

Michigan's General Law Villages: Roles and Responsibilities of Council, Officers, and Appointees

Presented by:

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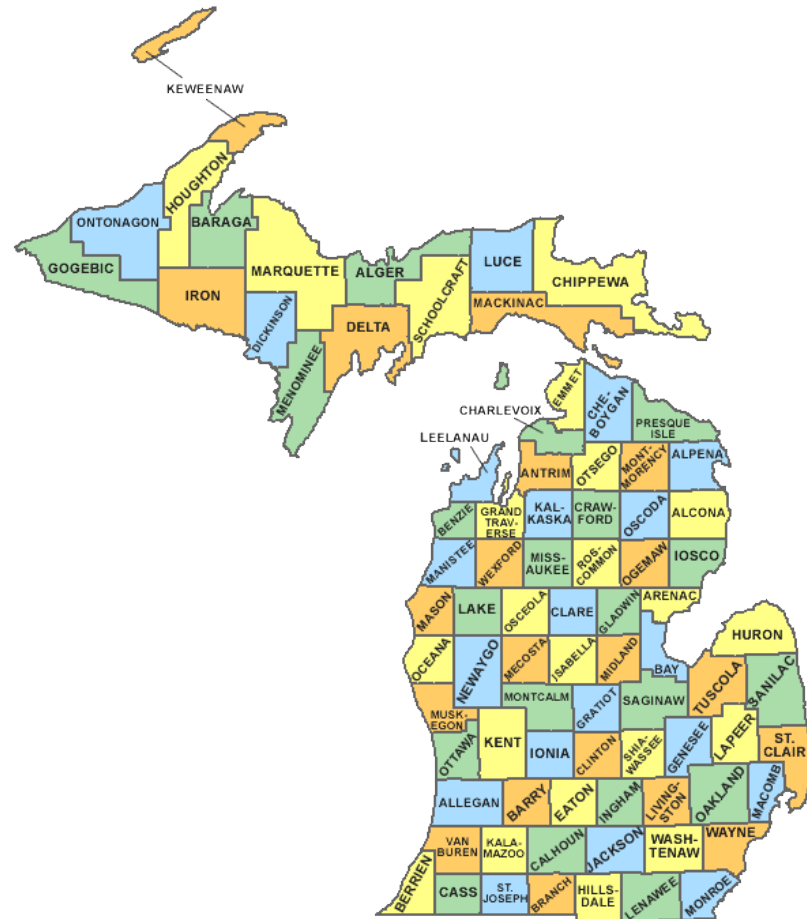
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Local Government in Michigan

- Types of Municipalities:
 - Home rules cities
 - Home rule villages
 - General law villages
 - General law townships
 - Charter townships

Local Government in Michigan

- Over 1,856 local governments in Michigan:
 - 83 counties
 - 533 incorporated municipalities
 - 276 cities
 - 257 villages
 - 1,240 townships



Local Government in Michigan

- Home rule cities – Home Rule Cities Act
– Act 279 of 1909
- Home rule villages – Home Rule Village Act
– Act 278 of 1909
- General law villages – Act 3 of 1895
- Charter townships – Act 359 of 1947
- General law townships – Revised Statutes of 1846

Source of Local Government Authority in Michigan

- Michigan Constitution
- State law
- Home rule charter (cities and some villages)
- Local ordinances and rules

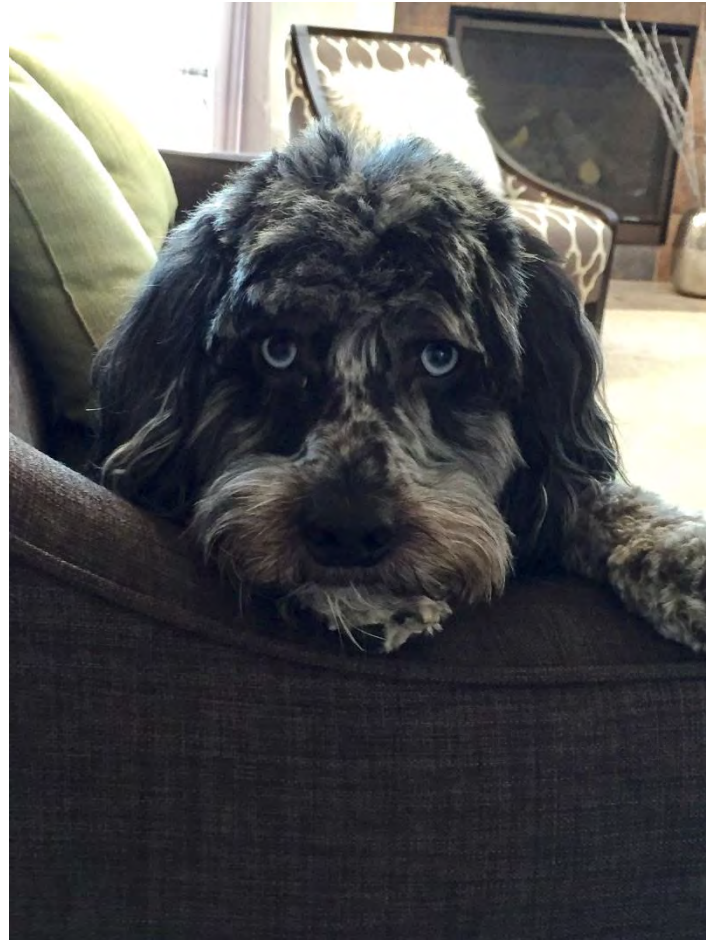
Michigan Constitution

- Michigan is on its fourth constitution
 - 1835
 - 1850
 - 1908
 - 1963
- The concept of villages in the Michigan Constitution did not appear until the 1850 Constitution; no mention of “villages” in 1835

Interestingly . . .

- 15 villages had been incorporated by 1837:
 - Monroe(1827)
 - Ypsilanti (1832)
 - Ann Arbor (1833)
 - Niles, Adrian, Pontiac, St. Joseph, Tecumseh, Centreville, Constantine, White Pigeon, New Buffalo, Marshall, Mount Clemens, and Coldwater

Interestingly . . .



Interestingly . . .





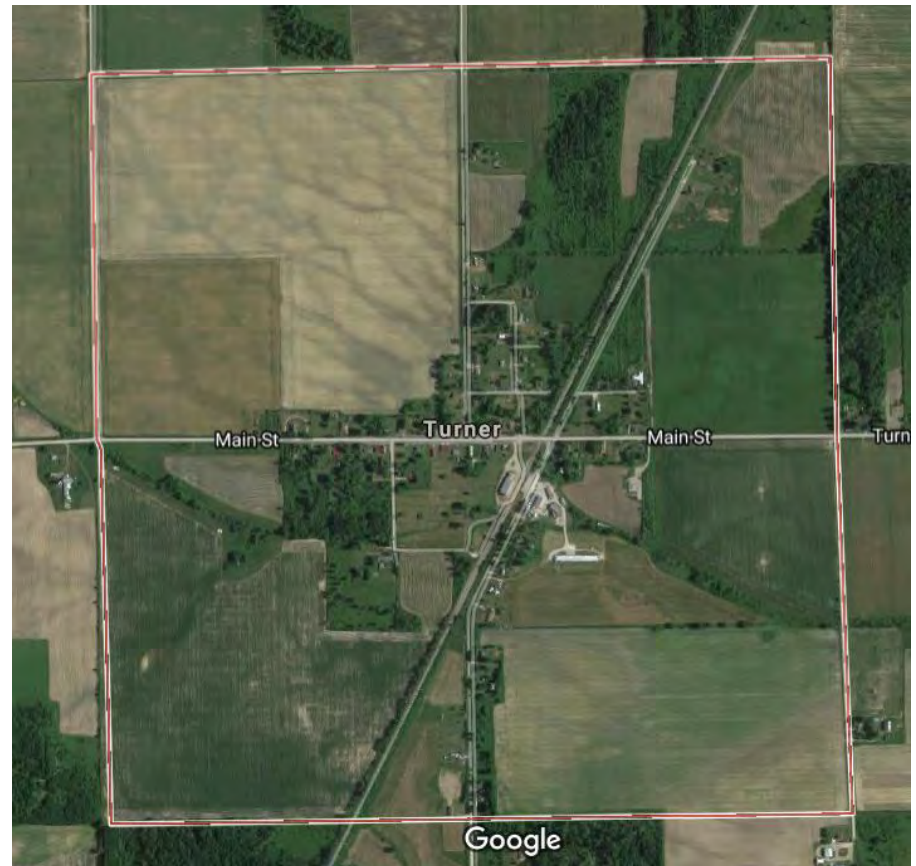
Villages in Michigan . . .

Small and Large

- Village of Turner, Arenac County
– Pop 110 (2010 Census)
- Village of Eagle, Clinton County
– Pop 123 (2010 Census)
- Village of Beverly Hills, Oakland County
– Pop 10,267 (2010 Census)

Villages in Michigan . . .

- Village of Turner, Arenac County
– Pop 110
(2010 Census)



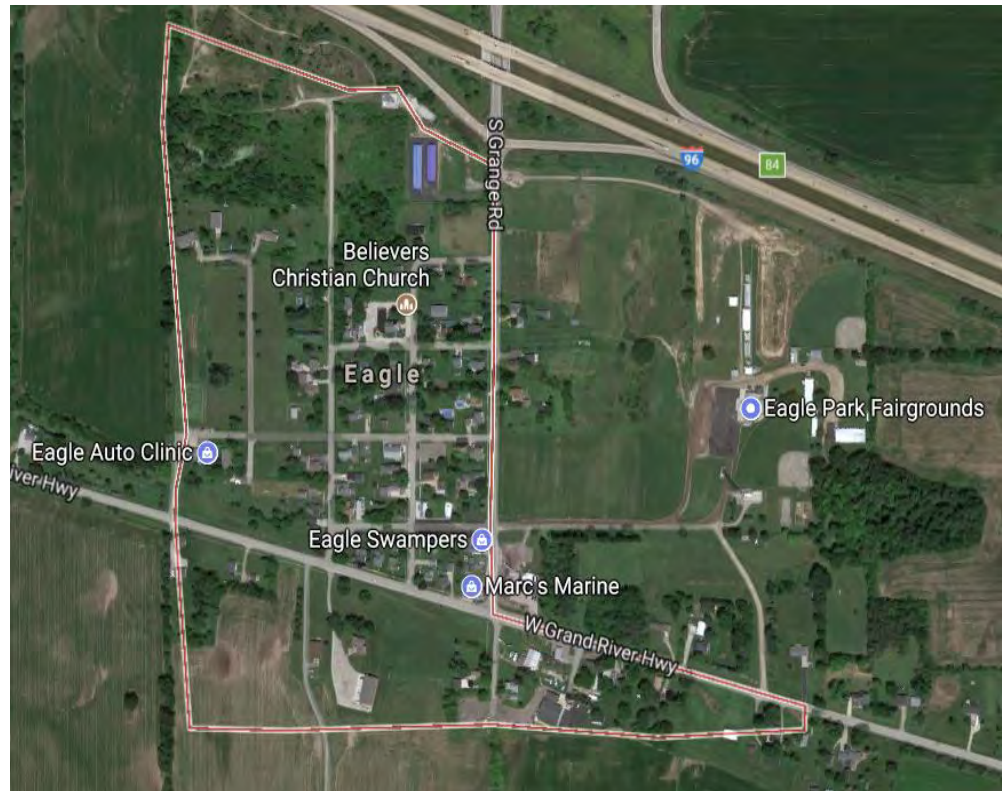
Villages in Michigan . . .

- Village of Turner, Arenac County

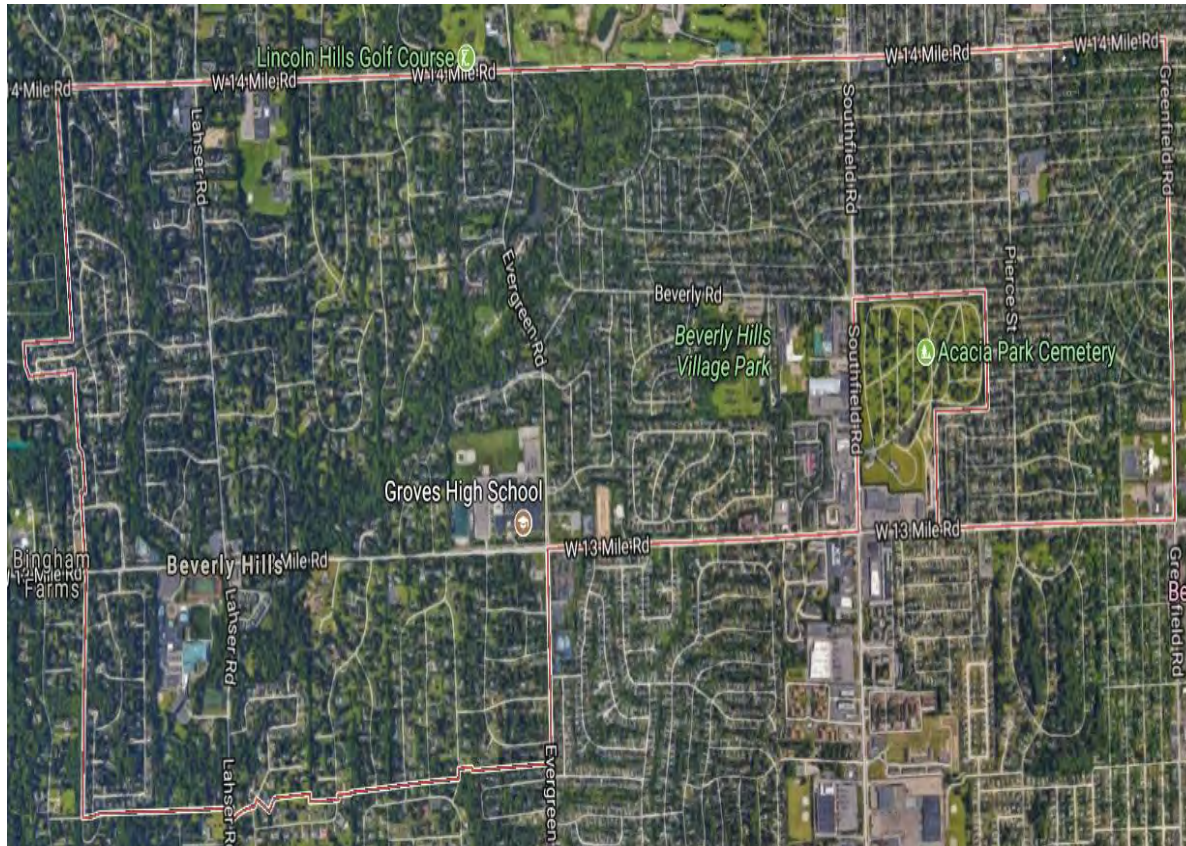


Villages in Michigan . . .

- Village of Eagle, Clinton County
– Pop 123
(2010 Census)



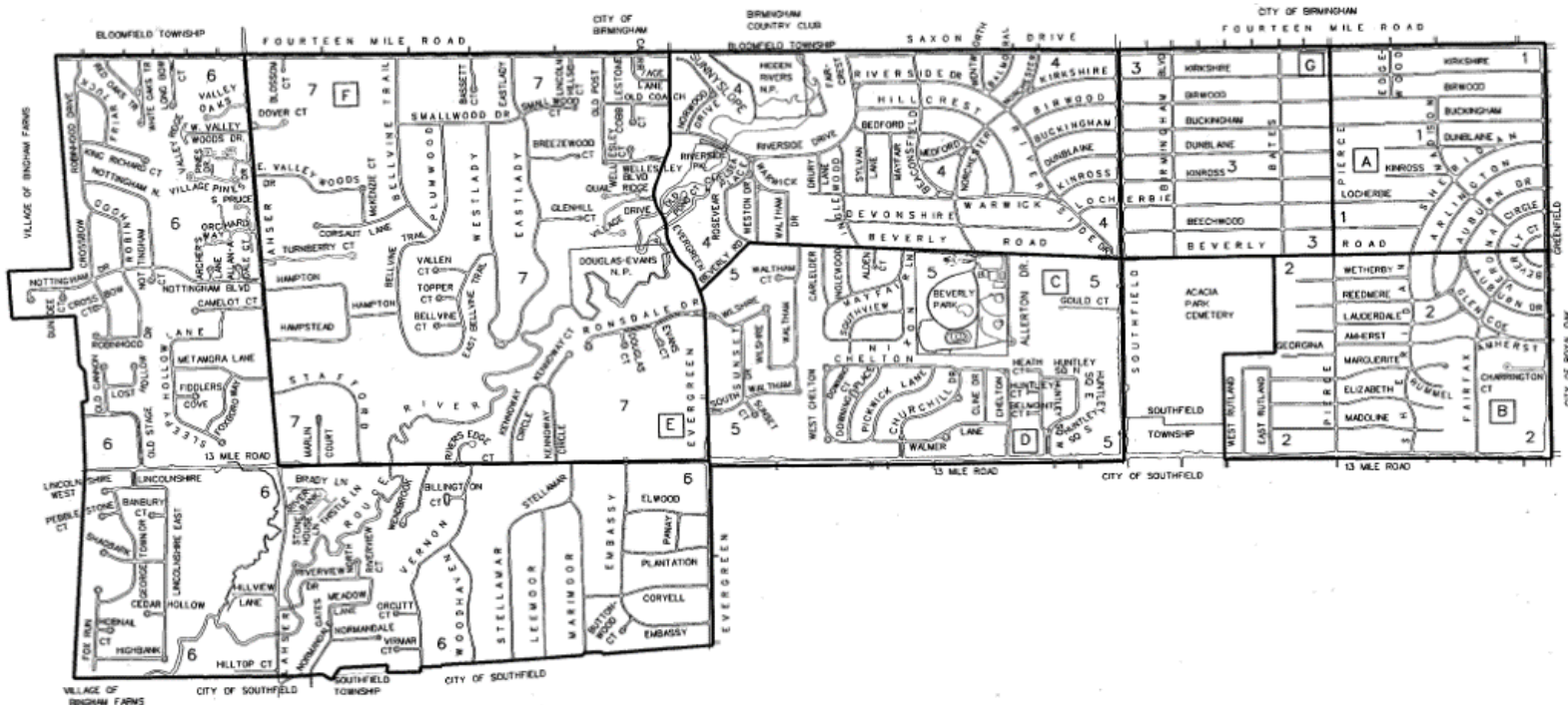
Villages in Michigan . . .



- Village of Beverly Hills, Oakland County – Pop 10,267 (2010 Census)

Villages in Michigan . . .

- Village of Beverly Hills, Oakland County



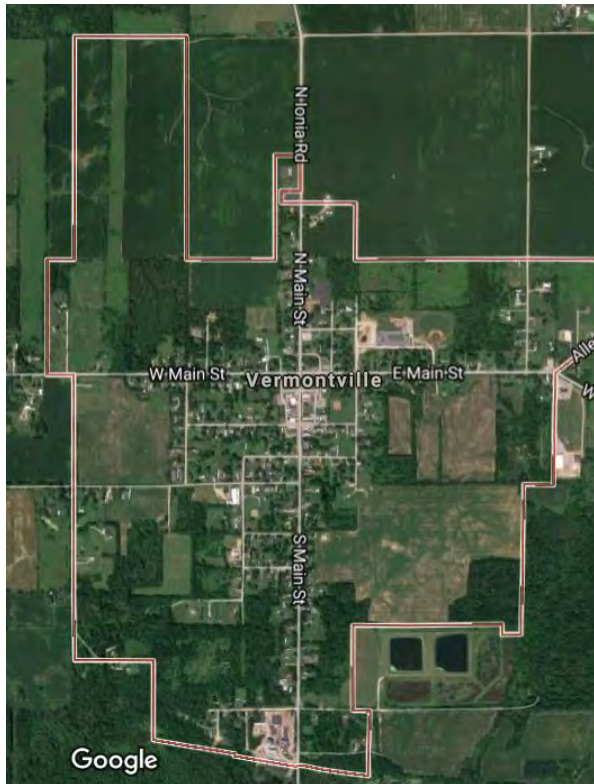
Villages in Michigan . . .

- Village of Middleville, Barry County



Villages in Michigan . . .

- Village of Vermontville, Eaton County



Why a Village?

- Historically, most villages “grew up” around the intersection of main roads, railroads, geographic features (rivers, lakes, etc.) that provided economic opportunity
- Became population centers
- Businesses and residences developed
- Need for more services – fire protection, clean water, sanitary sewers –services less in demand in more rural areas

Why a Village?



Why a Village?

Good Intent Line
OF COACHES.

Tri-Weekly Line Between



KALAMAZOO, BATTLE CREEK & GRAND RAPIDS.

The PROPRIETOR has recently Stocked this Route with GOOD HORSES; new Coaches and careful and experienced drivers. No pains will be spared to make this a COMFORTABLE and ACCURATE route to travelers.

This is the shortest and sure route, and over the best roads to

Hastings, Flat River, Saranac, and Ionia.

Leaves Battle Creek and Kalamazoo, Tuesday, Thursday and Saturday mornings, on the arrival of the M. C. & N. Cars from the East and West. From Battle Creek, this line passes through Ross Centre, Yorkville, Gull Prairie, and there connects with the Stages from Kalamazoo for Prairieville, Orangeville, Yankee Springs and Middleville, connecting there with Stages for Grand Rapids, which pass through Caldonia, Whitseyville and Cascade.

LEAVES GRAND RAPIDS

for Middleville, there connecting with Battle Creek and Kalamazoo Line, passing through the above named places, on Monday, Wednesday and Friday mornings, arriving at Battle Creek and Kalamazoo in time to take the Cars for the East or West, and also in time for Humphrey & Co's line of stages for the Northern Railroad.

Stages Leave & Take Passengers at all Public Houses!

Conveyances may be had at all of the principle places on the Route, to any part of the country.

Yankee Springs, Nov. 1864.

G. W. LEWIS, Proprietor.

Villages and “Home Rule”

- Two types of villages
 - Home rule
 - General law
- Concept of “Home Rule”
 - Originated in 19th Century
 - Influx of job-seekers from rural area to more urban areas during the industrial revolution
 - Explosive growth in population centers brought about the need for many new services

Home Rule vs. General Law

- Legislature would adopt a “special act” system of writing city charters
 - the Legislature had to adopt local or special acts for each community
 - In 1907, more than 400 special acts
- “Corporate world” provided a model for structure



Home Rule Village

- 1908 Constitution, Michigan became the eighth state to set forth the principles of home rule
- Michigan's Home Rule Village Act, Act 278 of 1909; Allows a village to “craft” its own charter
 - Certain mandatory provisions must be included in the charter:
 - The election of and compensation for a president, a clerk, and a legislative body; election or appointment of other officers or administrative boards
 - Levying and collection of village taxes
 - An annual appropriation of money for municipal purposes
 - Publication of an ordinance or a synopsis of an ordinance before the ordinance becomes operative

Home Rule Village

- Other provisions are “permissible”
 - Regulation of a trade, occupation, or amusement within the village's boundaries
 - Specifying penalties and sanctions for violation of village ordinances
 - Regulating use of the surface of a street and the space above and beneath the street
 - Assessment of the cost of a public improvement to a special district
 - The purchase of private property for a public use or purpose within the scope of the powers of the village
 - The sale and delivery of water outside the corporate limits of the village

Home Rule Village

- The purchase of land outside the corporate limits of the village for the disposal of sewage and garbage or for a purpose authorized by the state constitution of 1963 or the law of this state
- The use, control, and regulation of waterways within the village's boundaries (but not so as to conflict with state law)
- Enforcement of village ordinances
- Broad grant of authority to exercise municipal power in the management and control of Village property and the administration of the Village government, whether expressly provided or implied
- Sale and delivery of heat, power, and light outside the Village's corporate limits ion Village's discretion



General Law Village

- General Law Village Act
 - Village Council exercises legislative authority for the Village
 - Village Council is comprised of an elected Village President and six trustees
 - Village electors also elect a Village Clerk and Treasurer

General Law Village

- But, the Village Council may adopt an ordinance to:
 - reduce the number of Village trustees from six to four, and
 - provide for the appointment of the Village Clerk and/or Village Treasurer instead of election
- Ordinance must be:
 - adopted by 2/3 vote of Village Council
 - adopted at a subsequent meeting that must be held at least 10 days after the initial meeting

General Law Village

- Ordinance adopted only after publication of notice in newspaper
- Notice must indicate that the Village Council is considering an ordinance to reduce the size of the Council or to change the time of election of the trustees

General Law Village

- Ordinance cannot take effect until 45 days after the date of adoption
 - However, if a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, ordinance does not take effect unless and until approved by village electors at an election held on the question
 - Notice of the delayed effect of the ordinance and the right of petition must be published separately at the same time, and in the same manner, as the ordinance is published

General Law Village

- The ballot language for the question shall be prepared by the village clerk, unless the question concerns the appointment of the clerk under subsection (2), in which case the ballot language shall be prepared by the Village Council
- Note: 45-day period commences as of date of adoption of ordinance, not upon publication
- Call the Village Attorney

General Law Village

- By ordinance, the Village Council may establish other Village offices, duties, and requirements
- By ordinance, the Village Council may provide for a Village Manager
 - Village Manager serves at the pleasure of the Village Council
 - May serve subject to a written employment contract, which specifies compensation, benefits, and other conditions of employment

General Law Village

- Village Manager ordinance
 - Ordinance may assign to the Manager:
 - An administrative duty imposed by the General Law Village Act on the Village Council or the Village President
 - Authority to appoint, remove, direct or supervise any employee or appointed official of the Village
 - Supervisory authority over various Village activities, such as: accounting, budgeting, personnel, and purchasing
 - “Related management functions” imposed by the General Law Village Act on the Clerk or Treasurer

General Law Village



Roles and Duties of Village Officials

- Village President
 - Chief executive officer
 - Presides at meetings of the Council
 - Has a vote on Council
 - Provide Council with information concerning the affairs of the Village
 - Recommend measures to Council
 - Ensure enforcement of ordinances/ regulations



Roles and Duties of Village Officials

- Village President
 - Supervise “the affairs of the Village” and Village property unless that responsibility has been delegated to the Village Manager by ordinance
 - “Conservator peace” – power to “suppress disorder” in the Village
 - Suspend any Village officer for neglect of duty

Roles and Duties of Village Officials

- Village President
 - Perform duties set forth in ordinances
 - Call special meetings of the Village Council
 - Authenticate, with Village Clerk, Village ordinances
 - Approve Council meeting minutes prepared by Clerk

Roles and Duties of Village Officials

- Village President Pro Tempore
 - Council appoints one member of Council as “President Pro Tempore”
 - Appoint by November 20 of each year (or as soon as possible thereafter)
 - Perform duties of President in absence of President
 - If President and President Pro Tempore are absent, the Council member with the longest current period of continuous service presides (unless Council Rules provide otherwise)

Roles and Duties of Village Officials

- Village Clerk
 - May be elected or, if ordinance is adopted, may be appointed pursuant to ordinance
 - If ordinance provides for appointment of Village Clerk, Village President nominates the Clerk, subject to Village Council approval
 - Is not a voting member of the Council, even if elected by Village electors

Roles and Duties of Village Officials

■ Village Clerk

- Keeps the corporate seal and all the documents, official bonds, papers, files, and records of the village unless required by law or ordinance to be kept by some other officer
- Keeps a record all the proceedings of the Council –resolutions and ordinances
- Countersigns and registers all licenses granted and bonds issued
- Keeps a list of all property belonging to the Village, and of all its debts and liabilities



Roles and Duties of Village Officials

- Village Clerk
 - May administer oaths and affirmations
 - Clerk of the Council and shall attend its meetings
 - In the absence of the Clerk, or if from any cause the Clerk is unable to discharge, or is disqualified from performing, his or her duties, Council may appoint a Council member, or some other person, to perform the duties of the Clerk for the time being

Roles and Duties of Village Officials

- Village Clerk
 - Serves as the “general accountant” of the Village
 - “Examines” claims for payment, reports claims to Village Council, and once approved by Council, presents claims for payment to Treasurer for payment, designating the fund from which payment is to be made, and take proper receipts



Roles and Duties of Village Officials

- Village Clerk
 - Prepares and provides a detailed statement of the receipts, expenditures, and financial condition of the Village
 - Performs such other duties pertaining to the office as the Council may require
 - The functions of the Clerk are subject to the Village Manager ordinance adopted by Council

Roles and Duties of Village Officials

- Village Clerk
 - Unless otherwise provided by ordinance, the Clerk. . .
 - Has charge of all the books, vouchers, and documents relating to the accounts, contracts, debts, and revenues of the Village

Roles and Duties of Village Officials

- Village Clerk
 - Unless otherwise provided by ordinance, the Clerk. . .
 - Maintains a complete set of financial books and records exhibiting the financial condition of the village in all its departments, funds, resources, and liabilities
 - Keeps an account of all the money received and paid out for each of the several funds of the Village

Roles and Duties of Village Officials

- Village Clerk
 - Council Meeting Minutes - General Law Village Act
 - Clerk required to “keep all documents, official bonds, papers, files, and records of the Village”
 - Clerk is the “clerk of the Council” and is required to attend all Council meetings
 - Clerk “shall record all the proceedings and resolutions of the council, and shall record, or cause to be recorded, all the ordinances”

Roles and Duties of Village Officials

- Village Clerk
 - Council Meeting Minutes – Open Meetings Act
 - Proposed minutes: must be made available for public inspection within eight days after the meeting
 - Approved minutes: must be made available for public inspection within five days after approval of the minutes
 - Minutes must be approved at the next meeting
 - Corrected minutes must show the correction

Roles and Duties of Village Officials

- Village Clerk
 - Council Meeting Minutes – Open Meetings Act
 - Minutes must contain the following information:
 - date, time, place of meeting
 - members present, members absent
 - any decisions made at a meeting open to the public
 - the purpose or purposes for which a closed session is held
 - minutes must include all roll call votes taken at the meeting

Roles and Duties of Village Officials

- Village Clerk
 - Council Meeting Minutes – Open Meetings Act
 - Minutes must contain the following information:

“Just the facts ma’am”
– Joe Friday



Roles and Duties of Village Officials

- Village Treasurer
 - May be elected or, if ordinance is adopted, may be appointed pursuant to ordinance
 - If ordinance provides for appointment of Village Treasurer, Village President nominates the Treasurer, subject to Village Council approval
 - Is not a voting member of the Council, even if elected by Village electors

Roles and Duties of Village Officials

- Village Treasurer
 - Has custody of all money, mortgages, notes, leases, and evidences of value belonging to the Village (other than bonds required to be maintained by the Clerk)
 - Receives all money belonging to, and receivable by the Village
 - Keeps an account of all receipts and expenditures

Roles and Duties of Village Officials

- Village Treasurer
 - Collects and keeps an account of all taxes and money appropriated, raised, or received for each fund of the Village
 - Keeps a separate account of each fund
 - Pays check disbursements
 - Provides monthly and annual report to Council on receipts and disbursements by fund



Roles and Duties of Village Officials

- Village Treasurer
 - Keeps all Village money in depository accounts authorized by law
 - The functions of the Treasurer are subject to the Village Manager ordinance adopted by Council



Roles and Duties of Village Officials

- Compensation of Village officials
 - “President and each Trustee shall receive compensation for the performance of the duties”
 - Must be provided by ordinance
 - Ordinance must specify how the compensation is determined and paid

Roles and Duties of Village Officials

- Compensation of Village officials
 - Except as otherwise provided by law, officers receive no other compensation during their term of office
 - Ordinance should address change in compensation of officials; typically change is prospective only

Qualifications for Elective Office

- Must be an elector
 - 18 years old
 - Resident of the state for six months
 - Resident of the Village for 30 days
- Must not be “in default” to the Village
 - Cannot be delinquent in payment of property taxes or owe a debt to the Village
- Any votes for a person in default are void
- Must take and subscribe to the oath of office and file the oath with the Clerk

Role of Village Council

- Powers of Village Council
 - Exercise legislative authority of Village
 - Provide for “public health, safety and general welfare” of the Village
 - Adopt ordinances and regulations
 - Punish “disorderly persons”
 - Abate nuisances and preserve the public health
 - Provide for the removal of unsafe buildings
 - Adopt other ordinances and regulations for safety and good government of the Village

Role of Village Council

- Powers of Village Council
 - Adopt ordinances and regulations
 - Restrain and prevent vice and immorality
 - Punish vagrants, disorderly persons, and prostitutes
 - Prohibit and suppress disorderly houses and gaming houses
 - Regulate, license, or suppress billiard tables and ball alleys, public dance halls, and soft drink emporiums; suppress gaming
 - Regulate, license public shows and exhibitions

Role of Village Council

- Powers of Village Council
 - Adopt ordinances and regulations
 - License auctioneers
 - License and regulate hawkers, peddlers, transient traders and dealers; hacks and other public vehicles
 - Require safe and proper hitching of horses
 - Prevent and punish horse racing and immoderate driving in any street, park, or alley
 - Prevent the running at large of dogs

Role of Village Council

- Powers of Village Council
 - Adopt ordinances and regulations
 - “Regulate solicitors for passengers or baggage for any hotel, tavern, public house, boat, or railroad, and draymen, carmen, truckmen, porters, runners, drivers of cabs, hackney coaches, omnibuses, carriages, sleighs, express vehicles, and other vehicles used and employed for hire, and to fix and regulate the amount and rate of compensation of those individuals”

Role of Village Council

- Powers of Village Council under other state law
 - Zoning and planning
 - Ownership and operation of public utilities (sewer, water, electric, for example); public facilities
 - Provide police and fire protection (under both General Law Village Act and other state law)

Role of Village Council

- Powers of Village Council
 - “The Village is vested with all powers and immunities, expressed or implied, that villages are, or hereafter may be, permitted to exercise under the constitution and laws of the state of Michigan. The enumeration of particular powers or immunities in this act is not exclusive” MCL 67.1a

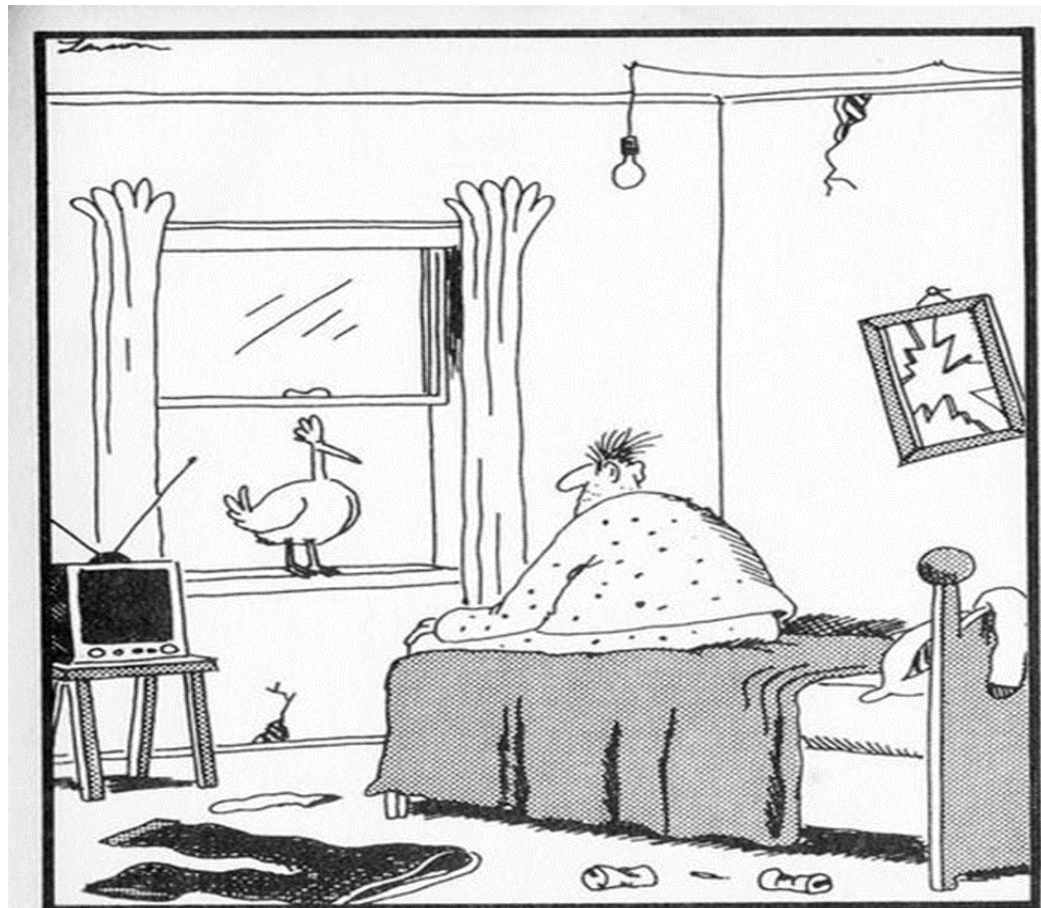
Role of Village Council

- Powers of Village Council
 - The Village may:
 - Exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government whether such powers are expressly enumerated or not. MCL 67.1a(2)(a)
 - Do any act to advance the interests, good government, and prosperity of the village. MCL 67.1a(2)(b)

Role of Village Council

■ Powers of Village Council

- Pass and enforce all laws, ordinances, resolutions, and rules relating to its municipal concerns subject to the constitution and laws of the state. MCL 67.1a(2)(c)
- “The powers of the village under this act shall be liberally construed in favor of the village and shall include those fairly implied and not prohibited by law or constitution.”
MCL 67.1a(3)
- “The specific powers . . . shall not be construed as limiting the general powers” of the Village set forth in the Act.
MCL 61.1a(4)



The Bluebird of Happiness long absent from his life, Ned is visited by the Chicken of Depression.

Role of Village Council

- Resignations and filling vacancies in office
 - Resignations from office
 - Must be in writing and must be accepted by Village Council
 - If resignation specifies an effective date, the resignation, once accepted by Council, is effective on the date specified
 - If no date is specified or resignation is effective “immediately”, resignation is effective upon acceptance by Council

Role of Village Council

- Resignations and filling vacancies in office
 - Vacancies may be created by:
 - Resignation
 - Death
 - Moving outside of the Village; vacant upon permanent move
 - “In Default” to the Village (delinquent in taxes or debts to Village)
 - Recall election; Council cannot remove another Council member
 - Removal by the Governor

Role of Village Council

- Resignations and filling vacancies in office
 - Filling vacancies
 - Vacancies on Council filled by appointment by the Village Council
 - Vacancies in other offices filled by appointment by Village President, subject to consent of Village Council
 - Appointee to Council serves until the next regularly scheduled election

Village Council Rules

- General Law Village Act sets forth certain rules for Council
 - Quorum for transaction of Council business:
 - majority of the members of Council
 - lesser number may adjourn and compel the attendance of absent members (as prescribed by ordinance)
- Village Council also required to adopt its own “Rules of Procedure”

Village Council Rules

- Voting requirements –
 - Majority of a quorum vs. majority of Council
 - Majority vote of Council required to:
 - Create or abolish an office
 - Vacate a street, alley, or public ground
 - Purchase, lease, sell or dispose of real estate or an interest in real estate
 - Order a public improvement to be made
 - Vote must be taken by “yeas” and “nays”
 - Votes must be recorded in the minutes

Village Council Rules

- Voting requirements –
 - Other special voting provisions:
 - Two-thirds vote of Council required to increase a tax or impose a special assessment
 - Two-thirds vote of Council required to adopt an ordinance reducing or increasing the size of Council or providing for appointment or election of Village Clerk and/or Village Treasurer

Mika Meyers^{PLC}

Village Council Meetings, Minutes, Open Meetings Act



Village Council Meetings, Minutes, Open Meetings Act

- Village Council’s “Rules of Procedure”
 - General Law Village Act requires Council to adopt its own rules of procedure
 - Rules address many procedural and operational aspects of Council and Council meetings
 - Holding of regular and special meetings
 - Who can call special meetings; notice required
 - Distribution of agendas and materials for meeting
 - Conduct of meetings
 - Order of agenda
 - Parliamentary procedure

Village Council Meetings, Minutes, Open Meetings Act

- Village Council's "Rules of Procedure"
 - Who sets the agenda?
 - Public participation/public comment
 - Conduct of discussion by Council members
 - Voting; roll call votes; duty to vote
- Committees
 - Who forms?
 - Who appoints?
 - Meetings and compliance with Open Meetings Act; sub-quorum committees
- Closed sessions and compliance with the Open Meetings Act

Open Meetings Act – Special Considerations

- Purposes of OMA:
 - Post-*Watergate* development in the law
 - OMA is a “Sunshine” law
 - Meetings and decisions of public bodies should be made in public
 - Providing the public with notice of meetings and actions taken at meetings through publication and dissemination of meeting minutes
 - Providing the public with an opportunity to participate and be heard at meetings of the public body

Open Meetings Act – Special Considerations

- Core requirements of OMA:
 - “All *meetings* of a public body shall be open to the public and shall be held in a place available to the general public.” MCL 15.263(1).
 - “All *decisions* of a public body shall be made at a meeting open to the public.” MCL 15.263(2).
 - “All *deliberations* of a public body constituting a quorum of its members shall take place at a meeting open to the public.” MCL 15.263(2).

Open Meetings Act – Special Considerations

- Core requirements of OMA:
 - What is a “meeting”?
 - Convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on public policy
 - What is a “decision”?
 - Determination, action, vote, or disposition on a motion, proposal, recommendation, resolution . . . Ordinance . . . on which a vote by members of the public body is required and by which [it] effectuates or formulates public policy
 - What is meant by “deliberation”?
 - Discussion, debate, information gathering

Open Meetings Act – Special Considerations

- “Do’s” and “Don’ts” under OMA:
 - **Don’t** try to evade OMA, you’ll get caught and it will be expensive (attorneys’ fees, penalties)
 - **Do** post special meetings not less than 18 hours prior to the meeting time; if the Village has a website, post the notice on the website too
 - **Don’t** use email and text messages to discuss Village business between Council members; don’t use the “reply all” button to respond to Council-wide emails

Open Meetings Act – Special Considerations

- “Do’s” and “Don’ts” under OMA:
 - **Do** post all meetings of Council committees in accordance with the Open Meetings Act
 - **Don’t** attempt voting in secret or by ballot
 - **Do** consult with the Village Attorney about meeting in closed session; only limited purposes for a public body to meet in closed session and particular requirements to properly meet in closed session
 - **Don’t** make decisions in closed session; decisions must be made in open session

Open Meetings Act – Special Considerations

- “Do’s” and “Don’ts” under OMA:
 - **Do** remember that there is no such thing as a “work session” that does not need to comply with OMA
 - **Don’t** forget, that with OMA:
“When in doubt, check it out [with the Village Attorney]”
 - **Do** provide an opportunity for public comment on every meeting agenda, even for a special meeting

Open Meetings Act – Special Considerations



Mika Meyers^{PLC}

Open Meetings Act – Special Considerations



Open Meetings Act – Special Considerations

- Closed Session Under OMA
 - Only permitted for very few purposes
 - To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing
 - For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.
 - To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained

Open Meetings Act – Special Considerations

- Closed Session Under OMA
 - Only permitted for very few purposes
 - To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body
 - To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential; but all interviews by a public body for employment or appointment must be open

Open Meetings Act – Special Considerations

- Closed Session Under OMA
 - Only permitted for very few purposes
 - To consider material exempt from discussion or disclosure by state or federal statute
 - Basis to meet in closed session with legal counsel
 - Relies on language in OMA and Freedom of Information Act
 - Cannot be used to go into closed session to discuss an attorney's oral opinion, only for a written legal opinion to the public body

Open Meetings Act – Special Considerations

- Closed Session Under OMA
 - Vote required depends on the purpose
 - 2/3 roll call vote of members elected or appointed and serving required, except for the closed sessions relating to (1) job performance/evaluations; and (2) collective bargaining sessions
 - Minutes must include the roll call vote and purpose for calling the closed session
 - No decisions may be made in closed session (except to adjourn from closed session)
 - May include outside consultants, employees in closed session, if necessary

Open Meetings Act – Special Considerations

- Closed Session Under OMA
 - Separate set of minutes required to be kept for closed sessions
 - closed session minutes must be approved in an open meeting
 - contents of the closed session minutes may be kept confidential
 - Public body may meet in closed session to consider approving the minutes, but approval in open session
 - Closed session minutes are to be kept separate from other meeting minutes; may be destroyed one year and a day from the date of approval of the minutes



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