

**Village of Newberry**  
**Ordinance Committee Meeting Agenda**  
**307 E. McMillan Avenue**  
**Thursday, February 2, 2023**  
**9:30 AM**

1. Call to Order
2. Roll Call  
Chair Lori Stokes, Dennis Hendrickson, Jack Olson, VM Watkins  
(Jeff Puckett is alternate)
3. Approve Agenda
4. Approve Minutes - Regular Meeting Minutes January 12, 2023
5. Public Comment
6. Unfinished Business
  - A. Tabled; Ordinance language to focus on giving strength to garbage/blight violations
  - B. Tabled; Short Term Rentals Ordinance
  - C. Purchasing Ordinance
7. New Business
  - A. Ordinance covering outside eating at restaurant(s)
  - B. Next committee meeting date: March 2, 2023; 9:30 AM
8. Public Comment
9. Adjournment

**Village of Newberry**  
**Ordinance Committee Meeting Minutes**  
**307 E. McMillan Avenue**  
**Thursday, January 12, 2023**  
**9:30 AM**

1. **Called to Order:** 9:30 AM by Lori S.
2. **Roll Call:** Chair - Lori Stokes, Jack Olson, Dennis Hendrickson  
Also Present: VM – Allison Watkins, Ordinance Officer - Clifford Fossitt
3. **Public Comment** – None present
4. **Unfinished Business**
  - A. **Codification Project** – VM presented hard copies of new ordinances as well as presented electronic copy to committee members.  
  
Motion by Lori S, supported by Dennis H to present Ordinance No. 150 to council approval at next meeting. AYES – All.
  - B. Tabled - Ordinance language to focus on giving strength to garbage/blight
  - C. Tabled - Short Term Rental Ordinance
  - D. Tabled - Purchasing Ordinance
5. **New Business** – Recurring meeting set for first Thursday of every month, with next meeting being February 02, 2023 at 9:30 AM. AYES – All.
6. **Public Comment** – None present
7. **Adjournment** – 10:26 AM motioned by Lori S and supported by Dennis H. AYES – All.

# VILLAGE OF NEWBERRY



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302 East McMillan Avenue, Newberry, MI 49868 Phone: 906-293-3433 Fax: 906-293-8890

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Michigan Department of Labor & Economic Growth  
Michigan Liquor Control Commission (MLCC)  
525 W. Allegan St., P.O. Box 30005  
Lansing, MI 48909-7805

July 20, 2022

To the Michigan Liquor Control Commission (MLCC),

The Village of Newberry authorizes Timber Charlie's Restaurant, LLC to use a 10' x 65' section of sidewalk in front of their establishment for an outdoor service area between July 19, 2022 and December 31, 2022 as authorized in Village Resolution 2022-07-19-Café (attached) adopted on July 19, 2022.

Sincerely,

Allison Watkins. M.P.A.  
Village Manager

## Chapter 58

### PURCHASING

**[HISTORY: Adopted by the Village Council of the Village of Newberry 3-18-2002 by Ord. No. 30. Amendments noted where applicable.]**

**§ 58-1. Short title.**

This chapter shall be known and may be cited as the "Purchasing Ordinance of the Village of Newberry."

**§ 58-2. Definitions.**

For the purpose of this chapter, the following phrases, words and their derivations shall have the meanings set forth below whenever they appear in this chapter:

**CONSTRUCTION** — The process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property.

**CONTRACT** — All types of Village agreements, regardless of what they might be called, for the procurement of supplies, services of construction except that the term shall not include collective bargaining agreements.

**CONTRACTOR** — Any person having a contract with the Village of Newberry.

**DEPARTMENT** — Village Council, Village Superintendent, Village agency, commission, board or any other unit of Village government, but does not include the Board of Water and Light. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**INVITATION FOR BIDS** — The complete assembly of related documents, whether attached or incorporated by reference, furnished to prospective bidders for the purpose of soliciting sealed bids.

**LOCAL BIDDER** — A bidder whose business is located with the Village of Newberry or whose primary source of revenue is generated in the Village of Newberry.

**PERSON** — Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture or any other private legal entity.

**PROCUREMENT** — Buying, purchasing, renting, leasing or otherwise acquiring any supplies, services or construction items.

**QUALIFICATIONS-BASED SELECTION (QBS)** — An objective, flexible procedure for obtaining architectural, engineering, surveying, and other related professional design services, or uncommon goods/unique equipment. QBS is further described by PL 92-582 and Resolutions of the Michigan Legislature.

**REQUEST FOR PROPOSALS** — All documents whether attached or incorporated by reference, utilized for soliciting proposals.

**RESPONSIBLE BIDDER OR OFFER** — A person who has the capability in all respects to perform fully the contract requirements and fits the criteria identified in § 58-8A(8).

**RESPONSIVE BIDDER** — A person who has submitted a bid which conforms in all

material respects to the invitation for bids.

**SERVICES** — The furnishing of labor, time or effort by a person except the term shall not include the furnishing of labor, time or efforts by any Village employees or appointed or elected officials or the hiring of outside legal counsel.

**SHALL** — Imperative.

**SUPPLIES** — All property including but not limited to equipment, materials, printing, and insurance, but excluding any land or any interest in land or any benefit, insurance or otherwise, which are specially provided for in any collective bargaining agreement.

**VILLAGE** — The Village of Newberry.

**VILLAGE COUNCIL** — The Council of the Village of Newberry.

**VILLAGE PRESIDENT** — The Village President of the Village of Newberry.

### **§ 58-3. Word usage.**

When not consistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural number.

### **§ 58-4. Bond for Village Manager.**

The Village Manager shall be protected by the Village with an official bond in an amount not less than \$50,000, the original of which shall be on file in the Village Clerk's office.

### **§ 58-5. Duties and responsibilities of Village Manager.**

The Village Manager shall be responsible for the procurement of all supplies, services and construction for all Village using agencies in accordance with this chapter, as well as the management and disposal of all supplies removed from inventory and determined to be obsolete or surplus by a using agency.

### **§ 58-6. Purchase procedures.**

A. Purchases shall be made by one of the following methods:

- (1) Competitive bid.
- (2) Competitive sealed proposals.
- (3) Open market purchase proposals.
- (4) Sole source procurement.
- (5) Emergency procurement.
- (6) Qualifications-based selection.

B. Purchases shall be made as follows:

- (1) Purchases not for more than \$500 may be made, if budgeted, at the discretion of the Village Manager as indicated by a signed purchase order.

- (2) Purchases for more than \$500 but not more than \$5,000 shall be made by one of the following methods:
    - (a) Competitive bid.
    - (b) Competitive sealed proposal.
    - (c) Open market purchase (proposal).
    - (d) Sole source procurement.
    - (e) Emergency procurement.
  - (3) Purchases for more than \$5,000, but not more than \$20,000 shall be made by one of the following methods: **[Amended 9-21-2021]**
    - (a) Competitive bid.
    - (b) Competitive sealed proposal.
    - (c) Sole source procurement.
    - (d) Emergency procurement.
  - (4) Purchases for more than \$20,000 shall be made by one of the following methods: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
    - (a) Competitive bid.
    - (b) Emergency procurement.
- C. The Village President shall report all proposed expenditures in excess of \$5,000 and shall report the proposed method of procurement. The Council shall ratify the purchasing proposal before any solicitation of offers is commenced.
  - D. The Village President shall report any award of contract to the Council. The Council shall ratify all contracts prior to execution. In the event the Council does not ratify the contract within 30 days all offers, bids, or proposals shall be considered rejected and the offerors notified by the Village Manager.
  - E. All invitations to bid, requests for competitive sealed proposals, and contracts provided for in this chapter shall be approved as to form by the Village Attorney and written documentation of approval shall be available for inspection in the Village Manager's office.

#### **§ 58-7. Specifications.**

- A. The requesting department shall provide specifications for procurements.
- B. The requesting department shall consult the Council committee assigned to that department prior to submitting specifications to the Village Manager.
- C. Requesting departments shall observe the following procedures in drafting specifications:

- (1) Fairness to all potential bidders.
- (2) Obtaining the greatest number of bids.
- (3) Consulting with:
  - (a) Village Engineer.
  - (b) Other units of government.
  - (c) The Michigan Municipal League Local Unit Purchasing Program.
  - (d) Outside consultants hired by the Village to assist in writing specifications.
  - (e) State of Michigan - Purchasing Department Specifications.
  - (f) Military procurement personnel.
  - (g) Universities or colleges.
  - (h) Trade, safety, professional, training or regulatory organizations.
- (4) The Village Manager may assist the requesting department in developing specifications.
- (5) The Village Manager shall determine the availability, suitability and cost of purchases in excess of \$500 from the State of Michigan Department of Management and Budget, Michigan Extended Purchasing Program, prior to soliciting any bids or proposals.
- (6) Any person participating in reviewing, writing or approving specifications shall not submit proposals or bids. Any person violating this section shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine of not more than \$500 together with costs of prosecution.

**§ 58-8. Source selection and contract formation, competitive sealed bids.**

**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)]**

All supplies, services and construction items, except as otherwise provided below, when the estimated cost thereof shall equal or exceed \$20,000, shall be purchased by formal written contract from the lowest responsible and responsive bidder after due notice inviting competitive sealed bids.

- A. The Village Manager shall provide for the procurement of competitive sealed bids as follows:
  - (1) Prepare the invitation for bids describing the requirements of the using agency.
  - (2) Publicize the invitation for bids by advertising at least once in a newspaper of general circulation in the Village at no less than five days preceding the last day set for the receipt of competitive sealed bids. In addition, the Village Manager shall be encouraged to place the invitation for bids in any appropriate trade journals, professional publications or any other appropriate publication in order to encourage as much competition as possible. The newspaper notice

required herein shall include a general description of the supplies, services or construction items to be purchased or sold and, in addition, shall state where bid blanks and specifications may be obtained, the date, time and place for the filing and opening of bids, whether bid, performance and payment bonds are required and if required, the amounts thereof and in addition, anything else the Village Manager may feel necessary.

- (3) The Village Manager shall also solicit sealed bids from all persons who are on the most current "bidder's list" by mailing them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. Invitations for bids sent to prospective bidders on the "bidder's list" shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the bid invitations are sent.
- (4) Bids submitted in response to the invitation for bids shall be submitted sealed and, in addition, shall be identified as bids on the outside of the envelopes and accompanied by a noncollusion affidavit where applicable in such form as the Village Manager shall approve, together with any bid security required.
- (5) Bids shall be opened publicly at the time, place and date designated in the invitation for bids. Each bid, together with the name of the bidder shall be recorded and the tabulation of all bids received shall be available for public inspection in the Village Manager's office.
- (6) An invitation for bids may be canceled or any or all bids or proposals may be rejected in whole or in part as specified in the invitation for bids when it is determined by the Village Manager to be in the best interest of the Village.
- (7) The Village Manager shall not knowingly accept the bid of a person who is in default in the payment of any taxes, licenses, fees, permits or any other monies due the Village or who shall in any other respects be disqualified according to any federal or state charter or ordinance provision. A contract with a person who is discovered to have been in default or disqualified at the time of the awarding of the contract shall be voidable.
- (8) The Village Manager shall determine and recommend in writing to the Village President the name of the lowest responsible and responsive bidder. In reaching a determination as to who the lowest responsible bidder is, the Village Manager shall consider:
  - (a) The ability, capacity and skill of the bidder to perform the contract or provide the service of supplies required;
  - (b) Whether the bidder can perform the contract or provide the service or supplies promptly or within the time specified without delay or interference;
  - (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder in business;
  - (d) The quality of performance and time of completion by the bidder of previous contract or services;



- (e) The previous and existing compliance by the bidder with laws and ordinances relating to contract performance;
  - (f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  - (g) The quality, availability and adaptability of the supplies or services to the particular use required;
  - (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and
  - (i) The number and scope of any additional, limiting or qualifying conditions attached to the bid by the bidder.
- (9) The failure of a bidder to promptly supply information in connection with an inquiry from the Village Manager with respect to any of the above enumerated provisions may be grounds for a determination of nonresponsibility with respect to such bidder.
- B. The Village President, upon receipt of the Village Manager's written bid recommendation, shall have the sole responsibility and authority to award any Village contract for supplies, services or construction when the contract amount is equal to or exceeds \$20,000.
- (1) When the award is not given to the lowest bidder, a written statement of the reasons for placing the award with a responsible and responsive bidder who is not the lowest bidder shall be prepared by the Village President and filed with the Village Clerk, Village Council and with the other papers relating to the bid. The written statement shall be available for public inspection in the purchasing department.
  - (2) No contract or purchase shall be subdivided to avoid the requirements of this section.
- C. Action by Council.
- (1) The Village President shall report to the Council the award of any bid and shall obtain a ratification from the Council prior to signing any contract; or
  - (2) If the Council fails to ratify any award by the Village President, all bids shall be considered rejected and the selected bidder shall be notified by the Village Manager.

**§ 58-9. Small purchases, open market procedure.**

- A. All purchases of supplies, services and construction items having an estimated cost of more than \$500 or less than \$5,000 may be made in the open market, without advertisement and without following the procedure prescribed in § 58-8 and may be awarded by either the Village President or the Village Manager.
- B. All open market purchase of supplies, services and construction items shall, whenever practicable, be based on at least three quotations, and shall be awarded to

the lowest responsible and responsive bidder when evaluated in accordance with the provisions enumerated in § 58-8A(8).

- (1) The Village Manager shall be responsible for soliciting quotations under the open market procedure by one or more of the following methods:
  - (a) Direct mail request to prospective vendors.
  - (b) Telephone.
  - (c) Direct personal contact with prospective vendors.
- C. The name of each person submitting a quotation, the date and amount of each quotation shall be recorded and shall be available for inspection in the Village Manager's office.
- D. No contract or purchase shall be artificially divided so as to constitute a small purchase under this section.

**§ 58-10. Emergency procurement.**

- A. Whenever there exists an apparent threat to the public health, welfare or safety of the Village or its citizens, the Village President may authorize the Village Manager to award a contract without competitive sealed bids by utilizing open market procedures as set forth in § 58-6 or such other competition as may be practicable under the circumstances for the emergency purchase of supplies, services or construction items.
- B. The emergency purchase shall be made at the lowest obtainable price and the Village President shall file as soon as possible after the award a full written report of the circumstances surrounding the emergency purchase with the Village Clerk and the Village Council.

**§ 58-11. Sole source procurement.**

- A. A contract for supplies, services or construction items may be awarded by the Village President without competitive sealed bids when the Village Manager determines, in writing to the Village President, after conducting a good faith review of available sources that there is only one source for supplying the requested supply, service or construction items. The Village Manager along with a representative from the requesting department shall conduct negotiations as appropriate. The written statement shall be available for public inspection in the Village Manager's office.
- B. The sole source procurement shall be made at the lowest obtainable price and the Village President shall file a monthly report with the Village Clerk and the Village Council identifying the number of sole source procurement contracts equal to or in excess of \$5,000 awarded by the Village, the name of the firms involved and the price the contract was awarded for.

**§ 58-12. Competitive sealed proposals. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Whenever the use of competitive sealed bidding is not practicable or advantageous to the Village, a contract equal to or in excess of the \$20,000 may be awarded by the Village President by the use of competitive sealed proposals.

- A. A list of qualified persons shall be obtained each time a department desires to contract for a particular service, supply or construction item by the Village Manager by publishing a request for a statement of qualifications.
  - (1) Public notice or the request for a statement of qualifications shall be given in the same manner as provided in § 58-8, provided that the minimum time shall be extended to 10 days.
- B. The request for a statement of qualification shall identify the evaluation factors to be considered by the department and the Village Manager in determining which person is the most qualified.
- C. The Village Manager and the department shall submit a request for proposals to at least three persons, whenever possible, who are on the list of qualified persons and are deemed by the Village Manager and the department to be the most qualified to provide the required services, supplies or construction items. The request for proposals shall contain at least the following:
  - (1) A description of the work involved;
  - (2) A date by which the proposals for the performance of the services supplies or construction items shall be submitted;
  - (3) A statement that the proposal shall be in writing;
  - (4) A statement of the minimum information that the proposal shall contain, including:
    - (a) The name of the offeror and the location of the offeror's principal place of business;
    - (b) The abilities, qualifications and experience of all persons who would be assigned to provide the required services, supplies or construction items;
    - (c) A plan giving as much detail as is practical explaining how the supply, service or construction items will be performed.
- D. The Village Manager and the department shall commence negotiating a contract with the offeror deemed to be the most qualified person on the list of qualified persons.
- E. If compensation, contract requirements and contract documents can be agreed upon with the most qualified offeror, the department and Village Manager shall recommend to the Village President that the contract be awarded by the Village President to that person. Should the Village Manager and the department be unable to negotiate a satisfactory contract with the person considered to be most qualified, negotiations with that person shall be formally terminated. The Village Manager

and department shall then undertake negotiations with the second most qualified person. Failing accord with the second most qualified firm, the Village Manager and the department shall formally terminate negotiations. The Village Manager and the department shall then undertake negotiations with the third most qualified person. Should the Village Manager and the department be unable to negotiate a contract with any of the selected firms, the Village Manager shall have the option of resubmitting a request for statement of qualification, or selecting additional persons on the list of qualified persons in order of their qualifications and the Village Manager and department shall continue negotiations in accordance with the section until an agreement is reached. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- F. No proposals shall be handled so as to permit disclosure of the identity of any offer or the contents of any proposal to competing offerors during the process of negotiations by the Village Manager and the requesting department. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to the award for obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from the proposals submitted by competing offerors.
- (1) Whenever the procurement of services, supplies or construction items by competitive sealed bidding is determined to be not practicable or advantageous to the Village and each item estimated costs less than \$20,000 the Village Manager with the assistance of the department shall actively solicit by public notice as provided in § 58-8A(2) qualified persons to submit an annual statement of qualifications.
    - (a) Persons shall be able to amend their annual statement of qualifications at any time by filing a new statement.
    - (b) Whenever a department needs to enter into a contract which qualifies under this subsection the department and the Village Manager shall determine from the annual list of qualified persons at least five persons, whenever possible, who are qualified to submit requests for proposals and upon receipt of the persons written proposal, the department and the Village Manager shall begin negotiations with the person deemed to be most qualified. If negotiations are successful, the Village President or Village Manager shall award the contract. If the Village Manager and the department fail to reach an agreement with the person deemed to be most qualified, the Village Manager and department shall formally terminate negotiations and proceed under the procedures identified in § 58-9, Small purchases, open market procedure, until successful negotiations are concluded or the department and Village Manager decide to terminate all negotiations.

**§ 58-13. Qualifications-based selection: purchase of professional services; uncommon goods or unique and built-to-order equipment.**

The Village may from time to time engage professionals or purchase goods or services that do not exist as commodities. This section is intended to serve as an alternative

method of obtaining these goods and services while adhering to the principals of a competitive process.

- A. Professional services. Professional services, such as those of engineers, architects, scientists or other technical experts requiring licensing or offering a certification of conditions may be contracted by a qualifications-based selection<sup>1</sup> or similar process.
- B. Uncommon goods/unique equipment.
  - (1) Uncommon goods is defined as those specialized goods not available as a commodity.
  - (2) Unique equipment is defined as equipment that is built or crafted for a specific unique need.
- C. Qualifications-based selection for uncommon goods/unique equipment. The Newberry Village Council may authorize the purchase of uncommon goods/unique services by a qualifications-based selection.
  - (1) The Village Council shall define the function and/or purpose to be accomplished by these goods or equipment.
  - (2) Vendors capable of supplying these goods or equipment shall be invited to submit proposals.
  - (3) The qualifications-based selection system shall be utilized to evaluate competitive proposals and select a vendor.
- D. Qualifications-based selection conducted by Village Manager. The Village Manager shall direct the qualifications-based selection process when the Newberry Village Council chooses this method to obtain services, goods or equipment.
  - (1) The Village Manager is authorized to direct and supervise all phases of the qualifications-based selection process.
  - (2) The Village Manager at the completion of the qualifications-based selection process shall make a recommendation to the Village Council for awarding a contract.

#### **§ 58-14. Cancellation of invitation for bids or requests for proposals.**

An invitation for bids or request for proposals or other solicitations may be cancelled; or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of the Village. The reason shall be made part of the contract file and shall be available for inspection in the Village Manager's office. Notice of cancellation shall be sent to all businesses from which bids were solicited.

#### **§ 58-15. Right to audit records and to inspect plant.**

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1. Note: Defined in § 58-2.

- A. The Village may, at reasonable times, inspect the part of the plant, place of business or worksite of a contractor or subcontractor which is pertinent to the performance of any contract awarded or to be awarded by the Village.
- B. The Village shall be entitled to audit the books and records of a contractor or subcontractor under any Village contract or subcontract to the extent that such books, documents, papers and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract.

**§ 58-16. Bid security.**

- A. Bid security shall be required for all competitive sealed bidding for construction contracts when the cost is estimated to equal or exceed \$25,000. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in case, or otherwise supplied in a form satisfactory to the Village. Nothing contained herein shall prevent the requirement of such security on any contracts under \$25,000 when in the determination of the Village Manager circumstances warrant bid security.
- B. Bid security shall be in an amount equal to but not less than 5% of the amount of the bid.
- C. When the invitation for bids requires bid security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply in a nonsubstantial manner with bid security requirements.

**§ 58-17. Performance and payment bonds.**

When a construction contract is awarded the cost of which is equal to or in excess to \$25,000, the following bonds shall be delivered to the Village at or before the signing of the contract by the Village President:

- A. A performance bond satisfactory to the Village executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the Village in an amount equal to 100% of the price specified in the contract.
- B. A payment bond satisfactory to the Village executed by a surety authorized to do business in this state or otherwise secured in a manner satisfactory to the Village for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the price specified in the contract.
  - (1) Nothing contained herein shall be construed to limit the authority of the Village Manager to require a performance bond, payment bond or other security in addition to those bonds in circumstances other than specified in Subsections A and B of this section.

**§ 58-18. Certification of Village expenditures by Village Manager.**

- A. No contract for the purchase of services, supplies or construction items shall be entered into with exception of emergency purchases under § 58-10 unless the Village Manager certifies that there is a sufficient unencumbered balance in the allotment of appropriation against which the appropriation is to be charged to pay for the purchase.
- B. Failure to comply with Subsection A of this section shall render the contract voidable.
- C. The Council may authorize or forbid specific expenditures; however, if procurement is authorized it shall be conducted as specified in this chapter.

**§ 58-19. Obsolete or surplus supplies.**

- A. All departments shall submit to the Village Manager reports showing stocks of all supplies which in the department's opinion are no longer used or which have become obsolete or worn and unsuitable for Village use.
- B. The Village Manager under guidelines established in cooperation and approved by the Village President shall have the authority to transfer surplus stock designated in the department's report to other departments so as to secure for the Village maximum efficiency in utilizing Village resources and in budgetary planning.
- C. Sales or disposal of obsolete supplies or supplies worn out and unsuitable for Village uses shall be made to the highest responsible and responsive bidder in conformity with the procedures identified in § 58-9, trade-in for new equipment, direct sale to the other governmental entities or by public auction whichever the Village Manager deems applicable.

**§ 58-20. Gifts, rebates prohibited.**

- A. The Village Manager and every Village employee is prohibited from soliciting, demanding, accepting or agreeing to accept directly or indirectly, from any person, to which a contract might be awarded or is awarded any gift, offer of employment, rebate, money or anything of material value whatsoever, except where given for the use and benefit of the Village.
- B. The Village Manager or any Village employee violating Subsection A of this section shall be guilty of a misdemeanor punishable by 90 days in jail and/or \$500 fine together with the cost of prosecution.

**§ 58-21. Local bidders or offerors.**

If the lowest responsible and responsive bids received are for the same amount or unit price and all the other enumerated provisions identified in § 58-8A(8) are equal to or if the department and the Village Manager concur that the two firms, one of which is a local firm, are equally qualified in all relevant aspects, then the contract shall be awarded to a local bidder or offeror.

**§ 58-22. Unauthorized purchases.**

Except as herein provided it shall be unlawful for any Village officer, employee or

official to order or enter into the purchase of supplies, services or construction items other than through the Village Manager and in the procedure specified in this chapter. Any purchase or contract made contrary to the provisions hereof shall not be approved by Village officials and the Village shall not be bound thereby.

**§ 58-23. Severability.**

If any subsection or clause of this chapter or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other subsections or application of this chapter which can be given effect without the invalid subsection or application and to this end the subsections of this chapter are deemed severable.



## *DIVISION 2. PURCHASING, CONTRACTING AND SELLING*

### **Sec. 2-500. Purchasing agent.**

The city manager shall act as purchasing agent of the city, except as to purchases under the jurisdiction and control of the board of light and power, unless he shall designate another officer or employee of the city to act as purchasing agent. Any such designation shall be in writing and filed with the city clerk. The city manager shall adopt any necessary rules respective to purchase orders.

(Code 1999, § 3.01; Ord. No. 693 , § 2, 12-14-2020)

### **Sec. 2-501. Purchases or contracts \$25,000.00 or less.**

Any expenditure for supplies, materials or equipment, the cost of which is \$10,000.00 or more but not greater than \$25,000.00 may be made in the open market but such purchases shall, where practicable, be based on at least three quotes and shall be awarded to the best value supplier. A record shall be kept and be available for public inspection through the next audit cycle. In 2015, and every five years thereafter, the city manager shall make a recommendation to the city commission whether or not the above dollar thresholds should be changed.

(Code 1999, § 3.02; Ord. No. 603, § 2, 6-10-2013; Ord. No. 693 , § 2, 12-14-2020)

Editor's note(s)—Ord. No. 603, § 2, adopted June 10, 2013, changed the title of § 2-501 from "Purchases or contracts \$3,000.00 or less" to read as herein set out.

### **Sec. 2-502. Purchases or contracts over \$25,000.00.**

Any expenditure for supplies, materials, equipment, construction project or contract obligating the city, where the amount of the city's obligation is in excess of \$25,000.00, shall be governed by the provisions of this section. In 2015, and every five years thereafter, the city manager shall make a recommendation to the city commission whether or not the above dollar thresholds should be changed.

- (1) Such expenditure shall be made the subject of a written contract. A purchase order shall be a sufficient written contract only in cases where the expenditure is in the usual and ordinary course of the city's affairs and in no case shall it be sufficient for the construction of public works projects or the contracting for supplies or services over any period of time or where the quality of the goods or materials or the scope of the services bargained for is not wholly standardized.
- (2) Notice inviting sealed competitive bids shall be published at least five days before the final date for submitting bids thereon. The notice shall state the time limit, the place of filing and the time of opening bids and shall also state that the right is reserved to reject any or all bids. Any other conditions of award of the contract shall also be stated in general terms.
- (3) The purchasing agent shall also solicit bids from a reasonable number of such qualified prospective bidders as are known to him by sending a copy of the notice requesting bids and such notice shall also be posted on the city's website.

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- (4) Unless prescribed by the city commission, the city manager shall prescribe the amount of any security to be deposited with any bid which shall be in the form of cash, certified or cashier's check or bond written by a surety company authorized to do business in the state. The amount of such security shall be expressed in terms of percentage of the bid submitted. Unless fixed by the city commission, the city manager shall fix the amount of the performance bond, and in the case of construction contracts, the amount of the labor material bond to be required of the successful bidders.
  - (5) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the purchasing agent or his designee, and the respective department head or his designee. The bids shall thereupon be carefully examined and tabulated and reported to the commission with the recommendation of the city manager at the next regular commission meeting. After tabulation all bids may be inspected by the competing bidders.
  - (6) When such bids are submitted to the commission, the contract to be executed in a form approved by the city attorney shall also be submitted, and if the commission shall find any of the bids to be satisfactory, it shall award the contract to the lowest and/or best bidder and shall authorize execution of the contract. Upon execution of the contract by the successful bidder and the filing of any bonds which may have been required, such bonds shall first be approved by the city attorney as to form. The commission shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.
  - (7) For contracts requiring a bond, at the time the contract is executed, the contractor shall file a bond executed by a surety company authorized to do business in the state, to the city, conditioned upon the performance of said contract and saving the city harmless from all losses or damage caused to any person or property by reason of any carelessness or negligence by the contractor and from all expense of inspection, engineering or otherwise, caused by the delay in the completion of any improvement and further conditioned to pay all laborers, mechanics, subcontractors and material suppliers as well as all just debts, dues and demands incurred in the performance of such work.
  - (8) All bids, deposits of cash or certified or cashier's check may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him within five days after the same has been awarded, or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city, and the commission may, in its discretion, award the contract to the next lower and best bidder or said contract may be re-advertised.

(Code 1999, § 3.03; Ord. No. 603, § 2, 6-10-2013; Ord. No. 693, § 2, 12-14-2020)

Editor's note(s)—Ord. No. 603, § 2, adopted June 10, 2013, changed the title of § 2-502 from "Purchases or contracts over \$3,000.00" to read as herein set out.

### **Sec. 2-503. Exception to competitive bidding.**

In any case where competitive bidding clearly is not practical or it is clearly to the city's advantage to contract without competitive bidding, the commission, upon the recommendation of the city manager, may authorize the execution of a contract without competitive bidding. In such cases, the proposed contract shall be approved by the city attorney as to form, unless prepared by him by direction of the commission, and submitted to the commission. The city may take advantage of preferred pricing through the state's MIDEAL program (or any other state purchasing program) for any expenditure for supplies, materials, and/or equipment.

(Code 1999, § 3.04)

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### **Sec. 2-504. Emergency purchases.**

In case of emergency, any department head, with the approval of the city manager, may purchase directly any supplies, materials or equipment, the immediate procurement of which is necessary to the continuation of the work of the department. Such purchases and the emergency causing them shall be reported in detail to the purchasing agent within a week from the time when made and such reports shall be filed by the purchasing agent as permanent public records.

(Code 1999, § 3.05)

### **Sec. 2-505. Inspection of materials.**

The responsibility for the inspection and acceptance of all materials, supplies and equipment shall rest with the department making the order.

(Code 1999, § 3.06)

### **Sec. 2-506. Sale of property.**

Whenever any city property, real or personal, is no longer needed for corporate or public purposes, the same may be offered for sale.

- (1) *Processes for sale of real property.* The following process is applicable to all sales of real property:
  - a. The city commission may, by resolution of intent to sell, authorize the city manager to direct the sale of real property.
  - b. The resolution shall include a statement that the value of the real property shall be determined by in writing by a state certified or licensed real estate appraiser.
  - c. The resolution shall include pertinent information concerning any special terms of the sale.
  - d. The resolution shall be published once, at the first opportunity following its passage, in a newspaper of general circulation within the city.
  - e. The resolution and appraisal shall be made available for public inspection at the city clerk's office.
  - f. The city commission shall, by resolution authorizing sale, give final approval to all real property sales. Such approvals must receive the affirmative vote of at least five members of the city commission.
  - g. In the event the sale of property is done by public auction or sealed bids, the property shall be sold to the highest qualified bidder meeting all bid requirements and other terms of the sale, but the city shall retain the right to reject any and all bids.
  - h. In no event may real property be sold at a price less than 80 percent of the appraised value.
  - i. If the city has received no acceptable offers within six months of the resolution of intent, the city commission may, by resolution canceling sale, authorize the city manager to direct the sale of the real property to be cancelled and no longer be deemed to be for sale.
  - j. The resolution shall be published once, at the first opportunity following its passage, in a newspaper of general circulation within the city.
  - k. The resolution shall be made available for public inspection at the city clerk's office.

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I. No contract for the sale of property shall be made with any person who is in default to the city.  
(Code 1999, § 3.07; Ord. No. 611, §§ 1, 2, 12-9-2013)

**Sec. 2-507. Contractors in default to the city.**

The city shall not enter into any contract with a contractor who is in default to the city. The term "default to the city" shall include, but not be limited to, nonpayment of any taxes past the due date; breach of any contract provision with the city; nonpayment of any parking tickets, traffic fines, costs or other obligations to the city.

**Secs. 2-508—2-520. Reserved.**

**ORDINANCE #693**  
**AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER 2 -**  
**ADMINISTRATION; ARTICLE V - FINANCE, DIVISION 2 - PURCHASING**  
**CONTRACTING AND SELLING**

The City of Marquette Ordains:

**Section 1.** – Repealed Sections

Sections 2-500 (paragraph one), 2-501 (paragraph one), and 2-502 (subsection 3) are hereby repealed.

**Section 2.** – New Sections

New Sections 2-500 (paragraph one), 2-501 (paragraph one), and 2-502 (subsection 3) are adopted as follows:

**Sec. 2-500.** – Purchasing Agent.

The city manager shall act as purchasing agent of the city, except as to purchases under the jurisdiction and control of the board of light and power, unless he shall designate another officer or employee of the city to act as purchasing agent. Any such designation shall be in writing and filed with the city clerk. The city manager shall adopt any necessary rules respective to purchase orders.


**Sec. 2-501.** - Purchases or contracts \$25,000.00 or less.


Any expenditure for supplies, materials or equipment, the cost of which is \$10,000.00 or more but not greater than \$25,000.00 may be made in the open market but such purchases shall, where practicable, be based on at least three quotes and shall be awarded to the best value supplier. A record shall be kept and be available for public inspection through the next audit cycle. In 2015, and every five years thereafter, the City Manager shall make a recommendation to the City Commission whether or not the above dollar thresholds should be changed.

**Sec. 2-502. (3)** – The purchasing agent shall also solicit bids from a reasonable number of such qualified prospective bidders as are known to him by sending a copy of the notice requesting bids and such notice shall also be posted on the city's website.

**Section 3.** – Effective Date.

This ordinance shall take effect ten days after adoption but not before publication.

  
\_\_\_\_\_  
Jennifer A. Smith  
Mayor

  
\_\_\_\_\_  
Kyle Whitney  
City Clerk

Adopted: 12/14/2020

Published: 12/21/2020

# VILLAGE OF NEWBERRY



302 East McMillan Avenue, Newberry, MI 49868 Phone: 906-293-3433 Fax: 906-293-8890

## RESOLUTION 2022-07-19-CAFÉ A RESOLUTION TO AUTHORIZE THE OPERATION OF A SIDEWALK CAFÉ SPACE BY TIMBER CHARLIE’S RESTAURANT, LLC

VILLAGE OF NEWBERRY  
COUNTY OF LUCE, STATE OF MICHIGAN

Motion By: Freese Supported By: Cameron

**WHEREAS**, the Village of Newberry supports local businesses, and

**WHEREAS**, Timber Charlie’s Restaurant, LLC is a local business seeking to provide an outdoor sidewalk café space, and

**WHEREAS**, the Michigan Department of Transportation (MDOT) will issue sidewalk café permits only upon proof that the municipality in which the site is located provides documentation authorizing the proposed activity;

**THEREFORE BE IT RESOLVED**, That the Village of Newberry Council authorizes Timber Charlie’s Restaurant, LLC to operate a sidewalk café (under separate permitting obtained from MDOT by the property owner) within the Village and MDOT right of way on a trial bases effective upon the date of adoption of this resolution and ending December 31, 2022.

**RESOLVED**, That the sidewalk café space must be contained within a 10’ wide by 65’ long space located immediately adjacent to the restaurant’s east wall and will not extend further from the building than 10’ as illustrated on the attached drawing (2022-07-19 Café Resolution Attachment 1). At no point shall the café space hinder passersby from utilizing the remaining sidewalk and right of way. If found in violation of this resolution or any local or state law, the authorization of the café space will be immediately terminated.

**RESOLVED**, That the proprietor is responsible for strict compliance with all state and local laws and shall assume all liability for the approved space. The Village of Newberry shall be listed as an additional insured on coverage documents for the space. A copy of the coverage document with the required language provided to the proprietor by the Village Manager shall be on file at the Village office prior to establishment of the café space.

**RESOLVED**, That the space is authorized to be utilized for business only during the hours of, 11a.m. to 9p.m Sunday through Thursday, and Friday to Saturday 11a.m. to 10p.m. Tables, chairs, and barricades may remain in the authorized space during closed hours; with the proprietor assuming all risk for damage or theft.

**RESOLVED**, That this resolution, as adopted by Village Council, affirms that the Village of Newberry authorizes this sidewalk café space for Timber Charlie's Restaurant, LLC for the aforementioned trial time period.

AYES: Freese, Cameron, Hendrickson, Schummer, Stokes

NAYS: none

ABSENT: Puckett

**RESOLUTION DECLARED ADOPTED ON THE 19TH DAY OF JULY 2022.**

VILLAGE OF NEWBERRY

Cat Freese  
Catherine Freese, Village President

Terese Schummer  
Terese Schummer, Village Clerk  
Date: July 19, 2022

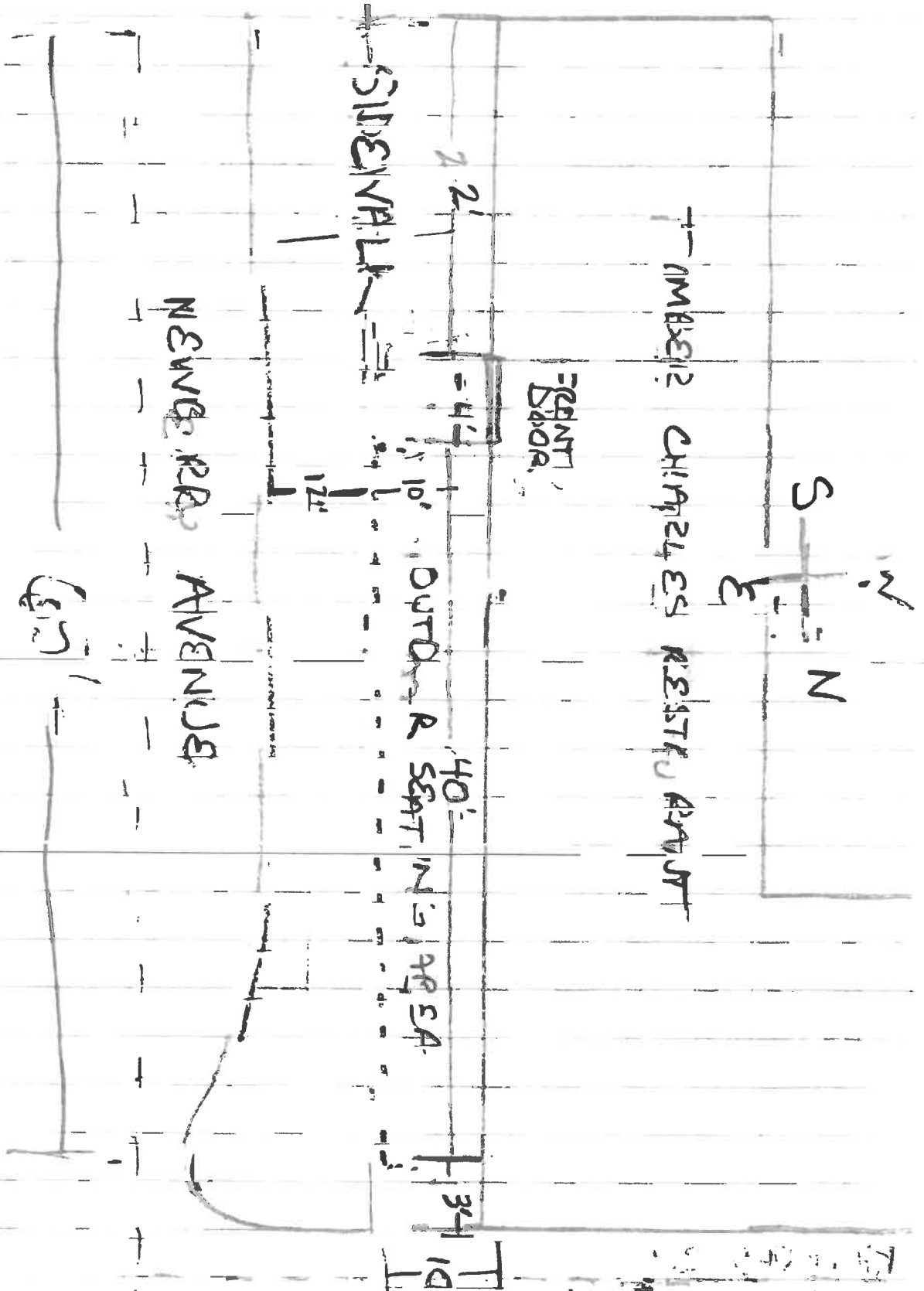
CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Village Council of the Village of Newberry, County of Luce, State of Michigan, at a regular meeting held on JULY 19, 2022 that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Terese Schummer  
Terese Schummer, Clerk

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