
STATE OF MICHIGAN
VILLAGE OF STOCKBRIDGE
ORDINANCE NO. 2023-10-002
(Enacted September 6, 2023)

**AN ORDINANCE APPROVING
TEXT AMENDMENTS TO THE VILLAGE OF STOCKBRIDGE
CODE OF ORDINANCES CHAPTERS 1, ARTICLE 1,
SECTION 1-6, ARTICLE 18, CHAPTER II, SECTION 18-22, AND
CHAPTER III, SECTION 18-51**

recitals

WHEREAS, the Village of Stockbridge (hereinafter, the “Village”) has adopted the Village of Stockbridge Code of Ordinances.

WHEREAS, the Village Police Chief, the Village Code Enforcer, and the Village Attorney met to discuss code enforcement on junk matters on August 14, 2023 and based upon that meeting, certain changes to the Noise Ordinance (Chapter 18, Article III, Section 18.51), the Junk Ordinance (Chapter 18, Article III, Section 18-51) and the Penalty Ordinance (Chapter 1, Article I, Section 1-6) have been recommended as set forth below.

Ordinance

SECTION 1: Chapter 1, Article I, Section 1-6 is amended to read in its entirety as follows:

Sec. 1-6. Penalty provisions.

- (a) *Misdemeanors.* A person convicted of a criminal violation of this Code not designated a civil infraction shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 and the cost of prosecution, or by imprisonment for not more than 90 days, or by both such fines and costs, and imprisonment. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense.
- (b) *Civil infraction.* Civil infractions involving traffic or parking violations are governed by the Michigan Motor Vehicle Code and the Michigan Uniform Traffic Code, both of which are adopted by reference by ordinance of the village, including the appropriate fees and costs.
- (c) *Municipal civil infraction.* Any person, firm, corporation, or legal entity violating any provision of a village ordinance not designated a misdemeanor or a civil infraction (traffic) shall be adjudged guilty of a municipal civil infraction as set forth below, unless otherwise noted. Each and every day such violation continues beyond any permissible grace period, constitutes a separate municipal civil infraction.
 - (1) The words "municipal civil infraction" mean an act or omission prohibited by a village ordinance, but which is not a crime under a village ordinance nor a civil infraction involving a traffic matter, and for which civil sanctions, including without limitation, fines, damages, expenses and costs, may be ordered,

as authorized by Chapter 87 of Act No. 236 of the Public Acts of Michigan of 1961, as amended (MCL 600.8701). A municipal civil infraction is not a lesser included offense of a violation of a village ordinance designated a misdemeanor.

- (2) The sanction for a civil infraction shall be a fine in the amount provided by this section, plus costs, damages, expenses, equitable relief and other sanctions, authorized under Chapter 87 of Act No. 236 of the Public Acts of Michigan of 1961, as amended, and other applicable law (MCL 600.8701 et seq.).
- a. Unless otherwise provided in a village ordinance, the fine for an initial municipal civil infraction violation shall not be less than \$75.00, plus costs and other sanctions.
 - b. Increased municipal civil infraction fines may be imposed for repeated violations by a person of any requirement or provision of a village ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision:
 1. Committed by a person within a six-month period (unless some other period is specifically provided by a village ordinance); and
 2. For which the person admits responsibility or is determined to be responsible.
 - c. Unless otherwise provided in a village ordinance, the increased fine for a repeat offense shall be as follows:
 1. For a first repeat municipal civil infraction offense not be less than \$250.00, plus costs and other sanctions.
 2. For a second or repeat municipal civil infraction offense or any subsequent repeat offense not be less than \$500.00, plus costs and other sanctions.
 - d. In addition to the municipal civil infraction fines above, the Village may seek damages, expenses, and a writ or order for equitable relief from the Court under the municipal civil infraction statute MCL 600.8727 (5) and MCL 600.8302.
- (3) A "violation" includes any act prohibited or made or declared to be unlawful or an offense, by a village ordinance, including any omission or failure to act where the act is required by a village ordinance.
- (4) The village president, zoning administrator, police, building inspector and/or Code Enforcement Officer shall each have the authority to issue municipal civil infraction citations applicable to a village ordinance, after an investigation and upon authorization by the village attorney, pursuant to MCL 600.8702(2).
- (5) Violations of the following code sections are designated as municipal civil infractions:
- Sec. 18-21. Smoke.
 - Sec. 18-22. Noise.
 - Sec. 18-23. Garage and yard sales.
 - Sec. 18-24. Canvassers and solicitors.
 - Sec. 18-50. Noxious weeds.
 - Section 18-51. Junk. [This may also be a Civil Nuisance Per Se]
 - Chapter 6—At the discretion of the zoning administrator.
- (d) *Nuisance per Se.*
- (1) *Criminal action of nuisance per se.* Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under the Zoning Enabling Act is a

nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home, or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provision of this chapter shall upon conviction thereof be subject to a fine of not more than "as per council resolution" and the costs of prosecution thereof, by imprisonment in the county jail for a period not to exceed 30 days, or both. Each day that a violation is permitted to exist from the time of formal citation by the village shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of chapter 6.

- (2) *Civil action of nuisance per se.* Pursuant to MCL 600.2940, the village may bring a civil nuisance cause of action in the circuit court to abate a violation of this village code, including any violation of chapter 6 or a violation that is otherwise considered a Municipal Civil Infraction:
- a. All claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance.
 - b. When the plaintiff prevails on a claim based on a private nuisance, he may have judgment for damages and may have judgment that the nuisance be abated and removed unless the judge finds that the abatement of the nuisance is unnecessary.
 - c. If the judgment is that the nuisance shall be abated, the court may issue a warrant to the proper officer, requiring him to abate and remove the nuisance at the expense of the defendant, in the manner that public nuisances are abated and removed. The court may stay the warrant for as long as six months to give the defendant an opportunity to remove the nuisance, upon the defendant giving satisfactory security to do so.
 - d. The expense of abating and removing the nuisance pursuant to such warrant, shall be collected by the officer in the same manner as damages and costs are collected upon execution, excepting that the materials of any buildings, fences, or other things that may be removed as a nuisance, may be sold by the officer, in like manner as goods are sold on execution for the payment of debts. The officer may apply the proceeds of such sale to defray the expenses of the removal, and shall pay over the balance thereof, if any, to the defendant upon demand. If the proceeds of the sale are not sufficient to defray the said expenses, he shall collect the residue thereof as before provided.
 - e. Actions under this section are equitable in nature unless only money damages are claimed.
- (3) The village manager, president, zoning administrator, and/or the code enforcement officer shall each have the authority to authorize the issuance of civil nuisance per se charge and the village chief of police shall have the authority to authorize the issuance of a criminal nuisance per se charge. In both cases, the issuance shall be for a violation of an applicable village ordinance, after an investigation and upon the additional authorization by the village attorney.

(e) *Miscellaneous.*

- (1) The penalties provided in this section, unless another penalty is expressly provided, shall apply to this Code without the necessity of providing for a penalty in the ordinance making the revision.
- (2) Notwithstanding subsections (a) and (b), the village may also bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Code.
- (3) The remedies and penalties provided herein are cumulative and in addition to any other remedies provided by law.

SECTION 2: Chapter 18, Article II, Section 18-22 is amended to read in its entirety as follows:

Sec. 18-22. Noises.

Each of the following acts is prohibited:

- (1) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus, train, or other vehicle except as a danger signal whether or not the vehicle is in motion, or to give warning of intent to get in motion. The creation by any such signal devices of any unreasonable loud or harsh sounds and the sounding of any signal device for an unreasonable or unnecessary period of time is also prohibited.
 - 1.1 There shall be an exception for parade vehicles and their accompanying floats during a Village permitted events on public streets.
- (2) *Radio and musical instruments.* The playing of any radio, tape player, CD player, phonograph, television set, computer, or any musical instrument in such a manner or with such volume, between 10 p.m. and 8:00 am, so as to annoy or disturb the quiet, comfort, or repose of any person in the vicinity.
 - 2.1 There shall be an exception for Village or School permitted and sanctioned events in the Village parks and/or streets or the athletic fields of the school.
- (3) *Shouting and whistling.* Yelling, shouting, hooting, whistling, singing, or loud talking on public streets, between 10:00 p.m. and 8:00 a.m., so as to annoy or disturb the quiet, comfort, or repose of any person in the vicinity.
- (4) *Hawking.* The hawking of goods, merchandise, or newspapers in a loud or boisterous manner.
- (5) *Animal or bird noises.* The keeping of any animal or bird which by causing frequent or loud continued noise shall disturb the comfort or repose of any person in the vicinity.
- (6) *Whistles or sirens.* The blowing of any whistle or siren except to give notice of the time to begin or stop work or as a warning of fire, police, ambulance or other danger.
- (7) *Engine exhaust; exhaust brakes.* The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine, or motor vehicle, except through a muffler or other device that effectively prevents loud or explosive noises therefrom; and operating any motor vehicle within the village using exhaust brakes, engine brakes, compression brakes, or similar devices.
- (8) *Construction noises.* The erection, including excavation therefor, demolition, alterations, or repair of any building, and the excavation of streets and highways any time on Sundays, and on any other days of the week between the hours of 8:00 p.m. and 7:00 a.m., unless a permit is first obtained from the village manager. This prohibition shall not apply when the public safety, welfare, and convenience, as determined by the village manager, necessitates the excavation, repair, or installation of, bridges, streets, sidewalks, highways, or any public/quasi-public utility, by or on behalf of the village, township, county, MDOT, said utility, or any other agency of the state, at such time.
- (9) *Handling merchandise.* The creation of a loud or excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates and/or containers.
- (10) *Devices to attract attention.* The use of any drum, loud speaker, fireworks, amplifier, or other instrument or device for the purpose of attracting attention for any purpose unless a permit is first obtained from the village pursuant to subsection (11)d.
- (11) *Definitions, exceptions and permits.*

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- a. "In the vicinity" shall include all the area wherein the noise is clearly audible and which is within 100 feet of the person, animal or device exhibiting the noise.
 - b. None of the terms or prohibitions of the previous section shall apply or be enforced against any police or fire vehicles or any ambulance, while engaging upon necessary emergency business.
 - c. None of the terms or prohibitions of the previous section shall apply or be enforced against any church, mosque, synagogue or other place of worship for the ringing of bells or other similar call to worship, so long as such activity does not continue for an unreasonable period of time.
 - d. Prior to the issuance of a permit, the applicant shall demonstrate the following, subject further to reasonable time, place and manner restrictions as deemed appropriate by the village council:
 1. The demonstration shall only take place between the hours of 8:00 a.m. and 10:00 p.m.
 2. Sound-amplification equipment shall not be used within 100 yards of a school during such times as school is in session.
 3. The volume of the sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound-amplifying equipment and so that it is not unreasonably loud, raucous, jarring, disturbing, or otherwise a nuisance to persons within the area of audibility.
 - e. If noise or conduct consists of speech or communication protected by either the United States Constitution or the Michigan Constitution, then the section shall apply only to the extent it is constitutionally permitted.

SECTION 3: Chapter 18, Article III, Section 18.51 is amended to read in its entirety as follows:

Sec. 18-51. Junk.

- (a) The following words, terms and phrases, when used in this section, shall have the following meanings:

Abandoned vehicle - Includes, without limitation, any vehicle which has remained on private property for a period of 48 continuous hours or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more, after the consent of the owner or occupant has been rescinded, or for a T

Junk - Includes, without limitation, parts of machinery or motor vehicles, including tires, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or any other cast off material of any kind, whether or not the same could be put to any reasonable use.

Junk automobiles - Include, without limitation, any motor vehicle which in not licensed for use upon the highways of the state for a period in excess of 30 days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of ten days; provided that unlicensed, but operative, vehicles which are kept as the stock-in-trade of a regularly licensed and established new or used automobile dealer are excepted from this definition.

- (b) The following conduct is prohibited:

- (1) Storing or permitting the storage or accumulation of junk, junk automobiles, or abandoned vehicles on any property in the village except within a completely enclosed building or on the premises of a licensed junk dealer, junk buyer, dealer in used auto parts, dealer in second-hand goods or junk gatherer.
- (2) The dismantling, cutting up, removing part from, or otherwise disassembling any automobile, by any person except in a completely enclosed building, or upon the premises of a licensed junk dealer, junk buyer, dealer in used auto parts, dealer in second-hand goods, or junk gatherer.

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- (c) The manager, president, or his or her authorized representative [including a code enforcement officer] may cause litigation to be filed to remove any junk, junk automobile, or abandoned vehicle, or parts of either, stored or accumulated in violation of this section, from any completely unenclosed private property after having notified the owner or occupant of such property, in writing, of the intention to do so at least fourteen (14) days prior to authorizing litigation [except in the case of a serious public health risk when the notice period shall be reduced to two (2) days]. Such notice shall be given as provided in section 1-5.
- (1) The litigation shall seek a fine and a writ or order requiring that such junk, junk automobiles or abandoned vehicles, or parts of either, be removed, impounded and disposed of in accordance with law.
 - (2) Such litigation to seek removal by the village shall not excuse or relieve any person of the obligation imposed by this section to keep property free from storage or accumulation of junk, junk automobiles, building materials or abandoned vehicles, or parts of either, nor from the penalties for violation thereof. Therefore, this section shall authorize the issuances of subsequent municipal civil infraction tickets for the same violations within fourteen (14) days of each other do not require an additional written notice before issuance if the violation continues.
- (d) All costs and expenses incurred in litigation under this may be recovered by the village in a suit at law against the owner or occupant of any such lot or premises.
- (e) The manager, president, or his or her authorized representative [including a code enforcement officer] may enforce this Section of the Ordinance by authorizing litigation in the form of either 1) a municipal civil infraction ticket under Section 1-6 (c) or a Civil Nuisance Suit under Section 1-6 (d) (2).

SECTION 4: If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Village of Stockbridge declares that it would have passed this Ordinance and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 5: That this Ordinance and the related rules, regulations, provisions, requirements, orders, and matters established shall take effect immediately upon publication, except any penalty provisions which shall take effect twenty (20) days after publication, pursuant to MCL66.1.

SECTION 6: Repealer - All Ordinances or parts of Ordinances in conflict with this Ordinance are repealed only to the extent necessary to give all provisions of this Ordinance full effect.

Adopted at a Regular Meeting of the Village of Stockbridge held on October 2, 2023.

Moved by: Howlett

Seconded by: Farbotham

YEAS: Howlett, Mullins, Farbotham, Morehouse, Powers-Taylor, Ogden

NAYS: None

ABSENT: Cattell

ABSTAIN: None

Village of Stockbridge

By: Jill Ogden
Its: Village President

Certification of Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Stockbridge, County of Ingham, State of Michigan, at a rescheduled regular meeting held on the 2nd day of October, 2023, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the Minutes of said

meeting were kept and will be or have been made available as required by said Act, and the foregoing Ordinance was published in a newspaper of local circulation on October 08, 2023.

Village of Stockbridge

By: Heather Armstrong
Its: Village Clerk

Drafted by: John L. Gormley (P53539)
Attorney for the Village of Stockbridge and
It's Planning Commission
Gormley Law Offices, PLC
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