

Chapter 49

**TRAFFIC AND VEHICLES**

- Art. I. In General, §§ 49-1—49-30**  
**Art. II. Uniform Traffic Code, §§ 49-31—49-50**  
**Art. III. Licenses/Insurances, §§ 49-51—49-70**  
**Art. IV. Equipment, §§ 49-71—49-90**  
**Art. V. Parking, Standing and Stopping, §§ 49-91—49-150**  
Div. 1. Generally, §§ 49-91—49-110  
Div. 2. Parking Violations, §§ 49-111—49-130  
Div. 3. Parking Authority Commission, §§ 49-131—49-150  
**Art. VI. Abandoned, Disabled and Inoperative Vehicles, §§ 49-151—49-180**  
**Art. VII. Motorized and Nonmotorized Vehicles, §§ 49-181—49-278**  
Div. 1. Generally, §§ 49-181—49-200  
Div. 2. Commercial Vehicles, §§ 49-201—49-210  
Div. 3. School Busses, §§ 49-211—49-230  
Div. 4. Bicycles, Motorcycles, Etc., §§ 49-231—49-250  
Div. 5. Off-road Vehicles, §§ 49-251—49-270  
Div. 6. Snowmobiles, §§ 49-271—49-277

**ARTICLE I. IN GENERAL**

**Sec. 49-1. Code adopted.**

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 et seq., is adopted by reference.  
(Ord. No. 109, 3-14-00; Ord. of 9-9-03)

**Sec. 49-2. References in Code.**

References in the Michigan Vehicle Code to "local authorities" shall mean the Village of Elkton.  
(Ord. No. 109, 3-14-00)

**Sec. 49-3. Notice to be published.**

The village clerk shall publish this article in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.  
(Ord. No. 109, 3-14-00)

**Sec. 49-4. Penalties.**

The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the Village of Elkton may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than ninety-three (93) days.  
(Ord. No. 109, 3-14-00)

**Secs. 49-5—49-30. Reserved.**

## ARTICLE II. UNIFORM TRAFFIC CODE

### **Sec. 49-31. Code and amendments and revisions adopted.**

The Uniform Traffic Code for cities, townships, and villages as promulgated by the director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 Public Act 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference. The former Uniform Traffic Code, which was adopted previously is hereby repealed and replaced by this Ordinance, [Ordinance of January 14, 2003].

(Ord. No. 84, § 1, 8-2-83; Ord. of 1-14-03)

### **Sec. 49-32. References in Code.**

(a) *[References.]* References in the Uniform Traffic Code for cities, townships and villages to a "governmental unit" shall mean the Village of Elkton.

(b) *Notice To Be Published.* The city clerk shall publish this section in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for cities, townships and villages and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

(c) *Penalties.* The penalties provided by the Uniform Traffic Code for cities, townships and villages are adopted by reference.

(Ord. No. 84, § 2, 8-2-83; Ord. of 1-14-03)

### **Sec. 49-33. Amendments.**

The following section(s) and subsection(s) of the Uniform Traffic Code for cities, villages and townships are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this section shall refer to the like numbered sections of the Uniform Traffic Code.

*Section 8.3* is hereby amended to read:

"Sec. 8.3. *Angle parking.*

Upon those streets which have been signed or marked for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings, and all vehicles parking on those areas signed or marked for angle parking must park their vehicles in such a manner that the front of their vehicle is headed in the direction of the curb or edge of roadway."

(Ord. No. 62, § 1, 4-27-72)

**Sec. 49-34. Operating under the influence of intoxicating liquor.**

(a) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the village, if either of the following applies:

- (1) The person is under the influence of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.
- (2) The person has an alcohol content of 0.10 grams or more per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty-seven (67) milliliters of urine.

(b) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the village by a person who is under the influence of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and a controlled substance, who has an alcohol content of 0.10 grams or more per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty-seven (67) milliliters of urine, or whose ability to operate the motor vehicle is visibly impaired due to the consumption of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and a controlled substance.

(c) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the village when, due to the consumption of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (a), a finding of guilty under this subsection may be rendered.

(d) A person who is less than twenty-one (21) years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking for vehicles, within the village if the person has any bodily alcohol content. As used in this subsection "any bodily alcohol content" means either of the following:

- (1) An alcohol content of not less than 0.02 grams or more than 0.07 grams per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty-seven (67) milliliters of urine.
- (2) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.



(e) A person, whether licensed or not, shall not operate a vehicle in violation of subsections (a), (c) or (d) while another person is less than sixteen (16) years of age is occupying the vehicle. A person who violates this subsection is guilty of a misdemeanor punishable as follows:

- (1) Community service for not more than sixty (60) days.
- (2) A fine of not more than five hundred dollars (\$500.00).
- (3) Imprisonment for not more than ninety-three (93) days.

In the judgment of sentence under this section, the court may, unless the vehicle is ordered forfeited under MCL 257.625b, Order Vehicle Immobilization, as provided in MCL 257.904d.

(f) If a person is convicted for violating subsection (a) the person is guilty of a misdemeanor punishable by one or more of the following:

- (1) Community service for not more than forty-five (45) days.
- (2) Imprisonment for not more than ninety-three (93) days.
- (3) A fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).

(g) A person who is convicted of violating subsection (b) is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), or both.

(h) A person who is convicted of violating subsection (c), is guilty of a misdemeanor punishable by one or more of the following:

- (1) Community service for not more than forty-five (45) days.
- (2) Imprisonment of not more than ninety-three (93) days.
- (3) A fine of not more than three hundred dollars (\$300.00).

(i) If a person is convicted of violating subsection (d), all of the following apply:

- (1) Except as otherwise provided in subsection (i)(2), the person is guilty of a misdemeanor punishable by one or more of the following:
  - a. Community service for not more than forty-five (45) days.
  - b. A fine of not more than two hundred fifty dollars (\$250.00).
- (2) If the violation occurs within seven (7) years of one or more prior convictions, the person may be sentenced to one or more of the following:
  - a. Community service for not more than sixty (60) days.
  - b. A fine of not more than five hundred dollars (\$500.00).
  - c. Imprisonment of not more than ninety-three (93) days.

(j) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the Code of Criminal Procedure, 1927 Public Act 175, MCL 760.1 to 776.22.



(k) A person sentenced to perform community service under this section, shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(l) If a person is charged with a violation of subsections (a), (c), or (e), or MCL 275.625m, the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (d) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.

(m) Except as otherwise provided in subsection (o), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (a), the court shall require a jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(n) Except as otherwise provided in subsection (o), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (c), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

(o) A special verdict described in subsections (m) and (n) is not required if a jury is instructed to make a finding solely as to either of the following:

- (1) Whether the defendant was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
- (2) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(p) If a jury or court finds under subsections (m), (n), or (o) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an intoxicating liquor, the court shall do both of the following:

- (1) Report the finding to the Secretary of State.

(2) On a form or forms prescribed by the state court administrator, forward to the department of state police a record that specifies the penalties imposed by the court, including any term of imprisonment, and any sanction imposed under MCL 257.625n or MCL 257.904d.

(q) Except as otherwise provided by law, a record described in subsection (p)(2) is a public record and the department of state police shall retain the information contained on the record for not less than seven (7) years.

(r) In a prosecution for a violation of subsection (d), the defendant bears the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of evidence.

(s) All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this section takes effect, are saved and may be consummated according to the law enforced when they are commenced. This section shall not be construed to affect any prosecution pending or initiated before the effective date of this section for an offense committed before that effective date.

(t) All other ordinances inconsistent with the provisions of this section to the extent of such inconsistency are hereby repealed.

(Ord. No. 102, 12-13-94; Ord. of 9-14-99(1))

**Sec. 49-35. Preliminary chemical breath analysis.**

(a) If a person refuses a chemical test offered pursuant to MCL 257.625a(6) or submits to a chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:

- (1) On behalf of the Secretary of State, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the Secretary of State.
- (2) Except as provided in subsection (b), immediately do all of the following:
  - a. Forward a copy of the written report of the person's refusal to submit to a chemical test required under MCL 257.625d to the Secretary of State.
  - b. Notify the Secretary of State by means of the law enforcement information network that a temporary license or permit was issued to the person.
  - c. Destroy the person's driver's license or permit.

(b) If a person submits to a chemical test offered pursuant to MCL 257.625a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (a)(1) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately



comply with subsection (a)(2). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.

(c) A temporary license or permit issued under this section is valid for one of the following time periods:

- (1) If the case is not prosecuted, for ninety (90) days after issuance or until the person's license or permit is suspended pursuant to MCL 257.625f, whichever occurs earlier. The village attorney shall notify the Secretary of State if a case referred to the village attorney is not prosecuted. The village police shall notify the Secretary of State if a case is not referred to the village attorney or the prosecuting attorney for prosecution.
- (2) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.

(d) As used in this section, "unlawful alcohol content" means any of the following, as applicable:

- (1) If the person tested is less than twenty-one (21) years of age, 0.02 grams or more of alcohol per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty-seven (67) milliliters of urine.
- (2) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty-seven (67) milliliters of urine.
- (3) If the person tested is not a person described in subsections (d)(1) or (2), 0.10 grams or more of alcohol per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty-seven (67) milliliters of urine.

(Ord. of 9-14-99(1))

**Sec. 49-36. Possession of alcoholic liquor in passenger compartment; prohibition.**

(1) *Unlawful to transport open or uncapped container of alcoholic beverages.* Except as provided in subsection (2), a person shall not transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway, or within the passenger compartment of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this state.

(2) *Exception.* A person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in this state, if the vehicle



does not have a trunk or compartment separate from the passenger compartment, the container is enclosed or encased, and the container is not readily accessible to the occupants of the vehicle.

(3) *Violation as misdemeanor.* A person who violates this section is guilty of a misdemeanor.

(4) *Chartered vehicle exception.* This section does not apply to a passenger in a chartered vehicle authorized to operate by the Michigan Department of Transportation.  
(Ord. No. 97, 2-5-92)

**Sec. 49-36.1. Prohibition against purchase, consumption, or possession of alcoholic liquor by person less than 21 years of age.**

(a) A person less than twenty-one (21) years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section and MCL 436.33a(1). A person less than twenty-one (21) years of age who violates this section is guilty of a misdemeanor punishable by the following civil fines and sanctions:

- (1) For the first violation a fine of not more than one hundred dollars (\$100.00) and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d).
- (2) For a second violation a fine of not more than two hundred dollars (\$200.00), and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code, Act No. 368 of the Public Acts of 1978, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d). The person is also subject to sanctions against his or her operator's or chauffeur's license imposed in subsection (e).
- (3) For a third or subsequent violation a fine of not more than five hundred dollars (\$500.00), and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of Act No. 368 of the Public Acts of 1978, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d). The person is also subject to sanctions against his or her operator's or chauffeur's license imposed in subsection (e).

(b) Fifty (50) percent of the fines collected under subsection (a) shall be deposited with the state treasurer for deposit in the general fund to the credit of the department of public health for substance abuse prevention, treatment, and rehabilitation services.

(c) A person who furnishes fraudulent identification to a person less than twenty-one (21) years of age, or notwithstanding subsection (a) a person less than twenty-one (21) years of age who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor. The

court shall order the Secretary of State to suspend, pursuant to section 319(5) of Act No. 300 of the Public Acts of 1949, MCL 257.319, for a period of ninety (90) days, the operator or chauffeur license of a person who is convicted of furnishing or using fraudulent identification in violation of this subsection and the operator or chauffeur license of that person shall be surrendered to the court. The court shall immediately forward the surrendered license and an abstract of conviction to the Secretary of State. A suspension ordered under this subsection shall be in addition to any other suspension of the person's operator or chauffeur license.

(d) The court may order the person found violating subsection (a) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of Act No. 368 of the Public Acts of 1978, MCL 333.6103, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.

(e) Immediately upon the entry of a conviction or a probate court disposition for a violation of subsection (a), the court shall consider all prior convictions or probate court dispositions of subsection (a), or a local ordinance or law of another state substantially corresponding to subsection (a), and shall impose the following sanctions:

- (1) If the court finds that the person has one such prior conviction or probate court disposition, the court shall order the Secretary of State to suspend the operator's or chauffeur's license of the person for a period of not less than ninety (90) days or more than one hundred eighty (180) days. The court may order the Secretary of State to issue the person a restricted license after the first thirty (30) days of the period of suspension in the manner described in subsection (f) and provided for in section 319 of Act No. 300 of the Public Acts of 1949, MCL 257.319. In the case of a person who does not possess an operator's or chauffeur's license, the Secretary of State shall deny the application for an operator's or chauffeur's license for the applicable suspension period.
- (2) If the court finds that the person has two (2) or more such prior convictions or probate court dispositions, the court shall order the Secretary of State to suspend the operator's or chauffeur's license of the person for a period of not less than one hundred eighty (180) days or more than one year. The court may order the Secretary of State to issue to the person a restricted license after the first sixty (60) days of the period of suspension in the manner described in subsection (f) and provided for in section 319 of Act No. 300 of the Public Acts of 1949, MCL 257.319. In the case of a person who does not possess an operator's or chauffeur's license, the Secretary of State shall deny the application for an operator's or chauffeur's license for the applicable suspension period.

(f) In those cases where a restricted license is allowed under this section, the court shall not order the Secretary of State to issue a restricted license unless the person states under oath, and the court finds based upon the record in open court, that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education treatment, probation department, court-ordered community service program, or educational institution, and does not have any family members or others able to provide transportation.



The court order under subsection (e) and the restricted license shall indicate the work location of the person to whom it is issued, the approved route or routes and permitted times of travel, and shall permit the person to whom it is issued only to one or more of the following:

- (1) Drive to and from the person's residence and work location.
- (2) Drive in the course of the person's employment or occupation.
- (3) Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.
- (4) Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both.
- (5) Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

(g) If license sanctions are imposed, immediately upon the entry of a court-ordered sanction pursuant to subsection (e), the court shall order the person convicted for the violation to surrender to the court his or her operator's or chauffeur's license. The court shall immediately forward a notice of court-ordered license sanctions to the Secretary of State. If the license is not forwarded to the Secretary of State, an explanation of the reason why the license is absent shall be attached. If the finding is reviewed by the circuit court, the court may, ex parte, order the Secretary of State to rescind the suspension or restricted license issued pursuant to this section. Immediately following imposition of the sanction, the court shall forward a notice to the Secretary of State indicating the sanction imposed.

(h) A peace officer who has reasonable cause to believe a person less than twenty-one (21) years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A legal presumption shall be made by the court that the person less than twenty-one (21) years of age has consumed or possessed alcoholic liquor if a preliminary chemical breath analysis or other acceptable blood alcohol test indicates the person's blood contained .02 percent or more by weight of alcohol. A person less than twenty-one (21) years of age who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a civil infraction.

(i) A law enforcement agency, upon determining that a person less than eighteen (18) years of age who is not emancipated pursuant to Act No. 293 of the Public Acts of 1968, MCL 772.1 to 772.6, allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (a) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than forty-eight (48) hours after the law enforcement agency determines that the person who allegedly violated subsection (a) is less than eighteen (18) years of age and not emancipated pursuant to Act No. 293 of the Public Acts of 1968. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If a



person less than seventeen (17) years of age is incarcerated for violating subsection (a), then his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(j) This section does not prohibit a person less than twenty-one (21) years of age from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(k) This section shall not be construed to limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(l) The consumption of alcoholic liquor by a person less than twenty-one (21) years of age who is enrolled in a course offered by an accredited post secondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a necessary ingredient of the course.

(m) The consumption by a person less than twenty-one (21) years of age of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(n) Subsection (a) does not apply to a person less than twenty-one (21) years of age who participates in either or both of the following:

- (1) An undercover operation in which the person less than twenty-one (21) years of age purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.
- (2) An undercover operation in which the person less than twenty-one (21) years of age purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action except that any initial or contemporaneous purchase or receipt of alcoholic liquor by the person less than twenty-one (21) years of age is under the direction of the state police, the commission, or the local police agency and is part of the undercover operation. The state police, the commission, or a local police agency shall not recruit or attempt to recruit a person less than twenty-one (21) years of age for participation in an undercover operation at the scene of a violation of subsection (a).

(o) As used in this section:

- (1) *Probate court disposition* means a probate court order of disposition for a child found to be within the provisions of chapter XIII A of Act No. 288 of the Public Acts of 1939, MCL 712A.1 to 712A.31.

- (2) *Work location* means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation or both.

(Ord. of 4-9-96)

**Sec. 49-36.2. Witness to violation by proper authority, powers; "appearance ticket," definition; acceptance of admissions, civil sanctions; denial of allegations, trial; failure to appear, default.**

(a) An officer of the village police department who witnesses a violation of section 49-36.1, may stop and detain the person for purposes of obtaining satisfactory identification, seizing illegally possessed alcoholic liquor, and issuing an appearance ticket.

(b) As used in the section "appearance ticket" means a complaint or written notice, issued and subscribed by a law enforcement officer of the type described in subsection (a) directing a designated person to appear in a designated district or probate court at a designated time in connection with the alleged violation. The appearance ticket shall consist of the following parts:

- (1) The original which shall be a complaint or notice to appear by the officer and filed with the court.
- (2) The first copy which shall be the abstract of court record.
- (3) The second copy which shall be delivered to the alleged violator.
- (4) The third copy which shall be retained by the law enforcement agency.

(c) A judge may accept a plea of guilty by the defendant of the allegations of an appearance ticket and the court shall then impose a fine, license suspension, or other sanction as further authorized by section 49-36.1. If the defendant denies the allegations of the appearance ticket, the court shall then set a date for trial or hearing.

(Ord. of 4-9-96)

**Sec. 49-37. Notice to be published.**

The village clerk shall publish this article in the manner required by law and shall at the same time publish a supplementary notice setting forth the purpose of the said Uniform Traffic Code and of the fact that a complete copy of the code is available at the office of the clerk for inspection by the public at all times.

(Ord. No. 84, § 3, 8-2-83)

**Sec. 49-38. OUIL cost recovery.**

(a) *Purpose.* The village finds a significant number of traffic arrests and traffic accidents in the village involve drivers who were operating a motor vehicle under the influence of alcoholic beverages and/or a controlled substance. In addition, the village finds that in traffic arrests and accidents involving drivers who were operating a motor vehicle under the influence of alcoholic beverages and/or a controlled substance, there is greater training and investigative



expense and a greater likelihood of personal injury and property damage. As a result, an extraordinary operational and financial burden is placed upon the police, public service, fire fighting and rescue services by persons who are operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substance. The purpose of this section is to enable the village to require reimbursement of emergency response costs incurred by the village in making traffic stops, arrests, and responses to motor vehicle accidents which involve drivers who are operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance, and when assisting intoxicated individuals.

(b) *Definitions.* As used in this section:

(1) *Emergency response* shall mean:

- a. The providing, sending and/or utilizing of public service, police, fire fighting, rescue service, or any other agent of the village at/to an accident involving a motor vehicle or an arrest where one or more of the drivers were operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance or the combined influence of an alcoholic beverage and controlled substance; or
- b. The providing, sending and/or utilizing of public service, police, fire fighting, rescue service, or any other agent of the village to any scene where a person and/or driver becomes helpless, endangered, or otherwise in need of assistance by reason, whether in whole or in part, of being under the influence of an alcoholic beverage or a controlled substance; or
- c. The making of a traffic stop and arrest by a police officer when the driver was operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance, or while visibly impaired due to the consumption of intoxicating liquor and/or a controlled substance.

(2) *Expense of an emergency response* means the direct and reasonable costs incurred by the village, or by a private person, corporation, or other entity operating at the request of/or direction of the village, through the extraordinary use of public services, when making an emergency response to the incident, including the costs of providing police, fire fighting and rescue service at the scene of the incident. These costs further include, but are not limited to: all of the salaries, wages, worker's compensation benefits and fringe benefits of the village personnel responding to the incident; all salaries, wages, worker's compensation benefits and fringe benefits of the village personnel engaged in investigation, supervision and report preparation; all costs connected with the administration and provision of breathalyzer or chemical tests related to any prosecution of the person involved in the incident; cost of equipment operation; cost of materials obtained directly by the village; and cost of any contract labor or materials.

(c) *Liability for expenses.*

- (1) Any person, who, while under the influence of intoxicating liquor and/or a controlled substance, operates a motor vehicle and becomes involved in any circumstance which



results in an emergency response as defined in subsection 49-38(b)(1), and is convicted of an alcohol related criminal offense or hospitalized due to public intoxication, shall be liable for damages in the amount of the expenses of the emergency response.

- (2) Any person whose ability to operate a motor vehicle is visibly impaired due to the consumption of intoxicating liquor and/or a controlled substance, who operates a motor vehicle, who becomes involved in any circumstances which results in an emergency response as defined in subsection 49-38(b)(1), and is convicted of an alcohol related criminal offense or hospitalized due to public intoxication, shall be liable for damages in the amount of the expenses of the emergency response.

(d) *Civil liability.* This section shall be construed to impose a responsibility and liability of a civil nature on the part of the person or driver and shall not be construed to conflict with, contravene, enlarge, or reduce any criminal responsibility or liability, including fines, imposed on a person or driver by a judge under chapter 49 of the Code of the Village of Elkton, entitled "Traffic and Vehicles," for operating a motor vehicle while under the influence of intoxicating liquor and/or a controlled substance, or while his ability to do so was visibly impaired due to the consumption of intoxicating liquor and/or a controlled substance.

(e) *Enforcement.* Any person described in this section as responsible or liable for the expense of an emergency response, who fails to reimburse the village within thirty (30) days of receiving notice of the expenses incurred by the village as a result of an emergency response, shall be considered in default. If the person who is liable for the debt refuses to reimburse the village, and owns real estate within the village, the expenses shall be assessed against the real estate in the manner provided by Village Charter (delinquent bills and assessments). If the person or entity does not own real estate in the village, collection shall be pursued by the village attorney.

(Ord. of 5-10-94)

**Secs. 49-39—49-50. Reserved.**

### **ARTICLE III. LICENSES/INSURANCES\***

#### **Sec. 49-51. Suspended, revoked or denied license or registration; penalty for operation of vehicle.**

(a) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in MCL 257.212, of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the village.

\***Cross reference**—Taxicabs, Ch. 57, Art. II.

(b) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the village by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.

(c) Except as otherwise provided in this section, a person who violates subsections (a) or (b) is guilty of a misdemeanor punishable as follows: For a first violation, by imprisonment for not more than ninety-three (93) days or a fine of not more than five hundred dollars (\$500.00), or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the Secretary of State upon notification by a peace officer.

(d) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the Secretary of State and shall furnish the record to the court. The driving record of the person may be obtained from the Secretary of State's computer information network.

(e) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(f) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in MCL 257.212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided for in the statute, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this village, except as permitted under this act, while any of those conditions existing is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not more than three (3) days or more than ninety-three (93) days or a fine of not more than five hundred dollars (\$500.00), or both.

(g) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

(h) All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this section takes effect, are saved and may be consummated according to the law enforced when they are commenced. This section shall not be construed to affect any prosecution pending or initiated before the effective date of this section for an offense committed before that effective date.

(Ord. No. 95, 2-5-92; Ord. of 9-14-99(2))

#### **Sec. 49-52. Temporary vehicle registration plate when immobilization required.**

(a) When a village police officer detains the driver of a motor vehicle for a violation of a law of this state or village for which vehicle immobilization is required, the police officer shall do all of the following:

- (1) Immediately confiscate the vehicle's registration plate and destroy it.



- (2) Issue a temporary vehicle registration plate for the vehicle in the same for prescribed by the Secretary of State for temporary registration plates issued under MCL 257.226a or 257.226b.
- (3) Place the temporary vehicle registration plate on the vehicle in the manner required by the Secretary of State.
- (4) Notify the Secretary of State through the law enforcement information network in a form prescribed by the Secretary of State that the registration plate was confiscated and destroyed, and a temporary plate was issued.

(b) A temporary vehicle registration plate issued under this section is valid until the charges against the person are dismissed, the person pleads guilty or nolo contendere to those charges, or the person is found guilty or is acquitted of those charges.

(c) A court shall order a vehicle immobilized under MCL 257.904d by the use of any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle. If a vehicle is immobilized under this section, the court may order the vehicle stored at a location and in a manner considered appropriate by the court. The court may order the person convicted of violating this section or corresponding MCL 257.625 or a suspension, revocation, or denial under MCL 257.904 to pay the immobilization and storing the vehicle.

- (1) A vehicle subject to immobilization under this section may be sold during the period of immobilization, but shall not be sold to a person who is exempt from paying a use tax under section 3(3)(a) of the Use Tax Act 1937 Public Act 94, MCL 205.93 without a court order.
- (2) A defendant who is prohibited from operating a motor vehicle by vehicle immobilization shall not purchase, lease, or otherwise obtain a motor vehicle during this immobilization period.
- (3) A person shall not remove, tamper with, or bypass or attempt to remove, tamper with, or bypass a device that he or she knows or has reason to know has been installed on a vehicle by court order by vehicle immobilization or operate or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized.
- (4) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than five hundred dollars (\$500.00), or both.
- (5) To the extent that this local ordinance regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, this local ordinance is preempted.
- (6) If a village police officer stops a vehicle that is being operated in violation of an immobilization order, the vehicle shall be impounded pending an order of a court of competent jurisdiction.



- (7) The court shall require the defendant or a person who provides immobilization services to the court under this section to certify that the vehicle ordered immobilized is immobilized as required.

(Ord. No. 96, 2-5-92; Ord. of 9-14-99(2))

**Sec. 49-53. Vehicle insurance.**

(a) *Evidence of vehicle insurance; production upon request of police officer.* The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the streets or highways of the Village of Elkton or the operator of the motor vehicle shall produce, pursuant to subsection (b), upon the request of a police officer, evidence that the motor vehicle is insured under chapter 31 of Act No. 218 of the Public Acts of 1956, MCL 500.3101 to 500.3179. An owner or operator of a motor vehicle who fails to produce evidence under this subsection when requested to produce that evidence is responsible for a civil infraction.

(b) *Certificate of insurance; prima facie evidence of insurance; contents.* A certificate of insurance, if issued by an insurance company, which certificate states that security which meets the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of 1956, MCL 500.3101 and 500.3102, is in force shall be accepted as prima facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person named on the policy, policy declaration or a declaration certificate whose operation of the vehicle would cause the liability coverage of that insurance to become void.

(c) *Foreign vehicles; inapplicability.* This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign country or province.

(d) *Violation, penalty.* If an owner of a motor vehicle is determined to be responsible for a violation of this section, the court in which the civil infraction determination is entered may require the person to surrender his or her operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of section 3102 of Act No. 218 of the Public Acts of 1956, is submitted to the court. If the court requires the license to be surrendered, the court shall order the Secretary of State to suspend the person's license and shall forward the surrendered license and a certificate of civil infraction to the Secretary of State. Upon receipt of the certificate of civil infraction and the surrendered license, the Secretary of State shall suspend the person's license beginning with the date on which a person is determined to be responsible for the civil infraction for a period of thirty (30) days or until proof of insurance which meets the requirements of section 3102 of Act No. 218 of the Public Acts of 1956, is submitted to the Secretary of State, whichever occurs later. If the license is not forwarded, an explanation of the reason why it is not forwarded shall be attached. A person who submits proof of insurance to the Secretary of State under this subsection shall pay a service fee of ten

dollars (\$10.00) to the Secretary of State. The person shall not be required to be examined as set forth in section 320c. Points shall not be entered on a driver's record pursuant to state law for a violation of this section.

(Ord. No. 94, 5-28-91)

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

**Secs. 49-54—49-70. Reserved.**

#### ARTICLE IV. EQUIPMENT

##### **Sec. 49-71. Safety belts.**

(a) *Safety belt regulations; inapplicability to drivers and passengers of certain vehicles.* This section shall not apply to a driver or passenger of:

- (1) A motor vehicle manufactured before January 1, 1965;
- (2) A bus;
- (3) A motorcycle;
- (4) A moped;
- (5) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons;
- (6) A motor vehicle which is not required to be equipped with safety belts under federal law;
- (7) A commercial or United States postal vehicle which makes frequent stops for the purpose of pick up or delivery of goods or services;
- (8) A motor vehicle operated by a rural carrier of the United States Postal Service while serving his or her rural postal route; or
- (9) A school bus.



(b) *Safety belt requirement for driver and front seat passenger; protection of children.* Each driver and front seat passenger of a motor vehicle operated on a street or highway in the Village of Elkton shall wear a properly adjusted and fastened safety belt, except that a child less than four (4) years of age shall be protected as required in section 49-72. Each driver of a motor vehicle transporting a child four (4) years of age or more, but less than sixteen (16) years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt.

(c) *Enforcement of section; detention of driver.* Enforcement of this section shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of the ordinances of the Village of Elkton or state law.

(d) *Violation, civil infraction, nonassessment of points.* A person who violates this section is responsible for a civil infraction. Points shall not be assessed nor entered on a driver's record, pursuant to state law, for a violation of this section.

(Ord. of 5-14-91)

#### **Sec. 49-72. Mandatory child restraints.**

(1) Except as provided in this section or as otherwise provided by law, a rule promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 through 24.315 of the Michigan Compiled Laws, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

- (a) Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213.
- (b) Any child one year of age or more but less than four (4) years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213.
- (c) Any child one year of age or more but less than four (4) years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, unless the child is secured by a safety belt provided in the motor vehicle.

(2) This section does not apply to a nonresident driver transporting a child in this state or to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle or other motor vehicle not required to be equipped with safety belts under Section 710b of the Michigan Motor Vehicle Code or federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed for a violation of this section.

(6) The secretary of state may exempt by rules promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under

subsection (1) is impractical because of physical unfitness, a medical problem or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

(Ord. No. 79, § 1a, 5-23-83)

**Secs. 49-73–49-90. Reserved.**

## ARTICLE V. PARKING, STANDING AND STOPPING

### DIVISION 1. GENERALLY

#### **Sec. 49-91. Parking vehicles and loitering.**

(a) *Proprietor defined.* “Proprietor” shall mean the proprietor of a business establishment of which a parking lot is a part or to which a parking lot is appurtenant.

(b) *Posted parking lot defined.* “Posted parking lot” shall mean a parking lot as below qualified posted with a notice of prohibition substantially concurring with the prohibition of this section.

(c) *Parking on posted lots during nonbusiness hours.* No person shall park any vehicle or loiter during the nonbusiness hours of the proprietor on any posted parking lot not publicly owned without the consent of the proprietor.

(d) *Loitering.* No person shall loiter on public streets or public places where such loitering results in congestion in front of public buildings so as to interfere with persons entering and leaving said buildings.

(Ord. No. 72, §§ 46–49, 4-7-81)

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

#### **Sec. 49-92. Removal of vehicles.**

The village may remove from the streets or alleys of the village any automobile, truck, trailer, or other vehicle, object or obstruction which may be on such streets or alleys in violation of this division, and the owner, lessee or person, firm, co-partnership, association or corporation in charge thereof shall be liable to the village for the costs of such removal as a part of the costs of prosecution.

(Ord. No. 72, § 52, 4-7-81)

#### **Sec. 49-93. Control of traffic at shopping centers.**

Upon the request of either the owner or person in charge of a shopping center, as defined in Act 235 of the Public Acts of 1969, the village shall install such signs or other traffic control devices as it deems necessary to control the movement and parking of motor vehicles at said



shopping center and no person shall operate, stop, stand or park any motor vehicle on said property contrary to such signs or other traffic control devices.

(Ord. No. 72, § 50, 4-7-81)

**Sec. 49-94. Penalty.**

A violation of this division shall be punishable by a fine not exceeding one hundred dollars (\$100.00) and costs of prosecution or by imprisonment in the county jail not to exceed ninety (90) days, or by both such fine and imprisonment in the discretion of the court.

(Ord. No. 72, § 49, 4-7-81)

**Secs. 49-95—49-110. Reserved.**

DIVISION 2. PARKING VIOLATIONS

**Sec. 49-111. Parking violations bureau established.**

Pursuant to section 8395 of the Revised Judicature Act, State of Michigan, by Public Act 154 of 1968, MCL 600.8395, a parking violations bureau, for the purpose of handling alleged parking violations within the village, is hereby established. The parking violations bureau shall be under the supervision and control of the village clerk.

(Ord. No. 72, § 1, 4-7-81)

**Sec. 49-112. Location; administration.**

The village clerk shall, subject to the approval of the village council, establish a convenient location for the parking violations bureau, appoint qualified village employees to administer the bureau and adopt rules and regulations for the operation thereof.

(Ord. No. 72, § 2, 4-7-81)

**Sec. 49-113. Violations handled by bureau.**

No violation not scheduled in section 49-116 of this division shall be disposed of by the parking violations bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the bureau and in any case the person in charge of such bureau may refuse to dispose of such violation in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

(Ord. No. 72, § 3, 4-7-81)

**Sec. 49-114. Traffic ticket; notice of violation.**

The issuance of a traffic ticket or notice of violation by a police officer of the village shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the parking violation bureau. It shall also indicate the address of the bureau, the hours

during which the bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such person fails to respond within the time limited.

(Ord. No. 72, § 5, 4-7-81)

**Sec. 49-115. Violations processed by court.**

No violation may be settled at the parking violations bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the parking violations bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the parking violations bureau shall not prejudice him or in any way diminish the rights, privileges, and protection accorded to him by law.

(Ord. No. 72, § 4, 4-7-81)

**Sec. 49-116. Schedule of offenses and penalties.**

A person shall not stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control devise, in any of the following places:

| <i>Offense</i>   | <i>Penalty</i> |
|--|----------------|
| (1) Parking one foot or in excess thereof from curb .....  | \$15.00        |
| (2) In violation of angle parking .....  | 15.00          |
| (3) In a place so as to obstruct traffic.....  | 15.00          |
| (4) a. On a sidewalk.....  | 15.00          |
| b. In front of a public or private driveway.....   | 15.00          |
| c. Within an intersection .....  | 15.00          |
| d. Within fifteen (15) feet of a fire hydrant.....   | 15.00          |
| e. On a crosswalk.....   | 15.00          |
| f. Within twenty (20) feet of a crosswalk, or if none, then within fifteen (15) feet of the intersection of property lines at an intersection of streets .....   | 15.00          |
| g. Within thirty (30) feet upon the approach to any flashing beacon, stop sign, yield sign, or traffic-control signal located at the side of a street.....   | 15.00          |
| h. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings .. | 15.00          |



|     |   |       |
|-----|---|-------|
| i.  | Within fifty (50) feet of the nearest rail or a railroad crossing . . . . .   | 15.00 |
| j.  | Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign-posted . . . . .   | 15.00 |
| k.  | Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic . . . . .   | 15.00 |
| l.  | On the street side of any vehicle stopped or parked at the edge or curb of a street . . . . .   | 15.00 |
| m.  | Within two hundred (200) feet of an accident at which police officers are in attendance . . . . .   | 15.00 |
| n.  | In any place or in any manner so as to block immediate egress from any emergency exit or exits conspicuously marked as such on any buildings . . . . .  | 15.00 |
| o.  | In any place or in any manner so as to block or hamper the immediate use of an immediate egress from any fire escape conspicuously marked as such providing an emergency means of egress from any building . . . . .  | 15.00 |
| p.  | At any place where official signs prohibit stopping, standing, or parking . . . . .   | 15.00 |
| q.  | In a parking space clearly identified by an official sign as being reserved for use by handicappers that is on public property or private property which is available for public use, unless the person is a handicapper as described in the act or unless the person is parking the vehicle for the benefit of an handicapper. A certificate of identification issued under section 675(5) of the act to a handicapper shall be displayed on the lower left corner of the front windshield. A special registration plate issued under section 803d of the act to a handicapper shall be displayed on the vehicle . . . . . | 30.00 |
| r.  | In any alley within the village . . . . .   | 15.00 |
| s.  | On the wrong side of a boulevard roadway . . . . .  | 15.00 |
| t.  | In loading zone when said vehicle is neither loading goods or materials . . . . .   | 15.00 |
| (5) | Parking prohibited for purposes of:   |       |
| a.  | Working or repairing vehicle . . . . .  | 15.00 |
| b.  | Selling merchandise . . . . .   | 15.00 |
| c.  | Storage over forty-eight (48) hours . . . . .   | 15.00 |

(Ord. No. 72, § 6, 4-7-81; Ord. No. 108, 1-11-00)

**Cross references**—Officers and employees, Ch. 1, Art. III; signs, App. A, § 1012 2.a.(2).

**Sec. 49-117. Civil infraction—Defined.**

Any violation of the above sections shall be a civil infraction. "Civil infraction" means an act or omission prohibited by law which is not a crime as defined in section 5, Act No. 238 of the Public Acts of 1931, MCL 750.5, and for which sanctions may be ordered.  
(Ord. No. 72, § 7, 4-7-81)

**Sec. 49-118. Same—Penalty.**

The Village of Elkton hereby adopts by reference the civil infraction penalty as described in section 907 of Act No. 510 of the Public Acts of 1978; MCL 257.907.  
(Ord. No. 72, § 8, 4-7-81)

**Sec. 49-119. Overnight parking.**

(a) *Parking prohibited; hours.* No person, firm, co-partnership, association or corporation shall hereafter park any automobile, truck, trailer or other vehicle, object or obstruction upon any part of the traveled portion of any street or alley within the village, or leave or permit the same to be parked, standing upon or occupying any such portion of any such street or alley, between the hours of 3:00 a.m. to 7:00 a.m. in the morning of any day, eastern standard time, or cause the same to be done in any manner.

(b) *Snow removal and street cleaning.*

- (1) *Parking prohibited; hours.* No motor vehicle shall be parked on any streets in the Village of Elkton during the hours of 3:00 a.m. to 7:00 a.m. to afford an opportunity for snow removal and street cleaning from said streets.
- (2) *Towage charge.* All service charges for vehicles towed because of a violation of subsection 49-119(b)(1), shall be the responsibility of the registered owner of said vehicle.

(c) *Penalties for violation.* A person who violates this section is responsible for a municipal civil infraction subject to payment of a civil fine of not more than one hundred dollars (\$100.00), reimbursement to the village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction. Repeat offenses under this section shall be subject to increased fines as provided by subsection (d) of this section.

(d) *Increased civil fines.* Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this section. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision: (i) committed by a person within any eighteen-month period; and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense shall be as follows:

- (1) The fine for any offense which is a first repeat offense shall be no less than fifty dollars (\$50.00) plus reimbursement to the village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.



- (2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than two hundred fifty dollars (\$250.00) plus reimbursement to the village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.

(Ord. No. 41, §§ 1—3, 7-5-55; Ord. No. 72, § 51, 4-7-81; Ord. of 4-9-91; Ord. No. 108, 1-11-00)

**Secs. 49-120—49-130. Reserved.**

### DIVISION 3. PARKING AUTHORITY COMMISSION

**Sec. 49-131. Creation of parking authority commission.**

A "parking authority commission," for the purpose of making recommendations to the village council regarding parking fines, location of meters, acquisition of land for additional parking and any other recommendation relating to parking, is hereby established.

(Ord. No. 72, § 21, 4-7-81)

**Sec. 49-132. Commission members; terms of office; expenses; public meetings.**

The parking authority commission shall consist of six (6) persons. The mayor shall appoint, subject to the approval of the council, two (2) persons from the council and they shall then make a recommendation to the council for the four (4) additional members who shall consist of two (2) persons who are members of the Elkton Chamber of Commerce and two (2) persons who are residents of the Village of Elkton. All appointments shall be for a term of one year, commencing on the date of appointment. The commission shall serve without salary, but may be reimbursed their actual expenses incurred in the performance of their official duties but in no event to exceed fifty dollars (\$50.00) per year. The meetings of the commission shall be public.

(Ord. No. 72, § 22, 4-7-81)

**Sec. 49-133. Subsequent appointments; continuation in office; filling vacancies.**

Subsequent appointments shall be made in the same manner as original appointments at the expiration of the appointee's term of office. An appointee whose term of office has expired shall continue to hold office until his successor has been appointed with the advice and consent of the council. If a vacancy is created by death or resignation or removal by operation of law, a successor shall be appointed with the advice and consent of the council within thirty (30) days to hold office for the remainder of the term of office so vacated.

(Ord. No. 72, § 23, 4-7-81)

**Sec. 49-134. Meetings.**

The parking authority commission shall meet at least once every year and at all other times that the commission shall deem necessary. The commission shall give public notice of said meeting at least ten (10) days prior to the meeting.

(Ord. No. 72, § 24, 4-7-81)

**Secs. 49-135—49-150. Reserved.**

## **ARTICLE VI. ABANDONED, DISABLED AND INOPERATIVE VEHICLES\***

### **Sec. 49-151. Definitions.**

The following words or terms, when used herein, shall be deemed to have the meaning set forth below:

- (a) The term "*dismantled*" motor vehicle shall include dismantled and partially dismantled motor vehicles from which some part or parts which are ordinarily a component of such motor vehicles have been removed, or are missing.
- (b) The term "*abandoned*" motor vehicles shall include without limitation any vehicle which has remained on private property for a period of forty-eight (48) continuous hours or more, without the consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.
- (c) The term "*inoperative*" motor vehicle shall include motor vehicles which by reason of dismantling, disrepair or other causes are incapable of being propelled under their own power, or any motor vehicle not licensed for use upon the highways of the State of Michigan, for a period in excess of sixty (60) days, excepting unlicensed but operative vehicles which are kept in stock in trade of a regularly licensed and established new or used car dealer, or licensed junk dealers.
- (d) The term "*motor vehicle*" shall include any wheeled vehicle which is self-propelled.  
(Ord. No. 49, § 1, 2-9-71)

### **Sec. 49-152. References to the Code.**

Any sections herein referred to are numbered sections as they appear in the Uniform Traffic Code adopted by the State of Michigan.  
(Ord. No. 80, § 1h, 5-23-83)

### **Sec. 49-153. Abandoned vehicles.**

(a) *Abandoning vehicles prohibited.* No person shall abandon any motor vehicle in the rights-of-way of streets, alleys or highways within the limits of the Village of Elkton.

(b) *Dismantled or inoperative vehicles prohibited on streets; exceptions.* Dismantled or inoperative motor vehicles shall not be permitted in the rights-of-way of streets, alleys or highways within the Village of Elkton, provided, however, this does not apply to towing or similar transporting of such vehicle and further provided that reasonable time, not to exceed

\***Cross references**—Officers and employees, Ch. 1, Art. III; dismantled or nonoperating motor vehicles, App. A, Art. XI.



forty-eight (48) hours from the time of disability in the case of inoperative vehicles shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or sudden breakdown of the vehicle.

(c) *Outdoor storage.*

- (1) *Application for permit; requirements.* Hereafter it shall be unlawful for any person, group of persons, partnerships, or corporations to commence the business of conducting a junk yard, storage lot, or automobile wrecking lot without first having made application and securing the consent of the Village of Elkton Council to do so, and complying with the following requirements. It shall be necessary for the proprietor or owner of any junk yard, storage lot or automobile wrecking lot to construct and maintain in good repair a solid fence at least seven (7) feet in height enclosing such lot and/or yard in such manner that the junk or stored vehicles are not exposed to the public view. And it shall be necessary for the proprietor of any such junk yard, storage lot or automobile wrecking lot, existing now or in the future, to keep the same in an orderly and neat condition removing therefrom at regular intervals, all waste, garbage, filth and accumulation in order to preserve said yard or lot from becoming a breeding place for insects, rodents.
- (2) *Extension of permit.* The outdoor storage of dismantled, abandoned or inoperative motor vehicles shall not be permitted or allowed in any platted or unplatted parcel of and in the Village of Elkton unless said motor vehicle shall be kept in a wholly enclosed garage or fenced enclosure as provided in subsection 35-149(c)(1). Provided, however, that any bona fide owner, co-owner, tenant, or co-tenant may store, permit to be stored, or allow to remain on the premises of which he is owner, co-owner, tenant, or co-tenant, any dismantled or inoperative motor vehicle for a period not to exceed one week if such motor vehicle is registered in his, her or its name, and provided further that any such owner, co-owner, tenant, co-tenant, may in the event of a hardship, secure a permit from the village council or its appointed agent, to extend such period for any additional period. But not to exceed one week for such dismantled or inoperative motor vehicle if such motor vehicle is registered in the name of the applicant. No permit shall be granted or construed to allow parking of such dismantled or inoperative motor vehicle on any street, alley or highway within the Village of Elkton.

(d) *Authorization to issue permits.* Upon application duly made by the registered owner of a vehicle and upon showing hardship, the village council or its duly appointed agent is hereby authorized to issue the permit provided for in subsection 49-149(c)(2) hereof.

(e) *Nuisance.* The presence of a dismantled, abandoned or inoperative motor vehicle or parts of a motor vehicle on any platted or unplatted parcel of land in violation of the terms of this section is hereby declared to be a public nuisance.

(f) *Municipal civil infraction.* A person who violates this section is responsible for a municipal civil infraction subject to payment of a civil fine of not more than one hundred dollars (\$100.00), reimbursement to the village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction. Repeat offenses under this section shall be subject to increased fines as provided by subsection (g).

(g) *Increased civil fines.* Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this section. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision: (i) committed by a person within any eighteen-month period; and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense shall be as follows:

- (1) The fine for any offense which is a first repeat offense shall be no less than fifty dollars (\$50.00) plus reimbursement to the village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.
- (2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than two hundred fifty dollars (\$250.00) plus reimbursement to the village for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.

(Ord. No. 53, §§ 2—7, 2-9-71; Ord. No. 108, 1-11-00)

**Cross reference**—Environment, Ch. 25, Art. III.

#### **Sec. 49-154. Abandoned vehicle procedures.**

(1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of forty-eight (48) hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

- (a) Determine if the vehicle has been reported stolen.
- (b) Affix a written notice to the vehicle. The written notice shall contain the following information:
  - (i) The date and time the notice was affixed.
  - (ii) The name and address of the police agency taking the action.
  - (iii) The name and badge number of the police officer affixing the notice.
  - (iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.
  - (v) The year, make and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within forty-eight (48) hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency which has a vehicle taken into custody shall do all of the following:

- (a) Recheck to determine if the vehicle has been reported stolen.



- (b) Within twenty-four (24) hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.
- (c) 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.

