- (v) The business address of the custodian of the vehicle.
- (vi) The procedure to redeem the vehicle.
- (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
- (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
  - (ix) A warning that the failure to redeem the vehicle or to request a hearing within twenty (20) days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.
- (5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within twenty (20) days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 49-157 and 49-158. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who request a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.
- (6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (7) If the owner does not redeem the vehicle or request a hearing within twenty (20) days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.
- (8) Not less than twenty (20) days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than twenty (20) days after the date of the notice, the police agency shall offer the vehicle for a sale at a public sale pursuant to section 49-159.
- (9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 49-159 not less than thirty (30) days after public notice of the sale has been published.

(Ord. No. 80, § 1a, 5-23-83)

# Sec. 49-155. Abandoned scrap vehicle procedures.

- (1) The terms used in this section are as follows:
- (a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:
  - (i) Is on public or private property;

- (ii) Is seven (7) or more years old;
- (iii) Is apparently inoperable or is extensively damaged to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 5.71 would exceed the fair market value of that vehicle;
- (iv) Is currently registered in the State of Michigan or displays current year registration plates from another state; and
- (v) Is not removed within forty-eight (48) hours after a written notice as described in section 49-154(2)(b) is affixed to the vehicle.
- (b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:
  - (i) Is on public or private property;
  - (ii) Is seven (7) or more years old;
  - (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 5.71, would exceed the fair market value of that vehicle;
  - (iv) Is not currently registered in this state and does not display current year registration plates from another state; and
  - (v) Is not removed within forty-eight (48) hours after a written notice as described in section 49-154(2)(b) is affixed to the vehicle.
- (2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:
  - (a) Determine if the vehicle has been reported stolen.
  - (b) Take two (2) photographs of the vehicle.
  - (c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:
    - (i) The year, make and vehicle identification number if available.
    - (ii) The date of abandonment.
    - (iii) The location of abandonment.
    - (iv) A detailed listing of the damage or the missing equipment.
    - (v) The reporting officer's name and title.
    - (vi) The location where the vehicle is being sold.
  - (d) Within twenty-four (24) hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
- (3) Within twenty-four (24) hours, excluding Saturday, Sunday and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

- (4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).
- (5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than two (2) years. The two (2) photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than two (2) years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.
- (6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the policy agency shall do all of the following:
  - (a) Determine if the vehicle has been stolen.
  - (b) Take two (2) photographs of the vehicle.
  - (c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:
    - (i) The year, make and vehicle identification number if available.
    - (ii) The date of abandonment.
    - (iii) The location of abandonment.
    - (iv) A detailed listing of the damage or the missing equipment.
    - (v) The reporting officer's name and title.
    - (vi) The location where the vehicle is being held.
  - (d) Within twenty-four (24) hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
  - (e) Within seven (7) days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
    - (i) The year, make and vehicle identification number of the vehicle if available.
    - (ii) The location from which the vehicle was taken into custody.
    - (iii) The date on which the vehicle was taken into custody.
    - (iv) The name and address of the police agency which had the vehicle taken into custody.
    - (v) The business address of the custodian of the vehicle.
    - (vi) The procedure to redeem the vehicle.
    - (vii) The procedures to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
    - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

- (ix) A warning that the failure to redeem the vehicle or to request a hearing within twenty (20) days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.
- (7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within twenty (20) days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 49-157 and 49-158. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.
- (8) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (9) If the owner does not redeem the vehicle or request a hearing within twenty (20) days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (10) Not less than twenty (20) days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than twenty (20) days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) through (5).

(Ord. No. 80, § 1b, 5-23-83)

# Sec. 49-156. Vehicle removed by police.

- (1) Reasons for removal. A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:
  - (a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.
  - (b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.
  - (c) If a vehicle is parked in a posted tow away zone.
  - (d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.
  - (e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.

- (f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or manmade disaster, or other emergency.
- (g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.
- (2) Authorization. A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:
  - (a) Check to determine if the vehicle has been reported stolen.
  - (b) Within twenty-four (24) hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subdivision does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.
  - (c) If the vehicle has not been redeemed within ten (10) days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first-class mail or personal service a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within twenty-four (24) hours after the removal, and if the vehicle has not been redeemed within thirty (30) days and upon complaint from the towing service, the police agency shall send the notice within thirty (30) days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:
    - (i) The year, make and vehicle identification number of the vehicle.
    - (ii) The location from which the vehicle was taken into custody.
    - (iii) The date on which the vehicle was taken into custody.
    - (iv) The name and address of the police agency which had the vehicle taken into custody.
    - (v) The location where the vehicle is being held.
    - (vi) The procedure to redeem the vehicle.
    - (vii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
  - (viii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.
    - (ix) A warning that the failure to redeem the vehicle or to request a hearing within twenty (20) days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.
- (3) Request for hearing. The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within twenty (20) days after the date of the notice. If the owner requests a

hearing, the matter shall be resolved after a hearing conducted pursuant to sections 49-157 and 49-158. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

- (4) Obtaining release of vehicle. If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (5) Paying accrued charges. If the owner does not redeem the vehicle or request a hearing within twenty (20) days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.
- (6) *Public sale*. Not less than twenty (20) days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than twenty (20) days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 49-159.
- (7) Determination of ownership. If the ownership of a vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 49-159, not less than thirty (30) days after public notice of the sale has been published. (Ord. No. 80, § 1d, 5-23-83)

# Sec. 49-157. Abandoned vehicle-Jurisdiction of court.

- (1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 49-154, 49-155(6)—(10), 49-160 or 49-156:
  - (a) The district court; and
  - (b) A municipal court.
- (2) The court specified in the notice prescribed in section 49-154(4)(c), 49-155(6)(b), 49-160(4) or 49-156(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by Section 8312 of Act No. 236 of the Public Acts of 1961, as amended, being Section 600.8312 of the Michigan Compiled Laws.
- (3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 49-154, 49-155, 49-160 or 49-156 shall be used to pay the towing and storage fees.

  (Ord. No. 80, § 1e, 5-23-83)

#### Sec. 49-158. Same-Duties of court.

- (1) Responsibility of the court. Upon receipt of a petition prescribed in section 49-154, 49-155, 49-160 or 49-156, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:
  - (a) Schedule a hearing within thirty (30) days for the purpose of determining whether the police agency acted properly; and
  - (b) Notify the owner and the police agency of the time and place of the hearing.
- (2) Evidence of compliance. At the hearing specified in subsection (1) the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 49-156.
- (3) Decisions of the court. After the hearing, the court shall make a decision which shall include one or more of the following:
  - (a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 49-156, and an order providing a period of twenty (20) days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within twenty (20) days, the police agency shall dispose of the vehicle pursuant to section 49-154 or 49-159;
  - (b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 49-156. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges;
  - (c) A finding that the towing and daily storage fees were reasonable; or
  - (d) A finding that the towing and daily storage fees were reasonable and issue an order directing an appropriate reduction.

(Ord. No. 80, § 1f, 5-23-83)

## Sec. 49-159. Same-Public sale.

- (1) Manner of conducting sale. A public sale for a vehicle which has been deemed abandoned under section 49-154 or 49-160 or removed under section 49-156 shall be conducted in the following manner:
  - (a) It shall be under the control of the police agency or agent of the police agency;
  - (b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency;

- (c) Except as provided by sections 49-154(9) and 49-156(7), it shall be held not less than five (5) days after public notice of the sale has been published; and
- (d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.
- (2) Money acquired from sale. The money received from the public sale of the vehicle shall be applied in the following order of priority:
  - (a) Towing and storage charges.
  - (b) Expenses incurred by the police agency.
  - (c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.
  - (d) A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.
- (3) Inability to auction. If there are no bidders on the vehicle, the police agency may do one of the following:
  - (a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.
  - (b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:
    - (i) Paying the towing and storage charges.
    - (ii) Applying for title to the vehicle.
  - (c) Hold another public sale pursuant to subsection (1).
- (4) Salvage certificate. A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within fifteen (15) days after obtaining the vehicle.
- (5) Disposition of vehicle. Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

  (Ord. No. 80, § 1g, 5-23-83)

#### Sec. 49-160. Vehicle removed from private property.

(1) Custodian of vehicle; notification. When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

- (2) Responsibility of police agency. Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:
  - (a) Determine if the vehicle has been reported stolen; and
  - (b) Enter the vehicle into the law enforcement information network.
- (3) Disposition of vehicle. The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.
- (4) Abandoned by owner. If the vehicle described in subsection (1) is not claimed by the owner within seven (7) days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in subsections 49-154(4)(c) through (9) shall apply. (Ord. No. 80, § 1c, 5-23-83)

Secs. 49-161-49-180. Reserved.

#### ARTICLE VII. MOTORIZED AND NONMOTORIZED VEHICLES

# DIVISION 1. GENERALLY

Secs. 49-181-49-200. Reserved.

# DIVISION 2. COMMERCIAL VEHICLES

#### Sec. 49-201. Commercial vehicle defined.

A commercial vehicle or truck as used in this division shall mean and include all vehicles designated, constructed or used for the transportation of goods, wares, merchandise or freight. (Ord. No. 45, § 2, 3-6-56)

## Sec. 49-202. Commercial vehicles restricted to major streets: exceptions.

(a) No person or persons, firms or corporations, shall operate, or cause to be operated, a commercial vehicle or truck on any of the streets, highways and alleys in the Village of Elkton, except on the following streets designated as major streets: North and South Main Streets, Mullen Street, Clark Street, Railroad Street, Cleveland Street, York Street, Drettmann Drive, Whalen Street, and Mill Street. The shortest route must be traveled between the destination and major streets. Provided further, this shall not apply to any vehicle that does not exceed five (5) tons.

- (b) Cut through traffic is prohibited on any street within the village not defined as a major street. The operation of any commercial vehicles or trucks is prohibited on village streets unless making a delivery or pick up of people or products by means of the shortest route from and or to a major village street.
- (c) The Michigan Vehicle Code, section 257.772 is hereby incorporated as part of this section as it pertains to load limits on major streets.
- (d) Any village resident may request, in writing, to the village police department, for a load limit waiver to be approved by the police department and police committee.
- (e) Frost limits: Seasonal frost limitations on village streets may be in place as deemed by the village department of public works. During this condition period, weight restrictions will be reduced on village streets and written waivers may not be applicable during this time period.
- (f) Penalty: Any person, firm or corporation convicted of violating any provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period of not to exceed ninety (90) days or both, such fine and imprisonment is the discretion of the court. (Ord. No. 45, § 1, 3-6-56; Ord. of 4-9-91; Ord. of 2-13-07)

# Sec. 49-203. Penalties for violation.

Any violation or failure to comply with the provisions of this division shall be punished by a fine not to exceed one hundred dollars (\$100.00) and costs of prosecution or by imprisonment in the county jail of Huron County not to exceed ninety (90) days, or both such fine and imprisonment in the discretion of the court, and when such fine and costs are imposed, the court may provide that in default of the payment thereof the offender shall be imprisoned for a period not to exceed ninety (90) days unless such fine and costs shall be sooner paid; provided, no person shall be imprisoned for a single violation of the ordinance for a longer period than ninety (90) days.

(Ord. No. 45, § 3, 3-6-56)

Secs. 49-204-49-210. Reserved.

#### DIVISION 3. SCHOOL BUSSES

## Sec. 49-211. Signs on school bus.

A school bus transporting pupils in the Village of Elkton shall be painted and shall contain signs on the back and front of the school bus as approved by the state transportation department and the superintendent of public instruction.

(Ord. No. 86, § 20.980, 8-14-84)

# Sec. 49-212. Visibility of stopped bus.

A school bus driver shall not stop the bus for the purpose of receiving or discharging passengers, unless the bus is completely visible in its stopped position to approaching or overtaking drivers of vehicles for a distance of at least four hundred (400) feet. (Ord. No. 86, § 20.982, 8-14-84)

# Sec. 49-213. Overtaking or meeting stopped school bus; misdemeanor.

The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying two (2) alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than ten (10) feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. The driver of the school bus, before resuming motion, shall deactivate flashing lights and permit stopped traffic to proceed and shall, when resuming motion, proceed in a manner which will allow congested traffic to disperse by keeping the bus as near to the right side of the road as can be done with safety. Passengers crossing the road upon being discharged from a school bus shall cross in front of the stopped school bus. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than ten (10) miles an hour and with due caution for the safety of passengers being received or discharged from the school bus. Signs giving notice of this reg-

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ulation shall be posted upon or at the entrance of the Village of Elkton as may be most appropriate or sufficiently legible as to be seen by an ordinarily observant person.

The driver of a vehicle who fails to stop for a school bus as required by this subsection, or who passes a school bus in violation of this subsection, is guilty of a misdemeanor. (Ord. No. 86, § 20.981, 8-14-84)

# Sec. 49-214. Meeting bus on divided highway.

The driver of a vehicle upon a highway which has been divided into two (2) roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier or section. (Ord. No. 86, § 20.983, 8-14-84)

# Sec. 49-215. Signal lamps.

A school bus transporting pupils in the Village of Elkton in addition to any other equipment and distinctive marking required by law, shall be equipped with signal lamps mounted as high and widely spaced laterally as practicable which shall be capable of displaying to the front two (2) alternately flashing red lights located at the same level and to the rear two (2) alternately flashing red lights located at the same level. The lights shall have sufficient intensity to be visible from a distance of not less than five hundred (500) feet in normal sunlight and shall be actuated by the driver of the school bus when, but only when, the vehicle is stopped and for a distance of at least two hundred (200) feet in advance of a stop for the purpose of receiving or discharging school children. (Ord. No. 86, § 20.984, 8-14-84)

#### Sec. 49-216. Mirror.

A school bus shall be equipped with a mirror, convex in shape, at least seven and one-half  $(7^{1/2})$  inches in diameter firmly mounted at hood or fender top height in front of the bus. The mirror shall be located on either the left or right side of the bus in a manner so that the seated driver may observe through its use the road from the front bumper forward to the point where direct observation is possible.

(Ord. No. 86, § 20.985, 8-14-84)

#### Sec. 49-217. Evidence.

In a proceeding for a violation of section 49-213, proof that the particular vehicle described in the citation, complaint or warrant was in violation of section 49-213, together with proof that the defendant named in the citation, complaint or warrant was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation. (Ord. No. 86, § 20.986, 8-14-84)

# Sec. 49-218. Civil infraction.

Except as otherwise provided in section 49-213, a person who violates this section is responsible for a civil infraction. (Ord. No. 86, § 20.987, 8-14-84)

#### Secs. 49-219-49-230. Reserved.

# DIVISION 4. BICYCLES, MOTORCYCLES, ETC.

#### Sec. 49-231. Definitions.

Bicycle shall mean and include a vehicle with two (2) tandem wheels either of which are at least eight (8) inches in diameter with solid or pneumatic tires, having a steering bar or wheel, a saddle seat and propelled by human power.

*Motorcycle* shall mean every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground.

Operate or any form or tense of the word shall mean and refer to the use, putting into action or causing to function of a bicycle, motorcycle or any other vehicle or device used in a similar manner, by a person mounted thereon.

Vehicle shall mean a bicycle, motorcycle or any other vehicle or device used in a similar manner.

(Ord. No. 61, § 1, 1-5-72)

#### Sec. 49-232. Regulations; where applicable.

The regulations herein applicable to vehicles shall apply whenever a vehicle is operated upon any highway or upon any path set aside for the exclusive use of vehicles, subject to the exceptions stated herein.

(Ord. No. 61, § 5, 1-5-72)

## Sec. 49-233. Responsibilities of parents, guardians.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this division. (Ord. No. 61, § 4, 1-5-72)

#### Sec. 49-234. Prohibitions.

It shall be unlawful for:

(a) Any person to operate or ride any vehicle upon any sidewalk within the corporate limits of the Village of Elkton, provided that this section shall not apply to any invalid being transported in a wheelchair;

- (b) Two (2) or more vehicles to be ridden abreast within the corporate limits of the Village of Elkton. When more than one vehicle shall be running in the same direction, one shall lead and all others shall follow, each behind the one in advance and all keeping to the right-hand side of the street and a space of at least twenty (20) feet shall be maintained between each two (2) vehicles in motion;
- (c) A person operating or riding on a vehicle to ride or sit upon anything other than a permanent or regular seat attached thereto; and
- (d) Any vehicle to carry more persons at one time than the number for which it is designed and equipped.

(Ord. No. 61, § 2, 1-5-72)

# Sec. 49-235. Required equipment.

All vehicles covered by this division shall be equipped with the following:

- (a) If the vehicle is driven at night, it shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
- (b) A bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet except that such vehicle shall not be equipped with nor shall any person use upon such a vehicle a siren or whistle.
- (c) A braking device which will enable the operator to make the brake wheels skid on dry, level, clean pavement.

(Ord. No. 61, § 3, 1-5-72)

## Sec. 49-236. Penalties for violation.

Any person violating any provision of this division shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not more than twenty-five (\$25.00) and the costs of prosecution or by imprisonment in the county jail for a period not to exceed twenty (20) days or by both such fine and imprisonment in the discretion of the court together with the costs of such prosecution.

(Ord. No. 61, § 6, 1-5-72)

#### Secs. 49-237-49-250. Reserved.

# DIVISION 5. OFF-ROAD VEHICLES

#### Sec. 49-251. Definitions.

Operate shall mean to ride in or on, and be in actual physical control of the operation of an ORV.

*Operator* shall mean a person who operates or is in actual physical control of the operation of the ORV.

ORV or Vehicle shall mean a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swamp land or other natural terrain. It includes, but is not limited to, a multitrack or multiwheel drive or low pressure tire vehicle, a motorcycle or related two-wheel or three-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle or other means of transportation, deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency or law enforcement purposes, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

*Person* shall mean an individual, partnership, corporation, the state or any of its agencies or subdivisions, or a body of persons whether incorporated or not.

Street shall mean that portion of a roadway improved, designated or ordinarily used for vehicular travel within the Village of Elkton, Huron County, Michigan. (Ord. No. 89, § 1, 12-3-85)

# Sec. 49-252. Division to be in conjunction with state law.

The provisions of this division shall be in addition to and read in conjunction with Act 319, Public Acts of 1975; MCL Section 257.1601 et seq.; MSA Section 9.3300(1) et seq. (Ord. No. 89, § 8, 12-3-85)

### Sec. 49-253. Operation dependent upon motor vehicle registration.

A person shall not operate an ORV which is not registered under Act No. 300 of the Public Acts of 1949, as amended, upon a public highway, street or right-of-way thereof, except under the following conditions and circumstances:

- (a) The operator of a vehicle may cross a public highway, other than a limited access highway, at right angles, for the purpose of getting from one area to another, when the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a public highway, and shall yield the right-of-way to oncoming traffic.
- (b) A vehicle may be operated on a street or highway for a special event of limited duration, conducted according to a prearranged schedule, only under permit from the Village of Elkton.

(Ord. No. 89, § 2, 12-3-85)

## Sec. 49-254. Traffic regulations.

(a) Each person operating an ORV shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto and shall obey the orders and directions of any police officer of the village authorized to direct or regulate the traffic.

(b) Each person operating an ORV shall operate said vehicle on the extreme right side of the designated street right-of-way.

Cross reference—Streets, sidewalks and other public places, Ch. 45. (Ord. No. 89, § 3, 12-3-85)

# Sec. 49-255. Supervision of minors; incompetency.

- (a) A parent or legal guardian shall not permit a child under twelve (12) years of age to operate a vehicle without the direct supervision of an adult, except on land owned by, or under the control of, the parent or legal guardian.
  - (b) The owner or person in charge or in control of a vehicle shall not knowingly permit:
  - (1) The vehicle to be operated by a person under the age of twelve (12) without direct supervision of an adult; and
  - (2) The vehicle to be operated by a person who is incompetent to operate the vehicle because of mental or physical disability, or because the person is under the influence of intoxicating liquor; a controlled substance as defined by Section 7104 of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.7104 of the Michigan Compiled Laws; or a combination of intoxicating liquor and a controlled substance.
- (c) A person who is at least twelve (12) but less than sixteen (16) years of age may operate an ORV if that person satisfies any of the following:
  - (1) Is under the direct supervision of a person who is eighteen (18) years of age or older;
  - (2) Is on land owned or under the control of a parent or legal guardian;
  - (3) Has in immediate possession an ORV safety certificate issued pursuant to MCL Section 257.1617 (3); MSA Section 9.3300 (17)(3); or
  - (4) Possesses an ORV safety certificate issued under the authority of another state or province of Canada.
- (d) When operating an ORV under subsection (3) or (4), that person shall present the ORV safety certificate to a peace officer upon demand. (Ord. No. 89, § 4, 12-3-85)

Cross reference—Operating under the influence of alcohol or controlled substances, § 49-34.

# Sec. 49-256. Operating restrictions, speed, lights, brakes, condition of operator and vehicle.

- (a) A person shall not operate an ORV:
- (1) At a rate of speed greater than is reasonable and proper, or in a careless manner having due regard for conditions then existing.
- (2) While under the influence of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and controlled substance.

- (3) During the hours of a half hour after sunset to a half hour before sunrise without displaying a lighted headlight and lighted taillight.
- (4) Unless equipped with a braking system which may be operated by hand or foot, capable of producing deceleration at fourteen (14) feet a second on level ground at a speed of twenty (20) miles per hour; a brake light, brighter than the taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of a half hour after sunset and a half hour before sunrise; and a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- (5) In any area in such a manner as to create an erosive condition, or to injure, damage or destroy trees or growing crops.
- (6) Unless the vehicle is equipped with a spark arrester type muffler, in good working order and in constant operation. Noise emission under full throttle, at fifty (50) feet at right angles from the vehicle path, shall not exceed ninety (90) db(A) on a vehicle manufactured or assembled before January 1, 1973; eighty-eight (88) db(A) on a vehicle manufactured or assembled after December 31, 1972; eight-six (86) db(A) on a vehicle manufactured or assembled after January 1, 1975 as measured on a sound level meter which meets the requirements of ANSI SI.4 1971, using procedure and ancillary equipment therein described.
- (7) Within one hundred (100) feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except on property owned or under the operator's control or on which the operator is an invited guest.
- (8) In or upon the lands of another without the written consent of the owner, the owner's agent or lessee, when required by Act No. 323 of the Public Acts of 1976, as amended, being Sections 317.171 through 317.181 of the Michigan Compiled Laws. The operator of the vehicle is liable for damage to private property, including, but not limited to, damage to trees, shrubs, growing crops, or injury to living creatures or damage caused through vehicle operation in a manner so as to create erosive or other ecological damage to private property. The owner of the private property may recover from the person responsible for nominal damages of not less than the amount of damage or injury. Failure to post private property or fence or otherwise enclose in a manner to exclude intruders, or for the private property owner or other authorized person to personally communicate against trespass shall not imply consent for ORV use.
- (9) To hunt, pursue, worry, kill or attempt to hunt, pursue, worry or kill a bird or animal, wild or domesticated.
- (10) In a manner so as to leave behind litter or other debris. (Ord. No. 89,  $\S$  5, 12-3-85)

Cross reference—Animals in general, Ch. 9, Art. I.

# Sec. 49-257. Wilful failure to obey officer's direction; misdemeanor.

- (a) An operator of an ORV, who is given by hand, voice, emergency light or siren a visual or audible signal by a law enforcement officer acting in the lawful performance of his duty, directing the operator to bring the vehicle to a stop, and who wilfully fails to obey the signal by increasing speed, extinguishing lights or otherwise attempting to flee or elude the officer is guilty of a misdemeanor. The officer giving the signal shall be in uniform, and the officer's vehicle shall be easily identifiable as an official law enforcement vehicle.
- (b) The operator of a vehicle on the private premises of another, when visibly hailed by the owner or the owner's authorized agent, shall bring the vehicle to an immediate stop and provide personal identification. Refusal to obey such a request to stop or subsequent escape or attempt to escape is a misdemeanor. (MCL Section 257.1623). (Ord. No. 89, § 6, 12-3-85)

Cross reference—Officers and employees, Ch. 1, Art. III.

#### Sec. 49-258. Penalties for violation.

Any person violating any provisions of this division shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not more than one hundred dollars (\$100.00) and the costs of prosecution or by imprisonment in the county jail for a period not to exceed ninety (90) days or by both such fine and imprisonment, in the discretion of the court, together with costs of such prosecution.

(Ord. No. 89, § 7, 12-3-85)

Secs. 49-259-49-270. Reserved.

#### **DIVISION 6. SNOWMOBILES**

#### Sec. 49-271. Definitions.

Operate: To control the operation of a snowmobile.

Operator: A person who operates or is in actual control of a snowmobile.

Roadway: That portion of a public highway or street improved, designated or ordinarily used for vehicular travel.

Snowmobile: A self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.

(Ord. No. 57, § 1, 1-5-71)

#### Sec. 49-272. Regulations.

It shall be unlawful for any person to operate a snowmobile under the following circumstances:

(a) On private property of another without the express permission to do so by the owner or occupant of said property.

- (b) On public school grounds, park property, playgrounds and recreational areas without the express provision or permission to do so by the proper public authority.
- (c) In a manner as to create loud, unnecessary or unusual noise as to disturb or interfere with the peace and quiet of other persons.
- (d) In a careless, reckless or negligent manner so as to endanger the safety of any person or the property of any other person.
- (e) Without having such snowmobile registered as provided for by statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.
- (f) On the main traveled portion of any roadway in the Village of Elkton except during periods of emergency when so declared by the Village chief of police.
- (g) On any sidewalk within the village limits of the Village of Elkton.
- (h) Between the hours of 12:00 midnight and 7:00 a.m.
- (i) Within the right-of-way of any public street within the village unless the operator shall have a valid driver's license, or is accompanied by a licensed driver, who is actually occupying a seat in the vehicle.

(Ord. No. 57, § 2, 1-5-71)

# Sec. 49-273. Traffic regulations.

Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the city authorized to direct or regulate the traffic. (Ord. No. 57, § 6, 1-5-71)

Cross reference-Officers and employees, Ch. 1, Art. III.

#### Sec. 49-274. Unattended vehicles.

It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with the keys for starting the vehicle left in ignition.

(Ord. No. 57, § 4, 1-5-71)

# Sec. 49-275. Restriction of operation.

The village council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads or streets or other village property within the village when in their opinion the public safety and welfare so requires.

(Ord. No. 57, § 5, 1-5-71)

Cross reference-Streets, sidewalks and other public places, Ch. 45.

# Sec. 49-276. Equipment required.

All snowmobiles operated within the village shall have the following equipment:

- (a) Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.
- (b) Adequate brakes in good working condition and at least one headlight and one taillight.
- (c) A safety or so-called "dead-man" throttle in operating condition; a safety or dead-man throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from driving track.

(Ord. No. 57, § 3, 1-5-71)

## Sec. 49-277. Penalties for violation.

Any person violating any provision of this division shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not more than one hundred dollars (\$100.00) and the costs of prosecution or by imprisonment in the county jail for a period not to exceed ninety (90) days or by both such fine and imprisonment in the discretion of the court together with the costs of such prosecution.

(Ord. No. 57, § 8, 1-5-71; Ord. of 1-5-71)

Chapters 50-52

# RESERVED