

Village of Newberry
Ordinance Committee Meeting Agenda
307 E. McMillan Avenue
Thursday, January 12, 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. Public Comment
4. Unfinished Business
 - A. Codification Project
 1. Review
 2. Ordinance to cover codification
 - B. Tabled; Ordinance language to focus on giving strength to garbage/blight violations
 - C. Tabled; Short Term Rentals Ordinance
 - D. Tabled; Purchasing Ordinance
5. New Business
 - A. Suggested next committee meeting date: February 2, 2023; 9:30 AM
 - a. Set recurring meeting date as first Thursday of the month
6. Public Comment
7. Adjournment

Village of Newberry
Ordinance Committee Meeting Minutes
307 E. McMillan Avenue
Thursday, November 3, 2022
9:30 AM

1. Called to Order at 9:30 AM
2. Roll Call
Chair Lori Stokes, Dennis Hendrickson, Darrell Schumer, present
also present: VM Allison Watkins, W&L Superintendent Dan Kucinkas
3. Public Comment – none present
4. Unfinished Business
 - A. Ordinance A; review of Final Draft and suggested changes/additions
 1. ***Motion by Stokes, supported by Hendrickson to approve and present Ordinance A draft with discussed changes/additions for council consideration at the next regular meeting.***
AYES: all
 - B. Draft Ordinance 55 – Burning; review of draft presented by VM
 1. ***Motion by Stokes, supported by Hendrickson to approve and present Ordinance 55 with discussed changes for council consideration at the next regular meeting. AYES: all***
 - C. 13A Amendment regarding dumpsters; review of draft amendment
 1. ***Motion by Stokes, supported by Hendrickson to approve and present amendment to Ordinance 13A for council consideration at next regular meeting. AYES: all***
 - D. Ordinance language to focus on giving strength to garbage/blight violations
 1. VA Jocks continues to research and work on language
 - E. Short Term Rentals Ordinance
 1. No progress
5. New Business
 - A. Next committee meeting date
 1. No committee meeting in December
6. Public Comment – none present
7. Motion by Stokes, support by Hendrickson to adjourn meeting at 10:52 AM
AYES - all

**VILLAGE OF NEWBERRY
LUCE COUNTY, MICHIGAN**

ORDINANCE NO. 150

AN ORDINANCE ADOPTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE VILLAGE OF NEWBERRY, COUNTY OF LUCE, STATE OF MICHIGAN; PROVIDING FOR THE MAINTENANCE OF SAID CODE; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; ESTABLISHING A PENALTY FOR ALTERING OR TAMPERING WITH THE CODE; AND MAKING CERTAIN CHANGES IN PREVIOUSLY ADOPTED ORDINANCES

The Village of Newberry ordains as follows:

§ 1-1. Adoption of Code.

In accordance with MCLA § 78.24a, the ordinances of the Village of Newberry of a general and permanent nature adopted by the Village Council of the Village of Newberry, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 390, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Code of the Village of Newberry," hereinafter known and referred to as the "Code."

§ 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Village Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Village of Newberry by impressing thereon the Seal of the Village, as provided by law, and such certified copy shall remain on file in the office of the Village Clerk, to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-4. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Village of Newberry" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as

provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

§ 1-5. Publication; filing.

The Clerk of the Village of Newberry, pursuant to law, shall cause to be published, in the manner required, a copy of this Adopting Ordinance in a newspaper of general circulation in the Village. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-6. Adoption; when effective.

This ordinance shall be published in the manner as required by law. Except as otherwise provided by law, this ordinance shall be effective on the day after final publication.

§ 1-7. Code book to be kept up-to-date.

It shall be the duty of the Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in his or her office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-8. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk, or an authorized agent of the Clerk, upon the payment of a fee authorized by the Village Council of the Village of Newberry. The Clerk shall also arrange for procedures for the periodic supplementation of the Code.

§ 1-9. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village of Newberry to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a fine of not more than \$500 or imprisonment for not more than 90 days, or both, in the discretion of the Judge imposing the same.

§ 1-10. Severability of Code provisions.

This Code and the various parts, sections, subsections, paragraphs, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this Code shall not be affected thereby and shall remain in effect and valid.

§ 1-11. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-12. Repeal of inconsistent legislation.

- A. Except as provided in § 1-13, Ordinances saved from repeal, below, all ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Village of Newberry which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.
- B. Repeal of specific provisions. The Village Council of the Village of Newberry has determined that the following ordinances and/or provisions are no longer in effect and hereby specifically repeals the following legislation:
- (1) Ordinance No. 15, Junkyards, adopted July 13, 1987.
 - (2) Ordinance adopted 3-21-2011, Junkyards amendent.
 - (3) Ordinance No. 16, Disabled Vehicles, adopted July 13, 1987, as ameded.
 - (4) Ordinance No. 17, Standards for Law Enforcement Officers, adopted July 13, 1987.
 - (5) Ordinance No. 20, Plat Regulation, adopted July 13, 1987.
 - (6) Ordinance No. 25, Auxiliary Police Force, adopted July 13, 1987.

§ 1-13. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal. The ordinances or portions of ordinances designated below continue in full force and effect to the same extent as if published at length in this Code.

- A. Any ordinance adopted subsequent to November 15, 2022.
- B. Any ordinance or portion of any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- C. Any ordinance or portion of any ordinance authorizing or approving any contract, deed, or agreement.
- D. Any ordinance or portion of any ordinance granting any right or franchise.
- E. Any ordinance or portion of any ordinance making or approving any appropriation or budget.
- F. Any ordinance or portion of any ordinance providing for salaries or other employee benefits or personnel policies not codified in this Code.
- G. Any ordinance or portion of any ordinance levying, imposing, or otherwise relating to taxes not codified in this Code.
- H. Any ordinance or portion of any ordinance adopting or amending the Village Master Plan.
- I. Any ordinance or portion of any ordinance dedicating, accepting, or vacating any plat or subdivision.
- J. Any ordinance or portion of any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing, or vacating any street, sidewalk, or alley.
- K. Any ordinance or portion of any ordinance establishing the grade of any street or sidewalk.
- L. Any ordinance or portion of any ordinance levying or imposing any special assessment.
- M. Any ordinance rezoning property.
- N. Any ordinance regarding special districts.
- O. Any ordinance or portion of any ordinance that is temporary although general in effect.
- P. Any ordinance or portion of any ordinance that is special although permanent in effect.
- Q. Any ordinance or portion of any ordinance the purpose of which has been accomplished.
- R. Any Village ordinance (or portions thereof) adopted by reference and not fully incorporated or restated within this Code.

§ 1-14. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as ordinances previously adopted by the Village relating to the same subject matter, shall be construed as restatements and continuations thereof and not as entirely new enactments.

§ 1-15. Effect on prior offenses or rights.

- A. Nothing in this Code (or the ordinance adopting this Code) affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- B. The adoption of this Code does not authorize any use or the continuation of any use of a structure, building, or premises in violation of any Village ordinance on the effective date of this Code.

§ 1-16. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Village Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. Global revisions; nomenclature changes.
 - (1) Throughout the Code, references to MSA are deleted.
 - (2) Chapter 118 is amended to change instances of “Building Inspection Team” to “Dangerous Building Inspection Team.”
- C. The changes, amendments or revisions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

§ 1-17. References to Michigan Compiled Laws.

- A. Throughout the Code, a reference to “Michigan Compiled Laws” shall include all sections of law, as last amended, which are assigned a compilation number by the legislative service bureau and are not subsequently repealed.
- B. Unless otherwise specifically provided, a reference to all or part of a statute, regardless of whether the words “as amended” are used in the reference, shall include the latest amendments to the statute or part.

§ 1-18. Publication.

This Ordinance shall be published once in a newspaper of general circulation within the boundaries of the Village of Newberry qualified under State law to publish legal notices immediately after its adoption, and the same shall be recorded in the minutes of the Village of Newberry of the meeting at which this Ordinance was adopted and, in addition shall be recorded in the Ordinance Book of the Village.

§ 1-19. Effective Date.

This Ordinance shall be in full force and effect twenty (20) days after publication.

AYES: _____

NAYS: _____

ABSENT: _____

ORDINANCE DECLARED ADOPTED.

By: Catherine Freese, Village President

By: Terese Schummer, Clerk

Date: _____

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Newberry, County of Luce, State of Michigan, at a regular meeting held on January 17, 2023 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. I further certify that the foregoing Ordinance was published on _____ in the following newspaper: NEWBERRY NEWS.

Terese Schummer, Clerk

Village of Newberry
Ordinance No. 150 Code Adoption 2023

Schedule A
Specific Revisions at Time of Adoption of Code

Chapter 44, Planning Commission.

Section 44-2 is amended to read:

The Planning Commission shall possess and exercise all the powers and duties as are granted, from time to time, to Village Planning Commissions by the statutes of the State of Michigan, including, but not restricted to, those powers and duties provided for in Act 33 of the Public Acts of 2008 (the Michigan Planning Enabling Act, MCLA § 125.3801 et seq.), and such amendments and superseding Acts as may be enacted.

Chapter 58, Purchasing.

- A. In § 58-2, the definition of “department” is amended to delete the reference to Chief of Police.
- B. Section 58-6B(4) is amended to change \$10,000 to \$20,000.
- C. Sections 58-8, 58-8B, 58-12 and 58-12D(1) are amended to change \$10,000 to \$20,000.
- D. Section 58-12E is amended to change Administrative Assistant to Village Manager.

Chapter 100, Animals.

- A. Section 100-1D is amended to delete the reference to the Newberry Police Department.
- B. Section 100-9 is amended to change "misdemeanor" to "municipal civil infraction."

Chapter 118, Buildings, Dangerous.

- A. Section 118-5A is amended to delete “or Police Department.”
- B. Section 118-12 is amended to read:

§ 118-12. Dangerous Building Inspection Team.

The membership of the Dangerous Building Inspection Team is set forth in § 78-10, Ad hoc committees, of the Village of Newberry Code.

Chapter 129, Cable Television.

Section 129-2 is amended to read, in part: *Such application shall be accompanied by a fee, which is established by resolution of the Village Council, to cover the cost of inspection and review of the application by the Village Council.*

Chapter 137, Circuses, Carnivals, Concerts and Outdoor Shows.

A. Section 137-2 is amended to read:

The license fees for a license for any circus, menagerie, street carnival, amusement park, play game, outside theatrical exhibition of any natural or artificial curiosity or outdoor show of any kind shall be established by resolution of the Village Council, for a daily license and a weekly license.

B. Section 137-11 is amended to read:

Any violation of this chapter shall be cause for revocation of any license issued.
A. Any person who violates this chapter shall be responsible for a municipal civil infraction and shall be subject to the following penalties:
(1) For a first violation, the offender shall pay a fine of \$100.
(2) For a second violation within a three-year period from the date the person was found responsible for the first violation, the offender shall pay a fine of \$250.
(3) For a third or subsequent violation within a three-year period from the date the person was found responsible for the first violation, the offender shall pay a fine of \$500.
B. Each day the violation occurs shall be considered a separate violation.
C. The Village Ordinance Enforcement Officer and the Village Property Use Administrator are hereby designated as the authorized officials to issue municipal civil infraction citations.

Chapter 166, Emergency Response Cost Recovery.

- A. Sections 166-4 and 166-5 (definitions of “emergency response” and “expenses of an emergency response”) are amended to change references to "village police" and "police" to “law enforcement.”
- B. In § 166-5, the definition of “hazardous material” is amended to update the MCL reference to MCLA § 324.11101 et seq.

Chapter 192, Grass and Weeds.

- A. Section 192-3 is amended to change “Chief of Police” to “Ordinance Enforcement Officer.”
- B. Section 192-7A is amended to change “Newberry Village Police Department” to “Ordinance Enforcement Officer.”

Chapter 231, Mobile Homes, Trailer Coaches and Mobile Home Parks.

In § 231-1, the definition of “mobile home” is amended to read:

MOBILE HOME — A dwelling unit, factory built and factory assembled, designed to be conveyed on streets and highways on its own wheels or on a flatbed trailer or other trailer, to be placed at the site where it is to be occupied fully assembled except for minor unpacking, assembly and utility work. A prefabricated home shall not be included in this definition. A home complying with the terms of the Village building ordinance relating to construction of single-family homes, and placed on a foundation complying with all of the terms of the Village building code relating to single-family homes, shall not be deemed to be a mobile home.

Chapter 255, Peace and Good Order.

- A. Section 255-1B is amended to change “after 10:00 p.m.” to "after 10:00 p.m. until 6:00 a.m." in two places.
- B. In § 255-4J(2), the following definitions are amended to read as shown:
- ALCOHOLIC BEVERAGE – Any alcoholic liquor, beer, wine, spirits, or alcohol as defined in MCLA § 436.1105 et seq.*
- MINOR – A person not legally permitted by reason of age to possess alcoholic beverages pursuant to MCLA § 436.1703.*

Chapter 259, Peddlers and Hawkers.

- A. Section 259-4A is amended to read:
- Each person to whom a license is granted under this chapter shall pay a license fee, as established by resolution of the Village Council, to the Village Clerk. Licenses shall be granted for one year, six months, one month or daily.*
- B. Section 259-8 is amended to read:
- Any person who engages in the business of hawking, peddling, or vending in violation of the provisions of this chapter shall be deemed guilty of a civil infraction. Each day or part of a day that a person shall hawk, peddle or vend without a valid license shall be considered a separate violation of this chapter.*

Chapter 275, Property Use.

- A. In § 275-1, the definition of “Administrator” is amended to change “Administrative Assistant” to “Village Manager.”
- B. The following original sections are repealed:
- Original Section 29:1:9, Enforcement and penalty
 - Section 29:3:3B.a, Misdemeanor
 - Section 29:3:4, Placing/directing violation-misdemeanor
 - Section 29:4, Dangerous Buildings
 - Section 29:5:17, Penalty
 - Section 29:8:15(E), regarding violations
 - Section 29:10:12, Enforcement and penalty
- C. The first sentence of § 275-6 is amended to read: "Refer to Chapter 192, Grass and Weeds of the Code of the Village of Newberry."
- D. Section 275-7 is amended to read: *If private property or a lawn extension is not maintained as required by this Ordinance, the Superintendent may have the work done to bring the property or lawn extension into compliance. The notice provided for enforcement shall be sent to the address of the current utility account holder as listed in the Village record's and to the address of the property owner as shown on the Assessor's records at least five days prior to commencing the work. In the case of an immediate hazard to public safety no prior notice shall be necessary. The actual costs of the work needed to bring property or a lawn extension*

into compliance, together with an additional 20% of that cost shall be billed to the owner. Whenever a bill for such charges remains unpaid for 60 days after it has been rendered, the Village may file with the proper tax assessing official or agency who shall enter the lien on the next tax roll against the premises and the charge shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for taxes. This statement shall contain a legal description of the premises, the expenses and costs incurred, and the date the weeds were cut, and a notice that the village claims a lien for this amount. Notice of such lien claim shall be mailed to the owner of the premises if the address is known.

- E. Section 275-16 is amended to change “Newberry Village Police Department” to “Ordinance Enforcement Officer or Village Manager.”
- F. Section 275-19 is amended to read:

A responsible party who has been ordered or given notice to correct a violation of this chapter within a specified period of time shall not be held accountable for any time which elapses between the time of filing an appeal and the time a decision is made by the Village of Newberry Appeals Board.
- G. Section 275-23 is amended to read:

All hearings on appeals shall take place at a regular or special meeting of the Village of Newberry Appeals Board. The Village Ordinance Enforcement Officer and the Board shall have two weeks after an appeal form is filed to notify the appellant of the scheduled hearing date.
- H. Section 275-36 is amended to change Act 172 of the Public Acts of Michigan of 1929 to refer to the Land Division Act, P.A.1967, No. 288 (MCLA § 560.101 et seq.).
- I. Section 275-41 is amended to read:

Disabled motor vehicles or any parts of a motor vehicle shall not be permitted in a side or rear yard of a residence, commercial, or industrial lot as an accessory use to the main use of the lot.
- J. Section 275-45 is amended to read:

This article shall not be constructed as repealing any ordinance relating to rubbish, litter, garbage, refuse, trash, or junk, but shall be construed as supplementary to such ordinances as well as any statutes of the State of Michigan relating thereto.
- K. Section 275-49 is amended to remove the license fee and instead state “an annual license fee established by the Village Council.”
- L. Section 275-58A to delete the phrase "property use administrator and the Village of Newberry Police Department" and replace with “Village Ordinance Enforcement Officer and the Village Manager.”

Chapter 300, Sewer and Water Connections.

Section 300-7 is amended to delete the penalty exclusion.

Chapter 305, Sewers and Sewage Treatment; Stormwater

A. Section 305-5 is amended to change Village Administrative Assistant to Village Manager.

B. Section 305-8D is amended to as follows:

- (1) *Reference to Act 288 of the Public Acts of 1972 is updated to refer to Act 368 of the Public Acts of 1978.*
- (2) *Reference to Sections 4 and 5 of Act 288 of the Public Acts of 1972 is updated to refer to P.A.1978, No. 368, § 12754 (MCLA § 333.12754).*

Chapter 330, Streets and Sidewalks.

Section 330-4 is amended to read:

A. Any person who violates this chapter shall be responsible for a municipal civil infraction and shall be subject to the following penalties:

- (1) For a first violation, the offender shall pay a fine of \$100.*
- (2) For a second violation within a three-year period from the date the person was found responsible for the first violation, the offender shall pay a fine of \$250.*
- (3) For a third or subsequent violation within a three-year period from the date the person was found responsible for the first violation, the offender shall pay a fine of \$500.*

B. Each day the violation occurs shall be considered a separate violation.

C. The Village Ordinance Enforcement Officer and the Village Property Use Administrator are hereby designated as the authorized officials to issue municipal civil infraction citations.

Chapter 360, Vehicles and Traffic

Section 360-7 is amended to read:

A. Any person who violates this article shall be responsible for a municipal civil infraction and shall be subject to the following penalties:

- (1) For a first violation the offender shall pay a fine of \$100.*
- (2) For a second violation within a three-year period from the date the person was found responsible for the first violation, the offender shall pay a fine of \$250.*
- (3) For a third or subsequent violation within a three-year period from the date the person was found responsible for the first violation, the offender shall pay a fine of \$500.*

B. Each day the violation occurs shall be considered a separate violation.

C. The Village Ordinance Enforcement Officer and the Village Property Use Administrator are hereby designated as the authorized officials to issue municipal civil infraction citations.

Chapter 371, Vehicles, Recreational.

A. Section 371-2 is amended to read:

- A. ATVs shall observe all rules of operation that apply to snowmobiles.*
- B. ATV use is limited to roads available to snowmobiles and most direct route to the property on which snow is to be removed.*
- C. ATVs may only be operated from legal sunrise to legal sunset.*
- D. All equipment must meet the original manufacturer's specifications.*
- E. Driver must be at least 16 years of age and have a valid drivers license.*
- F. Speed not to exceed 15 mph.*

B. Original Section 3, Permits and flags, of Ord. No. 2011-3, is repealed.

C. Sections 371-4 and 371-11A are amended to change "Act 74 of 1968 of the Public Acts" to "Act 451 of the Public Acts of 1994 (MCLA § 324.82101 et seq.)."

D. Sections 371-8 and 371-11B are amended to delete references to the Village Police Department.

E. In § 371-10A, change "12 but less than 16" to "12 but less than 17"

F. In § 371-10A(1), change "18 years of age" to "21 years of age."

G. Section 371-10A(2) is amended to change MCLA 257.1512 to MCLA § 324.82107.

H. In § 371-10C and D, change "at least 12 but less than 16 years of age" to "at least 12 years of age but less than 17."