish a public notice in a newspaper of general circulation in the Village which shall state that the filing has been received by the Village Clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying, and that interested parties are encouraged to submit written comments on the filing to the Village Clerk not later than seven days after the public notice is published. The Village Clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the Village Council, then the Village Clerk shall mail a copy of the report by first-class mail to the cable operator at least three days before the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase.

(Ord. 169. Passed 10-6-93.)

810.07 TOLLING ORDER.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after thirty days from the date of filing under Section 810.04(a), unless the Village Council (or other properly authorized body or official) tolls the thirty day deadline pursuant to 47 CFR §76.933 by issuing a brief written order, by resolution or otherwise), within thirty days of the date of filing. The Village Council may toll the thirty day deadline for an additional ninety days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showing.

(Ord. 169. Passed 10-6-93.)

810.08 PUBLIC NOTICE OF HEARING ON RATES FOLLOWING TOLLING OF DEADLINE.

If a written order has been issued pursuant to Section 810.07 and 47 CFR §76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the Village any additional information required or requested pursuant to Section 810.04. In addition, the Village Council shall hold a public hearing to consider the comments of interested parties within the additional ninety-day or 150-day period, as the case may be. The Village Clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the Village which shall state the date, time, and place at which the hearing shall be held; that interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates; and that copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the Village Clerk. The public notice shall be published not less than fifteen days before the hearing. In addition, the Village Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than fifteen days before the hearing. (Ord. 169. Passed 10-6-93.)

810.09 REPORT AND RECOMMENDATION; WRITTEN RESPONSE.

Following the public hearing, the Village President shall cause a report to be prepared for the Village Council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the Village Council pursuant to Section 810.10. The Village Clerk shall mail a copy of the report to the cable operator by first-class mail not less than twenty days before the Village Council acts under Section 810.10. The cable operator may file a written response to the report with the Village Clerk. If at least ten copies of the response are filed by the cable operator with the Village Clerk within ten days after the report is mailed to the cable operator, the Village Clerk shall forward it to the Village Council. (Ord. 169. Passed 10-6-93.)

810.10 RATE DECISIONS AND ORDERS.

The Village Council shall issue a written order, by resolution or otherwise, which, in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC Rules.

If the Village Council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this section shall be issued within ninety days of the tolling order under Section 810.07 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under Section 810.07 in all cases involving a cost-of-service showing. (Ord. 169. Passed 10-6-93.)

810.11 REFUNDS; NOTICES.

The Village Council may order a refund to subscribers as provided in 47 CFR §76.942. Before the Village Council orders any refund to subscribers, the Village Clerk shall give at least seven days written notice to the cable operator by first-class mail of the date, time, and place at which the Village Council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the Village Council. (Ord. 169. Passed 10-6-93.)

810.12 WRITTEN DECISIONS; PUBLIC NOTICE.

Any order of the Village Council pursuant to Section 810.10 or Section 810.11 shall be in writing, shall be effective upon adoption by the Village Council, and shall be deemed released to the public upon adoption. The Village Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the Village which shall summarize the written decision and state that copies of the text of the written decision are available for inspection or copying from the office of the Village Clerk. In addition, the Village Clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail. (Ord. 169. Passed 10-6-93.)

810.13 RULES AND REGULATIONS.

In addition to rules promulgated pursuant to Section 810.04, the Village Council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC Rules. (Ord. 169. Passed 10-6-93.)

810.14 FAILURE TO GIVE NOTICE.

The failure of the Village Clerk to give the notices or to mail copies of reports as required by this chapter, shall not invalidate the decisions or proceedings of the Village Council so long as there is substantial compliance with this chapter. (Ord. 169. Passed 10-6-93.)

810.15 ADDITIONAL HEARINGS.

In addition to the requirements of this chapter, the Village Council may, in its sole discretion, hold additional public hearings upon such reasonable notice as the Village Council shall prescribe.

(Ord. 169. Passed 10-6-93.)

810.16 ADDITIONAL POWERS.

The Village shall possess all powers conferred by the Act, the FCC Rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC Rules, and this chapter, shall be in addition to powers conferred by law or otherwise. The Village may take any action not prohibited by the Act and the FCC Rules to protect the public interest in connection with basic cable service rate regulation.

(Ord. 169. Passed 10-6-93.)

810.17 FAILURE TO COMPLY; REMEDIES.

The Village may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the Village) for failure to comply with the Act, the FCC Rules, any orders or determinations of the Village pursuant to this chapter, any requirements of this chapter, or any rules or regulations promulgated hereunder. Subject to applicable law, failure to comply with the Act, the FCC Rules, any orders or determinations of the Village pursuant to this chapter, any requirements of this chapter, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

(Ord. 169. Passed 10-6-93.)

810.18 CONFLICTING PROVISIONS.

In the event of any conflict between this chapter and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, the provisions of this chapter shall control.

(Ord. 169. Passed 10-6-93.)

CHAPTER 812
Casual Sales

- 812.01 Purpose; intent.
- 812.02 Casual sale defined.
- 812.03 Limits on number and time of sales.

812.04 Signs.
812.05 Exceptions.
812.99 Penalty.

CROSS REFERENCES

Hawkers, peddlers and transient merchants generally - see
M.C.L.A. §§445.371 et seq.
Secondhand dealers - see M.C.L.A. §§445.401 et seq.
Peddlers and solicitors - see B.R. & T. Ch. 850

812.01 PURPOSE; INTENT.

It is the intent of this chapter to regulate the term and frequency of personal property sales within residential areas so that the residential environment of such areas is not disturbed or disrupted, and to prohibit the infringement of any businesses into such established areas.

(Ord. 155. Passed 1-23-78.)

812.02 CASUAL SALE DEFINED.

For the purpose of this chapter, the terms "garage sale", "yard sale", "basement sale" and "rummage sale", including any similar terms, such as "attic sale", "lawn sale", "flea market sale", etc., shall mean any casual sale of tangible personal property, whether used, secondhand, damaged or discarded, not otherwise regulated in the ordinances of the Village of Shelby, advertised by any means whereby the public at large is or can be aware of such sale.

(Ord. 155. Passed 1-23-78.)

812.03 LIMITS ON NUMBER AND TIME OF SALES.

No person, organization, corporation, partnership or association of whatever description, shall conduct in excess of four casual sales, as defined in this chapter, within one calendar year. No sale as herein defined shall exceed three consecutive days.

(Ord. 155. Passed 1-23-78.)

812.04 SIGNS.

One sign may be erected advertising a sale on the premises of the sale and must be removed immediately at the end of the sale.

(a) Said sign shall not be in excess of six square feet and shall not be illuminated in any manner whatsoever except incidentally by street lights or house lights.

(b) Three signs may be erected upon a main thoroughfare of the Village and remain only during the duration of the sale, provided that the adjacent property owner consents to the placement of such sign.

(c) Under no circumstances shall any sign be attached to any tree within the Village easements or rights of way, or to any Village building or fixture.

(Ord. 155. Passed 1-23-78.)

812.05 EXCEPTIONS.

The provisions of this chapter shall not apply to or affect the following persons or sales:

(a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(b) Persons selling or advertising for sale an item or items of property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

(Ord. 155. Passed 1-23-78.)

812.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 850
Peddlers and Solicitors

- 850.01 Declaration of nuisance; abatement.
- 850.02 License required for sales from fixed locations.

850.99 Penalty.

CROSS REFERENCES

Authority of Council re licensing generally - see CHTR.

Ch. VII, §2

Hawkers, peddlers and transient merchants generally -

see M.C.L.A. §§445.371 et seq.

Secondhand dealers - see M.C.L.A. §§445.401 et seq.

Casual sales - see B.R. & T. Ch. 812

Transient traders and dealers - see B.R. & T. Ch. 860

850.01 DECLARATION OF NUISANCE; ABATEMENT.

(a) The practice of going in and upon private residences in the Village of Shelby, by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited to do so by the owner or owners, occupant or occupants, of such private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, and/or for the purpose of disposing of and/or peddling or hawking the same; the practice of ringing door bells, knocking at doors, and the use of other means for gaining entrance into such private residences by such persons for any of the purposes aforesaid; and the practice of soliciting clerks, employees and other persons in any of the stores, offices and other places of business in the Village of Shelby, for orders for merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, by any such solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, during business hours, without having been invited or requested to do so by the proprietors or those in charge of such places of business, are, and each of them is, hereby declared to be a nuisance and prohibited.

(b) The Chief of Police and all other police officers of the Village of Shelby are hereby required and directed to suppress and abate any nuisance described in this section by forthwith arresting any person creating such a nuisance and taking such person before a magistrate to be dealt with as required by law.
(Ord. 76. Passed 8-27-34.)

850.02 LICENSE REQUIRED FOR SALES FROM FIXED LOCATIONS.

(a) Selling From Stands, Counters, Tables. No hawker or peddler shall erect, or cause to be erected, any stand, counter, table or other structure, and sell goods therefrom, or sell goods from any wagon or other vehicle, without first obtaining a license therefor from the Village.

(b) Other Manner of Display. No hawker or peddler shall expose or offer for sale any goods, wares or merchandise in any other manner either for immediate delivery or for delivery in the future, without first obtaining a license therefor from the Village.
(Ord. 79. Passed 9-23-35.)

850.03 EXEMPTIONS.

Nothing in this chapter shall be construed as prohibiting any farmer from selling, in the usual manner, the products of his or her own farm or garden; nor as prohibiting any travelling salesperson or drummer from selling, in the usual manner, to the local merchants; nor as prohibiting honorably discharged soldiers, sailors and marines of the military or naval service of the United States, residents of this State, from hawking, vending and peddling their own goods as provided by Act 359 of the Public Acts of 1921, as amended.
(Ord. 79. Passed 9-23-35.)

850.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 852
Public Shows, Theaters and Exhibitions

- 852.01 Permanent public shows, theaters and exhibitions.
- 852.02 Transient public shows, circuses, menageries and other traveling exhibitions.

852.99 Penalty.

CROSS REFERENCES

Authority of Council re licensing generally - see CHTR. Ch. VII, §2
Carnival rides; inspection, licensing, regulation and safety devices - see
M.C.L.A. §§408.373, 408.374, 408.651 et seq.
Disorderly conduct - see GEN. OFF. 660.01

852.01 PERMANENT PUBLIC SHOWS, THEATERS AND EXHIBITIONS.

(a) No permanent public show, theater or exhibition shall be permitted to operate within the Village of Shelby unless the proprietor thereof shall first pay to the Village Clerk an annual license fee in an amount to be set by Council and shall receive from the Village Clerk a license which shall entitle such proprietor to operate such public show, theater or exhibition for a period of one year from its date, but only so long as he or she shall operate the same in conformity with the laws of the State and the ordinances of the Village.

(Adopting Ordinance)

(b) Such license shall be renewable annually thereafter, upon the same terms and conditions, by the payment in advance of the same license fee paid for the original license.

(c) Such license or any renewal thereof may be revoked by the Council whenever, in the opinion of said Council, the public interests of the Village will be best served by such revocation.

(d) No such proprietor shall advertise or cause to be advertised such show, theater or exhibition by the use of a megaphone, by shouting or in any other loud or boisterous manner.

(e) No such proprietor shall exhibit or permit to be exhibited any lewd, vile or indecent pictures, or any improper exposure of the person of any one in his or her employ, or permit any profane, indecent or other improper language or loud or boisterous conduct in or about his or her establishment, or permit a violation of any law of the State or any ordinance of the Village within his or her establishment.

(f) It shall be the duty of every such proprietor at all times when such show, theater or exhibition is open to the public to permit the presence therein of the Chief of Police or any police officer, without charge, for the purpose of seeing that the provisions of this section are complied with and to collect evidence of any violation thereof.
(Ord. 45. Passed 7-28-15.)

852.02 TRANSIENT PUBLIC SHOWS, CIRCUSES, MENAGERIES AND OTHER TRAVELING EXHIBITIONS.

No person shall conduct a public show, circus, menagerie or other traveling exhibition in the Village without first obtaining a license therefor from said Village.
(Ord. 79. Passed 9-23-35.)

852.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 860
Transient Traders and Dealers

- 860.01 License required.
- 860.02 Term of license.
- 860.03 License fee.
- 860.04 Contents of license.

860.05 Transient trader and dealer defined.
860.99 Penalty.

CROSS REFERENCES

Authority of Council re licensing generally - see CHTR.

Ch. VII, §2

Hawkers, peddlers and transient merchants generally -

see M.C.L.A. §§445.371 et seq.

Secondhand dealers - see M.C.L.A. §§445.401 et seq.

Casual sales - see B.R. & T. Ch. 812

Peddlers and solicitors - see B.R. & T. Ch. 850

860.01 LICENSE REQUIRED.

No person shall transact or conduct business in the Village of Shelby as a transient trader or dealer without first obtaining from the Village Clerk a license therefor, which shall be issued to any transient trader or dealer upon proper application directed to said Clerk and upon payment of the license fee as hereinafter provided for.

(Ord. 77. Passed 8-27-34.)

860.02 TERM OF LICENSE.

The license shall be issued by the Village Clerk for a period of three months from the date of issuance of the same, and such license may be renewed for additional terms of three months upon proper application and upon payment of a license fee in like amount as that paid for the original issuance thereof.

(Ord. 77. Passed 8-27-34.)

860.03 LICENSE FEE.

Before the issuance of a license to any transient trader or dealer, such person shall pay to the Village Clerk a license fee in an amount to be determined from time to time by Council for the original term of such license and a like sum for each renewal thereof. (Ord. 77. Passed 8-27-34.)

860.04 CONTENTS OF LICENSE.

The Village Clerk shall issue to each transient trader or dealer a form of license with his or her name subscribed thereto. Such license shall contain the following information: the name and address of the licensee; the date of issuance of the license; and the period of time for which such license has been issued. (Ord. 77. Passed 8-27-34.)

860.05 TRANSIENT TRADER AND DEALER DEFINED.

The term "transient trade and dealer" shall be construed, under the provisions of this chapter, to mean any person who shall, in the Village of Shelby, conduct any business for the sale of goods, wares or merchandise, either at wholesale or retail, temporarily in any building, stand or tent in said Village. The term shall also refer to any person who solicits orders for the said goods, wares or merchandise in said Village and delivers the same from any vehicle or stand temporarily situated in said Village at the time or immediately after the solicitation of such order or orders. (Ord. 77. Passed 8-27-34.)

860.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)

CHAPTER 870
Telecommunications

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870.02	Conflict.	870.12	Use of funds.
870.03	Terms defined.	870.13	Annual report.
870.04	Permit required.	870.14	Cable television operators.
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870.06	Conduit or utility poles.	870.16	Compliance.
870.07	Route maps.	870.17	Reservation of police powers.
870.08	Repair of damage.	870.18	Severability.
870.09	Establishment and payment of maintenance fee.	870.19	Authorized village officials.
870.10	Modification of existing fees.	870.20	Violation.

870.01 PURPOSE.

The purposes of this chapter are 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.
(Ord. 2002-2. Passed 10-14-02.)

870.02 CONFLICT.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.
(Ord. 2002-2. Passed 10-14-02.)

870.03 TERMS DEFINED.

The terms used in this chapter shall have the following meanings:

- (a) "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.
- (b) "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.

- (c) 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:
- (1) “Authority” means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.
 - (2) “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.
 - (3) “Person” means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
 - (4) “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.
 - (5) “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.
 - (6) “Telecommunications provider”, “provider” and “telecommunications services” mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, M.C.L.A. § 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 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, 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:
 - A. A cable television operator that provides a telecommunications service.
 - B. Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
 - C. A person providing broadband internet transport access service.
 - (7) “Village” means the Village of Shelby.
 - (8) “Village Council” means the Village Council of the Village of Shelby 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.
 - (9) “Village President” means the President of the Village of Shelby or his or her designee.
(Ord. 2002-2. Passed 10-14-02.)

870.04 PERMIT REQUIRED.

(a) 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. Construction or engineering permits may need to be obtained from the County Road Commission.

(b) 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 one copy of the application with the Village Clerk, one copy with the Village President. 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.

(c) 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, M.C.L.A. §§ 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.

(d) 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 five hundred dollars (\$500.00).

(e) Additional Information. The Village President may request an applicant to submit such additional information which the Village President 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 President. 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.

(f) 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, M.C.L.A. § 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.

(g) 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, M.C.L.A. § 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 five hundred dollar (\$500.00) application fee required under subsection (d) 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.
(Ord. 2002-2. Passed 10-14-02.)

870.05 ISSUANCE OF PERMIT.

(a) Approval or Denial. The authority to approve or deny an application for a permit is hereby delegated to the Village President. Pursuant to Section 15(3) of the Act, the Village President shall approve or deny an application for a permit within forty-five days from the date a telecommunications provider files an application for a permit under Section 870.04(b) hereof for access to a public right-of-way within the Village. Pursuant to Section 6(6) of the Act, the Village President shall notify the MPSC when the Village President 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 President shall not unreasonably deny an application for a permit.

(b) Form of Permit. If an application for permit is approved, the Village President 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.

(c) Conditions. Pursuant to Section 15(4) of the Act, the Village President 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.

(d) Bond Requirement. Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the Village President 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.
(Ord. 2002-2. Passed 10-14-02.)

870.06 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.
(Ord. 2002-2. Passed 10-14-02.)

870.07 ROUTE MAPS.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within ninety 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.
(Ord. 2002-2. Passed 10-14-02.)

870.08 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.
(Ord. 2002-2. Passed 10-14-02.)

870.09 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the Village set forth in Section 870.04(d) 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.
(Ord. 2002-2. Passed 10-14-02.)

870.10 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.
(Ord. 2002-2. Passed 10-14-02.)

870.11 SAVINGS CLAUSE.

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 under Section 870.10 above shall be void from the date the modification was made.
(Ord. 2002-2. Passed 10-14-02.)

870.12 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.
(Ord. 2002-2. Passed 10-14-02.)

870.13 ANNUAL REPORT.

The Village President shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority, as required under Section 10(5) of the Act.
(Ord. 2002-2. Passed 10-14-02.)

870.14 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 this 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.
(Ord. 2002-2. Passed 10-14-02.)

870.15 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.
(Ord. 2002-2. Passed 10-14-02.)

870.16 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:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, M.C.L.A. §§ 15.231 to 15.246, as provided in Section 870.04(c) hereof;
- (b) Allowing certain previously issued permits to satisfy the permit requirements of this chapter, in accordance with Section 870.04(f) hereof;
- (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the five hundred dollar (\$500.00) application fee, in accordance with Section 870.04(g) hereof;
- (d) Approving or denying an application for a permit within forty-five 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 Section 870.05(a) hereof;

- (e) Notifying the MPSC when the Village has granted or denied a permit, in accordance with Section 870.05(a) hereof;
- (f) Not unreasonably denying an application for a permit, in accordance with Section 870.05(a) hereof;
- (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 870.05(b) hereof;
- (h) 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 Section 870.05(c) hereof;
- (i) 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 Section 870.05(d) hereof;
- (j) Not charging any telecommunications providers any additional fees for construction or engineering permits.
- (k) Providing each telecommunications provider affected by the Village's right-of-way fees with a copy of this chapter, in accordance with Section 870.10 hereof;
- (l) Submitting an annual report to the Authority, in accordance with Section 870.13 hereof; and
- (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 870.14 hereof.
(Ord. 2002-2. Passed 10-14-02.)

870.17 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.
(Ord. 2002-2. Passed 10-14-02.)

870.18 SEVERABILITY.

The various parts, sentences, paragraphs, sections, and clauses of this chapter are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this chapter is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this chapter.
(Ord. 2002-2. Passed 10-14-02.)

870.19 AUTHORIZED VILLAGE OFFICIALS.

The Village President or his or her designee is hereby designated as the authorized Village official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau).
(Ord. 2002-2. Passed 10-14-02.)

870.20 VIOLATION.

A violation of this chapter shall be a misdemeanor. Any person, firm or corporation who violates any of the provisions of this chapter shall, upon conviction, be fined not more than five hundred dollars (\$500.00) for each offense, together with the costs of prosecution or civil suit as set by a court of competent jurisdiction and in default of payment of such fine and costs of prosecution, shall be imprisoned until said fine and forfeiture are paid, but not to exceed thirty days. Each day that a violation continues to exist shall constitute a separate offense. Nothing in this section shall be construed to limit the remedies available to the Village in the event of a violation by a person of this chapter or a permit. (Ord. 2002-2. Passed 10-14-02.)

TITLE FOUR - Taxation
 Chap. 880. Special Assessment Procedure.
 Chap. 890. Low Income and Elderly Tax Exemption.

CHAPTER 880
 Special Assessment Procedure

880.01	Short title.	880.14	Limitations of actions.
880.02	Public improvements; special assessments.	880.15	Special assessment; when due.
880.03	Definitions.	880.16	Partial payments; when due.
880.04	To initiate special assessment projects.	880.17	Delinquent special assessments.
880.05	Initiation by petition.	880.18	Creation of lien.
880.06	Form of petitions.	880.19	Additional assessments; refunds.
880.07	Investigation by Clerk.	880.20	Additional procedures.
880.08	Survey and report.	880.21	Collection of special assessments.
880.09	Determination of the project; notice.	880.22	Special assessment accounts.
880.10	Hearing.	880.23	Reassessment for benefits.
880.11	Special assessment roll.	880.24	Assessing single lots.
880.12	Meeting to review special assessment role; objections.	880.25	Special assessments; notice of hearing; service; local tax assessment records.
880.13	Changes and corrections in assessment roll.	880.26	Anticipatory borrowing and bond issues; general obligation bonds.

CROSS REFERENCES

Special assessments for public improvements - see CHTR. Ch. VIII, § 31
 Finance and taxation generally - see CHTR. Ch. IX
 Tax limit - see CHTR. Ch. IX, §§ 4, 22

880.01 SHORT TITLE.

This chapter shall be known and may be cited as the Special Assessments Ordinance of the Village.

(Ord. 2003-01. Passed 7-14-03.)

880.02 PUBLIC IMPROVEMENTS; SPECIAL ASSESSMENTS.

The Council of the Village, by adopting a resolution, may determine that the whole or a part of the expense of a local public improvement or repair shall be defrayed by special assessments on the property specially benefitted.

(Ord. 2003-01. Passed 7-14-03.)

880.03 DEFINITIONS.

The terms used in this chapter shall have the following meanings:

- (a) "Cost," when referring to the cost of any local public improvement, shall mean the same as "expense" and shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction and legal fees and all other public costs incidental to the making of such improvements, the special assessments therefor and the financing thereof.
- (b) "Council" means the same as "Village Council" and shall mean the Village Council of the Village of Shelby, Michigan.
- (c) "Last general tax assessment of the Village" means the last assessment roll for the ad valorem tax purposes which has been reviewed by the local board of review as supplemented by any subsequent changes in the names or the addresses of the owners or parties listed thereon.
- (d) "Local public improvement" means any public improvement which is of such a nature as to benefit especially any real property or properties within a district in the vicinity of such improvement. It shall include, but not be limited to the following improvements, including the land therefor: public buildings and offices; garbage collection; firehouses; destroying weeds; tree trimming; erosion control mechanisms; street lighting; streets; alleys; lanes; bridges; sewers; drains; water courses; water systems; utilities; or any other local public improvement or repair.
- (e) "Special assessment district" means the same as "assessment district" and "district" and shall mean the particular properties identified as especially benefitting from the local public improvement or repair.

(Ord. 2003-01. Passed 7-14-03.)

880.04 TO INITIATE SPECIAL ASSESSMENT PROJECTS.

Proceedings for the making of local public improvements within the Village, and the determination that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefitted, provided that all special assessments levied shall be in proportion to the benefits derived from the local public improvements, may be commenced by resolution of the Council, with or without a petition. (Ord. 2003-01. Passed 7-14-03.)

880.05 INITIATION BY PETITION.

Local public improvements may be initiated by petition signed by property owners owning sixty-six percent or more of the total property in the proposed special assessment district. Such petition shall contain a brief description of the property owned by the respective signers thereof and if it shall appear that the petition is signed by at least sixty-six percent of the owners, the Clerk shall certify the same to the Council. The petition shall be addressed to the Council but the Council shall not be obligated to make the improvement.

(Ord. 2003-01. Passed 7-14-03.)

880.06 FORM OF PETITIONS.

All petitions for local public improvements shall be on a form supplied by the Village Clerk and shall include an affidavit by one or more of the signors that the signatures appearing thereon are genuine and that each signor declares himself or herself to be the owner of the interest in the lands indicated. All such petitions shall be filed with the Village Clerk and referred to the Village Administrator for investigation and report, and the Village Clerk shall report the receipt of all such petitions to Council at the next regular meeting following a receipt of any such petition.

(Ord. 2003-01. Passed 7-14-03.)

880.07 INVESTIGATION BY CLERK.

All petitions for local public improvements shall be investigated by the Village Clerk to determine whether a sufficient number of valid signatures has been obtained and, if such investigation discloses a deficiency, the said petition shall be returned to the circulator with notice of the fact. Where any lot or parcel of land is owned by more than one person, each person having an interest must join the petition.

(Ord. 2003-01. Passed 7-14-03.)

880.08 SURVEY AND REPORT.

Before the Council shall consider the making of any local public improvement, the same shall be referred by resolution to the Village Administrator directing him or her to cause to be prepared a report which shall include necessary plans, profiles, specifications, and detailed estimates of costs, estimate of the life of the improvement, a description of the special assessment district or districts, and other pertinent information as will permit the Council to decide the cost, extent and desirability of the proposed improvement and what part or proportion thereof shall be paid by special assessments upon the property especially benefitted, and what part, if any, should be paid by the Village at large. The Council shall not finally determine to proceed with the making of any local public improvement until such report of the Village Administrator has been filed, nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of the improvement.

(Ord. 2003-01. Passed 7-14-03.)

880.09 DETERMINATION OF THE PROJECT; NOTICE.

After the Village Administrator has presented the report required in Section 880.08 for making any local public improvement as requested in the resolution of the Council, and the Council has reviewed the report, a resolution may be passed approving the local public improvement, setting forth the nature thereof, prescribing what part or proportion of the cost shall be paid by special assessment upon the properties in the proposed special assessment district, determination of benefits received by affected properties, and what part, if any, shall be paid by the Village at large; designating the limits of the special assessment district to be affected, designating whether to be assessed according to frontage or other benefits, placing the complete information on file in the office of the Village Clerk, where the same may be found for examination, and directing the Village Clerk to give notice of public hearing on the proposed improvement, at which time and place

opportunity will be given interested persons to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the Village and first-class mail addressed to each owner or person in interest in property to be assessed as shown by the last general tax assessment roll of the Village. The publication and mailing is to be made at least ten full days prior to the date of the scheduled hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council.
(Ord. 2003-01. Passed 7-14-03.)

880.10 HEARING.

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the local public improvement in such a manner as they deem to be in the best interest of the Village as a whole; provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in Section 880.09. If the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, special assessment district, and detailed estimates of cost, and directing the Assessor to prepare a special assessment roll in accordance with the Council's determination and report the same to the Council for confirmation. Notwithstanding any provision of this section, the Council may, at its discretion, delay the preparation of the special assessment roll until after the completion of the improvement, in which case the actual cost thereof shall be reported to the Council, and the special assessment roll shall then be made for such actual cost rather than for the estimated cost as in other cases.
(Ord. 2003-01. Passed 7-14-03.)

880.11 SPECIAL ASSESSMENT ROLL.

(a) The Assessor shall thereupon prepare a special assessment roll including all lots and parcels of land within the special assessment district designated by the Council, and shall assess to each such lot or parcel of land the relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lots or parcel of land bears to the total benefits to all lands in the special assessment district. There shall also be entered upon such roll the amount which has been assessed to the Village at large.

(b) When the Assessor shall have completed the assessment roll, he or she shall attach thereto, or endorse thereon his or her certificate to the effect that said roll has been made by him or her pursuant to a resolution of the Council, giving the date of adoption of the same, and that in making the assessments therein he or she has, according to his or her best judgment, conformed in all respects to the directions contained in such resolutions and to this chapter, and to State law and to the provisions of this section. At which time, he or she shall file the special assessment roll with the Village Clerk who shall present the same to the Council.

(Ord. 2003-01. Passed 7-14-03.)

**880.12 MEETING TO REVIEW SPECIAL ASSESSMENT ROLE;
OBJECTIONS.**

Upon receipt of such special assessment role, the Council, by resolution, shall accept such assessment role and order it to be filed in the office of the Village Clerk for public examination, shall fix the time and place the Council to meet to review such special assessment role and direct the Village Clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the Village and by first class mail addressed to each owner of/or person in interest in property to be assessed as shown by the last general tax assessment roll of the Village. The publication and mailing shall be made at least ten days prior to the date of said hearing. The hearing required by this section may be held at any regular, adjourned or special meeting of the Council. At this meeting, all interested persons and/or parties shall present in writing or orally their objections, if any, to the assessments against them. The Assessor shall be present at every meeting of the Council at which a special assessment roll is to be reviewed.

(Ord. 2003-01. Passed 7-14-03.)

880.13 CHANGES AND CORRECTIONS IN ASSESSMENT ROLL.

The Council shall meet at the time and place designated for the review of such special assessment roll, and at such meeting, or at a proper adjournment thereof, shall consider all objections orally and/or in writing. The Council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or may, by resolution, annul the assessment roll and direct the new proceedings be instituted. The same procedures shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Council deems justified, the Council determines that it is satisfied with said special assessment role and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, conforming such roll, placing it on file in the office of the Village Clerk and directing the Village Clerk to attach his or her warrant to a certified copy thereof within ten days therein commanding the Assessor to spread and the Treasurer to collect the various sums and amounts appearing thereon as directed by the Council. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purposes of the improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement, as provided by Section 880.19.

(Ord. 2003-01. Passed 7-14-03.)

880.14 LIMITATIONS OF ACTIONS.

(a) An action may not be instituted for the purpose of contesting on joining the collection of a special assessment unless:

- (1) Within forty-five days after the confirmation of the special assessment roll, written notice is given to the Council indicating an intention to file such an action and stating grounds which it is claimed the assessment is illegal;
- (2) The action is commenced within ninety days after the confirmation of the roll.

(b) Illegal assessment; revocation, correction, reconfirmation; assessment of property not involved. If a portion of an assessment roll is determined to be illegal in whole or in part, the Council may revoke its confirmation, correct the illegality, if possible or reconfirm it. Property which is not involved in this illegality may not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon. (Ord. 2003-01. Passed 7-14-03.)

880.15 SPECIAL ASSESSMENT; WHEN DUE.

All special assessments, except such installments thereof as the Council shall make payable at a future time as provided in this chapter, shall be due and payable upon confirmation of the special assessment roll. (Ord. 2003-01. Passed 7-14-03.)

880.16 PARTIAL PAYMENTS; WHEN DUE.

The Council may provide the payment of special assessments in annual installments. Such annual installments shall not exceed thirty in number, the first installment being due upon confirmation of the roll or on such date as the Council may determine and deferred installments being due annually thereafter, or in the discretion of the Council, maybe spread upon and made a part of each annual Village tax roll thereafter until all are paid. Interest shall be charged on all deferred installments at a rate of seven percent, unless this rate exceeds the highest amount permitted by State law for such assessments, in which case the rate shall be the highest amount permitted by State law, commencing on a due date of the first installment and payable on the due date of such subsequent installment; the full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be made in advance of the due dates thereof. If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have sixty days from the date of confirmation to pay the full amount of said assessment, or the full amount of any installments thereof, without interest or penalty. Following the sixty days, the assessment or first installment thereof shall, if unpaid, be considered as delinquent and the same penalties shall be collected on such unpaid assessments or the first installments thereof as provided in this chapter and State law to be collected on delinquent general Village taxes. Deferred installments shall be collected without penalty until sixty days after the due date thereof, after which time such installments shall be considered as delinquent and such penalties on said installments shall be collected as are provided in the Village ordinance to be collected on delinquent general Village taxes. After the Council has confirmed the roll, the Village Treasurer shall notify by mail each property owner on the roll that the roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the Village Treasurer to give the notice or of such owner to receive the notice shall not invalidate any special assessment roll of the Village or any assessment thereon, nor excuse the payment of interest or penalties. At the option of the Village, the notice or bill for the amount owing may be sent out after the project has been completed. In such event no interest shall be owing nor shall a sixty day period begin to run until after the notice has been mailed by the Village Treasurer. (Ord. 2003-01. Passed 7-14-03.)

880.17 DELINQUENT SPECIAL ASSESSMENTS.

Any assessment, or part thereof, remaining unpaid on the first Monday of March following the date when the same became delinquent shall be reported as unpaid by the Treasurer to the Council. Any such delinquent assessment, together with all accrued interest shall be transferred and reassessed on the next annual Village tax roll in a column headed "Special Assessments" with a penalty of four percent upon such total added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of Village taxes.

(Ord. 2003-01. Passed 7-14-03.)

880.18 CREATION OF LIEN.

Special assessments and all interest, penalties and charges thereon from the date of confirmation of the roll shall become a debt to the Village from the persons to whom they are assessed and, until paid, shall be and remain a lien upon the property assessed of the same character and effect as the lien created by the general laws for State, County, and Village taxes, in the lands upon which the same are a lien shall be subject to sale therefore the same as our lands upon which delinquent taxes constitute a lien.

(Ord. 2003-01. Passed 7-14-03.)

880.19 ADDITIONAL ASSESSMENTS; REFUNDS.

The Village Clerk shall, within sixty days after the completion of local or special public improvement, compile the actual costs thereof and certify the same to the Assessor who shall adjust the special assessment roll to correspond therewith. Should the assessment prove larger than necessary by five percent or less, the same shall be reported to the Council which may place the excess in the Village Treasury or make a refund thereof pro rata according to the assessment. If the assessment exceeds the amount necessary by more than five percent, the entire excess shall be credited to owners of property as shown by the Village assessment roll upon which such assessment has been levied pro rata according to the assessment; provided, however, that no refunds of special assessments may be made which impair or contravene the provision of any outstanding allegation or bond secured in whole or part by special assessments. When any special assessment roll shall prove insufficient to the cost of the improvement for which it was made, the Council may make an additional pro rata assessment, but the total amount assessed against any one parcel of land shall not exceed the benefits received by the lot or parcel of land.

(Ord. 2003-01. Passed 7-14-03.)

880.20 ADDITIONAL PROCEDURES.

In any case where the provisions of this chapter may prove to be insufficient to carry out fully the making of any special assessment, the Council shall provide by ordinance any additional steps or procedures required.

(Ord. 2003-01. Passed 7-14-03.)

880.21 COLLECTION OF SPECIAL ASSESSMENTS.

In the event bonds are issued in anticipation of the collection of special assessments as provided herein, all collections on each special assessment roll or combination of rolls

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in a separate fund for the payment of the principle and interest on the bonds so issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

(Ord. 2003-01. Passed 7-14-03.)

880.22 SPECIAL ASSESSMENT ACCOUNTS.

Monies raised by special assessment to pay the costs of any local improvements shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, expenses incidently thereto, including the repayment of principle and interest on money borrowed therefor, and to refund excessive assessments, if refunds should be authorized.

(Ord. 2003-01. Passed 7-14-03.)

880.23 REASSESSMENT FOR BENEFITS.

Whenever the Council shall deem any special assessment invalid or defective for any reason whatsoever, or if any Court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatsoever, in whole or in part, the Council shall have the power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not. All proceeds of such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than one amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.

(Ord. 2003-01. Passed 7-14-03.)

880.24 ASSESSING SINGLE LOTS.

When any expense shall have been incurred by the Village upon or in respect to any single premises, which expense is chargeable against such premises and the owner thereof under the provisions of this chapter, or any ordinance of the Village, or the law of the State of Michigan, and is not of that class required to be prorated among several lots and parcels of land in a special assessment district on account of the labor, material or service for which such expense was incurred, with the description of the premises upon or in respect to which the expense was incurred, in the name of the owner if known shall be reported to the Village Clerk who shall immediately charge and bill the owner, if known. The Village Administrator shall annually on or before January 15th, or at such other times as he or she may deem advisable, direct the Assessor to prepare a special assessment roll covering all such charges which shall not have been paid. This roll shall be filed with the Village Clerk who shall present the same to the Council. However, Council may follow the entire procedure used for other special assessments. Upon information of any information of any special assessment roll authorized by this section, the Council shall determine the number of installments in which assessments may be paid, not to exceed thirty in the rate of interest consistent with Section 880.16.

(Ord. 2003-01. Passed 7-14-03.)

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**880.25 SPECIAL ASSESSMENTS; NOTICE OF HEARING; SERVICE;
LOCAL TAX ASSESSMENT RECORDS.**

In all cases where special assessment are made against property, notice of all hearings in a special assessment proceeding shall be given as provided in this chapter, in addition to any notice of such hearings to be given by publication or posting as required by statute, charter, or ordinance.

(Ord. 2003-01. Passed 7-14-03.)

**880.26 ANTICIPATORY BORROWING AND BOND ISSUES; GENERAL
OBLIGATION BONDS.**

The Village Council may borrow money and issue bonds of the Village therefore in anticipation of the payment of special assessments in one or more special assessment districts, which bonds may be an obligation of the special assessment districts or may be both obligation of the special assessment district(s) and a general obligation of the Village. The Village Council may issue general obligation bonds to defray that portion of the costs and expense of a local public improvement chargeable to the Village at large.

(Ord. 2003-01. Passed 7-14-03.)

CHAPTER 890
Low Income and Elderly Tax Exemption

890.01	Short title.	890.11	Property or unit becoming ineligible.
890.02	General.	890.12	Term of exemption.
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890.01 SHORT TITLE.

This chapter shall be known and may be cited as the Low Income and Elderly Tax Exemption Ordinance of the Village.
(Ord. 2007-09. Passed 12-10-07.)

890.02 GENERAL.

State tax exemption for certain residential projects not applicable within the Village, except as provided; amount of payment in lieu of taxes for exempted projects; standards; provision for contract; lien on property; collections.
(Ord. 2007-09. Passed 12-10-07.)

890.03 GENERAL DENIAL OF EXEMPTION.

The exemption from ad valorem property taxes provided by Sec. 15a of Act 346 of the Public Acts of 1966, as amended, (MCL 125.1415a, MSA 16.114(15a)) shall not apply to all or any class of housing projects within the Village boundaries except as provided in this chapter. This denial of exemption is made pursuant to subsection 5 of the Act.
(Ord. 2007-09. Passed 12-10-07.)

890.04 LIMITED EXEMPTION STATED.

A limited exemption, only if authorized by the Act, is hereby granted, limited however to the projects described and authorized by this chapter and further having a signed

contract with the Village pursuant to this chapter. No other residential project, even if authorized by the Act, shall be entitled to an exemption.
(Ord. 2007-09. Passed 12-10-07.)

890.05 DEFINITIONS.

The terms used in this chapter shall have the following meanings:

- (a) "Act" means the State Housing Development Authority Act of 1966, as amended, being Act 346 of the Public Acts of 1966, as amended.
- (b) "Annual shelter rent" means the total collections during an agreed annual period from all the occupants of a housing project representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished by the occupants. "Annual shelter rent" includes the rental amounts to be currently charged for units in the housing project, whether a unit is vacant or not, and whether or not the rent is actually paid. "Annual shelter rent" also includes the rentals to be paid for additional facilities by tenants, such as carports or garages, and further includes miscellaneous income, such as income from vending machines or laundry equipment.
- (c) "Authority" means the Michigan State Housing Development Authority.
- (d) "Elderly persons" means persons aged fifty-five or older who are of low or moderate income and who would qualify by the rules, standards or practices of the authority for residency in projects aided by the authority. This definition does not expand the projects which are eligible under this chapter.
- (e) "Housing project" means a residential facility consisting of rental units offered to the following persons. It does not mean the portion of any facility which is not so occupied:
 - (1) Elderly persons as herein defined.
 - (2) Low income persons and families as defined by the authority.
- (f) "HUD" means the United States Department of Housing and Urban Development.
- (g) "Low income persons and families" is defined to include all low income persons and families included in the definitions found at section 15a(7) of the Act.
- (h) "Mortgage loan" means, for purposes of this chapter, a loan made by the authority or HUD to the sponsor for the construction and permanent financing of a housing project as defined by this chapter.
- (i) "Service charge." The terms "service charge" and "payment in lieu of taxes" mean the same thing.
- (j) "Sponsor" is a developer of a housing project. The term "sponsor" includes an applicant for exemption under this chapter.
- (k) "Utilities" means public water, public sanitary sewer, gas or electric service. Utilities do not include cable or other television services, telephone or communication utilities, or solid waste services.

(Ord. 2007-09. Passed 12-10-07.)

890.06 OWNERSHIP ENTITIES RECOGNIZED.

No housing project shall be eligible for an exemption under this chapter unless it is owned by a non-profit housing corporation, consumer housing cooperative, limited dividend housing corporation, or limited dividend housing association, as described in section 15a of the Act.

(Ord. 2007-09. Passed 12-10-07.)

890.07 HOUSING PROJECTS ELIGIBLE.

Housing projects financed with a Federally-aided or authority-aided mortgage or advance or grant from the authority.

(Ord. 2007-09. Passed 12-10-07.)

890.08 PAYMENT IN LIEU OF TAXES; AMOUNT; STANDARDS FOR DETERMINATION.

The payments in lieu of taxes, to be made by housing projects exempt from ad valorem taxes under this chapter, are hereby established by the Village pursuant to section 15a of the Act, without regard to the amounts otherwise set forth in the said section of the Act. The service charge to be paid in lieu of taxes by any housing project exempt under this chapter shall be determined as follows.

(Ord. 2007-09. Passed 12-10-07.)

890.09 AMOUNT.

The service charge shall be in an amount no less than four percent nor more than twenty percent of the annual shelter rent charged for the total of all units in the (exempt) housing project, whether the units are occupied or not and whether or not the rents are paid. The Village may establish the amount of the service charge to be paid in lieu of taxes by all or any class of housing projects exempt from taxation under this chapter. However, in no event shall the service charge exceed the ad valorem real property taxes that would be paid for the housing project if it were not exempt.

(Ord. 2007-09. Passed 12-10-07.)

890.10 STANDARDS FOR DETERMINING THE AMOUNT OF THE PAYMENT IN LIEU OF TAXES.

In determining the amount of service charge (not less than the minimum) which will be paid to the Village for a housing project exempt under this chapter the following standards shall guide the Village. All criteria which apply shall be considered to arrive at the service charge:

- (a) In the event the housing project or a substantial part thereof is located in a rehabilitated structure, for that portion of the project found in the rehabilitated structure the Village shall establish a lower service charge.
- (b) In the event the housing project is located in an area of the Village which is part of a tax increment finance district, and removes taxable property from the tax roll, the Village shall establish a higher service charge.

- (c) The Village shall consider the number of exempt units as compared to non-exempt units which are attached or contiguous to the housing project, but which are developed simultaneously with it by the same developer. To the extent that non-exempt units, including units calling for market rents, are included in the development, the Village shall consider lowering the rate of the service charge on the exempt units.
- (d) In the event the housing project is proximate to non-subsidized and non-exempt housing which is not part of any project for which the developer of the exempt housing project is responsible, the Village shall establish a higher service charge.
- (e) In the event the housing project is eligible for other property tax abatements or reductions of any kind, or Municipal benefits not generally available to residential properties, the Village shall establish a higher service charge.
- (f) In the event the housing project results in an increase in the need for public services such as water or sewer extensions, public transportation services, additional snow plowing, police and fire services, or increased school populations, the Village shall establish a higher service charge.
- (g) In the event the Village determines that the housing project will result in significantly increased traffic generation or street or highway safety problems, the Village shall establish a higher service charge.
(Ord. 2007-09. Passed 12-10-07.)

890.11 PROPERTY OR UNIT BECOMING INELIGIBLE.

In the event any residential unit is found to be occupied by persons who are not eligible to occupy exempt units under this chapter, the service charge for that unit, prorated, shall equal the general property taxes which would be payable (pro rata) for that unit. In the event the Village determines that more than fifty percent of the units in the housing project are occupied by such ineligible persons, then the entire housing project shall be immediately liable for a service charge in an amount equal to the ad valorem property taxes which would otherwise be charged by tax bills normally issuing in the year of the Village's determination.

(Ord. 2007-09. Passed 12-10-07.)

890.12 TERM OF EXEMPTION.

The exemption term shall begin on the tax day of the year in which a final certificate of compliance or occupancy is issued by the Village, therefore affecting the taxes due in the following year, and shall terminate on the happening of any of the following:

- (a) At such time as the facility is no longer being used for elderly and/or low income housing to the extent as when established.
- (b) Any violation or default under this chapter if not cured within ninety days after notice.
- (c) The day falling thirty-five years after the effective date of the contract for the exemption required by this chapter, or the period determined by the contract, whichever is shorter.

(Ord. 2007-09. Passed 12-10-07.)

890.13 SERVICE CHARGE CONSTITUTES A LIEN ON THE PROPERTY.

The service charge shall constitute a lien on the housing project property and improvements, effective at the same times and enforceable in the same manner as general property taxes.

(Ord. 2007-09. Passed 12-10-07.)

890.14 COLLECTION OF SERVICE CHARGE.

The service charge as determined by this section shall be payable in the same manner as general property taxes, except that the annual payment shall be paid on or before December 31 of each year during which the exemption is in effect. The entire tax collection procedure provided by the General Property Tax Act shall be effective and utilized with respect to such payment, including, but not limited to, the provisions providing for interest and penalties on late payments, return of delinquent taxes, tax liens, and the sale of lands for delinquent taxes. In the event of a delinquency in the payment in lieu of taxes, the Village shall issue a tax bill for the premises and include the required payment as a delinquent tax.

(Ord. 2007-09. Passed 12-10-07.)

890.15 REQUIREMENT TO FILE INFORMATION; DEFAULT IN PAYMENT; VIOLATIONS; LOSS OF EXEMPTION.

The sponsor or owner shall file annually with the Village Treasurer a copy of the audit provided to the authority within 180 days after December 31 of each year. Failure to timely file said statement, the filing of an inaccurate statement, any misrepresentation in the amount of rents as defined herein, or the failure to timely pay any service charge, shall be considered violations of this section and the commission of any one violation shall result in the permanent, immediate loss of the exemption for the current year and thereafter.

(Ord. 2007-09. Passed 12-10-07.)

890.16 SERVICE FEES AND SPECIAL ASSESSMENTS.

Except as otherwise provided by law, a housing project otherwise exempt under this section shall not be exempt from special assessments or service fees or charges levied or charged by the Village.

(Ord. 2007-09. Passed 12-10-07.)

890.17 CONTRACT REQUIREMENT.

Except for housing projects previously determined to be exempt prior to the enactment of this section, each housing project which is exempt hereunder must sign an agreement with the Village by which the exemption set forth herein is granted, and further providing for the payment in lieu of taxes, consenting to the provisions of this chapter and recognizing the conditions whereby exemption may be lost. The Village may require any reasonable conditions in such contract, including, but not limited to, such matters as limitations on the years for which the exemption may be continued, requirements for completing the project within a time certain, requirements for completing

non-exempt units or facilities and time limits for completion, as well as the number of such units. Each contract shall have a complete and final floor plan attached (subject only to insubstantial amendment by as-built drawings), which shall govern the determination of the payment in lieu of taxes as appropriate under this chapter. No exemption may be granted unless and until the contract is completed, approved by the Village Council and signed.

(Ord. 2007-09. Passed 12-10-07.)

890.18 DENIAL OF APPLICATION.

The Village is not required by this chapter to grant an application which may qualify under this chapter. The Village may deny an application in its sole discretion. In determining whether to deny a project, the Village may use, but is not limited to, the following standards. The Village would deny a project for exemption if the project applied for:

- (a) Constitutes a development which diverts, subverts, alters or is contrary to the master plan of the Village;
- (b) Fails to contribute to the improvement of neighborhoods in the Village;
- (c) Concentrates exempt housing in one or more areas of the Village;
- (d) Adversely affects the property tax base of the Village;
- (e) Creates significant public burdens, such as traffic, public works or infrastructure, health, safety, school population or service capabilities;
- (f) Results in the concentration of low income or elderly housing in a neighborhood or is contrary to the encouragement of economically diverse housing development;
- (g) Is sponsored by a developer who fails to demonstrate acceptable financial, managerial or construction capabilities; or
- (h) Results in a project or development which is harmful to the health, safety and welfare of the Village.

(Ord. 2007-09. Passed 12-10-07.)

890.19 EFFECT ON EXISTING PROJECTS.

Housing projects which have been previously determined and treated as exempt pursuant to the Act under previous ordinances of the Village shall continue their exempt status, and further shall continue the present payments to the Village as presently determined. To the extent their present contracts do not conflict with this amended chapter, this chapter shall control their exemptions.

(Ord. 2007-09. Passed 12-10-07.)