

Village of Copemish

Ordinance No. 2014-03-14

APPOINTMENT OF

BOTH VILLAGE CLERK

AND

VILLAGE TREASURER

WHEREAS, presently both the Village Clerk and the Village Treasurer are elected positions, each serving separate two year terms of office, and

WHEREAS, as elected positions, both positions must be filled by different persons, and

WHEREAS, the Village desires to have the positions of Clerk and Treasurer filled by nominations from the Village President and the appointment by Council, and

WHEREAS, the Village desired to have the flexibility of having either the two separate positions of Clerk and Treasurer, or a combined Clerk/Treasurer, and

WHEREAS, that Section 62.1 of the General Law Village Act of the State of Michigan, that being M.C.L. 62.1 provides that, "The Council by a vote of 2/3 of the members of council may provide by ordinance for the nomination by the president and the appointment by the council of the Clerk or the Treasurer or both for such a term as the Ordinance may provide."

WHEREAS, the Village desires to pass an Ordinance so as to comply with said act.

- NOW, THEREFORE, The Village of Copemish, Manistee County, Michigan, ordains:

Section 1. Means of filling the Position of Clerk & Treasurer: Henceforth, the Position of the Clerk and Treasurer for the Village of Copemish, shall be filled by the nomination of a candidate(s) for the position(s) by the Village President, subject to the confirmation by the Village Council.

Section 2. Adoption of Ordinance: This Ordinance shall be adopted by the affirmative vote of a two thirds (2/3) majority of Council.

Section 3. Effective Date: This Ordinance shall take effect 45 days after the date of its adoption, unless a petition signed by not less than 10 percent of the registered electors of the Village is filed with the Village Clerk or Village Office within such 45 day period.

Section 4. Certification and Publication: The Village Clerk shall certify to the adoption of this Ordinance and that there has been no contrary petition signed by more than 10 percent of the registered electors of the Village. The Clerk shall also cause Notice of the new Ordinance to again be published as required by law.

Section 5. General Term of Office of Clerk and Treasurer, or Clerk/Treasurer: The term of office for the appointed Clerk and Treasurer, or the combined Clerk/Treasurer, shall be two (2) years.

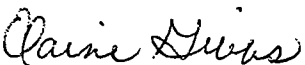
This Ordinance was adopted at a Regular Meeting of the Copemish Village Council held on the 14th day of May 2014. Unless objected to, this Ordinance shall be effective and take effect 45 days after adoption.

Moved by: Patrick Milliron

Supported by: Nancy Milliron

Yeas – Ronald Bytwerk, Michael Longo, Patrick Milliron, Nancy Milliron, Earl Witkop

Nays – None


Elaine Gibbs,

Village Clerk

(3)
Village of Copemish
* Keep Current *

4/5/14

KRONK & STANTON, PLLC

Attorneys - Counselors - Mediators

Michael A. Kronk, JD

Melanie D. Stanton, BSN, JD

March 30, 2012

Copemish Village Council
c/o Pam Houghton, Clerk
16798 1st Street
Copemish, MI 49625
(Via email and U.S. Mail)

RE: General Questions from March 12, 2012 Meeting

Dear Council Members:

In response to an email from Pam Houghton, I would offer the following responses to the six questions that she posed arising during the course of your March 12 meeting:

Question 1: What is the process for combining the office of Clerk and Treasurer? To make a long story "short", it requires a Village to amend its General Law Charter using the provisions for amendment found in the ~~Home Rule~~ Village Act.
General law


The process involves either a Resolution by a two-thirds vote of the Village Council or receipt by the Village of a Petition containing not less than twenty percent of the number of those voting in the last presidential election.

While I have assisted other Villages in effecting Charter Amendments, I don't heappen to have a copy readily available. However, it is my recollection that the Resolution would include the proposed ballot language. That is the reason that it must be carefully drafted.

Once the Resolution is either passed by Council or received by Petition, it is submitted to the Governor's Office for review. There are waiting and publication requirements before the question is put to the voters.

If the amendment is approved, copies must be filed with the Secretary of State, as well as the County Clerk, retaining the original obviously for the Village records.

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Please note that the Attorney General has issued an Opinion that the positions of Village Clerk and Village Treasurer are incompatible because they involve separate duties that provide a check and balance system. However, the statute that the Attorney General was interpreting (Incompatible Offices Statute) has been amended and allows a governing body of a municipality with a population of less than 25,000 to combine certain offices. Some villages have, in fact, combined the positions. It is simply important that the statutory process be correctly followed.

Question 2: What is the process for reducing the number of Trustees from six to four? As luck would have it, I have a sample ordinance to reduce the number of Trustees. It is actually worded to reduce the number from six to four. I will forward that to you.

From my initial review, I believe that an ordinance (not a Resolution) would be sufficient to accomplish the reduction since the Charter allows for a range in the number of Trustee positions. Thus, the Village would not be amending the Charter; but rather adjusting the number of Trustees within the range already permitted.

Phrasing this in another fashion, your General Law Charter already allows you to do this, and to change what the Village has, it simply needs an Ordinance.

Question 3: In response to Question 3, if the positions do not get filled at an election, and there are only two Trustees and the Village President, the process, in my opinion, would be as follows:

(A) The two Trustees and the President would meet for an organizational meeting and have the individuals sworn into office. The only action that would be taken at the first meeting would be to recognize the vacancies and immediately post notice that Council desires to fill the same.

The deadline for making application for appointment to fill a vacancy would be rather short (ten to fourteen days) to avoid an interruption in the Village's ability to conduct its ordinary business.

(B) A special meeting would be called by the President, and the two Trustees would be present. The three individuals would appoint an individual to fill the third Trustee seat; and then the four individuals would appoint another applicant to fill the fourth

Trustee seat. Those individuals would then be sworn into office; if the Village wished, Council could conduct such other business as may be properly noticed as part of the special meeting. My recommendation, however, is that the special meeting be limited solely to the purpose of appointing the two new Trustees; and that the four Trustees plus the President function as Council at the next regularly scheduled meeting.

Question 4: The Village Council has the authority to appoint a Deputy Clerk if it so desires. However, rather than going through such a process to meet the factual situation mentioned in Question 4, it would be my suggestion that any time the Clerk is not present, the Village President appoint a Trustee to act as "Recording Secretary" for purposes of that meeting only.

That Trustee in turn would take minutes, operate the recording equipment, yet still continue to vote and discuss any issues that are before Council.

Question 5: This is a question of first impression. Frankly, I do not have a specific answer since I have never had occasion to research the question.

I will try and do so and have an answer for you, but it may be near the end of next week (but prior to the Council's April meeting).

Question 6: As a matter of fairness, I would suggest that Council indicate that if the ballot question passes, and the Clerk and Treasurer's offices are combined, that the salary for the combined office will be "x dollars". That way any candidate would have a reasonable idea of the compensation should he/she choose to run for the newly created office.

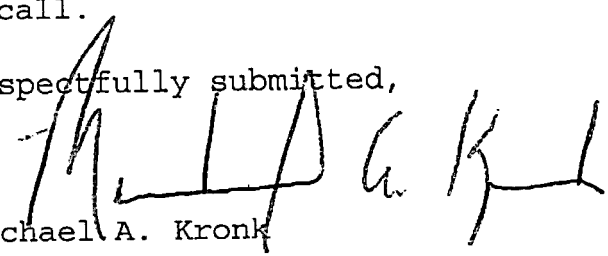
General Comments: As I reflect on all of the above, it strikes me that the Village may wish to reach a decision regarding combining the Clerk and Treasurer's office so that that could be posed as a "ballot question" in August. If it passes, then the newly created position ("Clerk/Treasurer") would be a single ballot item in November.

If this is Council's desire, it is probably something that should be acted on fairly quickly as I believe the deadline for ballot questions at the August primary is around mid-May.

Copemish Village Council
March 30, 2012
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Hopefully the above is helpful. As always, should there be any questions, please do not hesitate to call.

Respectfully submitted,



Michael A. Kronk

MAK/dmc

Appendix 8

Sample ordinance to reduce the number of trustees

We strongly recommend that you consult with your village attorney to appropriately modify this sample ordinance to meet your village's needs.

AN ORDINANCE to provide for reduction in the number of trustees on village council.

**The Village of (Name of Village)
ordains:**

**Section 1. Reduction of number of
trustees on council**

As authorized by Section (2), Chapter II of 1895 PA 3, as amended, the number of trustees on the Village Council shall be reduced from six trustees to four trustees who, with the president, shall constitute the council.

Section 2. Term of office

Use one of the following:

[If prior to the adoption of the ordinance reducing the size of council, three village trustees have been elected at each biennial village election for a term of four years each.]

After the effective date of adoption of this ordinance, two village trustees shall be elected at each succeeding biennial village election. This ordinance shall not shorten the term of any incumbent trustee. Nor shall this ordinance shorten or eliminate a prospective term unless the nomination deadline for that term is not less than 30 days after the effective date of this ordinance.

OR

[If prior to the adoption of the ordinance reducing the size of council, all six village

trustees have been elected at each biennial village election for a term of two years each.]

After the effective date of adoption of this ordinance, four village trustees shall be elected each succeeding biennial village election. This ordinance shall not shorten the term of any incumbent trustee. Nor shall this ordinance shorten or eliminate a prospective term unless the nomination deadline for that term is not less than 30 days after the effective date of this ordinance.

Section 3. Effective date

This ordinance shall take effect 45 days after the date of its adoption, unless a petition, signed by not less than ten percent of the registered electors of the village is filed with the village clerk or village office within such 45 days.

If a petition is filed within such period of time, this ordinance shall then take effect only upon its approval at the next general village or special village election held on the question of whether the ordinance shall be approved. Notice of any delayed effect of this ordinance and the right of petition under this section shall be published separately at the same time and in the same manner as the ordinance or a notice of the ordinance is published in a local newspaper of general circulation.

Section 4. Adoption

This ordinance shall be adopted by an affirmative vote of at least two-thirds of the members of the village council.

Section 5. Publication

The village clerk shall certify to the adoption of this ordinance and cause the same to be published as required by law.

Yeas:

Nays:

Ordinance Declared Adopted

Village Clerk

[If the ordinance is passed, notice of the delayed effect of the ordinance and the right of petition must be published separately at the same time and in the same manner as the ordinance is published. Below is a sample of such a notice.]

Sample of published notice of adoption of the ordinance

Notice to the electors of the Village of (Name of Village): Take notice that Village Ordinance No. _____ which provides for the reduction of the number of village trustees (from six to four) was adopted pursuant to 1895 PA 3 as amended on (date of adoption) and will take effect 45 days after the date of adoption unless a petition signed by not less than ten percent of the registered electors of the village is filed with the village clerk within the 45-day period in which case the ordinance will take effect upon the approval of an election held on the question.

Ordinances

Q87 What is the procedure for adopting a village ordinance?

The council determines that an ordinance is needed or desired. It decides what regulations are needed and the benefits of the regulations. A draft is prepared. It is a good idea to present a rough draft to the village attorney for review. The council then reviews the ordinance draft, and either adopts it, rejects it or sends it back to the attorney for changes.

Most ordinances, including those appropriating money, creating an office, vacating public property, purchasing real estate or ordering a public improvement, can be adopted by a majority of votes of the council present. However, there are exceptions. A two-thirds vote of all the members (five votes on a seven person council or four votes on a five person council) is required to reduce the number of trustees from 6 to 4 (MCL 62.1(2)), appoint (rather than elect) the clerk and/or treasurer (MCL 62.1(3)), and increase a tax or impose a special assessment (MCL 65.5 (2)).

Within 15 days of adoption, the entire ordinance, or a synopsis of the ordinance, must be published in a newspaper circulated in the village. (MCL 66.4) We have added an ordinance chapter to this handbook—see Chapter 7 “Local Ordinances.”

Boundaries

Q88 How does a general law village annex property from a township?

Section 74.6 of the General Law Village Act outlines the boundary changing procedures. General law village annexations are decided by the county board of commissioners. With some exceptions, charter township territory is exempt from annexation by a village if the charter township complies with certain statutory requirements (SEV, population density, and the provision of specific municipal services). Territory can be annexed from a charter township to a village by action of both the village council and township board, by voter approval and by

petition and voter approval if all of the statutory conditions are met. (MCL 117.9)

Q89 There is a group in our community advocating village disincorporation. What should we do?

A number of Michigan villages have dealt with this issue, including Roscommon and Caledonia. More recently, in 2005, the villages of New Haven and Fruitport had ballot proposals on disincorporation. These attempts at disincorporation were all unsuccessful. Officials in these villages can give first-hand advice and insight.

Sections 74.18(a)-74.22 of the general law village act outline the disincorporation process.

Q90 Can a village amend its general law village charter or must all changes be made by the state legislature and be uniform for all villages?

Each village can amend its charter individually. MCL 74.24 gives authority for a general law village to amend its charter by using the provision for amendment in the Home Rule Village Act (MCL 78.1-78.28).

The process begins with revisions being proposed by resolution of a two-thirds vote of the council or by a petition containing a number of signatures not less than 20% of those voting in the last presidential election. The resolution must be submitted to the governor's office for review. There are waiting and publication requirements before the question is put before the voters. If the voters approve the amendments, copies must be filed with the Secretary of State and the county clerk. For sample resolutions and ballot language for amendments, you can contact the League's Inquiry Service.