

TOWNSHIP OF ALGOMA
COUNTY OF KENT, MICHIGAN
CODE OF TOWNSHIP ORDINANCES



This Code of Township Ordinances was adopted
by the Algoma Township Board on June 12, 2007,
including amendments through November 10, 2016.

TOWNSHIP OF ALGOMA
COUNTY OF KENT, MICHIGAN

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CHAPTER 1

GENERAL PROVISIONS

Sec. 1.1 Name and Citation.

The ordinances embraced in this and the following chapters shall constitute and be designated the “Code of Ordinances, Township of Algoma, Michigan,” and may be so cited. This code may also be cited as the “Algoma Township Code.”

Sec. 1.2 Definitions and Rules of Construction.

The following definitions and rules of construction shall apply to this code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the Township Board may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Code. The term code means the Code of Ordinances, Township of Algoma, Michigan, as designated in Section 1.1.

County. The term county means Kent County, Michigan.

Delegation of Authority. A provision that authorizes or requires a Township officer or Township employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Gender. Words of one gender include the other genders.

MCL. The abbreviation MCL refers to the Michigan Compiled Laws, as amended.

Officers, Departments, Etc. References to officers, departments, boards, commissions or employees are to Township officers, departments, boards, commissions and employees.

Owner. The term owner, as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The word person means any individual, partnership, corporation, association, club, joint venture, estate, trust, governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

Premises. The term premises, as applied to real property, includes land and structures.

Public Acts. References to public acts are references to the Public Acts of the State of Michigan.

Shall. The term shall is to be construed as being mandatory.

Township. The term Township means the Township of Algoma, Michigan.

Township Board. The term Township Board means the Township Board of the Township of Algoma, Michigan.

Week. The term week means seven consecutive days.

Year. The term year means 12 consecutive months.

Sec. 1.3 Catchline Headings.

- (a) The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.
- (b) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Ordinance Code.

Sec. 1.4 Effective Repeal of Ordinances.

- (a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive any repealed ordinance.
- (b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

Sec. 1.5 Amendments to Ordinance Code.

- (a) All ordinances adopted subsequent to this code that amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of the code and printed for inclusion in the code. Portions of this code repealed by subsequent ordinances may be excluded from this code by omission from reprinted pages affected thereby.
- (b) Amendments to provisions of this code may be made with the following language: “Section (chapter, article, division or subdivision, as appropriate) of the code of Ordinances, Township of Algoma, Michigan, is hereby amended to read as follows: . . .”
- (c) If a new section, subdivision, division, article or chapter is to be added to the code, the following language may be used: “Section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, Township of Algoma, Michigan, is hereby created to read as follows: . . .”

Sec. 1.6 Supplementation of Ordinance Code.

- (a) Supplements to this code shall be prepared and printed whenever authorized or directed by the Township. A supplement to this code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the code. The pages of the supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

- (b) In preparing a supplement to this code, all portions of the code that have been repealed shall be excluded from the code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this code; the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:
 - (1) Arrange the material into appropriate organizational units.
 - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
 - (5) Change the words “this Ordinance” or similar words to “this chapter,” “this chapter,” “this division,” “this subdivision,” “this section” or “sections _____ to _____” (inserting section numbers to indicate the sections of the code that embody the substantive sections of the ordinance incorporated in the code).
- (d) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the code.

Sec. 1.7 Violations and Penalties.

- (a) In this section violation of this code means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation by ordinance or by rule or regulation authorized by ordinance.
- (b) In this section violation of this code does not include the failure of a Township officer or Township employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) A person convicted of a violation of any of the following provisions of this code shall be a misdemeanor punishable by a fine not to exceed \$500, and costs of prosecution or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment:
 - (1) Violation of a stop work order issued by a Township building official.

- (2) Failure or refusal to comply with an order approved by the Township Board pursuant to the Housing Law of Michigan, being Public Act No. 167 of 1917, within the time prescribed by same.
 - (3) Failure or refusal to comply with the order of the Township fire chief where the fire chief's designee to leave a hazardous area and not reenter the area until authorized to do so, as required under Section 4.14.
 - (4) Interference with or obstruction of any fire department emergency vehicle and related unlawful conduct, as described in Section 4.15.
 - (5) Failure or refusal to comply with any lawful order or direction of any authorized person in command at the scene of a fire or other hazardous area, under the terms of Section 4.16.
 - (6) The driving of a vehicle over any unprotected fire hose laid down in any vehicular roadway, without the consent of the person in command at the scene of any fire emergency or other emergency, under the terms of Section 4.17.
 - (7) A violation of Sections 4.19, 4.20 and 4.21, pertaining to fire department vehicles, equipment, fire hydrant connections and related matters, shall be a misdemeanor.
 - (8) Violation of the provisions of Part A of Chapter 20 pertaining to check violations.
- (d) Except for a violation of this code expressly designated to be misdemeanor, a violation of this code shall be a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for a subsequent offense, in addition to all the costs, damages and expenses provided by law. In this subsection, the term "subsequent offense" means a violation of the same provision committed by the same person within one year of a previous violation for which such person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall be considered separate first offenses.
 - (e) Except as otherwise provided by law or ordinance, with respect to violations of this code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.
 - (f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
 - (g) Violations of this code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi judicial enforcement.

Sec. 1.8 Municipal Civil Infraction Citations and Procedures.

- (a) The following are authorized to issue citations for violation of provisions of this code which are designated to be municipal civil infractions, if they have reasonable cause to believe that an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed the infraction:

- (1) The Township Supervisor.
 - (2) The Township building officials, but only for violation of those building codes which such officials are responsible for administering and enforcing.
 - (3) A Township ordinance enforcement official appointed by the Township Board.
 - (4) A law enforcement officer of the Kent County Sheriff's Department.
- (b) If a citation is based solely upon the complaint of someone who allegedly witnessed the violation, and not upon the personal observation of the officer, then such citation must be approved in writing by the Township Supervisor, and if required by law, the Township attorney.
 - (c) Citations shall be numbered consecutively and shall be in a form approved by the state court administrator's office.
 - (d) Citations shall be served upon the alleged violator as provided by law.
 - (e) Citations shall require the appearance at the district court within a reasonable time after the citation has been issued.
 - (f) The procedures for the admission or denial of responsibility, request for informal or formal hearings, and all other matters related to processing of citations for civil infractions shall be as provided by law.

Sec. 1.9 Severability.

If any provision of this code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this code that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this code are severable.

Sec. 1.10 Continuation of Existing Ordinances.

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

Sec. 1.11 Offenses or Rights Prior to Ordinance Code.

- (a) Nothing in this code or the ordinance adopting this code affects any offense or act committed or done prior to the effective date of this Code, unless such offense or act was unlawful or in violation of a relevant provision of the previous code, and such previous provision is continued in this code.
- (b) The adoption of this code does not authorize any use or the continuation of any use of a structure or premises in violation of any Township ordinance on the effective date of this code.

Sec. 1.12 Ordinances Not Included in Ordinance Code.

Nothing in this code or the ordinance adopting this code affects the validity of any ordinance or portion of any ordinance:

- (a) Annexing property into the Township or describing the corporate limits.
- (b) Detaching property or excluding property from the Township.
- (c) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (d) Authorizing or approving any contract, deed, or agreement.
- (e) Making or approving any appropriation or budget.
- (f) Providing for salaries or other employee benefits not codified in this code.
- (g) Granting any right or franchise.
- (h) Adopting or amending a comprehensive land use plan.
- (i) Dedicating, accepting or vacating any plat or subdivision.
- (j) Levying, imposing or otherwise relating to taxes not codified in this code.
- (k) Granting a tax exemption for specific property.
- (l) Levying or imposing any special assessment.
- (m) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
- (n) Establishing the grade of any street or sidewalk.
- (o) Providing for the zoning of land, including the Township Zoning Ordinance and all ordinances adopting or amending the Township Zoning Map.

CHAPTER 2

ADMINISTRATION

Sec. 2.1 Legal Status of Township.

The Township is a general law township, established according to the terms and subject to the provisions of applicable laws of the State of Michigan and other applicable authority.

Sec. 2.2 Township Board.

The legislative body of the Township is the Township Board, which has such powers, duties and other authority prescribed by applicable Michigan law and other applicable authority.

Sec. 2.3 Boards and Commissions.

The Township may have such boards, commissions, agencies, committees and other entities for Township governmental purposes as are required, authorized or permitted by law. The Township Board and other Township boards, commissions and agencies may establish and appoint such committees, subcommittees and other subordinate groups as may assist in carrying out required or authorized responsibilities and which are not inconsistent with Michigan law.

Sec. 2.4 Township Departments and Employees.

For the purpose of carrying out its powers, duties and responsibilities, whether mandatory or discretionary, the Township may establish such departments and may hire such employees as deemed necessary by the Township Board.

Sec. 2.5 Powers and Authority Prescribed by Law.

The reference or enumeration in this code of particular powers, duties and responsibilities of the Township, the Township Board and other Township boards, commissions and agencies shall not exclude or limit such other powers, duties and responsibilities as may be authorized or permitted bylaw or which are not inconsistent therewith.

CHAPTER 3

RETIREMENT PLANS FOR TOWNSHIP OFFICERS AND EMPLOYEES

PART A – PENSION PLAN

Sec. 3.1 Establishment of Pension Plan.

The Township hereby creates and establishes a group pension plan pursuant to section 110b of the Revised Statutes of 1846 as amended (as set forth in section 41.110b of the Michigan Compiled Laws) to provide retirement benefits for its officers and full-time employees.

Sec. 3.2 Maintenance of Plan.

The Township Supervisor and the Township Clerk are authorized to execute a plan document setting forth the terms of the pension plan, and to contract, in the name of the Township Board and subject to the approval of the Township Board, with any company authorized in the State of Michigan to engage in the business of providing a pension plan. The Township Supervisor and the Township Clerk are authorized to take all other action necessary or appropriate to establish and maintain the plan in compliance with applicable law, including applicable tax-qualification requirements under the Internal Revenue Code of 1986, as amended and in effect from time to time, and the corresponding provisions of any successor law.

Sec. 3.3 Coverage of Officers and Employees.

The pension plan established and contracted for under the terms of this chapter shall cover each person within the following classes of officers and employees:

- (a) All members of the Township Board.
- (b) All Township employees who are employed at least 40 hours per week on a regular basis.
- (c) Any other employee approved by majority vote of the Township Board as eligible for coverage under the pension plan.

Sec. 3.4 Township Contribution.

The Township shall annually contribute an amount determined by the Township Board for the payment of premiums or charges arising under the plan. Such contributions shall be paid from the general fund of the Township.

Sec. 3.5 Eligibility of Township Board Members.

Township Board members who hold office on the effective date of the pension plan shall be immediately eligible for coverage under the pension plan. Each Township Board member who takes office after the effective date of the plan and who is eligible for coverage under the terms of this chapter shall be eligible for coverage as provided under the terms of the pension plan then in effect.

Sec. 3.6 Eligibility of Township Employees.

Employees who are employed on the effective date of the pension plan shall be immediately eligible for coverage under the pension plan. Every employee who becomes subsequently employed by the

Township and who is eligible for coverage under the terms of this chapter shall be eligible for coverage as provided under the terms of the pension plan then in effect.

Sec. 3.7 Refusal of Coverage.

Any person desiring not to be so covered shall give written notice to the Township Clerk that he or she desires not to be covered, and if the notice is received before the person has become covered under the contract, he or she shall not be covered thereunder. If the notice is received after the individual has become covered, his or her coverage under the contract shall cease as provided for in the contract.

Sec. 3.8 Vested Right under Pension Plan.

Each person so covered under the pension plan shall have a vested right or interest in such plan immediately from the date the plan becomes effective for such person.

Sec. 3.9 Amendment or Termination.

The Township Board may amend or terminate the pension plan at any time.

Sec. 3.10 Validity of Prior Pension Plan.

The Township hereby ratifies and confirms the validity of any pension plan in existence on June 2, 1992.

PART B – DEFERRED COMPENSATION PLAN

Sec. 3.11 Establishment of Deferred Compensation Plan.

The Township hereby creates and establishes the Algoma Township Deferred Compensation Plan (the “deferred compensation plan”) pursuant to section 110b of the Revised Statutes of 1846 as amended (as set forth in section 41.110b of the Michigan Compiled Laws) to provide retirement benefits for any of its officers and employees who elect to defer compensation. The plan shall be an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code of 1986.

Sec. 3.12 Maintenance of Plan.

The Township Supervisor and the Township Clerk are authorized to execute a plan document setting forth the terms of the plan, and to contract, in the name of the Township Board and subject to the approval of the Township Board, with any company authorized in the State of Michigan to engage in the business of providing a deferred compensation plan. The Township Supervisor and the Township Clerk are authorized to take all other action necessary or appropriate to establish and maintain the plan in compliance with applicable law, including applicable tax-qualification requirements under the Internal Revenue Code of 1986, as amended and in effect from time to time, and the corresponding provisions of any successor law.

Sec. 3.13 Eligibility to Participate.

All members of the Township Board and all Township employees shall be eligible to participate in the deferred compensation plan as provided under the terms of the plan document.

Sec. 3.14 Contribution.

Plan participants may elect to defer a portion of their compensation as provided in the plan document. The Township may, but is not required to, make a contribution to the plan on behalf of the plan participants. If the Township makes a contribution to the plan, such contribution shall be paid from the general fund of the Township.

Sec. 3.15 Vested Rights under Deferred Compensation Plan.

The deferred compensation of all participants in the plan shall be fully vested at all times.

Sec. 3.16 Amendment or Termination.

The Township Board may amend or terminate the deferred compensation plan at any time.

CHAPTER 4

FIRE DEPARTMENT AND FIRE PROTECTION

PART A – FIRE DEPARTMENT

Sec. 4.1 Establishment.

- (a) There is hereby established the Township Fire Department. The department shall have responsibility for fire suppression and emergency medical and rescue services in the Township, as determined by the Township Board. The Board shall appoint to the department such persons who would, in the Board's discretion, best perform the duties necessary for effective fire protection and emergency medical and rescue services in the Township.
- (b) The Township Board shall approve an annual appropriation for the operation and maintenance of the department and its equipment, and for that purpose shall have the authority to use general funds or raise revenues by any other lawful means for the operation and maintenance of the department; the Board shall purchase necessary vehicles and equipment, construct fire department buildings and/or provide for the operation and continuance of the fire department.
- (c) The Township Board shall establish rules and regulations for the operations of the department and the care of the equipment.

Sec. 4.2 Fire Chief.

- (a) The Township Board shall appoint a fire chief who shall be the chief administrative officer of the department. The fire chief shall be accountable to the Township Board for the efficient and effective operation of the department, and for the department's compliance with all state laws, Township ordinances and policies. The fire chief shall serve at the pleasure of the Board.
- (b) The fire chief shall recommend, subject to Township Board approval, the appointment of firefighters and auxiliary firefighters in the fire department. An auxiliary firefighter is a person who is a member of another fire department but who lives or works in the Township or is otherwise in proximity to the Township, and who because of his or her ability is deemed to be of outstanding value to the fire department. An auxiliary firefighters may be called upon to act in fire or other emergencies in the discretion of the fire chief or the chief's designee.
- (c) The fire chief shall develop written administrative rules to increase the efficiency and effectiveness of the department, including preplanning and postincident critiques, regulations, assignment and scheduling of personnel, and shall plan for the long-range needs of the department and other operations relating to the fire department.
- (d) The fire chief shall file a report annually with the Township Board, summarizing department operations and otherwise commenting on fire department matters arising during the preceding year. The fire chief shall prepare written reports at other times, if requested by the Board.

- (e) The fire chief shall hold regular department informational and training meetings. The frequency of such meetings may be as determined by the fire chief, consistent with the operational and training needs of the department and budgetary limitations.
- (f) The fire chief may incur expenditures against the department budget as appropriated by the Township Board. The fire chief shall monitor the unencumbered balances remaining in the department budget and shall make timely recommendations for budget amendments at such time as the need for such amendments becomes known. The department's expenditures shall not exceed the amounts appropriated, without Township Board approval. Capital outlay purchases shall be made only in accordance with the current Township budget-approval resolution and as may be specified in Township Board policies regulating the maximum amounts of and procedures for capital outlay purchases by and for the Township Fire Department.
- (g) The fire chief shall also be responsible for the following:
 - (1) General supervision of fire suppression and emergency medical and rescue services in the Township.
 - (2) Oversee the enforcement of Township fire ordinances or fire prevention codes.
 - (3) Ensure that all personnel are trained and qualified for the duties that they are expected to fulfill.
 - (4) Conduct fire inspection and community fire prevention programs as necessary.
 - (5) Ensure that all equipment and buildings are properly maintained and in good working order.
 - (6) Ensure that all department personnel comply with departmental and board rules, regulations and policies.
 - (7) Ensure that the fire department complies with all local, state and federal laws relating to the operation of the department.
 - (8) When requested, review site development plans with respect to emergency access and other matters pertaining to fire protection for proposed new buildings and other development within the Township.
 - (9) When requested, conduct final inspections of buildings and other structures, prior to occupancy, so as to insure that Township fire code requirements have been satisfied.
 - (10) Supervising the maintenance, repair and replacement of fire fighting equipment, and property of the fire department.

Sec. 4.3 Fire Department Officers.

- (a) The fire chief shall appoint such fire department officers deemed necessary for the effective operation of the fire department.
- (b) The fire chief shall establish a job description for each fire department officer. Each command officer shall be responsible that orders are carried out by subordinates.

Sec. 4.4 Paid-On-Call Firefighters.

Firefighters shall be employed by the Township in accordance with the provisions of this section, among others:

- (a) Applicants for vacant firefighter and auxiliary firefighter positions shall be of good character and shall have a good vehicle driving record. Applicants shall accurately complete such application forms as may be specified by the Township, and shall authorize such background checks and other testing and inquiries that may lawfully be required of them and that may lawfully be arranged for by the Township. Such testing shall include physical examination by a physician chosen by the Township and at the Township's expense. The examination of the applicant by the physician shall result in a determination whether the applicant has any preexisting physical condition that would preclude the applicant from performing the duties of firefighting, or that would unduly limit the applicant in the performance of those duties.
- (b) In its discretion, after reviewing an application and the results of such other testing and evaluation as the Township may require, the Township may grant an applicant a conditional offer of employment.
- (c) Firefighters, upon recommendation by the fire chief, may be hired as probationary firefighters. They shall serve an initial probationary period for a period of at least six months and until they have satisfactorily completed the minimum training required for qualification as Firefighter I. In the discretion of the chief, the probationary period may be extended. At the conclusion of the minimum probationary period, or after any extended probationary period, the fire chief, in the chief's sole discretion, may recommend that a probationary firefighter who has met all of the qualifications as a firefighter and who is otherwise qualified for the position, be employed as a firefighter by the Township. The Township Board may then determine by majority vote whether to employ the firefighter as a Township firefighter.

Sec. 4.5 Disciplinary Procedures.

- (a) Violations of the Township Fire Department ordinance, Fire Department bylaws or Township rules and regulations relating to the Fire Department, or conviction of a felony, shall subject any Fire Department personnel involved to disciplinary proceedings. A violation shall be documented by the fire chief upon good cause shown, or when a violation occurs in his presence.
- (b) The fire chief shall prepare a written disciplinary statement, stating specifically the violation or other offense for which disciplinary proceedings are being considered. A copy of the written statement shall be given to the alleged violator. The statement shall specify the rule or regulation that was allegedly violated or shall otherwise describe the conduct with respect to which the action is being taken. Disciplinary actions may range from a reprimand to a suspension, demotion or dismissal, or a combination of any of these, depending upon the following:
 - (1) Seriousness of the violation.
 - (2) Consequences to the safety of others resulting from the violation.
 - (3) Potential harm to the Fire Department or the Township.

- (4) Prior record of the individual.
 - (5) The nature of the act and related matters.
- (c) Within 30 days after receiving written notice of disciplinary action taken, the person who was the subject of the disciplinary action may appeal that action to the Township Board. The Township Board shall consider the matter, and shall affirm, reverse or modify the disciplinary action taken by the fire chief. On its own initiative, the Township Board may commence and proceed with disciplinary action against any Fire Department personnel. Any such disciplinary action initiated by the Township Board shall follow the procedures stated above, except that the responsibilities designated for the fire chief shall be carried out by the Township Board. In any such action taken by the Township Board, the Board may require the fire chief to investigate the alleged violation or misconduct and report upon the matter to the Board.
 - (d) In addition to such administrative rules that may be promulgated by the chief, theft of Township property or other property at the scene of an emergency shall be cause for dismissals.
 - (e) Firefighters shall not respond to emergencies, or attend meetings or training sessions, while under the influence of alcohol or any controlled substance.

Sec. 4.6 Emergency Medical and Rescue Services.

The Fire Department is authorized to carry out emergency medical and rescue services in the Township and, on a mutual aid and assistance basis, in other municipalities. The Township may acquire vehicles, apparatus, equipment and supplies in order that the Fire Department may carry out such services. Personnel of the Fire Department are authorized to respond to medical and rescue emergencies. The fire chief shall institute and carry out an ongoing program for the training and certification of Fire Department personnel for such purposes.

Sec. 4.7 Compensation.

Compensation to firefighters shall be in such amounts as may be determined from time to time by the Township Board. The department shall keep accurate records that indicate the amount of compensable time served by all personnel. The time records shall be submitted monthly to the Township Board for payment.

Sec. 4.8 Fire Department Equipment, Apparatus and Vehicles.

- (a) All Fire Department vehicles and apparatus shall be properly and regularly maintained and repaired. The fire chief shall be responsible to attend to such regular maintenance and repair.
- (b) Required protective gear shall be worn by firefighter personnel at all times when engaged in firefighting activities.
- (c) Lost or damaged equipment or apparatus shall be reported as soon as possible to a Fire Department officer.
- (d) All supplies, goods, equipment, apparatus and motor vehicles used by or in connection with the Township Fire Department are Township property. All equipment and apparatus issued by the Fire Department to any Fire Department personnel shall be returned to the fire chief by any personnel upon their departure from employment in the Township Fire Department.

Sec. 4.9 Use of Fire Station.

- (a) Only Township-owned or Township-authorized vehicles, apparatus and equipment shall be kept at the Township fire stations. Fire Department equipment and apparatus shall not be borrowed for private use, nor shall Fire Department premises be used for private purposes, except for limited situations approved by the fire chief.
- (b) Private motor vehicles brought to the site of Township fire stations, for Fire Department purposes, shall be parked in designated areas only.
- (c) Alcohol and controlled substances shall not be brought to or kept on any Township premises used for Fire Department purposes, including the fire stations and the grounds thereof.

Sec. 4.10 Public Contact.

The fire chief, or his designee, may release facts regarding fires or other emergencies to the news media. All other personnel shall refer all media inquiries to the chief or the designee. The public will always be treated courteously and professionally by all department personnel.

Sec. 4.11 Donations.

All fundraising activities in the name of the Township Fire Department shall have the prior approval of the Township Board, and all revenues solicited in the name of the fire department shall be deposited with the Township treasurer, or as otherwise permitted by the Township Board.

PART B – FIRE SAFETY

Sec. 4.12 Fire Control Measures and Regulations.

The fire control measures and regulations stated in this chapter are for the purpose of controlling conditions which could impede or interfere with fire suppression measures on the part of the Township Fire Department and others.

Sec. 4.13 Authority at Fires and Other Emergencies.

The Township fire chief or other duly authorized person who may be in charge at the scene of a fire or other emergency involving the protection of life and/or property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks, or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The fire chief or the fire chief's designee may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any person, vehicle or object which may impede or interfere with the operations of the fire department. The fire chief or the fire chief's designee may remove or cause to be removed any person, vehicle or object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not reenter the area until authorized to do so by the fire chief or the fire chief's designee; failure to obey such order, or any reentry into such hazardous area without authorization shall be a misdemeanor.

Sec. 4.14 Interference with Fire Department Operations.

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any fire department emergency vehicle in any

way, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any fire department operation. A violation of this section shall be a misdemeanor.

Sec. 4.15 Compliance with Orders.

A person shall not willfully fail or refuse to comply with any lawful order or direction of any authorized person in command at the scene of a fire emergency or other emergency, nor shall a person interfere with the attempt of any other person to comply with any such lawful order or direction. A violation of this section shall be a misdemeanor.

Sec. 4.16 Vehicles Crossing Fire Hose.

A vehicle shall not be driven or propelled over any unprotected fire hose of the fire department when laid down on any street, alleyway, private drive or any other vehicular roadway without the consent of the person in command at the scene of a fire emergency or other emergency or within or near any hazardous area. A violation of this section shall be a misdemeanor.

Sec. 4.17 Definition of Authorized Emergency Vehicle.

Authorized emergency vehicles shall be restricted to those which are defined and authorized under the laws of the State of Michigan.

Sec. 4.18 Unlawful Boarding or Tampering with Fire Department Emergency Equipment.

A person shall not without proper authorization from the fire chief or other fire department personnel, cling to, attach himself to, climb upon or into, board or swing upon any fire department emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon, or to manipulate or tamper with, or attempt to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of, any fire department emergency vehicle. A violation of this section shall be a misdemeanor.

Sec. 4.19 Damage to Fire Department Equipment or Injury to Personnel.

It shall be unlawful for any person to damage or deface, or attempt or conspire to damage or deface, any fire department emergency vehicle at any time or to injure, or attempt or conspire to injure, fire department personnel while performing departmental duties. A violation of this section shall be a misdemeanor.

Sec. 4.20 Emergency Vehicle Operation.

The driver of any emergency vehicle, as defined in Part B of this chapter, shall comply with all state law requirements and Township Fire Department policies or regulations with respect to the operation of the emergency vehicle when responding to a fire emergency call or other emergency call, and shall otherwise operate or park such vehicle only in compliance with state law requirements and applicable Township ordinance requirements and policies.

Sec. 4.21 Blocking Fire Department Connections.

It shall be unlawful to obscure from view, damage, deface, obstruct or restrict the access to any fire hydrant or other fire department connection for the use of water in fire suppression measures, including fire hydrants and other fire department connections that are located in public or private streets and access lanes or on private property. A violation of this section shall be a misdemeanor.

Sec. 4.22 Maintenance of Fire Suppression Equipment.

A person shall not obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of the International Fire Protection Code or other applicable fire code except for the purpose of extinguishing fire, training or testing purposes, recharging or making necessary repairs, or when permitted by the fire prevention code official. Whenever a fire appliance is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. Defective and nonapproved fire appliances or equipment shall be replaced or repaired as directed by the fire chief.

PART C – INTERNATIONAL FIRE CODE

Sec. 4.23 Purpose.

The purpose of this Part C of this chapter is to prescribe minimum requirements and controls to safeguard life, property and the public welfare from the hazards of fire and explosion arising from the storage, handling or use of hazardous substances, materials or devices, and from conditions hazardous to life, property and the public welfare in the use or occupancy of structures, buildings, sheds, tents, lots or premises within the Township.

Sec. 4.24 Adoption of International Fire Code.

Pursuant to the provisions of Section 5 of Act No. 33 of the Public Acts of 1951, as amended, the Township Board hereby adopts by reference the International Fire Code (the “Code”), including all appendices, as published by the International Code Council, including each subsequent edition of the International Fire Code. All of the regulations, provisions, penalties, conditions and terms of said Code are hereby adopted and made a part hereof, as if fully set out in this Ordinance, with any additions, deletions and changes set forth in this Ordinance.

Sec. 4.25 Name of Jurisdiction.

The code as adopted by Part C of this chapter is amended so as to insert the name “Township of Algoma” in Section 101.1 thereof.

Sec. 4.26 Penalties.

Section 109.3 of the code as adopted by this Part C of this chapter, is amended in its entirety so as to read as follows:

- (a) **109.3 Violation Penalties.** A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, attorneys fees and expenses. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day during which any violation continues shall be deemed a separate offense. The foregoing penalties shall not prohibit the township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

Sec. 4.27 Failure to Comply.

Section 111.4 of the code as adopted by this Ordinance entitled, “Failure to Comply,” is amended in its entirety so as to read as follows:

- (a) **111.4 Failure to Comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty, upon conviction, of a misdemeanor.

Sec. 4.28 Geographic Limits.

Sections 3204.3.1.1, 3404.2.9.5.1, 3406.2.4.4, and 3804.2 of the Code as adopted by this Ordinance are amended to insert the “Township of Algoma” as the geographic limits referred to in those sections with respect to the storage of hazardous and flammable fluids, liquids and gases.

Sec. 4.29 References to Other Codes.

Any references within the code to other building, mechanical, plumbing or other such codes shall be deemed to refer to those codes adopted or currently enforced by the Township in accordance with state law.

PART D – EMERGENCY RESPONSE EXPENSE REIMBURSEMENT

Sec. 4.30 Purpose.

This Part D of this chapter is adopted in order to provide for the payment or reimbursement to the Township of expenses resulting from the use of Township goods, equipment, monies and other resources in responding to or otherwise acting in connection with a fire, medical or rescue emergency, an incident involving the release of hazardous or toxic materials or other incident, casualty or situation resulting in services rendered by the Township Fire Department. In order to implement this Ordinance, and thus to protect the Township in such cases, the Township Board hereby authorizes the imposing of charges so as to recover the reasonable and actual costs incurred by the Township in responding to calls for assistance or otherwise acting in connection with any such incident, emergency, casualty or situation.

Sec. 4.31 Definitions.

For purposes of this Part D, the following words and terms are defined as follows:

- (a) *Hazardous or toxic materials* means any chemicals, gasses, solids, liquids, and any other materials or substances that pose a present or potential hazard to human health or safety or the environment.
- (b) *Incident* shall mean any accident, emergency, activity, casualty or situation requiring or resulting in response or service by the Township Fire Department, or any personnel or equipment thereof, including though not limited to response or service pertaining to an accident, casualty, fire or apparent fire, medical or rescue call or emergency, hazardous or toxic materials release or potential release or other event, casualty, condition or situation resulting in response or service by the Township Fire Department.
- (c) *Recoverable expenses* shall mean, in connection with an incident, all actual costs or expenses incurred by the Township, including but not limited to each of the following:

- (1) Charges for each fire department vehicle including but not limited to pumpers, water tenders, and other vehicles. Hourly rates for these charges shall be established by resolution of the Township Board.
 - (2) Charges imposed by all other Township or municipal fire departments which have rendered mutual aid to the Township or have otherwise assisted the Township at or in connection with an incident.
 - (3) Replacement costs for equipment that is contaminated beyond reuse or repair (such as self-contained breathing apparatus).
 - (4) All personnel-related expenses incurred by the Township, including but not limited to wages, salaries, fringe benefits and insurance for full-time and part-time firefighters, overtime pay and related fringe benefit costs for hourly employees, and fire run fees paid to on call firefighters. These personnel-related expenses will commence when the fire department has begun responding to the incident and shall continue until all Township personnel have concluded hazardous materials incident-related responsibilities.
 - (5) Expenses of decontaminating and cleaning equipment.
 - (6) Technical consulting services specifically required as a result of the incident, including but not limited to technical experts or specialists not otherwise available to the Township.
 - (7) Laboratory costs of analyzing samples taken during the incident.
 - (8) Cost of cleanup, storage or disposal of any released hazardous or toxic material.
 - (9) Medical and hospital expenses incurred as a result of the incident.
 - (10) Legal, engineering, accounting, billing, collection and other administrative expenses incurred as a result of the incident, including but not limited to efforts to recover expenses pursuant to this Ordinance.
- (d) *Release* shall include any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, disposing or other spreading of any hazardous or toxic material.
- (e) *Responsible party* in connection with an incident, means any person, firm, corporation, association, partnership, governmental body, or any other legal entity that causes, contributes to, aids in the occurrence of, or is otherwise involved, whether knowingly, accidentally or otherwise, in an incident. Responsible party also includes any person who receives assistance in connection with personal injury, harm or casualty, whether actual or threatened, or who is rescued, whether or not such person is at fault for the incident. Responsible party also includes the owner, occupant and user of real or personal property that is the subject of or otherwise associated with any casualty, whether actual or threatened, to such property, whether or not the owner, occupant or user is at fault for the incident.

Sec. 4.32 Recovery of Expenses.

Where the Township Fire Department or other parties or agencies of the Township government, or other persons or parties acting in behalf of the Township government, take action in connection with

an incident, all responsible parties shall be responsible to the Township, and shall pay or reimburse the Township, for the recoverable expenses relating to the incident. Such responsibility shall be in addition to any other penalties, obligations or remedies provided by law. The liability of responsible parties under this Ordinance shall be joint and several.

Sec. 4.33 Billing And Collection Procedures.

After the conclusion of an incident, the Township fire chief (or an agent of the fire chief) shall submit an itemized list of all known recoverable expenses to the Township Treasurer, who shall prepare and send an invoice to all responsible parties for payment. The Township Treasurer's invoice shall demand full payment within 30 days after receipt of the invoice. Any additional expenses that become known to the Township after mailing of the first invoice shall be billed in the same manner to the responsible parties. Any amounts unpaid after 30 days after the due date will bear a late charge of 1 percent per month, or fraction of a month, or the highest legal limit of interest permitted by law, whichever is less.

Sec. 4.34 Appeal Process.

Any responsible party may appeal the amounts listed in any invoice to the Township Board. The appeal shall be filed in writing delivered to the Township Supervisor not later than 15 days after the date the responsible party receives the invoice. The Township Board shall give the appealing parties an opportunity to present evidence in support of their position. The appealing parties shall bear the burden of proof. After receiving all evidence deemed relevant by the Township Board, the Township Board shall make a decision on whether the expenses are properly recoverable under this Ordinance. An appeal to the Township Board will not postpone or delay the applicable time periods for payment of any invoice issued under this Ordinance. The Township Board shall use reasonable efforts to make a decision no later than 60 days after hearing the appeal.

Sec. 4.35 Other Recoverable Expenses and Procedures.

By resolution, the Township Board may establish and revise fees and charges for responses and services by the Township Fire Department in connection with any incident. The Board may by resolution supplement the procedures specified in this Part D with respect to the billing and collection of recoverable expenses and other matters pertaining to reimbursement of Township expenses incurred in responding to incidents.

PART E – FIREWORKS REGULATIONS

Sec. 4.36 Purpose.

The purpose of this Part E of this chapter is to establish regulations for the ignition, discharge and use of consumer fireworks and to provide for the granting of Township permits for the use of articles pyrotechnic, display fireworks and special effects fireworks, for public or private display within the Township, and to establish other regulations pertaining to the ignition, discharge and use of certain fireworks, to the extent permitted by the Michigan Fireworks Safety Act of 2011, as amended.

Sec. 4.37 Definition.

The following words and phrases used in this Part E shall have the following meanings, respectively:

- (a) Act 256 shall mean the Michigan Fireworks Safety Act, Michigan Public Act 256 of 2011, as amended by Michigan Public Act 65 of 2013, and as said Act 256 may be further amended.

- (b) Articles pyrotechnic shall mean pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the Act 256 weight limits for consumer fireworks but are not labeled as such, and that are classified under the federal regulations stated in Act 256.
- (c) Consumer fireworks shall mean fireworks devices that are designed to produce visible effects by combustion and that are required to comply with the construction, chemical composition and labeling regulations promulgated by the U.S. Consumer Product Safety Commission under applicable federal and other regulations or standards stated in Act 256; consumer fireworks does not include low-impact fireworks.
- (d) Display fireworks shall mean fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration or detonation as provided in the federal regulations and other regulations specified in Act 256.
- (e) Firework or fireworks shall mean any composition or device, except for a starting pistol, a flare gun or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks and special effects fireworks.
- (f) Low-impact fireworks shall mean ground and handheld sparking devices as defined in the American Pyrotechnics Association standard specified in Act 256.
- (g) National holiday shall mean the following public holidays:
 - (1) New Years Day
 - (2) Birthday of Martin Luther King
 - (3) Washington's Birthday
 - (4) Memorial Day
 - (5) Independence Day
 - (6) Labor Day
 - (7) Columbus Day
 - (8) Veterans Day
 - (9) Thanksgiving Day
 - (10) Christmas Day
- (h) Person shall mean an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization or any other legal or commercial entity.
- (i) Special effects fireworks shall mean a combination of chemical elements or chemical compounds capable of burning independently of the oxygen in the atmosphere and designed

and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a filmed or theatrical production or live entertainment.

Sec. 4.38 Use of Consumer Fireworks Regulated.

- (a) No person shall ignite, discharge or use consumer fireworks within the Township, or allow the ignition, discharge or use of consumer fireworks within the Township, between the hours of 1:00 a.m. and 8:00 a.m. on the day before, the day of, and the day after a National holiday, nor on any day other than a National holiday or the day before or the day after a National holiday.
- (b) Consumer fireworks shall not be used if a burn ban is in effect.
- (c) A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or the property of another person, without that person's or organization's express permission to use the consumer fireworks on those premises. No person shall ignite, discharge or use consumer fireworks on Township property.
- (d) A person shall not use consumer fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

Sec. 4.39 Township Permit Required for Certain Fireworks Displays.

- (a) A person shall not ignite, discharge or use articles pyrotechnic, display fireworks or special effects fireworks for public or private display within the Township, without first obtaining a Township permit authorizing such ignition, discharge or use of such fireworks.
- (b) The permit shall be issued by the Township Board upon the terms and conditions of this Section and applicable provisions of Act 256.
- (c) An applicant shall apply for the permit on the form provided for such purpose by the Michigan Department of Licensing and Regulation, and shall pay the application fee established by resolution of the Township Board. The application fee shall be retained by the Township, regardless of whether the permit is issued.
- (d) An applicant shall file the application and other required written materials and shall pay the application fee at least 60 days prior to the date or dates on which the requested activity is proposed to occur. The application shall not be considered until it is complete. The applicant shall also submit with the application a copy of any required state or federal permit for the proposed fireworks display.
- (e) The application shall include an accurate site plan, drawn to scale, showing the area in which the fireworks display is to be conducted. The site plan shall show, among other matters, all structures within the area of fallout from the fireworks display and within 250 feet of all points of the fallout area. The site plan shall also show the distance from each structure to the equipment used to launch the fireworks and the distance from such equipment to all spectator viewing areas.
- (f) The applicant shall furnish, with the application, proof of financial responsibility in the form of a performance bond or liability insurance certificate in an amount and with such provisions determined necessary by the Township Board to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant or its agent, employee or other representative, and to protect the public, but in any event, such

performance bond or liability insurance policy shall be in a coverage amount of not less than \$1,000,000.

- (g) In considering the application for the permit, the Township Board shall determine the competency and qualifications of the proposed operators of the fireworks display, under the terms of National Fire Protection Association standard 1123, based on the information included in the application; the Township Board shall also determine whether the time, place and circumstances of the fireworks display will be satisfactory in all relevant safety aspects, based on the application and other materials submitted.
- (h) The application, the site plan and other materials comprising the application shall be forwarded to the Township fire chief, or the chief's designated alternate, for approval and for any recommended terms and conditions. The Township Board shall not issue a permit until such approval, or approval with conditions, has been received from the fire chief.
- (i) The permit may include terms and conditions determined necessary or desirable by the Township Board. The applicant shall timely comply with all such terms and conditions, the provisions of this section and applicable provisions of Act 256.
- (j) The permit shall not be issued to a minor, nor shall it be transferable from the applicant to any other person.
- (k) The sale, possession or transportation of the articles pyrotechnic, display fireworks or special effects fireworks proposed to be used by the applicant shall not be lawful until the permit is issued.
- (l) The Township Board shall approve an application for the ignition, discharge or use of articles pyrotechnic, display fireworks or special effects fireworks if the Board determines that all of the following standards are satisfied:
 - (1) The application, the site plan, the proof of financial responsibility and other required written materials and information are complete and conform to the requirements of this section.
 - (2) The operator of the proposed fireworks display is competent and qualified to conduct the display, under the terms of National Fire Protection Association standard 1123.
 - (3) The fire chief or the chief's designated alternate has approved the issuance of the permit, or, if the fire chief has imposed additional conditions, those conditions are included in the permit or are otherwise satisfied.
 - (4) The fireworks display would not have an adverse effect upon public health or safety.
 - (5) The time, duration and location of the fireworks display would not, by reason of noise and other factors, unreasonably disturb the peace of persons residing in the vicinity, acknowledging that a fireworks display produces visual and sound effects.
- (m) Such fireworks displays shall also be subject to the following additional requirements:
 - (1) A fireworks display shall fully and timely comply with the approved application and site plan and all terms and conditions imposed by the Township Board in granting the permit.

- (2) A fireworks display shall not be conducted in or from a location where any of the following are located within 250 feet of the discharge site or the fireworks fallout area: a single family or multiple family dwelling; an adult-care or child-care facility; a public or private school; a nursing home, assisted living facility or retirement home; a hospital or other health-care facility; a state-regulated wetland; or a combustible or flammable materials or substances.
 - (3) The applicant shall be responsible for all shells being fired during or in connection with the display. In the event one or more shells does not explode, the applicant shall fully secure the area until the unexploded shell or shells are found and properly disposed of.
 - (4) The consumption of alcohol or a controlled substance immediately prior to and/or during the fireworks display by any person conducting the display is prohibited.
 - (5) The applicant shall cause the site and the fallout area of the fireworks display to be fully cleaned up within 24 hours after the end of the fireworks display.
- (n) The Township Board may revoke a permit if the applicant has failed to comply with any term or condition of the permit or any requirement of this section, or if revocation is otherwise necessary in the interest of the public health and safety. The Township Supervisor or enforcement officer may suspend a permit upon a determination that the applicant has failed to comply with any term or condition of the permit or any requirement of this section. Notice of any such suspension shall be given in writing, by delivery to the applicant or by the mailing of the suspension notice to the applicant at the applicant's address as stated in the application. The suspension shall be effective until withdrawn by the Supervisor or the Township Board.

Sec. 4.40 Violations and Penalties.

- (a) A violation of any provision in this Part E is a municipal civil infraction, for which the fine for a first offense shall not be less than \$100 nor more than \$500 and not less than \$250 nor more than \$1,000 for a subsequent offense, in the discretion of the court, and in addition to all other costs and expenses imposed by the court. A subsequent offense means a violation of any provision of this Part E committed by the same person within 12 months of a previous violation of a provision of this Part E for which such person admitted responsibility or was adjudicated to be responsible. For any violation, the Township may seek such other relief as may be provided by law.
- (b) The Township Supervisor and the Township ordinance enforcement officer are authorized to issue civil infraction citations for violation of any provision of this Part E, if they have reasonable cause to believe that an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed the violation. Other procedures with respect to issuance of citations and other matters pertaining to violations hereof shall be as provided by law.

CHAPTER 5

OPEN BURNING

Sec. 5.1 Purpose.

- (a) Unregulated open burning creates a risk to the health, safety and welfare of the residents of the Township. Open burning is a fire risk which may create hazardous byproducts that can irritate eyes and lungs, obscure visibility, create odors and pose other health threats. Open burning may substantially increase the discomfort of residents who suffer from asthma, chronic bronchitis or other respiratory ailments. This chapter is intended to reduce the adverse effects of unregulated open burning throughout the Township.

Sec. 5.2 Definitions.

- (a) *Yard waste* means leaves, grass clippings, vegetable or other garden debris, shrubbery, brush, wood, twigs or tree trimmings less than four feet in length and two inches in diameter.
- (b) *Open burning permit* means permission to burn, issued orally or in writing by the Township fire chief or other authorized Township official or employee, whether or not a member of the Township Fire Department.
- (c) *Open burning* means the burning of any flammable material that is not done within a structure or building or in a container of sufficient size and nature for the safe containment of the burning of flammable material. Open burning shall not include use of internal combustion engines, or the use of properly installed and maintained smokeless, odorless incinerators.
- (d) *Household waste* means Class A combustible material only.
- (e) *Class A combustible material* means dry paper, cardboard and wood and similar dry materials.

Sec. 5.3 Burning Restrictions.

Burning within the Township of any material is hereby prohibited except as follows:

- (a) Open burning of yard waste may be conducted within the Township provided the provisions of Section 5.4 of this chapter are satisfied.
- (b) The provisions of this chapter shall not apply to fires approved by the fire chief for the purpose of training fire fighters.
- (c) The burning of household waste, which may consist only of Class A combustible material, shall be conducted only in compliance with all of the following provisions:
 - (1) Such burning shall include household waste of and from one-family and two-family dwellings only, subject to subparagraph (7).
 - (2) Such burning shall take place in a burning barrel constructed of metal or masonry with a metal screen or cover with holes that are no larger than 3/4 inch.

- (3) Such burning shall be limited to Class A combustible, dry material. Such burning shall not include the burning of garbage, foodstuffs, plastics, petroleum products or any wet materials.
 - (4) No such burning shall take place within 100 feet of any property line or within 200 feet of a building or structure located on a parcel of land other than the lot or parcel on which the burning takes place.
 - (5) Such burning shall take place during daylight hours only.
 - (6) Such burning is prohibited at any time when wind or other weather conditions make such burning hazardous or unsafe.
 - (7) The household waste permitted to be burned under the terms of this subsection shall originate only from the lot or parcel of land on which the burning takes place.
 - (8) Such burning is prohibited where smoke or fumes would result in serious noxious odors or other offensive conditions that would adversely affect adjacent or nearby lands.
- (d) The provisions of this chapter shall not apply to agricultural burning, including the burning of brush, trees and crop fields, on farms when performed in accordance with generally accepted agricultural and management practices (“GAAMPS”). Similarly, the ordinance shall not apply to the open burning of beekeeping equipment and products, when burned for bee disease control.
- (e) Open fires used solely for cooking for immediate human consumption, or for recreation or ceremonial purposes, shall not be prohibited if the following conditions are satisfied:
- (1) Any fire in excess of three feet by three feet in size shall require an open burning permit.
 - (2) Such open fire shall not be composed in whole or substantial part of yard waste or household waste.
 - (3) Such open fire shall use non-processed wood and shall not burn garbage or any material described in Section 5.4(f) of this chapter.
- (f) The burning of tires, plastics, petroleum-based products or other non-combustible material is strictly prohibited.

Sec. 5.4 Open Burning With Fire Department Permit.

The open burning of yard waste may be conducted within the Township provided all of the following conditions are satisfied:

- (a) An open burning permit is obtained from the Township Fire Department (the “Fire Department”).
- (b) The open burning is conducted in accordance with all applicable state laws, including the Air Pollution Control Act (Act 348 of the Public Acts of 1965), the Forest Fire Act (Act 329 of 1969), and the Solid Waste Management Act (Act 641 of 1978; Act 267 of 1990).

- (c) The open burning is performed under the constant supervision of a responsible person, who must be 18 years of age or older.
- (d) Open burning shall be permitted only during daylight hours or during such other time period as may be specifically authorized by the Township fire chief.
- (e) Open burning shall not be permitted at any time when wind or other weather conditions would cause the burning to be hazardous or potentially hazardous, irrespective of whether an open burning permit has been issued.
- (f) Open burning shall not be permitted within 200 feet of any building or other structure located outside any property line of the lot or parcel on which the open burning takes place, or within 100 feet of any right-of-way line or property line, except the joint property line of adjacent properties jointly conducting burning operations. Open burning is prohibited on any public roads or private roads.
- (g) The burning of tires, plastics, garbage, foodstuffs or any other materials that may result in noxious odors or other seriously offensive conditions is prohibited. It shall be a violation of this chapter to burn any substance which emits in substantial concentration, smoke or gas which is toxic to plant or animal life, noxious or offensive in odor, or creates a lasting condition of thick smoke.
- (h) Open burning shall be permitted only on the premises from which the yard clippings originated; provided, however, owners of adjacent lands may jointly conduct burning operations.
- (i) The permit authorizing open burning shall be posted at or on the site at all times during the burning authorized by the permit.

Sec. 5.5 Consideration of Open Burning Permit.

- (a) The Fire Department may impose reasonable conditions prior to granting approval for an open burning permit, including conditions relating to the time, location, duration, manner of burning, the type of material to be burned and the quantity of material to be burned. Before issuing a permit, the Fire Department shall take into consideration the physical characteristics of the land on which the fire is to be located, the weather conditions on the date of burning, the extent of possible air pollution, the number of permits already issued, the proximity of the proposed fire to any structure, and other factors which may affect the health, safety and welfare of the people of the Township. The Fire Department may withdraw approval of a permit if open burning would be unsafe due to the particular circumstances of a request, including, but not limited to, unfavorable weather conditions.
- (b) An open burning permit is revocable at any time by the Township fire chief, the fire chief's designee or other authorized Township official or employee, if in the sole discretion of such person there would be nuisance, harm, damage or other adverse effect resulting, or that has resulted, from open burning. Once an open burning permit is revoked, the fire or other elements of the open burning shall be promptly extinguished and no further burning shall occur until permitted under the terms of this chapter. Such revocation of an open burning permit may occur at any time and without prior notice.

Sec. 5.6 Cost Recovery For Emergency Response.

- (a) The Township Board finds that a number of responses of the Township Fire Department involve persons who fail to burn in accordance with the conditions of an approved open burning permit or who fail to obtain an open burning permit as required by law. These violations pose a substantial likelihood of personal or property damage and place a financial and operational burden on the Township's Fire Department. Accordingly, any person who burns without a valid open burning permit or who burns in violation of conditions of approval of an open burning permit shall, when determined by the Township fire chief, be liable for all emergency response expenses if such person's activities cause an incident resulting in an emergency response. Liability for such expenses shall, if so determined by the Township fire chief, also apply to a property owner who permits or consents to another's burning without a valid permit or in violation of conditions of approval of a valid open burning permit on that owner's premises.
- (b) The expense of an emergency response shall, if determined by the Township fire chief, be a charge against the person or property owner liable for the expense under this Ordinance. The charge shall constitute a lien against the property as well as a debt of that person and is collectible by the Township in the same manner in which general property taxes may be collected, or, alternatively, in the same manner as in the case of an obligation under a contract.
- (c) The expense of an emergency response shall include, though shall not be limited to, the amounts calculated as follows:
 - (1) That monetary charge per hour, as established from time to time by resolution of the Township Board, for each pumper, water tender or other Township Fire Department vehicle or other emergency vehicle required for or used in responding to the emergency, together with such other charges or expense reimbursement as may be required by resolution of the Township Board.
 - (2) All personnel-related costs incurred by the Township as a result of responding to the open burning incident. Such costs may include, but are not limited to, wages, salaries and fringe benefits and insurance for full-time and part-time fire fighters.
 - (3) Overtime pay and related fringe benefit costs for hourly employees and fire run fees paid to on call fire fighters. Such personnel-related charges shall commence after the first hour that the department having jurisdiction has responded to an open burning incident, and shall continue until all fire fighting personnel have concluded open burning incident related responsibilities.
 - (4) Other expenses incurred by the Township in responding to the open burning incidents, including but not limited to rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the open burning incident.
 - (5) Charges to the Township imposed by any local, state or federal government entities related to the open burning incident.

- (6) Costs incurred in accounting for all open burning incident-related expenditures, including billing and collection costs.
- (d) The fire chief may, following the conclusion of an open burning incident, or at any other appropriate time, submit a detailed listing of all known costs and expenses relating to or arising out of the incident to the Township Treasurer, who shall prepare an invoice directed to the responsible party or parties, demanding payment in full for all such costs and expenses. The invoice shall require full payment in 30 days from the date of mailing. Additional costs and expenses that may become known following transmittal of the invoice shall be billed in the same manner upon subsequent invoices to the responsible party.

CHAPTER 6

TOWNSHIP CEMETERIES

Sec. 6.1 Township Cemeteries.

This chapter applies only to cemeteries owned by the Township.

Sec. 6.2 Definitions.

The following words and phrases used in this chapter shall have the meanings stated respectively in this section:

Burial right means a right of earth interment.

Burial space means a land area four feet wide and ten feet in length, except that a burial space in sections 1, 2 and 3 in the Algoma Township Cemetery shall be four feet by eight feet in length.

Cemetery means a burial park for earth interments.

Cemetery lot means burial spaces sufficient to accommodate one or more burial spaces.

Cremation means the incineration of the body of a deceased person.

Interment means the permanent disposition of human remains by cremation and inurnment, entombment or burial.

Marker means a monument that is flush with the ground.

Monument means a tombstone or memorial of granite or marble which shall extend above the surface of the ground.

Nonresident means a person who does not currently live within the Township.

Resident means a person who is currently residing in the Township.

Township sexton means the person so designated by the Township Board to open and close burial spaces.

Sec. 6.3 Administration and Enforcement.

The Township Board is hereby empowered to enforce all rules and to exclude from the cemetery any person violating such rules. The Township Board shall have charge of the grounds and buildings, including the conduct of funerals, traffic, employees, burial space owners and visitors and at all times shall have supervision and control of all persons in the cemetery.

Sec. 6.4 Record Keeping.

The Township Clerk shall maintain records concerning all burials and issuance of burial permits separate and apart from any other records of the Township, and the records shall be open to public inspection during reasonable office hours.

Sec. 6.5 Sale of Burial Rights in Cemetery Lots or Burial Spaces.

- (a) Burial rights in cemetery lots and burial spaces shall be sold and conveyed to the Township residents and nonresidents, but the Township Board may establish a higher charge for nonresidents, as compared to residents. The sale and conveyance of such burial rights shall be only for the purpose of burial for the purchaser and/or his heirs at law or next of kin. No such sales shall be made to funeral directors or others, unless they otherwise qualify as purchasers under the terms of this subsection.
- (b) Notwithstanding other provisions of this section, however, such burial rights may be sold, and such sale may be approved by the Township Clerk, in those situations where the purchaser, or the person for whom burial rights are sought, has been a previous resident of the Township, or is a descendant or other relative of residents or previous residents of the Township, so that the sale of burial rights would make possible the burial of persons who have another family member already buried in a Township cemetery, or there are other sufficient personal reasons for burial in the Township cemetery by reason of previous residents or family or other relationships to persons interred therein.
- (c) All such sales of burial rights shall be made only on a form of burial rights certificate approved by the Township Board. Such certificate grants a right of burial only, and shall not convey any other title or interest to the cemetery lot or burial space sold. Such burial rights certificate shall be executed by the Township Clerk, and shall be entered into the official cemetery records of the Township.
- (d) A maximum of eight burial spaces per family may be purchased in advance; additional burial spaces for a family shall be sold on an as-needed and available basis.
- (e) Burial rights may only be transferred to those persons eligible to be original purchasers of cemetery lots or burial spaces within the Township and may be effected only by endorsement of an assignment of such burial rights upon the original burial rights certification issued by the Township Clerk, approved by such clerk, and entered upon the official records of such clerk. Upon such assignment, approval and record, such clerk shall issue a new burial rights certificate to the assignee and shall cancel and terminate upon such records the original permit thus assigned.

Sec. 6.6 Purchase Price and Transfer Fees.

- (a) The cost of each cemetery lot and burial space shall be determined by the Township Board.
- (b) A fee shall be charged for any transfer of one or more burial spaces.
- (c) The charges described in subsections (a) and (b) of this section shall be paid to the Township treasurer and shall be deposited in the Township general fund under the cemetery activity account.
- (d) The Township Board, by resolution, may periodically alter fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Sec. 6.7 Opening and Closing of Burial Spaces.

- (a) The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by resolution of the Township Board, payable to the Township.
- (b) No burial spaces shall be opened and closed except under the direction and control of the cemetery sexton. This subsection shall not apply to proceedings for the removal and interment of bodies and remains, which matters are under the supervision of the local health department.
- (c) An extra cost may be charged by the Township sexton for opening a burial space in the winter months.
- (d) No Township employee may solicit or accept any form of payment or gratuity for work or services rendered in or associated with a Township cemetery or any burial space therein. Township cemetery employees shall not perform work for burial space owners or other parties other than the Township, except as specifically permitted by the Township Board.
- (e) The full purchase price of a burial space and the charge for grave openings shall be paid prior to any interment in the burial space. The charge for any disinterment shall be paid in advance.

Sec. 6.8 Forfeiture of Vacant Cemetery Lot or Burial Spaces.

Cemetery lots and burial spaces sold after March 30, 1998 (the effective date of Township Ordinance No. 157) and remaining vacant 40 years after the date of their sale shall automatically revert to the Township upon occurrence of both of the following events:

- (a) A notice shall be sent by the Township Clerk by first class mail to the last known address of the last owner of record informing him of the expiration of the 40-year period and that all rights with respect to such lots or spaces will be forfeited if he does not affirmatively indicate in writing to the Township Clerk, within 60 days from the date of mailing of the written notice, his desire to retain such burial rights.
- (b) No written response to such notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Township Clerk from the last owner of record of such lots or spaces, or his heirs or legal representative, within 60 days from the date of mailing of such notice.

Upon the occurrence of the events stated in subsections (a) and (b) of this section, the Township shall become the owner of such cemetery lots and burial spaces, without any other conveyance or proceedings. The Township may thereupon sell and convey such cemetery lots and burial spaces to others, or may otherwise deal with such lots and spaces as permitted by this chapter.

Sec. 6.9 Repurchase of Cemetery Lots or Burial Spaces.

Upon written request of the owner, or his or her legal heirs, designees or representatives, and upon approval of the Township Board, the Township may repurchase any cemetery lots or burial space from the owner thereof for the actual price originally paid for the lot or space, or one-half of the currently-established selling price for a cemetery lot or burial space, whichever is the greater.

Sec. 6.10 Interment Regulations.

- (a) Only one person may be buried in a burial space; provided, however, that one burial space may be used for the burial of (1) a parent and an infant; (2) two children; (3) the cremated remains of one or two persons; or (4) one person and the cremated remains of one person.
- (b) A minimum of 36 hours' notice shall be given in advance of any funeral to allow for the opening of the burial space.
- (c) The appropriate cemetery lot certificate for the burial space involved, with appropriate identification of the person to be buried therein, and, where necessary, shall be verified by the cemetery sexton or the Township Clerk prior to interment. Where such certificate has been lost or destroyed, the Township Clerk shall be satisfied, from his records, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.
- (d) All graves shall be located in an orderly and neat appearing manner, within the confines of the burial space involved.
- (e) The Township Board has by resolution established certain cemetery lots and burial spaces to be reserved for burials of eligible persons in those situations in which, by reason of indigence, there are not funds or not sufficient funds for the purchase of a burial space. Such burial spaces may be allocated and used in the discretion of the Township Clerk, consistent with the terms of this chapter. Upon a determination that a burial space shall be made available and used in such circumstances, the clerk shall prepare and execute an appropriate burial rights certificate and mark the Township cemetery records accordingly.
- (f) Disinterments and reinterments shall be under the supervision of the Township sexton, a licensed funeral director, and the local health officer.
- (g) Disinterment of remains shall take place only upon issuance of a permit by the local health officer; provided, however, that a permit shall not be required to disinter cremated remains. A duplicate copy of any disinterment or reinterment permit shall be maintained by the Township Clerk as part of the permanent records of the cemetery. For the disinterment of cremated remains, a request for such purpose may be made to the cemetery sexton, by the surviving next of kin, on an affidavit or other form, which shall be maintained by the Township Clerk as part of the permanent records of the cemetery.
- (h) A permit shall not be required to open a casket in order to remove an article therefrom or to place an article therein. The opening of a casket for such purpose shall be under the supervision of the Township sexton.

Sec. 6.11 Markers and Monuments.

- (a) All markers and monuments must be of stone or other equally durable composition.
- (b) Any large upright monument must be located upon a suitable foundation two inches larger than the marker on all sides to maintain the marker in an erect position with the exception of bronze markers which will be installed in cement at ground level.
- (c) Only one marker or monument shall be permitted per burial space with the exception of veteran markers.

- (d) The footing or foundation upon which any marker or monument must be placed shall be constructed by the Township, or person so designated by the Township. The placement of the marker or monument and the construction of the footing or foundation shall be the responsibility of the monument company or other designee selected by the family or by the person acting on behalf of the deceased person. All costs for the purchase and placement of markers and monuments shall be paid directly to the monument company or other responsible party.

Sec. 6.12 Ground Maintenance and Care.

- (a) The general care of the cemetery is assumed by the Township and includes the cutting of the grass at reasonable intervals, the raking and cleaning of the grounds, and the pruning of shrubs and trees that may be placed at the discretion of the Township Board and/or the Township sexton.
- (b) No grading, leveling or excavation upon a burial space shall be allowed without the permission of the cemetery sexton.
- (c) No flowers, shrubs, trees or vegetation of any type shall be planted without the approval of the cemetery sexton. Any of the foregoing items planted without such approval may be removed by the Township or the cemetery sexton.
- (d) The Township Board reserves the right to authorize the removal or the trimming of any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (f) The cemetery sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefor that through decay, deterioration or damage are determined to be unsightly, a source of litter or a maintenance problem.
- (g) Landscape materials (i.e. bark mulch, stone, etc.), other than earth or sod, are prohibited unless approved by the sexton and/or the Township.
- (h) Urn/containers may be placed on burial spaces from May 1 through November 1. The Township sexton or person so designated by the Township Board may remove any or all refuse of any kind or nature including, among others, dried flowers, wreaths, papers and flower urns/containers which have not been removed or deposited in containers located within the cemetery by November 1.
- (i) No advertisement or posting of any sign is to be permitted with the exception of the Township notices.
- (j) No hunting or trapping on the cemetery ground shall be permitted.
- (k) Vehicles may be operated within the cemetery only upon the roads, and only as directed by traffic signs or other signs. The use of off-road or all-terrain vehicles anywhere in the cemetery is prohibited.

- (l) All objects and items placed at a cemetery lot or burial space that are not consistent with a pleasing and uniform appearance in the cemetery are subject to removal by the Township. The Township Board reserves the right to regulate the method of decorating burial spaces and cemetery lots, so that an appropriate appearance can be maintained throughout the cemetery. Any monument, effigy or other structure or object not in compliance with this section or that is inconsistent with a reasonably uniform and character appearance of the cemetery is subject to removal by the Township.
- (m) Any plants, flowers, emblems, displays, containers and any other objects that have become unsightly or a hindrance to proper ground maintenance within the cemetery may be removed by the Township. All refuse of any kind, including dried flowers, wreaths, flower containers, papers and other debris must be fully and promptly removed from the cemetery by the persons who placed such materials there, or by other persons who may be caring for the grave sites where any such materials may have been placed.
- (n) The Township shall not be responsible for damage to grave markers or grave sites as a result of the elements, vandalism, thievery, or by other causes beyond the control of the Township.

Sec. 6.13 Conduct of Persons within the Cemetery.

- (a) The cemetery grounds shall not be used as a place for recreational activity. Proper and dignified conduct, appropriate to a place of public burial, shall be observed within the cemetery at all times. The Township may remove from the cemetery any person who acts in a disrespectful manner, inappropriate to the character and nature of the cemetery. Persons are prohibited from picking flowers, breaking or injuring any tree, shrub or plant, writing upon, defacing or destroying any grave marker, memorial, or other structure. No person shall destroy or otherwise disturb the birds or other animal life in the cemetery if not authorized to do so by the Township Board.
- (b) No person shall bring in alcoholic beverages, or consume them, in the cemetery, nor disturb or interfere with any funeral or memorial service or prevent or disturb other persons who are at grave sites or elsewhere in the cemetery for the purpose of honoring or memorializing those interred at any grave site. No person other than a law enforcement officer or other person authorized by state law shall possess, carry or transport any firearm or weapon within any cemetery within the Township. Furthermore, no weapon or firearm shall be discharged in any cemetery within the Township. This prohibition on discharge of a firearm shall not apply to any firearm discharge that is performed in lawful self-defense as defined by the laws of the State of Michigan, nor shall this prohibition apply to any law enforcement officer or Township official who is authorized to possess, carry or discharge a gun or firearm in carrying out their authorized law enforcement duties. Nor shall this section apply to any firearm or ceremonial weapon discharged in any cemetery for ceremonial purposes in connection with a funeral or related matter if such discharge is performed by a nationally recognized veteran's organization or a recognized law enforcement organization, and if approved in advance by the Township Supervisor.
- (c) The owners of a grave site, their relatives and invited friends and guests shall be permitted at any time to approach and remain at any grave site, for purposes of meditation or in memory or honor of any person interred in the cemetery. Only authorized persons shall enter any cemetery building.
- (d) Children under 18 years of age shall not be permitted in the cemetery unless they are accompanied by at least one adult who is responsible for them.

- (e) No loud talking or any other vocal disturbance shall be permitted in the cemetery within hearing distance of persons attending funeral services. No signs, notices or advertisements of any kind shall be allowed in the cemetery, unless placed there by authorized Township employees. Littering within the cemetery is prohibited; smoking in any cemetery building is prohibited.
- (f) Motor vehicles within the cemetery shall always keep to the right side of a cemetery road. Motor vehicles shall not park or come to a complete stop in front of an open grave unless the occupants of the vehicle are in attendance at a funeral.
 - (1) Motor vehicles shall not be driven off a cemetery road or be driven in a manner such as to damage any grass, tress, shrubbery or plants in the cemetery. No person shall park or leave a motor vehicle in such a location as to prevent any other motor vehicle from passing.
 - (2) A vehicle shall not be operated in the cemetery for recreation purposes. Any motor vehicle improperly parked within a cemetery may be removed by the Township, and the owner and/or operator of the vehicle shall be responsible for all costs of such removal.

Sec. 6.14 Vaults.

All casket burials shall be within a standard concrete vault installed or constructed in each burial space before interment. All cremated remains shall be placed in a durable container.

Sec. 6.15 Cemetery Hours.

- (a) The cemetery shall be open to the general public during the daylight hours.
- (b) No person shall be permitted in the Township cemeteries at any time other than the hours described in subsection (a) of this section, except upon the permission of the Township Board or the sexton of the cemetery.

Sec. 6.16 Absence of Township Liability.

The Township owns and maintains the Township cemeteries in its governmental function as a Township. The Township shall not be liable for liability or damage of any kind with respect to any matter arising out of or in any way related to the ownership or operation of any Township cemetery or any part thereof. No officer, agent, or employee of the Township shall have any liability for any damage which may occur to any persons or property as a result of any act, decision or other consequence or occurrence arising out of any duties or conduct associated with the Township cemeteries. The Township shall not be responsible or liable for any flowers, plants, floral designs, or any other type of decoration or object used on or at any grave or grave site, nor liable or responsible for any grave marker, other than to accept such items for use in the cemetery.

CHAPTER 7

PARKS AND RECREATION

Sec. 7.1 Township Parks.

The provisions of this chapter apply only to parks and recreation areas that are owned by the Township.

Sec. 7.2 Park Activities; Permit Required.

- (a) Both active and passive recreational activities are permitted in the parks within designated areas. This shall include tennis in the tennis courts only, field sports in the ballfields area; playground activities in the playground area; picnics and gatherings in the pavilion areas; hiking and other events as approved or specifically permitted by the Township.
- (b) The Township may designate from time to time portions of the parks for specific uses. Specific uses may be prohibited by the Township. Notices of prohibited uses shall be posted.
- (c) Certain facilities within the parks, such as the ballfields, pavilions, tennis courts and picnic tables may be reserved for use by individuals or organizations by permit issued by the Township. Such actions shall be subject to fees and other specific rules and regulations adopted by the Township Board. These facilities, when reserved, are closed to the general public.
- (d) No parade, procession or exercises which result in the congregating together of 50 people or more for activities, other than sports, where specific areas are set aside for such purpose shall be permitted within any Township parks or on other Township real property without a permit having been obtained from the Township.
- (e) A permit, when required by this chapter or other Township regulation, shall be obtained at the Township office.

Sec. 7.3 Closing of Parks.

- (a) The Township Supervisor shall have the authority to close parks or areas of parks for use or activities when necessary in the interest of public safety.
- (b) The parks shall close at dark, but no later than 11:00 p.m. All park users must leave at closing time unless a written permit for later hours has been issued by the Township. After a park has closed, it shall be unlawful for anyone to enter upon or occupy the park without the permit.
- (c) Any park, or part thereof, may be closed entirely or closed to certain uses during any specified periods of time by the Township Supervisor or the supervisor's designee, where it is determined that the physical condition of the park or portion thereof is such that the intended use of the park or portion thereof would cause damage or deterioration to the park or portion thereof, greater than ordinary park wear and tear, or if the intended use of the park or portion thereof would create a health hazard or safety hazard to the proposed users or other persons. When a park or portion thereof is closed, notice thereof shall be prominently

posted. It shall be unlawful for anyone to enter upon or occupy a park or portion thereof contrary to any posted regulations.

Sec. 7.4 Defacing or Disturbing Park Property.

- (a) No person shall injure, deface, disturb or befoul any part of any park or any building, sign, equipment or other property found therein; nor shall any tree, shrub, rock or other mineral be removed, injured or destroyed.
- (b) In addition to other prescribed penalties, a person who violates any provision of this chapter shall pay for any repair costs to park property resulting from the violation.

Sec. 7.5 Dumping of Materials in Parks.

No person shall deposit or permit to be deposited in any part of any park, any garbage, ashes, sewage, refuse, waste or other noxious material, other than in receptacles or pits provided for such purposes; nor dump any earth within the park without specific written permit from the Township Board. In no instance should this language be interpreted to allow any nonpark generated refuse to be brought into the park for deposit.

Sec. 7.6 Hunting, Fishing and Molesting Wildlife.

- (a) No person within the confines of any park, unless authorized by written permit of the Township Board, shall hunt, pursue with dogs, trap or in any other way molest any wild bird or animal found within the confines of the park, or therein rob or molest any bird nest or take the eggs from any bird.
- (b) No person, except law enforcement officers, shall carry or use a slingshot, bow and arrow, crossbow, a missile throwing device, or any similar type of non-firearm weapon within a park, or discharge any fireworks or explosive substances therein, without a specific permit from the Township.
- (c) No person other than a law enforcement officer or other person authorized by state law shall possess, carry or transport any firearm within any park within the Township. Furthermore, no firearm shall be discharged in any park within the Township; provided, however, that this prohibition on discharge of a firearm shall not apply to the following: (i) any firearm discharge that is performed in lawful self-defense as defined by the laws of the State of Michigan; (2) any law enforcement officer or Township official who is authorized to possess, carry or discharge a firearm in carrying out their authorized law enforcement duties; or (3) any firearm or ceremonial weapon discharged in connection with a funeral, patriotic observance or comparable ceremonial occasion authorized in advance by the Township Supervisor.

Sec. 7.7 Alcoholic Beverages Prohibited.

The possession, use, dispensing and consumption, or any of them, of beer, wine and spirits, and other alcoholic beverages of any kind, or the possession, use or delivery of any drug paraphernalia as defined in Section 21.12 of this Code, is prohibited in all township parks and recreation areas.

Sec. 7.8 Disorderly Conduct.

No person shall, either by word or act, indulge in any noisy, boisterous, disorderly or indecent conduct, or in any manner disturb the peace or good order of the community within a park.

Sec. 7.9 Refusal to Leave Premises; Obstruction of Law Enforcement Officer.

- (a) No person shall remain within a park who does not abide by conditions adopted and posted by the Township for the preservation of good order and the protection of property within the parks. No person shall remain within a park who does not abide by the instructions and directions of duly authorized law enforcement officer or agents of the Township in the lawful performance of their duties. Any person directed by a law enforcement officer or agent of the Township to leave a park shall do so promptly and peaceably.
- (b) No person shall resist or obstruct, or be abusive of or address in a profane or obscene manner, any law enforcement officer or agent of the Township.

Sec. 7.10 Use of Sound Amplifying Equipment.

The use of loudspeakers, public address systems or sound amplifying equipment is prohibited without permission. Excessively loud radios, televisions or similar devices are also prohibited.

Sec. 7.11 Domesticated Animals or Dogs.

Except as provided by law, no domesticated animals or dogs shall be permitted in any park.

Sec. 7.12 Traffic Control.

- (a) No person shall drive, propel or cause to be driven, along or over any road within the park, any vehicle at a rate of speed greater than ten mph; nor shall any motor vehicle be driven in a reckless manner or in a manner to endanger the life, limb or property of pedestrians, or the drivers or occupants of other vehicles, or any other person.
- (b) No vehicle, including off-road type vehicles, shall be driven in any park except upon roads or trails for that purpose.
- (c) No person shall park or store any car, motorcycle, bicycle, wagon or other vehicle within the park, except in places designated by the Township for such purposes.
- (d) The state laws relating to lights on vehicles shall apply to vehicles within the park, including off road vehicles.

Sec. 7.13 Camping.

No person shall establish or maintain any camp or other temporary lodging place in any park, without a specific written permit from the Township.

Sec. 7.14 Fires.

No person shall start a fire in any park, except small fires for cooking purposes in designated receptacles unless otherwise provided by the Township. All fires shall be put out by the person starting or using the fire before leaving the immediate vicinity of the fire.

Sec. 7.15 Commercial Activities.

No person shall sell or offer for sale any article, thing, privilege or service within any park without a permit from the Township, and no person shall do any begging, peddling or soliciting therein. Further, no person shall expose, distribute or place any sign, advertisement, circular, notice or statement, or display any banner, emblem or design, within the park, without a specific permit from the Township.

Sec. 7.16 Swimming and Ice Skating.

Swimming in any park pond is prohibited. Ice skating is permitted at one's own risk.

Sec. 7.17 Picnic Tables.

The moving of picnic tables, grills and other pieces of park equipment is prohibited unless specifically approved by permit from the Township.

Sec. 7.18 Playing Courts.

Use of the courts is on a first come, first served basis unless reserved by a permit from the Township. The party using the court shall only be permitted one hour's use if others are waiting for the courts.

CHAPTER 8

PLATTED SUBDIVISIONS

GENERAL

Sec. 8.1 Legal Basis; Purpose.

This chapter is enacted pursuant to Public Act 288 of 1967, as amended, the Land Division Act (“Act 288”). This chapter is intended to provide for the proper and orderly subdivision of land in the Township, to provide for adequate and essential public improvements and utilities, and to promote the public health, safety and welfare. This chapter shall be known and may be cited as the Algoma Township Subdivision Ordinance.

Sec. 8.2 Fee Schedule.

Any person filing a plat pursuant hereto shall pay fees established from time to time by resolution of the Township Board, and until the fee is paid the plat shall not be considered or reviewed.

Sec. 8.3 Definitions.

All terms herein shall have the meanings and definitions given by Act 288.

Sec. 8.4 Scope and Conflict.

The provisions of this Ordinance apply to all platted subdivisions of land within the Township. Where this chapter provides a standard stricter than that required by Act 288, this chapter shall control.

Sec. 8.5 Certification of Plats and Drawings.

All plats and drawings submitted hereunder shall be prepared and sealed by a registered surveyor and/or engineer, as applicable.

PRELIMINARY PLAT APPLICATION AND REVIEW PROCEDURES

Sec. 8.6 Submission of Plats.

The proprietor of any land proposed to be subdivided shall submit 12 copies of a preliminary plat, together with supplementary documents, containing the information required by Act 288 and this chapter, to the Township Clerk.

Sec. 8.7 Preliminary Plat; Required Information.

The following information shall be submitted for tentative approval of the preliminary plat. Maps shall be at a scale of not more than 100 feet to one inch.

- (a) The name or title of the proposed subdivision.
- (b) Legal description of the proposed plat.

- (c) The name, address and telephone number of the proprietor, developer, record owner and subdivider.
- (d) A statement of the intended use for the proposed plat, indicating any land intended to be dedicated or set aside for public use or for the common use of property owners in the subdivision, and stating the location, dimensions and purpose of such land.
- (e) A sketch showing the location of the proposed plat.
- (f) The location, dimensions and approximate grade and radius of proposed and existing public streets, alleys and highways included in the plat. All streets in a plat shall be public streets unless otherwise specifically recommended by the Planning Commission and approved by the Township Board in the approval of the preliminary and final plats.
- (g) The location of all existing features affecting the subdivision, such as railroads, buildings, trees, ditches, watercourses and other physical features.
- (h) The location and size of all existing and proposed public water, sanitary sewer and storm drainage pipes, equipment, fire hydrants, catch basins and other public facilities.
- (i) The location of utility and drainage easements.
- (j) If the proposed plat is contiguous to other lands owned by the applicant, a map showing the street layout and access for subsequent development.
- (k) The lot lines and required building setbacks in the plat.
- (l) The boundaries of floodplain areas within or adjacent to the plat, if any.
- (m) All buildings, structures, lot lines, wetlands, streets, rights-of-way, service drives and curb cuts within 100 feet of the site.
- (n) Existing and proposed topographic elevations at two-foot intervals.
- (o) Direction of storm water drainage, location and size of all existing and proposed storm water drainage facilities, as well as a statement describing where storm water will be ultimately discharged.
- (p) Existing and proposed street lighting, including the type of fixture as well as method of shielding illumination from adjacent properties and roadways.
- (q) Zoning and use of adjacent properties.

Sec. 8.8 Preliminary Plat; Tentative Approval Procedure.

- (a) Preliminary plats shall be referred to the Planning Commission, which shall consider the preliminary plat and make a recommendation to the Township Board. The preliminary plat, together with minutes showing the action of the Planning Commission thereon, shall then be referred to the Township Board.
- (b) The Township Board shall approve, approve subject to conditions, or reject the preliminary plat not later than 90 days after the preliminary plat was first submitted by the proprietor. If the preliminary plat is not approved, the Township Board shall set forth in writing its reasons

for rejection. The Township Board shall record its approval or disapproval on the plat and return one copy to the proprietor.

- (c) Tentative approval under this section shall confer upon the proprietor, for a period of one year, approval of lot sizes, lot orientation and street layout. The duration of such tentative approval may be extended by the Township Board.

Sec. 8.9 Preliminary Plat; Final Approval Procedure.

- (a) Following tentative approval of the preliminary plat by the Township Board, the proprietor shall:
 - (1) Submit the preliminary plat to all other reviewing authorities as required by Act 288.
 - (2) Submit a list of all such authorities to the Township Clerk, certifying that the list shows all approving authorities as required by Act 288.
 - (3) Submit all approvals to the Township Clerk after they have been secured.
- (b) Following a determination that all required approvals have been secured, the clerk shall forward the approved copies of the preliminary plat, together with all communications from the reviewing agencies, to the Township Board as soon as possible prior to the next regularly scheduled meeting.
- (c) The Township Board shall:
 - (1) Consider and review the preliminary plat and approve it if the proprietor has met all conditions specified for approval of the preliminary plat; or
 - (2) Instruct the Township Clerk to notify the proprietor of approval or rejection in writing.
- (d) Final approval of the preliminary plat under this section shall confer upon the proprietor for a period of two years from the date of approval, the rights granted under Act 288. This period may be extended by the Township Board.

**FINAL PLAT APPLICATION
AND REVIEW PROCEDURE**

Sec. 8.10 Requirements.

- (a) Final plats shall be prepared and submitted as provided in Act 288.
- (b) A written application for approval and all recording and other Township and state fees shall accompany all final plats.
- (c) The proprietor shall submit proof of ownership of the land included in the final plat in a form satisfactory to the Township.
- (d) The Township may require such other information as it deems necessary to establish whether the proper parties have signed the plat.

Sec. 8.11 Procedure; Final Plat.

- (a) The final plat shall be submitted not less than 20 days prior to the next regular meeting of the Township Board. For any plat submitted thereafter, the applicant shall pay an additional fee established by resolution, for the cost of calling a special meeting to comply with Section 167 of Act 288, unless the proprietor waives compliance with Section 167.
- (b) The Township Board shall examine the final plat at a meeting within 20 days after submission of the plat, or thereafter, if such time requirement is waived by the proprietor, and the Board shall either approve or disapprove the plat.

Sec. 8.12 Improvements and Facilities.

- (a) Before final approval of a plat, all required improvements shall be completed, or security shall be given as provided in Section 7.13.
- (b) Monuments shall be set in accordance with Act 288 and the rules of the State Department of Treasury.
- (c) Upon completion of all required improvements, one complete copy of as-built engineering plans for all required public improvements and utilities shall be filed with the Township Clerk coincident with the submission of the final plat.

Sec. 8.13 Security for Completion.

- (a) In lieu of completion of some or all required improvements, the Township Board may give final plat approval conditioned upon the proprietor providing a financial guaranty for performance as provided in this section.
- (b) Security shall be in an amount equal to the total estimated cost for completion of the improvement, including reasonable contingencies. Security shall not be required for an improvement for which security has been furnished to another governmental agency.
- (c) Security shall remain in force for a time to be specified by the Township Board.
- (d) Security shall be in the form of an irrevocable letter of credit issued by a bank, in a form satisfactory to the Township, or in the form of cash escrow or certified check. A performance bond in form satisfactory to the Township, from a surety company authorized to do business in the State of Michigan and acceptable to the Township, may be substituted in lieu of such security only if the applicant can satisfy the Township that an irrevocable letter of credit, cash escrow or certified check cannot reasonably be made available.
- (e) The proprietor may request periodic reductions in the amount of security as public improvements are completed. Township staff may approve such reductions, to an amount estimated to be equal to the remaining cost of improvements, plus a reasonable contingency.

Sec. 8.14 Certificates on Final Plat.

The final plat shall include proper certificates for the Township Clerk to certify the approval of the plat by the Township Board, and the acceptance on behalf of the public of all dedications shown thereon by the governmental body having jurisdiction over such dedication.

IMPROVEMENTS AND REGULATIONS

Sec. 8.15 Lots.

- (a) All lots shall face upon, and have direct access to, a public or private street.
- (b) The side lines of lots shall be approximately at right angles or radial to the street upon which the lots face.
- (c) All lots shall conform to the requirements of the Township Zoning Ordinance for the zone in which the plat is located. This chapter shall not be construed as providing for lots smaller than as specified in the Zoning Ordinance. If public water and sewer are available, the provisions of the Zoning Ordinance shall override Section 186 of Act 288.
- (d) Corner lots for residential use shall have the minimum required frontage on both streets adjacent to the lot.
- (e) Lots in subdivisions bounded by existing streets shall only have access from internal streets constructed to serve the subdivision and not directly to such existing streets.
- (f) Greenbelts or landscaped screen plantings shall be located between a residential subdivision and adjacent major arterial streets or railroad rights-of-way. The proposed subdivision plat shall show the location of said greenbelts.

Sec. 8.16 Usable Land.

All land shall be platted such that it is usable for building lots or required improvements. Land may be platted for common or public areas if adequate provision is made for continued maintenance of such areas, unless such provision for continued maintenance is waived or deemed unnecessary by the Township.

Sec. 8.17 Street Names.

Street names shall be approved by the Kent County Road Commission before printing on the final plat. All streets which are extensions of existing streets must carry the names of such existing streets.

Sec. 8.18 Street Alignment and Layout.

- (a) All proposed public streets, and where specifically permitted private streets, shall be continuous and in alignment with existing, planned or platted streets insofar as practicable. Where streets in new subdivisions are extensions of existing streets, the platted streets shall be at least as wide as the existing streets that are being extended.
- (b) If streets are to be dedicated to the public, a sufficient number of streets shall extend to the boundary of the subdivision so as to provide sufficient access to adjoining property and to future development on contiguous land.
- (c) No dead end street or street terminating in a cul-de-sac shall provide access to more than 20 dwelling units.
- (d) Intersections of public or private streets shall be at angles of 90 degrees, or as close to such angle as possible, but in no case more than 30 degrees from perpendicular.

Sec. 8.19 Street Design Standards.

Public streets, intersections, and cul-de-sacs in plats shall conform to the design, drainage, grade, layout, right-of-way width and construction requirements of the Kent County Road Commission. Any street not dedicated to the public shall comply with the private street provisions of the Township Zoning Ordinance.

Sec. 8.20 Sidewalks.

- (a) Except as otherwise provided in this section, concrete sidewalks at least five feet wide may be required to be installed on both sides of all streets within new subdivisions.
- (b) Sidewalks shall be constructed at the time streets are constructed, unless the Planning Commission and Township Board approve an arrangement for subsequent sidewalk construction, as lots are improved. With any such approval for subsequent sidewalk construction, conditions and time deadlines may be imposed.
- (c) In their discretion, the Planning Commission may recommend and the Township Board may approve a waiver, in whole or in part, from the sidewalk requirements of this section. In considering whether to recommend and approve such waiver, the Planning Commission and Township Board shall consider and make findings upon the following factors:
 - (1) Whether the installation of sidewalks would be a reasonably appropriate plat improvement, giving consideration to the convenience of pedestrians, the amount of available land and other applicable circumstances.
 - (2) The likelihood that pedestrians will make reasonable use of sidewalks in the plat, currently and in the future.
 - (3) Whether there are other sidewalks already installed on adjacent or nearby lands.
 - (4) The effect of topography, landscaping, location of streets and other improvements and the effect, if any, of other physical aspects of the platted lands.

Sec. 8.21 Street Lighting.

Adequate street lights may be required to be provided, and if so, they shall comply with the outdoor lighting requirements of the Township Zoning Ordinance.

Sec. 8.22 Public Utilities.

- (a) Public electricity, telephone, and gas service shall be furnished to each lot in the subdivision.
- (b) If available, public sanitary sewer and water, or either of them, shall be provided according to the requirements of the zoning district in which the subdivision is located and in accordance with the Township's water and sewer ordinances.
- (c) All utilities shall be installed and maintained underground and in appropriate easements.
- (d) Public utility easements shall be provided along rear lot lines, and also along side lot lines when necessary. The total width of such easements shall be not less than six feet along each lot, or a total of twelve feet for adjoining lots.

- (e) When a proposed subdivision is to be served by a publicly-owned or privately-owned public water system, fire hydrants and other required water system appurtenances shall be provided by the subdivider.
- (f) If there is no existing or available publicly-owned water supply system, the subdivider may be required to install a privately-owned community water supply system in accordance with applicable standards of the Township and the Kent County Health Department.

Sec. 8.23 Natural Features.

The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this chapter.

Sec. 8.24 Drainage.

An adequate storm drainage system, including the necessary storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances, shall be provided in accordance with the requirements of the Township Storm Water Ordinance and the Kent County Drain Commissioner. Such facilities shall be designed and constructed so as to have no adverse affect on adjoining lands, or upon lots within the subdivision.

VARIANCE

Sec. 8.25 Eligibility and Procedures.

If the proprietor demonstrates that literal enforcement of this chapter is impractical, or will impose undue hardship in the use of the land because of special or peculiar conditions pertaining to the land, the Township Board, upon recommendation of the Planning Commission, may permit a variance or variances which are reasonable and within the general policy and purpose of this chapter. The Township may attach conditions to the variance.

ENFORCEMENT

Sec. 8.26 Recording Required.

No person shall sell or convey any lot in any plat by reference thereto until such plat has been duly recorded in the office of the Kent County Register of Deeds.

Sec. 8.27 Lot Sales in Violation of Chapter.

No building permit shall be issued, and no public sewer or water service shall be provided for any dwelling or other structure located on a lot subdivided or sold in violation of these regulations. The fact that final plat approval has not been received from the State of Michigan shall not prevent a building permit from being granted for not more than three buildings, or for the maximum number of land divisions which would be permitted under Act 288 without plat approval, whichever is less. No building may be occupied or used, however, until all required improvements have been completed, and necessary utilities installed.

Sec. 8.28 Violations.

- (a) A violation of this chapter is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, attorney fees and expenses provided by law. For purposes of this section, “subsequent offense” means a violation of this chapter committed with respect to a separate incident by the same person within 12 months of a previous violation of the chapter for which said person admitted responsibility or was adjudicated to be responsible. Each day such violation continues shall be considered a separate offense.
- (b) The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains a violation may each be found responsible for a municipal civil infraction and be liable for the penalties herein provided.
- (c) Nothing herein contained shall prevent the Township Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this chapter or of the Land Division Act.

Sec. 8.29 Other Remedies.

In addition to any other available remedy, the Township may in its discretion bring an action in its own name to restrain or prevent any violation of this chapter or any continuance of such violation. In such case the person found violating this chapter shall pay the Township’s costs and expenses in enforcing this chapter, including its attorneys’ fees.

DIVISION OF PLATTED LOTS

Sec. 8.30 Prohibition.

No lot or other parcel of land located within a recorded plat shall be further partitioned or divided or a building permit issued for a partitioned or divided lot unless such partition or division is first approved by the Township Board as provided in this chapter. No partition or division of a lot may result in the creation of a lot that does not satisfy the particular minimum lot dimension requirements of the Township Zoning Ordinance.

Sec. 8.31 Approval of Lot Splits.

- (a) Any proprietor or property owner who desires to partition or split a lot, outlot, or other parcel of land located in a recorded plat shall apply to the Township Clerk. The application shall include a detailed statement of the reasons for the requested partition or division, sketch, map or maps prepared to scale showing the proposed division or partition and all adjoining lots, streets, and parcels of land, and a statement from the Kent County Health Department indicating the effect of the proposed division or partition upon the safe operation of necessary septic tanks and wells.
- (b) The Township Clerk shall transmit the application and report from the Kent County Health Department to the Planning Commission, which shall make a recommendation to the Township Board.

- (c) In reviewing the application, the Planning Commission and Township Board shall consider whether the request is consistent with all Township ordinances, Act 288, and other state laws and is consistent with the general public welfare.
- (d) Upon receiving the recommendation of the Planning Commission, the Township Board shall either approve or reject the application.
- (e) The Township Board may condition its approval of a division or partition upon such reasonable conditions as deemed necessary by the Township Board to ensure compliance with applicable Township ordinances and state laws.

CHAPTER 9

LAND DIVISIONS

Sec. 9.1 Title and Purpose.

- (a) This chapter shall be known and may be cited as the Algoma Township Land Division Ordinance.
- (b) The purpose of this chapter is to carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended (the "Act") in order to prevent the creation of parcels of land which do not comply with the Act or with applicable Township ordinances; to provide for the orderly development of land and otherwise to provide for the health, safety and welfare of the residents and property owners of the Township by establishing minimum requirements for review and approval of certain land divisions within the Township.
- (c) This chapter shall not be construed to repeal, abrogate, rescind, or otherwise to impair or interfere with provisions of other ordinances of the Township.

Sec. 9.2 Definitions.

Certain words and phrases used in this chapter shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act.

- (a) *Administrator* means the Township Assessor or other person so appointed by the Township Board.
- (b) *Division* or *land division* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent (as defined in the Act), and that satisfies the requirements of Sections 108 and 109 of the Act. Division does not include a property transfer between two or more adjacent parcels, if the land taken from one parcel is added to an adjacent parcel.
- (c) *Exempt split* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns that does not result in one or more parcels of less than 40 acres or the equivalent.
- (d) *Parcel* means a contiguous area of land which can be described as stated in Section 102(g) of the Act.
- (e) *Parent parcel* or *parent tract* means a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- (f) *Private road* means a private road which complies with the requirements of the Township Zoning Ordinance or the Township private road ordinance, whichever is applicable.
- (g) *Resulting parcel(s)* means one or more parcels which result from a land division.
- (h) *Road authority* means the governmental authority having jurisdiction of a public road or public street.

- (i) *Tract* means two or more parcels that share a common property line and are under the same ownership.

Sec. 9.3 Land Division Approval Required.

Any division of land, including any partitioning or splitting of land, within the Township which requires the approval of the Township in order to qualify as a land division under the Act shall satisfy the requirements of Sections 8.4, 8.5 and 8.7 and the other applicable provisions of this chapter.

Sec. 9.4 Application for Land Division Approval.

- (a) A proposed land division shall be filed with the administrator and shall include the following:
 - (1) A completed application, on such written form as the Township may provide, including any exhibits described therein.
 - (2) Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land.
 - (3) A land title search, abstract of title, or other evidence of land title acceptable to the administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997.
 - (4) A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions.
 - (5) A tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. The tentative parcel map, including the resulting parcels, shall be accurately and clearly drawn to scale. A tentative parcel map shall include:
 - (i) Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map.
 - (ii) Proposed boundary lines and the dimensions of each parcel.
 - (iii) An adequate and accurate legal description of each resulting parcel.
 - (iv) A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area and date of such divisions.
 - (v) The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets.
 - (vi) The location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.

- (vii) If a resulting parcel is a development site (as defined in the Act), the location of all public utility easements serving the parcel.
- (6) Other information reasonably required by the administrator in order to determine whether the proposed land division qualifies for approval.
- (7) Payment of the application fee and other applicable fees and charges established by resolution of the Township Board.
- (b) A proposed division shall not be considered filed with the Township, nor shall the time period stated in Section 8.5(b) commence, until all of the requirements for an application for land division approval have been complied with.

Sec. 9.5 Minimum Requirements for Approval.

- (a) A proposed land division shall be approved by the administrator upon satisfaction of all of the following requirements:
 - (1) The application requirements of Section 8.4.
 - (2) All resulting parcels to be created by the proposed land divisions shall fully comply with the applicable lot area and lot width requirements of the Township Zoning Ordinance for the zoning districts in which the resulting parcels are located.
 - (3) Each resulting parcel shall have the depth to width ratio specified by the Township Zoning Ordinance for the zoning districts in which the resulting parcel is located. If the Township Zoning Ordinance does not specify a depth to width ratio, each resulting parcel which is ten acres or less in area shall have a depth which is not more than four times the width of the parcel. The width and depth of the resulting parcel shall be measured in the same manner provided by the Township Zoning Ordinance for the measuring of the minimum width and maximum depth of parcels.
 - (4) Each resulting parcel shall have a means of vehicular access to an existing street from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street.
 - (5) The proposed division, together with any previous divisions of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
 - (6) Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.
- (b) The administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of the proposed division with the administrator, and shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for the disapproval.
- (c) Any notice of approval of a division resulting in a parcel less than one acre in size shall contain a statement that the Township, its officers and employees are not liable if a building

permit is not issued for the parcel for the reasons set forth in Section 109(a) of the Act, including requirements regarding suitability of onsite water supply and onsite sewage disposal, as described in Section 105(g) of the Act.

- (d) An applicant aggrieved by the decision of the administrator may, within 30 days of the decision, file a written appeal of the decision to the Township Board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. At least ten days' written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first class mail, directed to the applicant's address as shown in the application or in the written appeal. The Township Board may affirm or reverse the decision of the administrator, in whole or in part, and its decision shall be final.
- (e) The administrator shall maintain a record of all land divisions approved by the Township.

Sec. 9.6 Approval of Land Divisions.

- (a) A decision approving a land division shall be effective for not more than 90 days after such approval by the administrator or, if appealed, by the Township Board, unless either of the following requirements is satisfied within such 90-day period:
 - (1) A deed or other recordable instrument of conveyance, accurately describing the resulting parcels, shall be recorded with the county register of deeds, and a true copy thereof, showing proof of such recording, shall be filed with the administrator; or
 - (2) A survey accurately showing the resulting parcels shall be recorded with the county register of deeds, and a true copy thereof, showing proof of such recording, shall be filed with the administrator. Such survey shall comply with the minimum requirements of Public Act No. 132 of 1970.

If neither subsection (a)(1) nor subsection (a)(2) is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and of no further effect after the 90th day following such approval by the administrator or, if appealed, by the Township Board.

- (b) All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with subsection (a) of this section shall be reviewed by the administrator in order to determine their conformity with the approved tentative parcel map. The administrator shall mark the date of approval of the proposed land division on all deeds, other recordable instruments of conveyance and surveys which are in conformity with the approved tentative parcel map and which otherwise comply with the requirements of this chapter. Such documents shall be maintained by the administrator in the Township record of the approved land division.
- (c) The approval of a land division is not a determination that the resulting parcels comply with other ordinances or regulations.
- (d) Any parcel created inconsistent with or in violation of this chapter, where approval under this chapter is required, shall not be eligible for issuance of building permits, zoning ordinance approvals or other land use or building approvals under other Township ordinances, nor shall any such parcel be established as a separate parcel on the tax assessment roll.

Sec. 9.7 Exempt Splits and Other Divisions Not Subject to Approval.

- (a) An exempt split is not subject to approval by the Township if all resulting parcels are accessible (as defined in the Act) or if either subsection (c)(1) or (c)(2) of this section applies.
- (b) The Township shall not permit the creation of an exempt split if one or more of the resulting parcels are not accessible unless either subsection (c)(1) or (c)(2) of this section applies to all such inaccessible parcels.
- (c) An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size is not subject to approval by the Township if the parcel or tract is not accessible, and either of the following applies:
 - (1) The parcel or tract was in existence on March 31, 1997.
 - (2) The parcel or tract resulted from an exempt split or other partitioning or splitting under Section 109b of the Act.

CHAPTER 10

BUILDINGS AND BUILDING REGULATIONS

Sec. 10.1 Adoption of State Housing Law.

The Township hereby adopts the State Housing Law, being Public Act No. 167 of 1917, as amended.

Sec. 10.2 State Construction Code.

Pursuant to the provisions of Sections 8a and 8b of the Stille-DeRossett-Hale Single State Construction Code Act, Act 230, PA 1972, as amended, the Township of Algoma hereby adopts by reference and elects to administer and enforce the provisions of the Michigan Building, Electrical, Mechanical and Plumbing Codes, being Rules 408.30001, *et seq.* of the Michigan Administrative Code, as amended from time to time (the "Code").

- (a) References in the Code to *governmental subdivision* shall mean the Township of Algoma. References in the Code to *enforcing agency* shall mean the Building Inspections Department of the Township of Algoma. References in the Code to *building official* shall mean the building officer of the Township of Algoma.
- (b) The Township Board shall appoint an Electrical Inspector who shall be designated as the official to administer and enforce the electrical code requirements of the Code. A person appointed by the Township Board to administer and enforce this chapter at and prior to the effective date of this chapter shall be the Electrical Inspector and shall not require reappointment by the Township Board.
- (c) The Plumbing Inspector appointed by the Township Board to administer and enforce this chapter shall be designated as the official to administer and enforce the plumbing code requirements of the Code. A person appointed by the Township Board to administer and enforce this section at and prior to the effective date of this section shall be the Plumbing Inspector and shall not require reappointment by the Township Board.
- (d) The Mechanical Inspector appointed by the Township Board to administer and enforce this chapter shall be designated as the official to administer and enforce the mechanical code requirements of the Code. A person appointed by the Township Board to administer and enforce this section at and prior to the effective date of this section shall be the Mechanical Inspector and shall not require reappointment by the Township Board.
- (e) Fees for inspection, issuance of permits and all other activities performed by the Building Inspector, the Plumbing Inspector, the Mechanical Inspector, the Electrical Inspector or the building official shall be established by resolution of the Township Board.
- (f) Failure to comply with a stop work order issued by the enforcing agency shall be a misdemeanor punishable by a fine of not more than \$500 or imprisonment for no more than 90 days, or both such fine and imprisonment. Violation of any other provision of the Code shall be a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of this chapter committed with respect to a separate incident by the same person within 12 months of a previous violation of the chapter for which said person admitted

responsibility or was adjudicated to be responsible. Each day that such violation occurs shall constitute a separate offense.

Sec. 10.3 Construction Code Board of Appeals.

- (a) The Township Board hereby establishes a Construction Board of Appeals as authorized by the Construction Code Act, Public Act 230 of 1972, as amended.
- (b) The Construction Board of Appeals shall have three members.
- (c) Each member of the Construction Board of Appeals shall be appointed by the Township Supervisor.
- (d) The term of office of each Construction Board of Appeals member shall be two years. The term of a Construction Board of Appeals member shall continue until a successor is appointed.
- (e) A vacancy on the Construction Board of Appeals shall be filled for the remainder of the unexpired term by appointment by the Township Supervisor.
- (f) The Construction Board of Appeals shall elect a chairperson for a term of one year, commencing at the first meeting in the calendar year.
- (g) The Construction Board of Appeals shall adopt rules for the transaction of its business and shall keep minutes and other records of its proceedings. Under the terms of such rules, the Construction Board of Appeals may elect a vice-chairperson, a secretary, and any other such officers as it deems appropriate.

Sec. 10.4 Placement of Street Address Numbers.

- (a) The address number assigned and/or adopted by the county road commission to any property in the Township shall be the address number to which reference is made in this section.
- (b) The owners or occupants of all principal buildings located in the Township shall cause the correct address number to be placed in accordance with the provisions of this section.
- (c) Such address numbers shall not be less than three inches in height and shall be facing the street or be visible from both directions of travel. The numbers must be of a contrasting color and must be placed adjacent to the principal drive in such a position as to be plainly visible from the street.
 - (1) When the principal building is within 30 feet of the driving surface of the road or street, whether public or private, the numbers may be placed on the building.
 - (2) Mailboxes in rural delivery areas may be used for address identification if they are adjacent to the principal drive or directly across from the principal drive. If the address numbers are attached directly to the mailbox and are visible from both directions, then a minimum of one-inch numbers may be used; however, if numbers are not directly attached to the mailbox then a minimum of three-inch numbers must be used.

- (3) When a private drive, road or easement is registered with the county road commission, a county sign with the road name shall be placed on the road for identification. All principal buildings shall then display their address numbers in the same manner as required in this subsection (c).
- (4) When a private drive, road or easement with more than one residence is not registered with the county road commission, then an identifying name sign shall be placed on the drive, road or easement where it intersects with the public road. All the property addresses on this drive, road or easement shall then be placed at the point where the intersection of the public road occurs. Where the private driveway enters the private drive, road or easement, then the address numbers shall be placed according to the manner as required in this subsection (c).
- (5) When a private drive, road or easement, whether county registered or not, divides and goes in different directions, then the numbers and the direction shall be posted at the point of division as in the manner required in this subsection (c).
- (d) If a building does not have a street address number designated for purposes of this section as of November 14, 1989, or for buildings constructed subsequent to November 14, 1989 (such date being the effective date of Township Ordinance No. 111), the owner and/or occupant shall obtain the street address number from the permit office of the county road commission.
- (e) Such owners or occupants shall place only the number as is required by the provisions of this section.

CHAPTER 11

SIDEWALKS

Sec. 11.1 Sidewalk Regulations.

- (a) The owners of all lots and property within the Township (the owners) shall maintain, repair and keep safe all sidewalks adjacent to or upon their property in and along public and private street rights-of-way in the Township.
- (b) It shall be the duty of all property owners to keep all cement, asphalt, concrete walks and sidewalks in front of, upon or adjacent to such property, which lies in or along any street right-of-way, in good repair and free of dangerous ice, snow or other dangerous obstructions and/or conditions.
- (c) Any owner of property who allows any such sidewalk to remain in disrepair, or in a dangerous condition, shall be liable for injuries and damages arising out of the disrepair or unsafe condition of such sidewalk. The owner shall also indemnify and reimburse the Township for any and all liability, costs and expenses which the Township might incur as a result of any such defective or dangerous sidewalk.

Sec. 11.2 Sidewalk Construction Standards.

- (a) All sidewalks or portions of sidewalks hereafter constructed or repaired shall comply with the following specifications:
 - (1) All sidewalks shall be constructed to grade established by existing adjoining walks or, in the absence of the foregoing, by the Township Planning Commission or Township Board.
 - (2) All sidewalk materials and widths shall be as specified by the Township Planning Commission or Township Board.
 - (3) The surface shall be roughened so as to prevent smooth and slippery surfaces.
 - (4) Bicycle paths on or along public and private roads shall be constructed similar to sidewalks and shall be of a width specified by the Township Planning Commission or Township Board.
- (b) Pursuant to Section 18a of Public Act No. 246 of 1931, as amended, the Township may construct, repair or maintain, or may order the construction, repair and maintenance of sidewalks for the health, safety and general welfare of the residents of the Township after notifying the involved property owners of the time and place of a hearing on such an order. Following the hearing it may either construct, repair or maintain the sidewalk and assess the cost over a five-year period against the abutting property owners, or permit the owners to have the sidewalks constructed, repaired or maintained within a specified time according to Township specifications at their expense. No work shall be commenced until approved by either the county road commission or state department of transportation having jurisdiction over the right-of-way within which the sidewalk is located.

- (c) The cost of replacement or repair of a sidewalk to be charged against a property owner shall be based upon actual cost or engineer's estimates, less such subsidy or credit as the Township Board may allow.
- (d) The Township Board, in its discretion, after replacing or repairing a sidewalk, may also authorize collection of the costs of such replacement or repair by civil process, counterclaim or such other means as may be proper for the collection of debts by legal process.

Sec. 11.3 Owner-Caused Defects in Sidewalks.

Where sidewalk defects creating pedestrian hazards are caused by conditions existing upon an abutting property, such as, but not limited to:

- (a) Trees or other growth;
- (b) Surface drainage;
- (c) Onsite construction or vehicular traffic; or
- (d) Other onsite activities,

the abutting property owner shall be responsible for its repair, maintenance and/or safe condition, and shall be liable for all consequential injuries, damages, expenses or costs resulting from, or in any way arising out of, the condition and lack of repair or maintenance and unsafe condition. Such liability shall include full indemnification of the Township for any damages, costs or expenses resulting from such owner defaults as well as liability to others. The foregoing liability and responsibility shall apply without notice or hearing with regard thereto.

CHAPTER 12

INOPERABLE AND JUNKED MOTOR VEHICLES; TRASH AND JUNK; JUNK YARDS AND SALVAGE YARDS

PART A – INOPERABLE AND JUNKED MOTOR VEHICLES

Sec. 12.1 Accumulations of Inoperable Motor Vehicles, Etc.

- (a) No person shall accumulate, store, place, permit to be accumulated, stored, placed, or allowed to remain any dismantled, partially dismantled, or inoperable motor vehicle, machinery, or equipment, except agricultural vehicles, machinery or equipment, or any parts thereof, on land located in the Township, except as the same may be permitted under the provisions of the Township Zoning Ordinance unless such dismantled, partially dismantled, or inoperable motor vehicle, machinery, or equipment, or parts thereof, shall be kept in a wholly enclosed garage or other wholly enclosed structure; provided, however, that any bona fide owner, co-owner, tenant, or co-tenant of said land may store or permit to be stored, or allow to remain on such land one such dismantled, partially dismantled, or inoperable motor vehicle, for a period of not to exceed 48 hours if such motor vehicle is registered in his or her name.
- (b) This section shall not be construed to permit the parking or placing of dismantled or partially dismantled motor vehicles, machinery or equipment within any public street right-of-way or within any private street right-of-way within the Township.

Sec. 12.2 Definitions.

The following words, terms and phrases, when used in Part A of this chapter, shall have the meanings stated below in this section:

- (a) *Inoperable vehicle* or *inoperable motor vehicle* means any vehicle or motor vehicle which cannot be started or legally or physically operated on streets or highways by virtue of lacking the equipment required by the laws of the state, or which does not bear valid and current license plates and have a current registration as required for operation by the State of Michigan Motor Vehicle Code.
- (b) *Junked vehicles* or *junked motor vehicles* means vehicles or motor vehicles which have been so damaged or dismantled as to be total losses, or all parts or accessories of vehicles or motor vehicles without which such vehicles or motor vehicles cannot be operated in a safe and legal manner on streets or highways.
- (c) *Dismantled* and *partially dismantled motor vehicles* means motor vehicles from which some component has been removed or is missing.
- (d) *Inoperable machinery and inoperable equipment* means any item or piece of machinery or equipment which by reason of dismantling, disrepair or other cause is incapable of functioning or being operated as it was intended to function or be operated.
- (e) *Dismantled or partially dismantled machinery and equipment* means machinery and equipment from which some part or parts which are ordinarily a component of such machinery or equipment have been removed or are missing.

Sec. 12.3 Nuisance.

The presence of a dismantled or inoperable motor vehicle, machinery or equipment, or any parts thereof, in violation of the terms of this Part A of this chapter is hereby declared to be a public nuisance.

Sec. 12.4 Location of Inoperable or Junked Vehicle.

The ownership, occupation or use of land by any person upon which an inoperable or junked vehicle or motor vehicle are accumulated, stored or placed shall be prima facie evidence that such person accumulated, stored or placed such inoperable vehicle or motor vehicle upon such land, or permitted such inoperable vehicle or motor vehicle to be accumulated, stored or placed upon such land. The ownership, occupation or use of land by any person upon which an inoperable or junked vehicle or inoperable or junked motor vehicle is accumulated, stored or placed shall be prima facie evidence that such person accumulated, stored or placed such inoperable or junked vehicle or inoperable or junked motor vehicle upon such land, or permitted such inoperable or junked vehicle or inoperable or junked motor vehicle to be accumulated, stored or placed upon such land.

PART B – TRASH AND JUNK

Sec. 12.5 Trash and Junk.

- (a) **Terms Defined.** The terms *trash* and *junk* are used synonymously, and each, as used in this chapter, shall include the following: used articles or used pieces of iron, scrap metal, automobile bodies or parts of machinery or junked or discarded machinery; used lumber, which may be used as a harborage for rats; and ashes, garbage, industrial byproducts or waste, empty cans, food containers, bottles, crockery, utensils of any kind, boxes, barrels, and all other articles customarily considered trash or junk and which are not housed in a building.
- (b) **Prohibited Accumulations or Storage.** It shall be unlawful for any person to accumulate, place, store, allow or permit the accumulation, placement or storage of trash or junk on a premises in the Township, except in a lawful sanitary landfill, a lawful junkyard, or not to exceed 30 days' storage in watertight storage receptacles designed for the temporary accumulation of trash. Such receptacles must have tight-fitting, watertight covers.

PART C – JUNK YARDS AND SALVAGE YARDS

Sec. 12.6 Title.

This Ordinance shall be known and may be cited as the Algoma Township Junkyard Licensing Ordinance.

Sec. 12.7 Purpose.

The purpose of this Ordinance is to:

- (a) Promote and protect the health, safety and general welfare of the residents and property owners in the Township.
- (b) Provide for the licensing of junkyards within the Township.

- (c) Require minimum standards applicable to the maintenance, operation and appearance of junkyards for the purpose of protecting property values and the health, safety and welfare of residents of the Township.
- (d) Protect the Township's natural resources.

Sec. 12.8 License Requirement.

- (a) A person shall not maintain or operate a junkyard or salvage yard in the Township without first applying for and obtaining a license therefore, issued by the Township Board.
- (b) The license required by this Part C of this chapter shall be obtained prior to the construction, installation, operation, or modification of any junkyard or salvage yard as defined in this Part C. The licensing, maintenance and operation requirements for junkyards and salvage yards imposed by this Part C shall apply to junkyards and salvage yards existing on the effective date of this Part C of this chapter and all junkyards and salvage yards which are sought to be established thereafter.
- (c) The license maintenance and operation requirements imposed by this Part C of this chapter shall not apply to facilities established by a state, county or township governmental agency or by nonprofit institutional, public service, or philanthropic organizations for the express purpose of serving as a collection point for the recycling of household glass, paper, metal, leaves, grass clippings or other similar recyclable household materials.

Sec. 12.9 Definitions.

The following words, terms and phrases, when used in this Part C of this chapter shall have the meanings stated below:

- (a) *Disabled motor vehicle* means a motor vehicle which is dismantled, in whole or in part, or which is not mechanically operable as a result of a defect, malfunction, or state of disrepair. For the purpose of this Ordinance, the term also includes any vehicle which is not currently licensed, or for which the motor vehicle registration has expired, or which is not capable of being licensed for operation upon the public streets, alleys, or highways under the provisions of the State Motor Vehicle Code; provided, however, that the term does not include any of the following:
 - (1) A motor vehicle which is mechanically operable, but unlicensed because it is owned, leased, or consigned to a duly licensed new or used car dealer, if the motor vehicle is located on premises under the control of the car dealer for the purpose of sale or delivery; or
 - (2) A motor vehicle which is stored on the premises of a duly licensed auto repair shop, provided that the auto repair shop has all licenses or registrations required by the State of Michigan; provided, further, that all vehicles stored on the premises of the auto repair shop must be stored either entirely within a building or a completely enclosed area with fences not less than seven feet in height, and so that any disabled motor vehicle cannot be seen from any public right of way or from any adjacent property.
- (b) *Discarded or damaged vehicle parts* means any component part of a motor vehicle as defined in this Ordinance, including tires and wheels, which by reason of disrepair, damage

or other cause is incapable of functioning or being operated in the manner for which it was designed, manufactured or modified.

- (c) *Discarded or damaged machinery* means any item or piece of machinery or equipment which by reason of dismantling, disrepair or other cause is incapable of functioning or being operated in the manner for which it was designed, manufactured or modified.
- (d) *Dismantled or partially dismantled motor vehicles* means motor vehicles from which some component has been removed or is missing.
- (e) *Dismantled or partially dismantled machinery and equipment* means machinery or equipment from which some part or parts which are ordinarily a component of such machinery or equipment have been removed or are missing.
- (f) *Inoperable machinery and equipment* means any item or piece of machinery or equipment which by reason of dismantling, disrepair, or other cause is incapable of functioning or being operated as it was intended to function or be operated.
- (g) *Inoperable motor vehicles* means motor vehicles which by reason of dismantling, disrepair or other cause are incapable of being propelled under their own power or are unsafe for operation on the streets and highways of the state because they do not comply with the State Motor Vehicle Code.
- (h) *Junk* means discarded or damaged vehicle parts; rubbish; discarded or damaged machinery; wrecked vehicles; inoperable motor vehicles; dismantled or partially dismantled motor vehicles; disabled motor vehicles; discarded or damaged machinery; inoperable machinery and equipment; dismantled or partially dismantled machinery and equipment; scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, iron, steel, other scrap ferrous or nonferrous material; and any other trash, junk, debris, refuse, rubbish, scrap or waste material not specifically mentioned herein but commonly understood to be junk or waste material.
- (i) *Junkyard* means an establishment, property, place of business, or a premises which is maintained, operated, used or occupied, wholly or in part, for any or all of the following activities: the storing, keeping, buying, selling, acquisition, processing, dismantling, recycling, resale, wrecking, sorting, repairing, processing or fabricating junk as defined in this Ordinance.
- (j) *License* means a junkyard license as provided for in this Ordinance.
- (k) *Motor vehicles* mean any wheeled vehicles which are or are intended to be operable as self-propelled vehicles.
- (l) *Person* means any individual, association, organization, corporation, partnership, firm (either incorporated or unincorporated), or business entity of any type including but not limited to limited liability companies.
- (m) *Rubbish* means combustible or noncombustible solid waste, including paper, cardboard, cloth, metal containers, plastic, yard clippings, wood, glass, bedding, crockery, demolished or scrap building materials or litter of any kind.

- (n) *Salvage yard* means the yard or base location of any business in which used or damaged materials of any kind or nature are acquired, stored or collected for salvage and/or for dismantling, wrecking, sorting, storing, processing, fabricating, repairing or reforming for purposes of resale, landfill or other such similar outlets or disposition.
- (o) *Wrecked vehicle* means any or all of the following:
 - (1) Any vehicle which by reason of damage resulting from a vehicle accident, dismantling or disrepair, or other cause, that is incapable of being propelled under its own power.
 - (2) Any vehicle that is unsafe for operation in the manner for which it was designed, manufactured or modified, by reason of damage resulting from a vehicle accident, dismantling, disrepair or other cause.
 - (3) Any vehicle that is incapable of being operated in the manner for which it was designed, manufactured or modified, by reason of inability to comply with any code, regulation or statutes established by the State of Michigan governing the operation of such vehicle.

Sec. 12.10 Application.

- (a) **Required Information.** The application for a license shall be in the form prescribed by the Township Board and signed by the applicant. In addition to other information as may be required by the Township Board, the application shall include all of the following:
 - (1) Name, address, date of birth and social security number of the applicant and each owner, partner, director, officer and manager of the business entity applying for the license or that will be engaged in the operation or maintenance of the junkyard.
 - (2) Name under which business is to be conducted, and if the business is a partnership, limited liability company or corporation, the state of registration or incorporation.
 - (3) Location of each place of business in the Township.
 - (4) A statement of the previous history, record and associations of the applicant and of each owner, partner, director, officer and manager, which statement shall be sufficient to establish to the satisfaction of the Township Board the business reputation and character of the applicant with respect to the operation and maintenance of junkyards or similar facilities.
 - (5) A statement showing whether the applicant or any owner, partner, director, officer or manager has previously applied for a license, the result of the application and whether the license was revoked or suspended.
 - (6) Certification that neither the applicant nor another person named on the application is acting for, in the place of or on behalf of any other person or persons in seeking the license.
 - (7) A site plan of the junkyard at a scale of no less than 1":100' showing the following minimum information:

- (i) The location of the proposed or existing junkyard in the relationship to streets, watercourses and land uses within one-quarter mile of the proposed or existing junkyard.
 - (ii) Exterior dimensions of the parcel or tract of land under consideration.
 - (iii) The location of all existing or proposed buildings and structures in relationship to property lines, including those on and within one-quarter mile of the proposed or existing junkyard.
 - (iv) The location of lakes, ponds, watercourses, wooded areas and other natural features within one-half mile of the proposed or existing junkyard.
 - (v) The area of the parcel or tract of land to be used or intended to be used for the storage of junk.
 - (vi) The location of existing and/or proposed screening materials and landscaped buffers.
 - (vii) The location and dimensions of driveways and parking areas.
- (8) **Environmental Impact Study.** No person shall commence in the operation of a junkyard or salvage yard or enlarge or expand an existing junkyard or salvage yard within the Township without first submitting an environmental impact study prepared by a registered engineer, and obtaining an annual license therefor from the Township Board, or from such officials as the Township Board may designate, which license shall not be issued until evidence has been submitted disclosing to the satisfaction of the Township Board or official that the terms and conditions of this article have been, and/or will be, fully complied with, and that the proposed site for such business is properly zoned for such use as regulated by the Township Zoning Ordinance. An environmental impact study shall be a systematic evaluation of the subject property, and how the proposed junkyard or salvage yard will impact the environment. Included in the study shall be:
- (i) Any actual or potential adverse environmental impact as a result of the use including, but not limited to, impacts concerning groundwater and surface water, and impacts on the quality of air.
 - (ii) Possible design alternatives to limit any such actual or potential impacts to the environment.
 - (iii) Drawings and a site plan showing the junkyard or salvage yard meets all the requirements of this article.
- (b) **Application/License Fee.** Completed applications shall be submitted to the Township Clerk, accompanied by a license fee in such amount as determined by resolution of the Township Board, and such applications shall then be considered by the Township Board.
- (c) **Escrow.** In addition to the license fee required by subsection (b), an application for a junkyard license shall be accompanied by an escrow, established by resolution of the Township Board from time to time, for the purpose of defraying the Township's costs incurred in reviewing an application for a license under this Ordinance. Any unused portion

of the escrow shall be refunded to the applicant after Township Board review of the application is complete.

- (d) **Application for Renewal of License.** An application for the renewal of an existing license shall be submitted to the Township Clerk no less than 60 days prior to the expiration date of the license. A renewal application shall include the same information as prescribed by this section for an application seeking a new license; shall include the annual license fee as determined by resolution of the Township Board; and shall include an escrow payment established pursuant to subsection (c); provided, however, that the Township Supervisor or an ordinance enforcement officer may waive the escrow requirement if after an initial inspection it is determined that no additional inspections are warranted.

Sec. 12.11 Separate Licenses.

A person shall make a separate application for a license for each location in the Township where the person has a junkyard or proposes to maintain or operate a junkyard.

Sec. 12.12 Expiration and Revocation of Licenses.

- (a) Each license granted hereunder shall expire three years from the date of issuance.
- (b) Any license issued to an applicant may be revoked by the Township Board at a public hearing prior to the end of the three-year period for which the license is issued, provided that the following requirements were met:
 - (1) Written notice of violation of this article is served personally or sent by regular mail to the applicant (licensee) at the address given in the application.
 - (2) The violation of the terms and condition of this article continues for not less than seven days after personal service or mailing of such notice of violation.
 - (3) Notice of the public hearing at which such revocation of the license shall be considered shall be either served personally on the applicant (licensee) or mailed to the applicant (licensee) at the address given on the application at least ten days prior to the hearing.

Sec. 12.13 Township Board Review

- (a) **Procedure.** Upon receipt of any complete application for a new junkyard license or an application for the renewal of an existing junkyard license, the Township Board shall review the application at a public meeting, to be convened only after the Township Planning Commission, or other Township agency having jurisdiction, has approved any required special land use or given any other required zoning approval for the junkyard. Notice of the meeting at which the application shall be considered by the Board shall be given to the applicant by mail or in person at least five days prior to the meeting. The Board may, but shall not be required to, hold a public hearing on any such application. If a public hearing is held, the Township's Board shall publish notice of the hearing once in a newspaper of general circulation in the Township, at least seven days prior to the date of the hearing.
- (b) **Standards.** In determining whether to grant the application, the Township Board may consider the following general criteria, in addition to the operational criteria set forth in this Ordinance:

- (1) Whether the application, site plan, property and facilities comply with the operational requirements set forth in this Part C.
- (2) Whether the location, use and nature of the operation will be in conflict with the prevailing land uses in the area or in a zoning district permitting such use.
- (3) Whether the operation will result in serious adverse effects upon adjacent or nearby property by reason of traffic, noise, vibration, dust, fumes, smoke, odor, fire hazard, appearance or any other serious adverse effects.
- (4) Whether the operation will discourage or hinder the appropriate development and use of adjacent or nearby properties.
- (5) Whether the operation will create a traffic problem or hazard.
- (6) The proposed licensee's history of compliance or noncompliance with laws, ordinances and regulations governing the proposed use or similar uses.
- (7) Whether the application, site plan, property and facilities comply with all applicable Township ordinances, including but not limited to the Township Zoning Ordinance.
- (8) Any other factors relevant to the health, safety and welfare of the Township and adjoining and nearby property owners.

Sec. 12.14 Issuance of License.

- (a) Upon determination of the Township Board to grant a license, and receipt of the necessary license fee, and upon verification that the Township Planning Commission or other Township body having jurisdiction has given all required zoning approval for the junkyard, the Township Clerk shall issue a junkyard license to the applicant. All such licenses shall be recorded by the Township Clerk.
- (b) When approving a license, the Township Board may impose any such terms and conditions in the license which the Board determines are necessary to assure compliance with a specific or general standard set forth in this Ordinance, to assure that the purpose and intent of this Ordinance is observed, to otherwise protect the health, safety and welfare of Township residents, or to protect natural resources.

Sec. 12.15 Operational Restrictions and Requirements.

All proposed and existing junkyards shall be continuously maintained and operated in compliance with the following standards:

- (a) No license shall be approved or maintained unless the applicant has at least four acres of land available for operation of the junkyard.
- (b) All junkyards shall be enclosed on all sides by a solid masonry wall, wooden fence or metal fence, at least eight feet in height, being of such design so as to completely obstruct one's view, constructed according to the Zoning Ordinance and any applicable building regulations. The supporting uprights of all fences shall be placed on the inside. Any such fencing or screening shall be free of handbills or other advertising and shall be maintained in a clean and attractive manner and in a state of good repair.

- (c) No junkyard shall be operated in a manner which creates or constitutes a nuisance in the neighborhood in which it is located or to the general public by reason of noise, vibration, odors, fumes, dust, filth, loose debris, ground water or air pollution, or view.
- (d) The storage and/or processing of junk outside the screened area is prohibited.
- (e) The burning of junk, whether inside or outside of the screened area, is prohibited.
- (f) No materials collected, stored or otherwise kept therein shall be permitted to lean on or touch any such wall or fence, nor to be in front of or attached to or suspended on any such wall or fence or on the building thereof; nor permitted, along any highway or street, to be piled within two feet from the base of the wall or fence nor higher than the wall or fence, and in no case to be piled in a manner likely to endanger persons; provided, however, that this section shall not prohibit the erection or maintenance of bins or shelving not to exceed the height of the fence or wall; provided that they shall in no way be attached to or affixed to such fence or wall; and provided further, that at least five feet clearance is maintained in front of such bin or shelving.
- (g) All junkyards or salvage yards shall be maintained in an orderly and safe manner with the material therein properly stockpiled in orderly rows or located within enclosed storage buildings.
- (h) Unsalable or unusable material shall not be deposited upon the premises except where such material is so commingled with salable or usable material that it cannot easily or conveniently be previously separated off the premises.
- (i) The material located in or on the premises shall be so arranged that reasonable inspection or access to all parts of the premises can be made by Township officials and law enforcement officers.
- (j) The dumping and/or long-term storage of waste oil, vehicle lubricants, coolants, flammable liquids and fuel is prohibited.
- (k) The short term storage of waste oil, vehicle lubricants, coolants, flammable liquids and fuel shall comply with all local, state and federal regulations and shall be conducted at all times in a safe manner.
- (l) Any flammable solid material such as, but not limited to, paper, rubber, plastic, wood and similar materials shall be stored separately from each other in neat piles, bins, racks or containers to reduce fire hazards. Locations and content of each such material to be readily available for inspection by fire officials or township officers.
- (m) Off-street parking, paved with concrete or bituminous concrete, shall be supplied for all customers and employees that use the premises.
- (n) Each junkyard or salvage yard shall be equipped with a permanent office building for the transaction of business with customers and suppliers constructed in accordance with the applicable building codes of the township.
- (o) No junkyard shall be located on the same lot or premises as a dwelling.

- (p) Tires which are not secured to a vehicle shall be considered “scrap tires.” The storage of all scrap tires in any junkyard shall be conducted and comply at all times with Public Act 1994, No. 451, of the Michigan Compiled Laws, being MCL 324.16901. All scrap tires shall be stored in a designated tire storage area, and the total number of scrap tires stored outside of a fully enclosed building at any one time shall not exceed 100 scrap tires, and the total number of scrap tires, both inside and outside of a fully enclosed building, shall at no time exceed 500 scrap tires.

Sec. 12.16 Inspection.

- (a) The Township Supervisor and his or her designee shall be permitted to inspect a premises under consideration for licensing or license renewal for compliance with the provisions of this Ordinance. After any such inspection, the Township Supervisor and his or her designee shall prepare a written report describing the extent of compliance or noncompliance of a premises with the provisions of this section. Copies of the report shall be forwarded to the Township Board for consideration. Any premises not complying with the provisions of this section shall not be licensed until such compliance is accomplished to the satisfaction of the Township Board, consistent with the terms of this Ordinance.
- (b) At all other times, a licensee shall permit the Township Supervisor and/or his or her designee to inspect a licensed premises to determine compliance with the provisions of this Ordinance, upon reasonable prior notice.

Sec. 12.17 Licensee Accounting and Reporting.

- (a) **Account Books.** Every licensee shall at all times keep a book which shall be legibly written in ink and which shall include all of the following information: the time of purchase or receiving of any goods or articles or other items, and an accurate account or description of the goods, articles or other things purchased or received; the date and time of purchase or receipt; the name and address of the person selling or leaving such items; and a reasonable identification of said person.
- (b) **Inspection of Account Book.** The account book required under this Ordinance shall at all reasonable times be open to the inspection of the Township Supervisor or designated Township official or any law enforcement officer.
- (c) **Receipt of Lost or Stolen Goods.** In the event that any licensee shall learn that any goods, articles, or things purchased or left with said licensee have been lost or stolen, it shall be the duty of said licensee to notify the appropriate law enforcement officers, giving all necessary information or facts connected with their receipt and other pertinent information relative to said goods.
- (d) **Receipt of Goods.** No licensee shall purchase or receive by sale, barter or exchange, or otherwise any article from any person between the hours of 9:00 p.m. and 6:00 a.m. nor from any person who is intoxicated or from any person who is under the age of 18 years of age.
- (e) **Reporting.** A licensee shall, at least once each month or as otherwise may be provided by state law, prepare and send to the appropriate state agency a sworn statement listing all of the licensee’s purchases of junk and/or refuse material as required by law, and the licensee shall otherwise comply with all state law reporting requirements.

Sec. 12.18 License Suspension or Revocation.

- (a) **Grounds for Suspension or Revocation.** The Township Board may in its discretion, suspend or revoke a license issued under this chapter, or refuse to issue a license, if the Township Board finds that one or more of the following apply:
- (1) The applicant or licensee has made a false statement of a material fact in its license application.
 - (2) The applicant or licensee has not complied with this Ordinance or any term or condition of a prior or existing license.
 - (3) The applicant or licensee has not complied with the Township Zoning Ordinance or other applicable ordinance, regulation or law.
 - (4) The applicant or licensee has not complied with the Control of Junkyards Adjacent to Highways Act, Public Act 219 of 1966, as amended, MCL 252.201, *et seq.*
 - (5) The applicant or licensee has not complied with Chapter II of the Michigan Vehicle Code, Public Act 300 of 1949, as amended, MCL 257.1, *et seq.*
 - (6) The applicant or licensee has not complied with the Regulation of Used Motor Vehicle Parts Dealers Act, Public Act 119 of 1986, as amended, MCL 257.1351, *et seq.*
 - (7) The applicant or licensee has had another license for a junkyard denied, suspended or revoked.
 - (8) The applicant or licensee has maintained, operated or used the junkyard in such a manner that noise, vibration, smoke, fumes, odors, fire hazard, litter or debris or other obnoxious effect has damaged, injured or endangered the public health, safety or general welfare of the Township, interfered with or rendered dangerous any street or highway, or otherwise created a public nuisance.
- (b) **Notice/Hearing.** Before taking final action to suspend, revoke or limit a license already issued, the Township Board shall provide written notice to the licensee of the proposed suspension, revocation or limitation. The notice shall inform the licensee that the Township Board will conduct a hearing at a specified meeting to consider the suspension, revocation or limitation of the license, and that the licensee will be given a reasonable opportunity to be heard at the hearing. The Township Board's decision to suspend, revoke or limit a license shall be final and subject to right of appeal to the circuit court for the County of Kent, within the time prescribed by law.

Sec. 12.19 Removal and Storage of Liquids.

- (a) All vehicles, containers or salvage items that are brought into a junkyard or salvage yard shall have all liquids including, but not limited to, antifreeze, water, gas, oil and grease, removed from the items; which removal shall be done within a completely enclosed building.
- (b) The building shall have a concrete, reinforced floor at least four inches thick and shall have concrete dikes or other similar type structures that will not allow any such liquids removed from vehicles or items stored to escape the building. The concrete floor dikes and other

similar type structures shall be maintained and constructed so that any such liquids cannot escape the building into the soil beneath or adjacent to such building, and shall include water stops at joints, floors and dikes. Any water or any other liquids that go on to the floor shall be removed and disposed of in accordance with all state and federal statutes and regulations.

- (c) All such liquids, when on the premises, shall be stored in leak-proof tanks which must be constructed and maintained such that the liquids cannot escape such tanks. All such tanks shall comply in all respects with state law requirements with respect to the storage of liquids, including but not limited to antifreeze, water, gas, oil, grease and other liquids.
- (d) Tanks for the storage of any such liquids shall be located at least ten feet from any wall or foundation and at least 50 feet from any property line, or in compliance with such other placement or isolation requirements specified under state law. Tanks shall not be located under any building.

Sec. 12.20 Penalties.

Without limiting the other rights, remedies and penalties which may exist pursuant to Chapter 12 of this Ordinance, elsewhere in this Ordinance or otherwise in Michigan law or any other applicable law, code or regulation, the following penalties shall apply in the event of any violation of the provisions of this Chapter 12 by the owner, operator, person or entity which uses any property within the Township:

- (a) A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) for the first offense and not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000) for a subsequent offense, in the discretion of the Court, and in addition to all other costs, damages, expenses and actual attorney fees incurred by the Township in enforcing the ordinance. Without limiting the foregoing, a violation of this Ordinance may subject the violator to additional sanctions, remedies, injunctions or judicial orders. For purposes of this section, a “subsequent offense” means a violation of this ordinance committed with respect to a separate incident by the same person within twelve (12) months after a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day a violation occurs shall constitute a separate offense. The civil fines, costs, assessments, damages and/or expenses imposed against a person found responsible for violating this Ordinance shall be paid to the Township, its designated enforcing authority, or such other party as the court may direct. If the civil fines, costs, assessments, damages and/or expenses are not paid within 30 days, the Township, or its designated enforcing authority, may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, assessments, damages and/or expenses with the Kent County Register of Deeds. The lien may be enforced and discharged in the manner prescribed by the General Property Tax Act.
- (b) A violation of this Chapter 12 of this Ordinance is hereby declared to be a nuisance per se. The issuance of a municipal civil infraction citation and the imposition of the foregoing municipal civil infraction penalties against the violator shall not prohibit the Township, or its designated enforcing authority, from also seeking injunctive relief in a circuit court or other appropriate forum against the violator, in order to abate the violation or to seek such other relief as provided by law. Any costs and/or expenses incurred by the Township in enforcement of this Ordinance, including, without limitation, attorney fees, or otherwise imposed against a person found responsible for violating this Ordinance shall be paid to the

Township, its designated enforcing authority, or such other party as the court may direct. If such costs and/or expenses are not paid within 30 days, the Township, or its designated enforcing authority, may, to the extent permitted by law, obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, assessments, damages and/or expenses with the Kent County Register of Deeds. The lien may be enforced and discharged in the manner prescribed by the General Property Tax Act.

CHAPTER 13

NOISE REGULATIONS

Sec. 13.1 General Noise Regulation.

No person, firm or corporation or other legal entity shall cause, create, assist in creating, continue or permit the continuance of any unreasonable or unnecessary loud noise or disturbance which endangers the comfort, health, peace, quiet or safety of persons in the Township or their property.

Sec. 13.2 Specific Violations of Noise Regulation.

The following noises and disturbances are hereby declared to be a violation of this Ordinance; provided, however, that the specification of the same is not thereby to be constructed to exclude other violations of this Ordinance not specifically enumerated:

- (a) **Radio, Television, Musical Instruments.** The playing of a radio, phonograph, television, or other electronic or mechanical sound producing device, including any musical instrument in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons. The operation of such instrument or sound producing devices in such a manner as to be plainly audible on a property or in a dwelling unit other than that from which the sound originates shall be prima facie evidence of a violation of this section. The operation of such a device from a vehicle shall be prima facie evidence of a violation of this section if the sound produced is clearly audible at a distance of 50 or more feet from the vehicle.
- (b) **Shouting or Whistling.** Yelling, shouting, hooting, whistling, singing or the making of other loud noises on the public streets between the hours of 9:00 p.m. and 8:00 a.m. or the making of such noises at any time or place so as to unreasonably upset or disturb the quiet, comfort or repose of any persons in the vicinity.
- (c) **Church and Hospital Zones.** The emission or creation of any excessive noise which unreasonably interferes with the operation of any school, church, hospital or court.
- (d) **Animals, Birds.** The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably upset or disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
- (e) **Loud Motor Vehicles.** The operation of an automobile, truck, motorcycle, all-terrain vehicle, go-cart or other vehicle shall not cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise (including the noise resulting from exhaust), which is clearly audible from nearby properties and which unreasonably upsets or disturbs the quiet, comfort or repose of other persons. The modification or elimination of any noise abatement device on any motor vehicle or engine or the failure to maintain such a device so that the noise emitted by such vehicle or engine is increased above that emitted by the vehicle as originally manufactured shall violate this section.
- (f) **Horn and Signal Devices.** The sounding of any horn or other device on any vehicle unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.

- (g) **Engine Exhaust.** The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises.
- (h) **Construction Noises.** The erection, excavation, demolition, alteration or repair of any building or premises in any part of the Township, and including the streets and highways, in such a manner as to emanate noise unreasonably annoying or disturbing to other persons, other than between the hours of 7:00 a.m. and 9:00 p.m. on any day, except in cases of urgent necessity in the interest of public health and safety.
- (i) **Loading Areas.** The creation of a loud or excessive noise unreasonably annoying or disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.
- (j) **Devices to Attract Attention.** The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose which, by the creation of such noise, shall be unreasonably annoying or disturbing to other persons in the vicinity. Also, the operation of a loudspeaker or other sound amplifying device upon any vehicle on the streets of the Township with the purpose of advertising, where such vehicle, speaker or sound amplifying device emits loud and raucous noises easily heard from nearby adjoining residential property.
- (k) **Courses, Tracks and Racing Areas.** The operation of any course, track, racing area, proving ground, testing area or obstacle course or other area for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind or nature in any area of the Township where the noise emanating therefrom would be so loud as to be unreasonably annoying or disturbing to other persons in the vicinity. Such noise, if plainly audible to persons on a property or in a dwelling unit other than that from which the sound originates shall be prima facie evidence of a violation of this section. Under no circumstances shall any such course, track, racing area, proving ground, testing area or obstacle course or other area operate between the hours of 8:00 p.m. and 8:00 a.m.
- (l) **Trash Collection Vehicles.** No vehicles for the collection of garbage, trash, refuse, debris or other waste materials, or other equipment operated for such purpose, shall be operated on public or private streets earlier than 6:00 a.m. on any day, nor shall the pick-up or collection of garbage, trash, refuse, debris or other waste materials by means of such vehicles or otherwise take place earlier than 6:00 a.m. on any day.

Sec. 13.3 Exceptions to Noise Regulations.

The prohibitions of Sections 12.1 and 12.2 shall not apply to the following:

- (a) Any police vehicles, ambulances, fire engine or emergency vehicle while engaged in necessary emergency activities.
- (b) Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, the Township, the County of Kent, or any public utility, or any agency of the foregoing when the public welfare, safety and convenience necessitates the performance of the work at such time.

- (c) Warning devices emitting sound for warning purposes as authorized by law.
- (d) Noise created by farm operations that are permitted by the Right to Farm Act, being Public Act No. 93 of 1981, as amended.
- (e) Township sponsored or approved parades, festivals, fairs or events.
- (f) Noises usually created by industrial, manufacturing, assembly, electrical power plants and similar uses when located in permitted use areas under the terms of the Township Zoning Ordinance.
- (g) Noise resulting from the operation of snow removal equipment, either public or private.
- (h) Any vehicle of the Township while engaged upon necessary or appropriate public business.
- (i) Lawn mowing and gardening equipment with sound mufflers.
- (j) Any aircraft operated in conformity with or pursuant to federal law, federal air regulations and air traffic control instruction used pursuant to and within the duly adopted federal air regulations.
- (k) Legal fireworks display when permitted by the Township, if a permit is required by law or Township ordinance.
- (l) All railroad operations.
- (m) Noise emanating from the discharge of firearms if such discharge is authorized under Michigan law and, if regulated by the Township, then under Township ordinance.

CHAPTER 14

OUTDOOR GATHERINGS

Sec. 14.1 Purpose.

The purposes of this article are to protect the interests of the public health, safety and welfare of the citizens of the Township by the regulation, licensing and control of assemblages of large numbers of people in excess of those normally using the health, sanitation, fire, police, transportation, utility and other public services regularly provided in the Township.

Sec. 14.2 Definitions.

The following words, terms and phrases when used in this chapter, shall have the meanings stated below this section:

- (a) *Attendant* means any person who obtains admission to an outdoor assembly by the payment of money for admission.
- (b) *Licensee* means any person to whom a license is issued pursuant to this article.
- (c) *Outdoor assembly (assembly)* means any event, attended by more than 150 attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition including, but not limited to, races, musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:
 - (1) An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property.
 - (2) An event held entirely within the confines of a permanently enclosed and covered structure.
- (d) *Sponsor* means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.

Sec. 14.3 Violations of Chapter.

It shall be unlawful for any person, his employee or agent to knowingly:

- (a) Advertise, promote or sell tickets to conduct or operate an assembly without first obtaining a license as provided in Section 17.4 of this chapter.
- (b) Conduct or operate an assembly in such a manner as to create a public or private nuisance.
- (c) Conduct or permit, within the assembly, any obscene display exhibition, show, play, entertainment or amusement.
- (d) Permit any person on the premises to cause or create a disturbance in, around or near the assembly by obscene or disorderly conduct.
- (e) Permit any person to unlawfully consume, sell or possess intoxicating liquor while on the premises.

- (f) Permit any person to unlawfully use, sell or possess any narcotics, narcotic drugs or other substances as defined in Article 7 of the Public Health Code.
- (g) It is further provided that any of the violations described in this section is a sufficient basis for revocation of the license and for the immediate enjoining in the circuit court of the assembly.

Sec. 14.4 License Required.

- (a) A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in the Township unless he shall have first made application for, and obtained, as prescribed in this chapter, a license for each such assembly.
- (b) A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this article. It shall be posted in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.

Sec. 14.5 Application.

- (a) Application for a license to conduct an outdoor assembly shall be made in writing on such forms, and in such manner as prescribed by the Township Clerk, and shall be made at least 60 days prior to the date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee set from time to time by resolution of the Township Board, and, further, the applicant shall deposit into an escrow account that amount required by resolution of the Township Board for reimbursement to the Township of all of its expenses in the consideration of the application, together with the deposit of such other sums as may be required for subsequent or continuing Township expenses in the matter, all in accordance with such requirements and procedures as may be specified by Township Board resolution.

The application shall also include at least the following:

- (1) The name, age, residence and mailing address of the person making an application. In case the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and addresses shall be provided of all shareholders having financial interest greater than \$500.
- (2) A statement of the kind, character and type of proposed assembly.
- (3) The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to the use of the site for the proposed assembly.
- (4) The dates and hours during which the proposed assembly is to be conducted.
- (5) An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission

which will be used and of the sequential numbering or other method which will be used for accounting purposes.

- (6) The prospective licensee shall submit samples of prepared or planned advertising copy which he plans to distribute. Any such copy indicating that the assembly is national or multistate in interest shall be prima facie evidence that such assembly will be attended by more than 150 attendants.
- (b) Each application shall be accompanied by a detailed explanation, including drawings and diagrams, where applicable, of the prospective licensee's plans to provide for the following:
- (1) Police and fire protection.
 - (2) Food and water supply and facilities.
 - (3) Health and sanitation facilities.
 - (4) Medical facilities and services including emergency vehicles and equipment.
 - (5) Vehicle access and parking facilities.
 - (6) Camping and trailer facilities.
 - (7) Illumination facilities.
 - (8) Communications facilities.
 - (9) Noise control and abatement.
 - (10) Facilities for cleanup and waste disposal.
 - (11) Insurance and bonding arrangements.
 - (12) Fencing.
 - (13) A map of the overall site of the proposed assembly.
- (c) Upon receipt by the clerk, copies of the application shall be forwarded to the chief law enforcement and health officers for the Township, sheriff, the state fire marshal, and to such appropriate public officials as the clerk deems necessary. Such officers and officials shall review and investigate matters relevant to the application and within 20 days of the receipt of the application shall report their findings and recommendations to the Township Board.
- (d) The Township Board shall consider and either issue, issue with conditions or deny, a license. The Board may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within five days of such action, notice must be mailed to the applicant by certified mail, and in the case of denial, the reasons therefor shall be stated in the notice.
- (e) A license may be denied if:

- (1) The applicant fails to comply with any or all requirements of this article, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or
- (2) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

Sec. 14.6 Minimum Requirements.

In processing an application the Township Board shall, at a minimum, require the following:

- (a) **Security Personnel.** The licensee shall employ at his own expense such security personnel as are necessary and sufficient, to provide for the adequate security and protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the chief law enforcement officer of the Township or sheriff, in cooperation with the director of state police, is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly.
- (b) **Water Facilities.** The licensee shall provide potable water, sufficient in quantity and pressure to ensure proper operation of all water using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located and approved in accordance with Part 127 of the Public Health Code, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, or from a source and delivered and stored in a manner approved by the county health officer.
- (c) **Restroom Facilities.** The licensee shall provide separate enclosed flushing-type water closets as defined and provided by state or local law, and rules and regulations adopted pursuant thereto. If such flushing-type facilities are not available, the county health officer may permit the use of other facilities which are in compliance with Section 12771 of the Public Health Code, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. The licensee shall provide lavatory and drinking water facilities constructed, installed and maintained in accordance with state and local law and all the rules and regulations adopted pursuant thereto. All lavatories shall be provided with hot and cold water, soap and paper towels. The number and type of facilities required shall be determined on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Toilets	1:300	1:200
Urinals	1:100	
Lavatories	1:200	1:200
Drinking fountains	1:500	1:500
Taps or faucets	1:500	1:500

Where the assembly is to continue for more than 12 hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Shower heads	1:100	1:100

All facilities shall be installed, connected and maintained free from obstructions, leaks and defects and shall at all times be in operable condition as determined by the county health officer.

- (d) **Food Service.** If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Part 129 of the Public Health Code, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed the attendants.
- (e) **Medical Facilities.** If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be as prescribed by the county health officer.
- (f) **Liquid Waste Disposal.** The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the county health officer. If such rules and regulations are not available or if they are inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled "Manual of Septic Tank Practice." If liquid waste retention and disposal is dependent upon pumper and hauling, they shall be licensed in accordance with any other applicable state or local law, and, prior to issuance of any license, the licensee shall provide the county health officer, with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will ensure proper, effective and frequent removal of liquid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.
- (g) **Solid Waste Disposal.** The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered, flytight and rodentproof containers. Storage shall be in sufficient quality to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the county health officer with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will ensure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health. The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides shall not be used in any way so as to contaminate food or equipment or to otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.
- (h) **Public Bathing Beaches.** The licensee shall provide or make available or accessible public bathing beaches only in accordance with the Public Health Code, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.
- (i) **Public Swimming Pools.** The licensee shall provide or make available public swimming pools only in accordance with the Public Health Code, and rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

- (j) **Access and Traffic Control.** The licensee shall provide for ingress to and from the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the state. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the director of the department of state police and the director of the department of state highways must approve the licensee's plan for access and traffic control.
- (k) **Parking.** The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one automobile space for every four attendants.
- (l) **Camping and Trailer Parking.** A licensee who permits attendants to remain on the premises between the hours of 2:00 a.m. and 6:00 a.m. shall provide camping and trailer parking and facilities in accordance with the Public Health Code, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision by state or local law.
- (m) **Illumination.** The licensee shall provide electrical illumination of all occupied areas sufficient to ensure the safety and comfort of all attendants. The application shall include an outdoor lighting plan that demonstrates compliance with the applicable outdoor lighting requirements of the Township Zoning Ordinance. The lighting plan shall be subject to approval by the Township Board.
- (n) **Insurance.** Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$100,000/300,000 and property damage insurance with a limit of not less than \$100,000 from companies approved by the state commissioner of insurance. Such insurance shall ensure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto, and which insurance shall remain in full force and effect that the insurance company shall notify the clerk of the Township, in writing, at least ten days before the expiration or cancellation of such insurance.
- (o) **Bonding.** Before the issuance of a license, the licensee shall obtain from a corporate bonding company authorized to do business in the state a corporate surety bond in the amount of at least \$100,000, to be approved by the Township attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this article and all applicable provisions of state or local law, and which shall indemnify the Township, its agents, officers and employees and the Board against any and all loss, injury or damage whatever arising out of, or in any way connected with, the assembly, and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash or other waste resultant from the assembly.
- (p) **Fire Protection.** The licensee shall, at his own expense take adequate steps as determined by the Township fire chief to ensure fire protection.
- (q) **Audio-Visual Equipment.** Sound-producing and visual equipment including, but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, and light-producing devices shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the Township.

- (r) **Fencing.** The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.
- (s) **Communications.** The licensee shall provide public telephone equipment for general use on the basis of at least one unit for each 200 attendants.

Sec. 14.7 Revocation.

The Township Board may revoke a license whenever the licensee, his employee or agent refuses to fully comply, fails, neglects or refuses to fully comply with any and all provisions and requirements set forth in this article, or with any and all provisions, regulations, ordinances, statutes or other laws incorporated in this article by reference.

CHAPTER 15

ANIMAL CONTROL

Sec. 15.1 Purpose.

It is deemed by the Township that the ownership of an animal is a privilege which carries with it responsibilities to the Township and residents with regard to the care and custody of such animal. It is the intent of this article to protect the health, safety and general welfare of the people within the Township from problems caused by unrestrained or annoying animals.

Sec. 15.2 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings stated below in this section:

- (a) *Animal* means a domestic animal kept as a pet or which could be kept as a pet, including but not limited to a dog, cat, bird, reptile, fish or any other domestic animal. Animal also means a non-domestic animal if kept as a pet. Animal does not include farm livestock or other animals kept for the purpose of productive agriculture.
- (b) *Animal control officer* means the agent of the county department of animal control or any other officers designated for such duties by the Township.
- (c) *Animal shelter* means either the county animal shelter, or the county humane society.
- (d) *Department* means the county department of animal control.
- (e) *Director* means the director of the county department of animal control.
- (f) *Impounded* means any animal which, pursuant to this article or any statute, has been received into the custody of any animal shelter.
- (g) *Owner* (when applied to the proprietorship of an animal) means every person having a right of property in the animal, or every person who keeps or harbors the animal or has it in his care, or every person who permits the animal to remain on or about any premises occupied by him. For the purposes of this article, any person keeping or harboring any animal for seven consecutive days shall be deemed the owner.

Sec. 15.3 Relationship of Chapter to County Regulations.

This chapter is intended to supplement the county's animal control regulations. It is not the intent of this chapter to impair the enforcement of the county's animal control regulations within the Township.

Sec. 15.4 Vicious Animals.

The Township Supervisor is authorized to commence proceedings under Public Act No. 426 of 1988 to have an animal declared to be a dangerous animal, in order to be destroyed or otherwise confined.

Sec. 15.5 Hunting Dogs.

The provisions of this chapter shall not apply to the ordinary and customary use of fully licensed hunting dogs in the course of lawful hunting and shooting or the training of dogs for hunting purposes.

Sec. 15.6 Dog License.

All dogs over the age of four months within the Township shall at all times be currently licensed in accordance with the requirements of state law and of the county animal control ordinance. A license tag issued by the county shall be securely affixed to a collar, harness or other device which shall be worn by the dog at all times unless the dog is within the confines of the residence of the owner or of a dog run or other secure enclosure on the owner's premises.

Sec. 15.7 Licensing of Kennels.

All kennels must be licensed by the county and may only be established in locations where permitted by the Township Zoning Ordinance. In accordance with the county animal control regulations, no county license shall be valid where such kennel is declared a nuisance by the Township Board.

Sec. 15.8 Barking Dogs.

No person owning or having charge, care, custody or control of a dog shall permit such dog at any time, by loud or frequent or habitual barking, yelping or howling, to cause annoyance to people in the neighborhood or to persons utilizing the public walks or streets of the neighborhood.

CHAPTER 16
LIQUOR CONTROL

Sec. 16.1 Purpose.

The purpose of this chapter is to establish procedures and standards for the review of applications, renewals and revocations of licenses to sell beer and wine or spirits within the Township.

Sec. 16.2 Application for New License.

- (a) Applications for license to sell beer and wine or spirits shall be made to the Township Board in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:
- (1) The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the name and address of such person.
 - (2) The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.
 - (3) The character of business of the applicant, and in the case of a corporation, the object for which it was formed.
 - (4) The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued.
 - (5) The location and description of the premises or place of business which is to be operated under such license.
 - (6) A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.
 - (7) A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Ordinance or the laws of the State of Michigan.
 - (8) A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the Township in the conduct of its business.
 - (9) The application shall be accompanied by the approved site plan for the structure and premises where the license is to be utilized, together with evidence of the approval of the site plan by the Township Planning Commission. No license shall be issued unless the Planning Commission has granted site plan approval of the entire structure and premises within which the license will be utilized.

- (b) No such license shall be issued to:
- (1) A person whose license, under Section 16.3(b), has been revoked for cause.
 - (2) A person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
 - (3) A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
 - (4) A corporation, if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than 5 percent of the stock of such corporation would not be eligible to receive a license hereunder for any reason.
 - (5) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
 - (6) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor.
 - (7) A person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is issued.
 - (8) For premises where there exists a violation of the applicable Building, Electrical, Mechanical, Plumbing or Fire Codes, applicable Zoning Regulations, or applicable Public Health Regulations.
 - (9) For premises where it is determined by a majority of the Board that the premises do not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control.
 - (10) Where the Board determines, by majority vote, that the proposed location is inappropriate considering the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; the attitude of adjacent residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of the inconsistent zoning classification; and accessibility from primary roads or state highways.
- (c) Approval of a license shall be for that period during which the State Liquor Control Commission license is in full force and effect, but the license shall be of no force or effect after the expiration of such state license or upon and after its revocation. If the state license is revoked, the Township license shall also be deemed revoked.
- (d) The Township Board shall grant a public hearing upon the license application. Following such hearing the Board shall submit to the applicant a written statement of its findings and determination. The Board's determination shall be based upon satisfactory compliance with the restrictions set forth in Section 16.2(b).

Sec. 16.3 Objections to Renewal and Request for Revocation.

- (a) Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the Township Board shall serve the license holder, by first class mail, mailed not less than ten days prior to hearing with notice of a hearing, which notice shall contain the following:
 - (1) Notice of proposed action.
 - (2) Reasons for the proposed action.
 - (3) Date, time and place of hearing.
 - (4) A statement that the licensee may present evidence and testimony and confront adverse witnesses.

Following hearing, the Township Board shall submit to the license holder and the Commission a written statement of its findings and determination.

- (b) The Township Board shall recommend nonrenewal or revocation of a license upon a determination by it that based upon a preponderance of the evidence presented at hearing either of the following exists:
 - (1) Violation of any of the restrictions on licenses set forth in Section 16.2(b);
 - (2) Maintenance of a nuisance upon the premises.

CHAPTER 17

STORM WATER MANAGEMENT

PART A – GENERAL

Sec. 17.1 Statutory Authority and Title.

This chapter is adopted in accordance with the Township Ordinance Act, as amended, being MCL 41.181, *et seq.*; the Township and Village Public Improvement Act, as amended, being MCL 41.721, *et seq.*; the Drain Code of 1956, as amended, being MCL 280.1, *et seq.*; the Land Division Act, as amended, being MCL 560.1, *et seq.*; the Revenue Bond Act, as amended, being MCL 141.101, *et seq.*; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, *et seq.*; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123 and 124; and other applicable state and federal laws.

This chapter shall be known and may be cited as the Township of Algoma Storm Water Ordinance.

Sec. 17.2 Findings.

The Township finds that:

- (a) Water bodies, roadways, structures, and other property within, and downstream of the Township are at times subjected to flooding;
- (b) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the Township and the region;
- (c) Land development alters the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;
- (d) Storm water runoff produced by land development contributes to increased quantities of water-borne pollutants;
- (e) Increases of storm water runoff, soil erosion, and non-point source pollution have occurred as a result of land development, and cause deterioration of the water resources of the Township and downstream municipalities;
- (f) Storm water runoff, soil erosion, and non-point source pollution, due to land development within the Township, have resulted in a deterioration of the water resources of the Township and downstream municipalities;
- (g) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future development projects within the Township will, absent reasonable regulation and control, adversely affect the Township's water bodies and water resources, and those of downstream municipalities;
- (h) Storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from development;

- (i) Adopting the standards, criteria and procedures contained in this Ordinance and implementing the same will address many of the deleterious effects of storm water runoff;
- (j) Adopting the standards and requirements stated in this Ordinance, and assuring their implementation, is necessary for the protection of water bodies and other affected natural resources.
- (k) Adopting these standards is necessary for the preservation of the public health, safety and welfare.

Sec. 17.3 Purpose.

It is the purpose of this Ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (a) To reduce artificially induced flood damage.
- (b) To minimize increased storm water runoff rates and volumes from land development.
- (c) To prevent the deterioration of existing watercourses, culverts and bridges, and other structures.
- (d) To encourage water recharge into the ground where geologically favorable conditions exist.
- (e) To prevent non-point source pollution.
- (f) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes.
- (g) To eliminate the impact of development upon stream bank and streambed stability.
- (h) To prevent erosion from development or construction projects.
- (i) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution.
- (j) To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands that were developed without storm water management controls meeting the purposes and standards of this Ordinance.
- (k) To regulate the rate and control the impact of storm water runoff from development sites, so as to prevent adverse effects on water bodies by reason of land development.
- (l) To reduce the adverse impact of changing land use on water bodies and, to that end, this Ordinance establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are insufficient storm water management controls.

Sec. 17.4 Applicability, Exemptions and General Provisions.

- (a) This Ordinance shall apply to any development site which requires approval of a plat, a site development plan, building permit, or any other permit for work which will alter storm water drainage characteristics of the development site, provided, however, that this Ordinance shall not apply to the following:

- (1) The installation or removal of individual mobile homes within a mobile home park. This exemption shall not be construed to apply to the construction, expansion, or modification of a mobile home park.
- (2) Farm operations and buildings, except dwellings, directly related to farm operations. This exemption shall not apply to greenhouses and other similar structures.
- (3) Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of this Ordinance, where such approvals remain in effect.

Sec. 17.5 Definitions.

(a) In this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context in which they are used specifically indicates otherwise:

- (1) *Base Flood.* A flood having a 1 percent chance of being equaled or exceeded in any given year.
- (2) *Base Flood Elevation.* The high water elevation of the Base Flood, commonly referred to as the “100-year flood elevation.”
- (3) *Base Flood Plain.* The area inundated by the Base Flood.
- (4) *Best Management Practices (BMPs).* A practice, or combination of practices and design criteria that comply with the Michigan Department of Environmental Quality’s Guidebook of BMPs for Michigan Watersheds, or, if required by the Township, equivalent or other practices and equivalent or other design criteria that accomplish the purposes of this Ordinance (including, but not limited to minimizing or preventing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the Township Engineer, and, where appropriate, the standards of the Kent County Drain Commissioner.
- (5) *Building Opening.* Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.
- (6) *Clean Water Act.* The Federal Water Pollution Control Act, 33 USC Sec 1251 *et seq.*, as amended, and the applicable regulations promulgated thereunder.
- (7) *Construction Site Storm Water Runoff.* Storm water runoff from a development site following an earth change.
- (8) *Design Engineer.* Registered and licensed professional engineer responsible for the design of a drainage plan.
- (9) *Detention.* A system which is designed to capture storm water and release it over a given period of time through an outlet structure at a controlled rate.
- (10) *Developed or Development.* The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the Township’s approval of a site plan, plat, site condominium, special land use,

planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures; provided, however, that for purposes of Article II only, developed or development shall not include the actual construction of, or an addition, extension or modification to, an individual single-family detached dwelling or an individual two-family detached dwelling.

- (11) *Developer.* Any person proposing or implementing the development of land.
- (12) *Development Site.* Any land that is being or has been developed, or that a developer proposes for development or that is the subject of an earth change.
- (13) *Discharger.* Any person or entity who directly or indirectly discharges storm water from any property. Discharger also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this Ordinance.
- (14) *Drain.* Any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, *et seq.*, other than an established county or intercounty drain.
- (15) *Drainage.* The collection, conveyance, or discharge of ground water and/or surface water.
- (16) *Drainageway.* The area within which surface water or ground water is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.
- (17) *Earth Change.* Any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.
- (18) *EPA.* The United States Environmental Protection Agency.
- (19) *Erosion.* The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.
- (20) *Exempted Discharges.* Discharges other than storm water as specified in Section 20.24 of this chapter.
- (21) *Federal Emergency Management Agency (FEMA).* The agency of the federal government charged with emergency management.
- (22) *Flood or Flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of water bodies or the unusual and rapid accumulation of surface water runoff from any source.
- (23) *Floodplain.* Any land area subject to periodic flooding.
- (24) *Flood-Proofing.* Any structural and/or non-structural additions, changes, or adjustments to structures or property that reduce or eliminate flood damage to land, or improvements utilities and structures.

- (25) *Flood Protection Elevation (FPE)*. The Base Flood Elevation plus one foot at any given location.
- (26) *Floodway*. The channel of any watercourse and the adjacent land areas that must be reserved to carry and discharge a base flood without cumulatively increasing the water surface elevation more than one-tenth of a foot due to the loss of flood conveyance or storage.
- (27) *Grading*. Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.
- (28) *Illicit Connection*. Any method or means for conveying an illicit discharge into water bodies or the Township's storm water drainage system.
- (29) *Illicit Discharge*. Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this Ordinance.
- (30) *Impervious Surface*. Surface that does not allow storm water runoff to slowly percolate into the ground.
- (31) *KCDC*. Kent County Drain Commissioner.
- (32) *Lowest Floor*. The lowest floor or the lowest enclosed area (including a basement), but not including an unfinished or flood-resistant enclosure which is usable solely for parking of vehicles or building access.
- (33) *MDEQ*. Michigan Department of Environmental Quality.
- (34) *NPDES*. National Pollution Discharge Elimination System.
- (35) *Overland Flow-way*. Surface area that conveys a concentrated flow of storm water runoff.
- (36) *Person*. An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.
- (37) *Plan*. Written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these which contain information pursuant to this Ordinance.
- (38) *Pollutant*. A substance discharged which includes, but is not limited to the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.
- (39) *Property Owner*. Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.

- (40) *Retention.* A system which is designed to capture storm water and contain it until it infiltrates the soil or evaporates.
- (41) *Soil Erosion.* The stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, and enabling formation of new sedimentary deposits.
- (42) *State of Michigan Water Quality Standards.* All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.
- (43) *Storm Drain.* A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, ground water and drainage.
- (44) *Storm Water Permit.* A permit issued pursuant to this Ordinance.
- (45) *Storm Water Runoff.* The runoff and drainage of precipitation resulting from rainfall or snowmelt or other natural event or process.
- (46) *Storm Water Runoff Facility.* The method, structure, area, system, or other equipment or measures which are designed to receive, control, store, or convey storm water.
- (47) *Stream.* A river, stream or creek which may or may not be serving as a drain, or any other water body that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.
- (48) *Township.* The Township of Algoma.
- (49) *Water Body.* A river, lake, stream, creek or other watercourse or wetlands.
- (50) *Watershed.* A region draining into a water body.
- (51) *Wetlands.* Land characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

PART B – STORM WATER PERMITS

Sec. 17.6 Permit Required.

- (a) A developer shall not engage in any development without first receiving a storm water permit from the Township pursuant to Section 17.7.
- (b) The granting of a storm water permit shall authorize only such development for which the permit is required, subject to the terms of the permit, and it shall not be deemed to approve other development or other land use activities.

Sec. 17.7 Storm Water Permit Review Procedures.

The Township shall grant a storm water permit, which may impose terms and conditions in accordance with Section 17.14, and which shall be granted only upon compliance with each of the following requirements:

- (a) The developer has submitted a drainage plan complying with Section 17.8.
- (b) The drainage plan contains a description of an adequate, temporary storm water retention system to prevent construction site storm water runoff, satisfying the requirements of Section 17.10, and the developer has obtained a soil erosion permit, if necessary.
- (c) One of the following conditions is satisfied:
 - (1) The developer provides:
 - (i) A permanent on-site storm water system sufficient to provide, as required in the reasonable discretion of the Township, either on-site detention or on-site retention of storm water runoff in a 25-year storm event, and
 - (ii) A direct connection for all storm water runoff that will be discharged from and through the development site in a 100-year storm event; or
- (d) The developer provides a permanent on-site storm water system with a restricted outlet designed to result in no net increase in storm water runoff volume or rate onto any adjacent property in a 100-year storm event.
- (e) The developer has paid or deposited the storm water permit review fee pursuant to Section 17.9.
- (f) The developer has paid or posted the applicable financial guarantee pursuant to Section 7.11.
- (g) The developer provides all easements necessary to implement the approved drainage plan and to otherwise comply with this chapter including, but not limited to, Section 20.39. All easements shall be acceptable to the Township in form and substance and shall be recorded with the Kent County Register of Deeds.
- (h) The drainage plan is designed in conformity with the Township's design and performance standards for drains and storm water management systems, as set forth in Part H of this chapter.
- (i) All storm water runoff facilities shall be designed in accordance with the then-current BMPs.
- (j) The developer provides the required maintenance agreement for routine, emergency, and long-term maintenance of all storm water runoff facilities and in compliance with the approved drainage plan and this Ordinance including, but not limited to, Section 20.40. The maintenance agreement shall be acceptable to the Township in form and substance and shall be recorded with the Kent County Register of Deeds.

Sec. 17.8 Drainage Plan.

The developer shall provide a drainage plan to the Township for review and approval by the Township. The drainage plan shall identify and contain all of the following:

- (a) The location of the development site and water bodies that will receive storm water runoff.
- (b) The existing and proposed topography of the development site, including the alignment and boundary of the natural drainage courses, with contours having a maximum interval of one

foot (using USGS datum). The information shall be superimposed on the pertinent Kent County soil map.

- (c) The development tributary area to each point of discharge from the development.
- (d) Calculations for the final peak discharge rates.
- (e) Calculations for any facility or structure size and configuration.
- (f) A drawing showing all proposed storm water runoff facilities with existing and final grades.
- (g) The sizes and locations of upstream and downstream culverts serving the major drainage routes flowing into and out of the development site. Any significant off-site and on-site drainage outlet restrictions other than culverts should be noted on the drainage map.
- (h) An implementation plan for construction and inspection of all storm water runoff facilities necessary to the overall drainage plan, including a schedule of the estimated dates of completing construction of the storm water runoff facilities shown on the plan and an identification of the proposed inspection procedures to ensure that the storm water runoff facilities are constructed in accordance with the approved drainage plan.
- (i) A plan to ensure the effective control of construction site storm water runoff and sediment track-out onto roadways.
- (j) Drawings, profiles, and specifications for the construction of the storm water runoff facilities reasonably necessary to ensure that storm water runoff will be drained, stored, or otherwise controlled in accordance with this Ordinance.
- (k) A maintenance agreement, in form and substance acceptable to the Township, for ensuring maintenance of any privately-owned storm water runoff facilities. The maintenance agreement shall include the developer's written commitment to provide routine, emergency, and long-term maintenance of the facilities and, in the event that the facilities are not maintained in accordance with the approved drainage plan, the agreement shall authorize the Township to maintain any on-site storm water runoff facility as reasonably necessary, at the developer's expense.
- (l) The name of the engineering firm and the registered professional engineer that designed the drainage plan and that will inspect final construction of the storm water runoff facilities.
- (m) All design information must be compatible for conversion to Grand Valley Regional Geographic Information System (REGIS).
- (n) Any other information necessary for the Township to verify that the drainage plan complies with the Township's design and performance standards for drains and storm water management systems.

Sec. 17.9 Storm Water Permit Review Fees.

- (a) All expenses and costs incurred by the Township directly associated with processing, reviewing and approving or denying a storm water permit application shall be paid (or reimbursed) to the Township from the funds in a separate escrow account established by the developer, as provided in subsection (2). The Township may draw funds from a developer's

escrow account to reimburse the Township for out-of-pocket expenses incurred by the Township relating to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:

- (1) Services of the Township Attorney directly related to the application.
 - (2) Services of the Township Engineer directly related to the application.
 - (3) Services of other independent contractors working for the Township which are directly related to the application.
 - (4) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.
- (b) At the time a developer applies for a storm water permit, the developer shall deposit with the Township Clerk, as an escrow deposit, an initial amount as determined by resolution of the Township Board for such matters and shall provide additional amounts as requested by the Township in such increments as are specified in said resolution (if the developer makes an escrow deposit for zoning purposes, any funds deposited for storm water permit purposes may be maintained and accounted for in the zoning escrow account). Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final Township approval and acceptance of the development has occurred will be refunded to the developer with no interest to be paid on those funds. At no time prior to the Township's final decision on an application shall the balance in the escrow account fall below the required initial amount. If the funds in the account are reduced to less than the required initial amount, the developer shall deposit into the account an additional amount as determined by the Township Board resolution, before the application review process will be continued. Additional amounts may be required to be placed in the escrow account by the developer, at the discretion of the Township.

Sec. 17.10 Construction Site Runoff Controls.

Prior to making any earth change on a development site regulated by this Ordinance, the developer or other person making an earth change shall first obtain a soil erosion permit issued in accordance with Part 91 of Act No. 451 of the Public Acts of 1994, as amended, if one is required. The developer or other person making an earth change shall install storm water runoff facilities and shall phase the development activities so as to prevent construction site storm water runoff and off-site sedimentation. During all construction activities on the development site, the Township Engineer may inspect the development site to ensure compliance with the approved construction site runoff controls.

Sec. 17.11 Financial Guarantee.

- (a) The Township Engineer shall not approve a storm water permit until the developer submits to the Township, in a form and amount satisfactory to the Township, a letter of credit or other financial guarantee for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved drainage plan. Upon certification by a registered professional engineer that the storm water runoff facilities have been completed in accordance with the approved drainage plan including, but not limited to, the provisions contained in Section 17.8(g), the Township may release the letter of credit, or other financial guarantee subject to final Township acceptance and approval.

- (b) Except as provided in subsection (c), the amount of the financial guarantee shall be \$10,000, unless the Township determines that a greater amount is appropriate, in which case the basis for such determination shall be provided to the developer in writing. In determining whether an amount greater than \$10,000 is appropriate, the Township shall consider the size and type of the development, the size and type of the on-site storm water system, and the nature of the off-site storm water runoff facilities the development will utilize.
- (c) The Township Supervisor, or such other Township official determined by the Township Board, may reduce or waive the amount of the financial guarantee for a development that will not increase the percentage of impervious surface of the development site by more than 10 percent.
- (d) This Ordinance shall not be construed or interpreted as relieving a developer of its obligation to pay all costs associated with on-site private storm water runoff facilities as well as those costs arising from the need to make other drainage improvements in order to reduce a development's impact on a drain consistent with adopted design standards.

Sec. 17.12 Certificate of Occupancy.

No certificate of occupancy shall be issued until storm water runoff facilities have been completed in accordance with the approved drainage plan; provided, however, the Township may issue a certificate of occupancy if an acceptable letter of credit or other financial guarantee has been submitted to the Township, for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved drainage plan.

Sec. 17.13 No Change in Approved Facilities.

Storm water runoff facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved drainage plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved drainage plan, or in accordance with approved amendments or revisions in the plan.

Sec. 17.14 Terms and Conditions of Permits.

In granting a storm water permit, the Township may impose such terms and conditions as are reasonably necessary to effectuate the purposes of this Ordinance. A developer shall comply with such terms and conditions.

**PART C – STORM WATER SYSTEM, FLOODPLAIN AND
OTHER STANDARDS, SOIL EROSION CONTROL**

Sec. 17.15 Management of and Responsibility for Storm Water System.

The Township is not responsible for providing drainage facilities on private property for the management of storm water on said property. It shall be the responsibility of the property owner to provide for, and maintain, private storm water runoff facilities serving the property and to prevent or correct the accumulation of debris that interferes with the drainage function of a water body.

Sec. 17.16 Storm Water System.

All storm water runoff facilities shall be constructed and maintained in accordance with all applicable federal, state and local ordinances, and rules and regulations.

Sec. 17.17 Storm Water Discharge Rates and Volumes.

The Township is authorized to establish minimum design standards for storm water discharge release rates and to require dischargers to implement on-site retention, detention or other methods necessary to control the rate and volume of surface water runoff discharged into the storm water drainage system, in the following circumstances:

- (a) A parcel of land is being developed in a manner that increases the impervious surface area of the parcel; or
- (b) The discharge exceeds the Township-calculated pre-development discharge characteristics for the subject property, and the Township determines that the discharge is a violation of the drainage, flooding or soil erosion regulations of this Ordinance.

Sec. 17.18 Floodplain Standards.

- (a) All new buildings and substantial improvements to existing buildings shall be protected from flood damage up to the Flood Protection Elevation (FPE) and shall be in accordance with all applicable federal, state and local ordinances, and rules and regulations. Floodway alteration shall be permitted only upon review and approval by the Township, in accordance with an approved drainage plan.
- (b) A drainage plan providing for the filling or alteration of a floodway may include provisions for maintaining stability of the banks of streams or other water bodies, by means of the establishing of buffer zones and other means of providing protection of the slopes and banks of water bodies.
- (c) Within any required buffer zone, no earth change shall take place except in accordance with the approved drainage plan. Such a plan may also include provisions for the replacement of flood plain storage volume, where such storage volume is lost or diminished as a result of approved development.

Sec. 17.19 Soil Erosion and Sedimentation Control.

- (a) All persons who cause, in whole or in part, any earth change to occur shall provide soil erosion and sedimentation control so as to adequately prevent soils from being eroded and discharged or deposited onto adjacent properties or into a storm water drainage system, a public street or right of way, wetland, creek, stream, water body, or floodplain. All development shall be in accordance with all applicable federal, state and local ordinances, rules and regulations.
- (b) During any earth change which exposes soil to an increased risk of erosion or sediment track-out, the property owner and other persons causing or participating in the earth change shall do the following:
 - (1) Comply with the storm water management standards of this Ordinance.
 - (2) Obtain and comply with the terms of a soil erosion and sedimentation control permit if required by law.
 - (3) Prevent damage to any public utilities or services within the limits of grading and within any routes of travel or areas of work of construction equipment.

- (4) Prevent damage to or impairment of any water body on or near the location of the earth change or affected thereby.
- (5) Prevent damage to adjacent or nearby land.
- (6) Apply for all required approvals or permits prior to the commencement of work.
- (7) Proceed with the proposed work only in accordance with the approved plans and in compliance with this Ordinance.
- (8) Maintain all required soil erosion and sedimentation control measures, including but not limited to, measures required for compliance with the terms of this Ordinance.
- (9) Promptly remove all soil, sediment, debris, or other materials applied, dumped, tracked, or otherwise deposited on any lands, public streets, sidewalks, or other public ways or facilities, including catch basins, storm sewers, ditches, drainage swales, or water bodies. Removal of all such soil, sediment, debris or other materials within 24 hours, or immediately following the issuance of all required permits or the granting of other required approvals, shall be considered prima facie compliance with this requirement, unless such materials present an immediate hazard to public health and safety.
- (10) Refrain from grading lands at locations near or adjoining lands, public streets, sidewalks, alleys, or other public or private property without providing adequate support or other measures so as to protect such other lands, streets, sidewalks or other property from settling, cracking or sustaining other damage.
- (11) Request and obtain inspection of soil erosion and sedimentation control facilities, by the Township at such frequency as required by the Township.

Sec. 17.20 Building Openings.

- (a) No building opening shall be constructed below the following elevations:
 - (1) One foot above the 100-year floodplain.
 - (2) The building opening established at the time of plat or development approval and on file in the Township Engineering Department.
 - (3) Three feet above the top of any downstream culvert.
 - (4) Four feet above the bottom of any permanent and defined drain.
- (b) A waiver from elevations stated in Section 17.20(a) may be granted by the Township Engineer following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation does not pose a risk of flooding.
- (c) Upon completion of construction of the structure's foundation and or slab on grade, a registered land surveyor shall certify any minimum building opening elevation specified by this Ordinance. This certificate shall attest that the building opening elevation complies with the standards of this Ordinance. The permittee for the building permit shall submit the certificate to the Township Building Inspections official prior to the commencement of

framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified in Section 17.20(a)(2) or (3), that opening must be raised using a method that meets with the approval of the Township. After reconstruction, a registered land surveyor or engineer shall re-certify that the minimum building opening elevation complies with the standards of this Ordinance prior to the commencement of framing and or structural steel placement.

Sec. 17.21 Sump Pump Discharge.

- (a) Whenever building footing drains are required or utilized, a direct connection between the footing drains through a sump pump-check valve system to a storm drain is required. A gravity system is not permitted.
- (b) A storm water lateral shall be provided for each parcel at the time of storm sewer construction.

Sec. 17.22 Public Health, Safety and Welfare.

Protection of the health, safety and welfare shall be a primary consideration in the design of all storm water runoff facilities.

PART D – PROHIBITIONS AND EXEMPTIONS

Sec. 17.23 Prohibited Discharges.

- (a) No person shall discharge to a water body, directly or indirectly, any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with best management practices.
- (b) The Township is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the Township's storm water drainage system.

Sec. 17.24 Exempted Discharges.

The following non-storm water discharges shall be permissible, provided that they do not result in a violation of State of Michigan water quality standards:

- (a) Water supply line flushing.
- (b) Landscape irrigation.
- (c) Diverted stream flows.
- (d) Rising ground water.
- (e) Uncontaminated ground water infiltration to storm drains.
- (f) Uncontaminated pumped ground water.
- (g) Discharges from single family potable water sources.

- (h) Foundation drains.
- (i) Air conditioning condensate.
- (j) Residential car washing.
- (k) Dechlorinated swimming pool water.
- (l) Street washwater.
- (m) Discharges or flows from emergency fire fighting activities.
- (n) Discharges for which a specific federal or state permit has been issued.

Sec. 17.25 Interference with Natural or Artificial Drains.

- (a) It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of, or otherwise interfere with any natural or constructed drain, or drainageway without first submitting a drainage plan to the Township and receiving approval of that plan. Any deviation from the approved plan is a violation of this Ordinance. This section shall not prohibit, however, necessary emergency action so as to prevent or mitigate drainage that would be injurious to the environment, the public health, safety, or welfare.
- (b) No filling, blocking, fencing or above-surface vegetation planting shall take place within a floodway.
- (c) For an overland flow-way:
 - (1) Silt screen fences shall not be permitted below the top of the bank of a water body.
 - (2) Chain link fences shall be permitted if the Township determines that the fence will not obstruct or divert the flow of water.
 - (3) If a fence is removed by the Township for drain access or drain maintenance, the fence shall be replaced by the owner of the fence at the owner's expense.
 - (4) No shrubs or trees shall be planted below the top of the bank of a water body.
- (d) Shrubs, trees or other above-ground vegetation shall not be planted over the top of an underground storm sewer or over the top of the easement within which the storm sewer has been installed.

Sec. 17.26 Storage of Hazardous or Toxic Materials in Drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile within a drainageway any hazardous or toxic materials unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a drainageway.

PART E – INSPECTION, MONITORING, REPORTING, AND RECORDKEEPING

Sec. 17.27 Inspection and Sampling.

To assure compliance with the standards in this pervasively regulated area, the Township may inspect and/or obtain storm water samples from storm water runoff facilities of any discharger to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the Township's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Township shall provide the discharger reasonable advance notice of such inspection and/or sampling. The Township or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

Sec. 17.28 Storm Water Monitoring Facilities.

A discharger of storm water runoff shall provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water runoff facility, when directed in writing to do so by the Township. The Township may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances and regulations.

Sec. 17.29 Accidental Discharges.

- (a) Any discharger who accidentally discharges into a water body any substance other than storm water or an exempted discharge shall immediately inform the Township concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the Township within five days. The written report shall specify:
 - (1) The composition of the discharge and the cause thereof.
 - (2) The exact date, time, and estimated volume of the discharge.
 - (3) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.
 - (4) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.
- (b) A properly-reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of Section 17.29(a).

Sec. 17.30 Record Keeping Requirement.

Any person subject to this Ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling and chemical analysis of any discharge or storm water runoff from any property.

PART F – ENFORCEMENT

Sec. 17.31 Sanctions for Violation

- (a) Any person violating any provision of this Ordinance shall be responsible for a municipal civil infraction and subject to a fine of not less than \$100 nor more than \$500 for a first offense, and not less than \$250 nor more than \$1,000 for a subsequent offense, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961 and other applicable laws, including, without limitation, equitable relief; provided, however, that the violation stated in Section 17.31(b) shall be a misdemeanor. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible.

The Township Supervisor, the Township Zoning Administrator and the Township Ordinance Enforcement Officer are each authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this Ordinance.

- (b) Any person who neglects or fails to comply with a stop work order issued under Section 20.32 shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.
- (c) Any person who aids or abets a person in a violation of this Ordinance shall be subject to the sanctions provided in this section.

Sec. 17.32 Stop Work Order.

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this Ordinance, the Township is authorized to issue a Stop Work Order so as to prevent further or continuing violations or adverse effects. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply therewith. The Township may also undertake or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this Ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is

being done and the responsibility of any person carrying out or participating in the work, and such cost shall be a lien upon the property.

Sec. 17.33 Failure to Comply; Completion.

In addition to any other remedies, should any owner fail to comply with the provisions of this Ordinance, the Township may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the Township for all costs of such work.

Sec. 17.34 Emergency Measures.

When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, and/or to prevent loss of life, injury or damage to property, the Township is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the Township for all of such costs.

Sec. 17.35 Cost Recovery for Damage to Storm Drain System.

A discharger shall be liable for all costs incurred by the Township as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this Ordinance. Costs include, but are not limited to, those penalties levied by the EPA or MDEQ for violation of an NPDES permit, attorney fees, and other costs and expenses.

Sec. 17.36 Collection of Costs; Lien.

Costs incurred by the Township and the Drain Commissioner pursuant to Sections 17.32, 17.33, 17.34 and 17.35 shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the Township Treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the Township or the Drain Commissioner shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

Sec. 17.37 Appeals.

Any person as to whom any provision of this Ordinance has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Township Board the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Township Board shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Township Board may consider the recommendations of the Township Engineer and the comments of other persons having knowledge of the matter. In considering any such appeal, the Township Board may grant a variance from the terms of this Ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (a) The application of the ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical

difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the ordinance; and

- (b) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this Ordinance, nor result in less effective management of storm water runoff.

PART G – STORM WATER EASEMENTS AND MAINTENANCE AGREEMENTS

Sec. 17.38 Applicability of Requirements.

The requirements of this article concerning storm water easements and maintenance agreements shall apply to all persons required to submit a drainage plan to the Township for review and approval.

Sec. 17.39 Storm Water Management Easements.

The developer shall provide all storm water management easements necessary to implement the approved drainage plan and to otherwise comply with this Ordinance in form and substance required by the Township and shall record such easements as directed by the Township. The easements shall assure access for proper inspection and maintenance of storm water runoff facilities and shall provide adequate emergency overland flow-ways.

Sec. 17.40 Maintenance Agreements.

The developer shall provide all storm water maintenance agreements necessary to implement the approved drainage plan and to otherwise comply with this Ordinance in form and substance as required by the Township, and shall record such agreements as directed by the Township. The maintenance agreements shall, among other matters, assure access for proper inspection and maintenance of storm water runoff facilities and adequate emergency overland flow-ways.

Sec. 17.41 Establishment of County Drains.

Prior to final approval, all storm water management facilities for platted subdivisions shall be established as county drains, as authorized in Section 433, Chapter 18 of the Michigan Drain Code (P.A. 40 of 1956, as amended) for long-term maintenance.

PART H – PERFORMANCE AND DESIGN STANDARDS

Sec. 17.42 Performance Standards.

In order to achieve the goals and purposes of this Ordinance, the following three storm water management zones (Zones A, B and C) are hereby established. The Zones are shown on the map attached as Appendix A and made a part of this Ordinance.

- (a) Zone A represents areas which require the most protective storm water management regulations. Generally, lands in Zone A have less than 10 percent imperviousness. The goal of this zone is to preserve the natural condition of water bodies included in it, in whole or in part. Zone A has, in general, little impervious surface area and few storm water facilities. In this zone, where site conditions do not permit infiltration of storm water runoff, detention of storm water runoff, with a restricted outlet, shall be required. This storm water management practice provides greater protection for surface water quality, and also assists in augmenting stream base flow, reduction of flash storm flows and prevention of stream bank erosion.

Section 17.43 specifies design criteria for Zone A, in order that the volume and rate of storm water runoff are controlled at predevelopment levels.

- (b) Zone B represents developed areas that have significant impervious surfaces and storm water runoff facilities in place. Generally, the lands in Zone B have from 10 percent to 25 percent imperviousness. The goal of Zone B is the control of storm water runoff in order to prevent further destabilizing of streams and other water bodies. In this zone, the use of detention ponds, the maintenance and enhancement of buffer strips and other measures to reduce directly-connected impervious areas are specified in Section 17.43 for the achieving of the storm water management standards applicable to Zone B. The management practices for this zone are intended to maintain existing water quality and to alleviate adverse downstream impact on water bodies.
- (c) Zone C consists of (1) highly urbanized areas, (2) areas where there has been significant modification of drainageways or (3) areas located in such proximity to water bodies that detention of storm water runoff would be generally detrimental to such water bodies. The amount of impervious surface area in Zone C is generally greater than 25 percent. Among the measures required in Zone C, as stated in Section 20.43, are the use of sediment basins, the maintenance and enhancement of buffer strips along water bodies and the reduction of impervious surface areas that are directly connected to water bodies. An important element of storm water management practice in Zone C is the control and prevention of sedimentation, in order to reduce pollution of water bodies.

Sec. 17.43 Design Standards.

The design standards for storm water runoff facilities for Zones A, B and C, as described in Section 20.42, are the following:

	Zone A	Zone B	Zone C
Storm Water Management Standards	Use infiltration basins, infiltration trenches, extended detention basins, and/or constructed wetlands. Maintain and enhance buffer strips.	Use detention ponds; maintain and enhance buffer strips, and reduce directly connected impervious area.	Use sediment basins, maintain and enhance buffer strips, and reduce directly connected impervious area.
Water Quality Control	Detain the first 0.5” of runoff from the contributing watershed, with detention per Zone B and infiltration where conditions permit, or provide equivalent treatment.	Detain the first 0.5” of runoff from the contributing watershed for 24 hours or provide equivalent treatment, and infiltration when conditions permit.	Provide sedimentation control within the drainage system, and infiltration when conditions permit.
Bank Erosion Control	Rate of release shall be limited to 0.05 cfs/acre for a two-year storm event.	Release rate of .13 cfs/acre per Kent County Drain Commissioner rules.	Storm water runoff shall not exceed the capacity of the downstream conveyance system.

Flood Control	Detention with infiltration when conditions permit. Release rate of 0.13 cfs/acre per KCDC rules.	Release rate of 0.13 cfs/acre per Kent County Drain Commissioner rules.	Direct conveyance of storm water runoff within the capacity of downstream system.
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Sec. 17.44 Resolution to Implement Performance and Design Standards.

The Township Board of the Township may adopt a resolution establishing more detailed design and performance standards for storm water runoff facilities, consistent with the terms of this Ordinance, and in order to further implement its goals and purposes.

PART I – OTHER MATTERS

Sec. 17.45 Interpretation.

Words and phrases in this chapter shall be construed according to their common and accepted meanings, except that words and phrases defined in Section 17.5 shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this chapter but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

Sec. 17.46 Other Ordinances.

This chapter shall be in addition to other ordinances of the Township, and shall not be deemed to repeal or replace other ordinances or parts thereof except to the extent that such repeal is specifically provided for in this chapter.

CHAPTER 18

UTILITIES

PART A – UTILITY FRANCHISES AND CONSENT FOR USE OF PUBLIC RIGHTS-OF-WAY

GENERALLY

Sec. 18.1 Authority.

This chapter is adopted pursuant to the Michigan Constitution of 1963, Article VI, Sections 19, 25, 29 and 30, and Section 1 of Public Act No. 246 of 1945 and Section 13 of Public Act No. 368 of 1925, which prohibit any Person, partnership, association or corporation, public or private, operating a public utility from using the highways, streets, alleys or other public places of the Township for wire, poles, pipes, tracts, conduits or other utility facilities, without the consent of the Township and from transacting local business in the Township without first obtaining a franchise, and authorize the Township to enact ordinances to protect the health, safety and general welfare of Persons and property of the inhabitants of the Township.

Sec. 18.2 Township Approval Required for Assignment.

A utility may not sell, assign, license, mortgage, create a security interest in, or otherwise transfer any rights to use public rights-of-way or to transact local business, and shall not merge or consolidate with another entity without the prior written approval of the Township, which approval shall not unreasonably be withheld.

Sec. 18.3 Utility Not Exempt From Applicable Laws and Rules.

The granting of consent or a franchise shall not be deemed to exempt any utility from any other applicable local, state or federal law, regulations, ordinances or other applicable rules.

UTILITY FRANCHISE

Sec. 18.4 Required.

No Person, partnership, association or corporation, public or private, operating a public utility (the utility) shall transact local business in the Township without a franchise from the Township.

Sec. 18.5 Form and Timing.

Franchises for transaction of local business by utilities may be granted by ordinance or contract as determined by the Township. A franchise shall be required before the utility transacts any local business. The Township may withhold its approval of a franchise until the utility has filed with the clerk its written unconditional acceptance of all of the terms of the proposed franchise.

Sec. 18.6 Public Vote Required for Franchises Not Revocable at Will.

A utility franchise that is not subject to revocation at the will of the Township Board shall not be granted until the proposed franchise is approved by the affirmative vote of a majority of the electors of the Township voting thereon at a regular or special election. This kind of franchise may not be approved by the Township Board for referral to the electorate less than 30 days after application for

the franchise has been filed with the Township Board, and may be approved for referral only after a public hearing has been held and the proposed franchisee has filed with the clerk its unconditional acceptance of all the proposed terms of the franchise. No special election for this purpose shall be ordered unless and until the proposed franchisee shall have paid to the Township Treasurer the estimated expense of holding that election, as determined by the Township Board.

Sec. 18.7 Procedure for Requesting.

Written request for a franchise shall be submitted by the utility to the Township Supervisor. The request shall include a description of the proposed utility business, a description of the nature and location of any proposed installation or construction, and any other information reasonably requested by the Township. The Township may refer the application to the Township engineer or other professionals for review and recommendation. Any costs incurred by the Township in that review and recommendation shall be reimbursed on demand by the utility to the Township.

Sec. 18.8 Filing Required for Franchises Revocable at Will.

A utility franchise that is subject to revocation at the will of the Township Board may be granted by the Township Board without referral to the voters, but shall not be granted until after the final written form of the proposed franchise has been on file in the office of the clerk for public inspection for at least four weeks after publication of a notice that the proposed franchise is on file and available for public inspection.

Sec. 18.9 Terms.

The Township may grant a franchise upon any terms as permitted by law, or deny the granting of a franchise as permitted by law. The terms of a franchise may include, but shall not be limited to, any of the following:

- (a) **Franchise Fees.** A requirement that the utility pay franchise fees in amounts and at times determined by the Township.
- (b) **Terms hat Can be Conditions to Consent.** Any requirement that could be imposed as a condition to the granting of consent under Section 18.14 of this chapter.
- (c) **Other.** Any other provision permitted by law.

Sec. 18.10 Maximum Term.

No franchise shall be granted for a term of greater than 30 years.

CONSENT TO USE PUBLIC RIGHTS-OF-WAY

Sec. 18.11 Consent Required.

No Person, partnership, association or corporation, public or private, operating a public utility (the utility), shall have the right to the use of the highways, streets, alleys or other public places of the Township (collectively, “public rights-of-way”) for wires, poles, pipes, tracks, conduits, buildings, structures, appurtenances or any other utility facilities without the prior consent of the Township.

Sec. 18.12 Form and Timing.

Consent to use the public rights-of-way may be granted by ordinance, resolution or contract as determined by the Township. Consent shall be required before the utility begins any use of any public right-of-way. The Township may withhold its consent until the utility has filed with the clerk its written unconditional acceptance of all of the conditions to be required by the Township in exchange for the consent.

Sec. 18.13 Procedure for Requesting.

Written request for consent shall be submitted by the utility to the Township Supervisor. The request shall include a description of the proposed use of public rights-of-way, a description of the nature and location of any proposed installation or construction, and any other information reasonably requested by the Township. The Township may refer the application to the Township engineer or other professionals for review and recommendation. Any costs incurred by the Township in that review and recommendation shall be reimbursed on demand by the utility to the Township.

Sec. 18.14 Conditions to Consent.

The Township may grant consent, grant consent subject to conditions, or deny consent as permitted by law. The Township may grant consent subject to any conditions permitted by law including, but not limited to, any of the following:

- (a) **No Obstructions.** The utility shall not unreasonably obstruct the passage of any public right-of-way within the Township and shall, within a reasonable time after making an opening, excavation or construction, repair the same and leave it in as good condition as before the opening, construction or excavation was made.
- (b) **Indemnification.** The utility shall indemnify and hold the Township and its Boards, commissions, officers, trustees, employees, agents and successors harmless from and against all claims, liabilities, and expenses of any kind including, but not limited to, all reasonable attorney fees, related to or arising out of the utility's use of the public rights-of-way or any other activity of the utility related to its operations within the Township.
- (c) **Due Care.** The utility shall use reasonable care in using the public rights-of-way and in conducting its operations within the Township.
- (d) **Construction.** All construction or installation of facilities within the Township shall be approved in advance by the Township and shall be accomplished in a proper and workmanlike manner. The utility shall be responsible for any and all injuries or damages resulting from the same during construction and thereafter. Upon completion of any construction or installation, the utility shall certify in writing that the construction and installation did comply with such approved plans. The Township shall have the right to require the correction of any noncompliance. If such construction or installation causes damage to any other facilities, any portion of the Township or any public right-of-way, the same shall be immediately restored to a condition equal to that existing before the damage.
- (e) **Licenses.** The utility shall demonstrate that all licenses, permits and other approvals necessary to operate have been obtained.
- (f) **Fees.** The utility shall pay reasonable fees to the Township to reimburse the Township for its costs and expenses reasonably related to the utility's request for consent, the utility's use

of public rights-of-way, Township maintenance of public rights-of-way containing utility facilities, and the utility's operations within the Township.

- (g) **Joint Use.** The utility shall permit joint use of its facilities located in the public rights-of-way by the Township and by other Users to a reasonable extent.
- (h) **Arbitration.** The utility shall agree that any disputes between the Township and the utility be decided by binding arbitration.
- (i) **Relocation.** The utility shall agree to relocate, at the utility's sole expense, any facilities upon the reasonable request of the Township.
- (j) **Service Access.** The utility shall permit residents and property owners within the Township to use the utility services upon reasonable terms not less favorable than those available to other Users of the utility
- (k) **Service Standards.** The utility shall demonstrate that it has sufficient capacity to serve reasonably anticipated future demand for utility services, provide for uninterrupted service to Users, shall establish reasonable standards of service and shall prevent unjust discrimination in service or rates.
- (l) **Financial Security.** The utility shall provide to the Township financial security to protect the Township and its citizens and resources in the event of the utility's insolvency, inability to deliver service, destruction or damage to Township resources or property of any of its citizens, or other failure to perform as required by the Township. The financial security shall take the form of a cash bond, irrevocable letter of credit or other form of security in an amount and under terms that are reasonably acceptable to the Township.
- (m) **Remedies.** The Township shall have adequate remedies for breach of any condition by the utility including, but not limited to, the right to seek damages, specific performance, termination of consent and other available remedies.
- (n) **Reporting.** The utility shall comply with reasonable requirements relating to certification of compliance and periodic review, reporting and inspection to ensure compliance with any conditions imposed by the Township.
- (o) **Compliance with Applicable Laws.** The utility shall maintain compliance with all applicable local, state and federal laws, regulations and other rules.
- (p) **Easements and Access Rights.** The utility shall demonstrate that all easements, rights-of-way, and other access rights for its facilities have been obtained.
- (q) **No Annexation.** Any utility that is a municipal corporation shall agree not to annex any portion of the Township used by the utility as long as the utility is using the public rights-of-way in the Township.
- (r) **Additional Conditions.** The utility shall comply with additional reasonable conditions and regulations as may be determined by the Township to protect and promote the public health, safety and general welfare of the Township and its resources, citizens and residents.

Sec. 18.15 Term and Revocation.

No consent shall be granted for a period of longer than 30 years. Consent shall be subject to revocation at the will of the Township, unless otherwise specifically provided by the Township.

PART B – CAMP LAKE SANITARY SEWER SYSTEM

GENERALLY

Sec. 18.16 Short Title.

This Part B of this chapter shall be known as the “Camp Lake Sewer Connection, Use and Rate Ordinance” and may be cited as such.

Sec. 18.17 Intent.

This Ordinance is intended to apply to all properties served by the Camp Lake Sewer System located in the Service District as herein defined. Part B of this Chapter 18 shall not apply to the North Kent Sewer System.

Sec. 18.18 Objectives Regarding Contract Requirements.

This Ordinance is adopted in accordance with and in furtherance of the Township’s obligations as set forth in the Agreement, as amended from time to time.

Sec. 18.19 Findings Regarding Public Health, Safety and Welfare.

The Township hereby determines that the Sewer System is immediately necessary to protect and preserve the public health, safety and welfare of the Township. This determination is based upon the express determination of the State Legislature set forth in Section 12752 of the Michigan Public Health Code, which reads as follows:

“Sec. 12752. Public sanitary sewer systems are essential to the health, safety, and welfare of the people of the state. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of Septic Tank disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of this state. The connection to Available Public Sanitary Sewer Systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.”

Sec. 18.20 Definitions and Abbreviations.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All other words, terms, phrases, formulas, chemicals, etc., not included in this section shall have the meaning as defined in the latest version of the “Glossary-Water and Wastewater Control Engineering,” prepared by the Joint Editorial Board representing the American Public Health Association, the American Society of Civil Engineers, the American Water Works Association, the Water Pollution Control Federation or, if not defined therein, by Webster’s Dictionary.

- (a) *Act* means the Federal Water Pollution Control Act and the Clean Water Act which are used interchangeably in this chapter and refer to Public Law 92-500, as adopted in 1972 and amended by Public Law 96-217 in 1977, and all succeeding amendments.
- (b) *Administrator* means the Person employed by the Township as Administrator of the system, or his duly authorized agents, assistants or deputies.
- (c) *Agreement* means the Wastewater Maintenance and Management Service Agreement between the Village of Sparta and the Township of Algoma dated August 3, 1984, as amended or replaced from time to time.
- (d) *Alternative Discharge Limit* means any limits set by the Township in lieu of the promulgated national categorical Pretreatment Standards for Integrated Facilities, in accordance with the Combined Wastestream formula as set by the EPA.
- (e) *Authorized Representative of Industrial User* means:
 - (1) A principal executive officer of at least the level of vice-president, if the Industrial User is a corporation;
 - (2) A general partner or proprietor, if the Industrial User is a partnership or proprietorship, respectively;
 - (3) A duly Authorized Representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates;
 - (4) Executive officer or manager of a professional liability company or limited liability company; or
 - (5) Equivalent officer of a type of entity not specifically mentioned above.
- (f) *Available Public Sanitary Sewer System* means a public sanitary sewer system located in a right-of-way, easement, highway, street or public way which crosses, adjoins or abuts upon the property and which passes not more than 200 feet at the nearest point from any property line of the property on which sanitary sewage originates.
- (g) *Biochemical Oxygen Demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius, expressed in parts per million (ppm) by weight.
- (h) *Building Drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soils, waste and other drainage pipes inside of the walls of the building and conveys such discharge to the Building Sewer. The Building Sewer shall begin five feet outside the inner face of the building wall.
- (i) *Building Sewer* means all components of the extension from the Building Drain, including the piping, pumping equipment, structures and appurtenances, which convey Sewage from the building in which it originates to the Service Connection.
- (j) *Camp Lake Sanitary Sewer System* means the collector Sewers, mains, Service Connections, Grinder Pumps, lift stations, force mains, valves, controls and other appurtenances which

convey wastewater from the Service District to a manhole located outside the south wall of the Sparta Wastewater Treatment Plant, as shown in Exhibits A-1 and A-2 to the Agreement, including all additions thereto. The Camp Lake Sanitary Sewer System is owned by the Township.

- (k) *Cesspool* means an underground pit into which raw domestic Sewage or other untreated liquid waste is discharged, and from which the liquid seeps into the surrounding soil, or is otherwise removed.
- (l) *CFR* means the Code of Federal Regulations.
- (m) *Chemical Oxygen Demand (COD)* means the measure of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. COD does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with Biochemical Oxygen Demand. COD is also known as OC and DOC oxygen consumed and dichromate oxygen consumed, respectively.
- (n) *Chlorine Demand* means the difference between the amount of chlorine added to water or wastewater and the amount of residual chlorine remaining at the end of a specified contact period. The demand for any given water varies with the amount of chlorine applied, time of contact and temperature.
- (o) *Claimant*. Any Person who makes a claim for economic damages which were allegedly caused by a Sewage Disposal System Event.
- (p) *Clerk* means the clerk of the Township, or his or her duly authorized agents, assistants or deputies.
- (q) *Combined Wastestream* means the wastestream at industrial facilities where regulated process effluent is mixed with other Sewage or Wastes (either regulated or unregulated) prior to treatment.
- (r) *Compatible Pollutant* means a substance amenable to treatment in the Wastewater Treatment Plant such as Biochemical Oxygen Demand, Suspended Solids, pH and fecal coliform bacteria, plus additional Pollutants identified in the NPDES permit if such treatment facility was designed to treat such Pollutants, and in fact does remove such Pollutant to a substantial degree. Examples of such additional Pollutants may include: Chemical Oxygen Demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fats, oils and greases of animal or vegetable origin.
- (s) *Composite Sample* means a series of representative samples taken over a specific time period and combined into one sample.
- (t) *Connection Fee* means the charge imposed by the Township to regulate the connection of a Building Sewer, either directly or indirectly, to the Public Sewer System. This fee represents (i) the proportional cost attributable to each Structure in which Sanitary Sewage Originates to regulate access to the Public Sewer System and ensures that sufficient capacity exists to accommodate the additional use without overburdening the Public Sewer System or adversely affecting the Township's ability to provide service to the Public Sewer System's existing customers; and (ii) the benefit to the owner of a Structure in which Sanitary Sewage Originates derived from the connection to the Public Sewer System including, but not limited

to, eliminating or reducing the risk of failure of private Sewage Disposal Facilities and the contamination of ground water. See also Direct Connection and Indirect Connection. The Connection Fee includes, but is not limited to, costs for the acquisition, construction and installation of the Service Connection and Service Lateral, but excludes costs associated with the installation of the Building Sewer.

- (u) *Cooling Water* means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only Pollutant added is heat.
- (v) *County* means the County of Kent, Michigan.
- (w) *Direct Connection* means a connection from the Building Sewer directly to the System, which is not an Indirect Connection.
- (x) *Dosing Siphon* means a bell and siphon arrangement which controls intermittent flow of effluent from the Dosing Tank into the Subsurface Disposal System according to the compression of air under the bell.
- (y) *Dosing Tank* means a watertight tank or receptacle used for the purpose of retaining the overflow or effluent from a Septic Tank, until discharged by a Dosing Siphon or pump.
- (z) *EPA* is the Environmental Protection Agency.
- (aa) *Garbage* means solid wastes from the preparation, cooking and dispensing of food, and from the handling, sale and storage of produce.
- (bb) *Grab Sample* means a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and without consideration of time.
- (cc) *Grinder Pump* means a device to which the Building Drain or an extension thereof is connected which grinds and pumps Sewage to the System, including pressure discharge pipe, controls, floats, pumps, storage tanks, and appurtenances thereto.
- (dd) *Health Department* means the County Department of Public Health.
- (ee) *Incompatible or Non-Compatible Pollutants* means Pollutants which are not Compatible Pollutants.
- (ff) *Indirect Connection* means the connection of a Building Sewer to an extension of the sewage collection system which is installed and paid for by new special assessment or private funds, which sewage collection system is, after construction, turned over to the Township and becomes part of the System (e.g., if a developer constructs Sanitary Sewers in a plat and connects the Sewer line to the Sewer system, the connection of each lot in the plat would be an Indirect Connection).
- (gg) *Industrial Cost Recovery* means the Township's recovery from certain Industrial Users of the System portions of any federal grant amount allocable to the treatment of Industrial Waste from such Users.
- (hh) *Industrial User* means any User who may accidentally or intentionally discharge Industrial Wastes to the System.

- (ii) *Industrial Waste* means liquid wastes, solids or semisolids from industrial, manufacturing, trade or business processes, or wastewater discharge from any structure or building with similar characteristics as distinct from domestic Sewage.
- (jj) *Inspection Fee* means the fee charged by the Inspector and payable by a User for the cost of inspecting the connection of a Building Sewer to the Public Sewer.
- (kk) *Inspector* means the Person responsible for inspecting connections of Building Sewers to the Public Sewer, or his duly Authorized Representative, as more particularly described in Section 18.80 of this chapter.
- (ll) *Integrated Facilities* means industrial facilities which combine process wastestreams prior to treatment.
- (mm) *Interference* means inhibition or disruption of the System, treatment processes or operations which contributes to a violation of any requirement of the NPDES permit. The term includes prevention of Sewage sludge use or disposal by the System in accordance with Section 405 of the Federal Water Pollution Control Act, or any guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any State Sludge Management Plan, prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the System.
- (nn) *l* means Liter.
- (oo) *Laboratory Determination* means the measurements, tests and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition at the time of any such measurement, test or analysis of “Standard Methods for Examination of Water and Wastewater,” a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation in accordance with any other method prescribed by the rules and regulations promulgated pursuant to this division.
- (pp) *May* is permissive.
- (qq) *mg* means Milligrams.
- (rr) *mg/l* means milligrams per liter.
- (ss) *MDEQ* is the Michigan Department of Environmental Quality, or its successor agency.
- (tt) *MDNR* is the Michigan Department of Natural Resources, or its successor agency.
- (uu) *Miscellaneous Customer Fee* means the amount charged to Users for miscellaneous services and related administrative costs associated with the System, as provided by this chapter.
- (vv) *NAICS* is the North American Classification System or the successor publication, if replaced.
- (ww) *National Pollutant Discharge Elimination System (NPDES)* means the program for issuing, conditioning and denying permits for the discharge of Pollutants from point sources into the navigable waters, the contiguous zone and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act.

- (xx) *NPDES Permit* means National Pollution Discharge Elimination System Permit. According to the Federal Water Pollution Control Act, as amended, Persons are prohibited from discharging Pollutants into a Watercourse or Natural Outlet from a point source unless its discharge is authorized by a permit issued either by the EPA or by an approved state agency.
- (yy) *National Pretreatment Standard* or *Pretreatment Standards* means any regulation containing Pollutant discharge limits promulgated in accordance with Section 307(b) and (c) of the Federal Water Pollution Control Act, which applies to Industrial Users.
- (zz) *Natural Outlet* means any outlet into a Watercourse, pond, ditch, lake or other body of surface water or groundwater.
- (aaa) *Non-Domestic Users* means all Users of the System except Residential Users.
- (bbb) *Normal Strength* or *Domestic Sewage* means liquid Sewage or Wastes discharged from habitable buildings and residences, including human excreta and wastes from sinks, lavatories, bathtubs, showers, laundries and all other water-carried wastes of organic nature, either singly or in combination thereof. Normal Domestic Sewage has a maximum Biological Oxygen Demand of 200 mg/l, a maximum Suspended Solids content of 250 mg/l and a pH between 6.5 and 9.5 and which does not contain a concentration of other constituents which will interfere with the normal Sewage treatment process.
- (ccc) *Nuisance* means, without limitation, any condition where Sewage or, the effluent from any Sewage Disposal Facility is exposed to the surface of the ground; or is permitted to drain on or to the surface of the ground or into any Natural Outlet; or when the odor, appearance or presence of this material has an obnoxious or detrimental effect on or to the senses and/or health of Persons; or when it shall obstruct the comfortable use or sale of adjacent property.
- (ddd) *Operation and Maintenance (O & M)* means all costs, direct and indirect, inclusive of all expenditures attributable to administration, Replacement and treatment and collection of Sewage or Wastes, but not including debt service necessary to ensure adequate treatment and collection of Sewage or Wastes on a continuing basis in conformance with the NPDES permit, U.S. Farmers Home Administration grant conditions, EPA requirements, and other applicable regulations.
- (eee) *Order of Determination* means a written order of the Village establishing the allowable wastewater discharge characteristics or requirements for any given User.
- (fff) *pH* means the negative logarithm of the concentration of hydrogen ions solution, in grams per liter.
- (ggg) *PPM* means parts per million.
- (hhh) *Person* means any individual, firm, company, association, society, corporation or group.
- (iii) *Pollutant* means any of the various chemicals, substances and refuse materials such as solid waste, Sewage, Garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat and industrial, municipal and agricultural wastes which impair the purity of the water and soil.
- (jjj) *Pretreatment* means the reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater to a less harmful

condition prior to or in lieu of discharging or otherwise introducing such Pollutants into the System. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means except as prohibited by 40 CFR 403.6(d).

- (kkk) *Pretreatment Requirements* means any substance or procedural requirement related to Pretreatment of Sewage or Wastes prior to discharge into the Sewage Treatment Facility.
- (lll) *Properly Shredded Garbage* means Wastes from the preparation, cooking and dispensing of foods that have been shredded or cut to such a degree that all particles will be carried freely under the flow conditions normally prevailing in Public Sewers, with no particle greater than one-half of an inch in any dimension.
- (mmm) *Public Sewer* means the Camp Lake Sanitary Sewer System, which is owned and controlled by the Township.
- (nnn) *Receiving Fund* means the separate depository account established by the treasurer for the System pursuant to Section 18.75 of this chapter.
- (ooo) *Replacement* means expenditures and costs for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the Sewage Works to maintain the capacity and performance for which the System was designed and constructed and to ensure continuous treatment of wastewater in accordance with the NPDES permit and other state and federal regulations.
- (ppp) *Sanitary Sewer* means a Sewer which carries Sewage used or intended for use by the public for the collection and transportation of Sewage for treatment and disposal. Storm water, surface water and groundwater are not normally admitted to a Sanitary Sewer.
- (qqq) *Septic Tank* means a watertight tank or receptacle used to receive Sewage or Wastes from flush toilets, sinks, lavatories, bathtubs, showers, laundry drains, and similar waste lines, and is intended to provide for the separation of substantial portions of the Suspended Solids in such Sewage or Wastes and the partial decomposition by bacterial action on solids so separated.
- (rrr) *Service Connection* means that portion of the Public Sewer which extends either to or onto the parcel of land adjacent to the path of the Public Sewer, and includes the Sewer main, tee/wye, valve, check valve, connector pipes, the Service Lateral, and connections, related pumping facilities and appurtenances, but not including the Building Sewer.
- (sss) *Service District* means the area serviced by the System, as outlined in Appendix I to this chapter.
- (ttt) *Service Lateral* means that portion of the Service Connection which connects to the Sewer main located in the public right-of-way and extends therefrom to the property line.
- (uuu) *Sewage Disposal Facilities* means any Toilet Device, Cesspool, seepage pit, Septic Tank, Subsurface Disposal System, or other devices used in the disposal of Sewage or Wastes.
- (vvv) *Sewage Treatment Facility* or *Wastewater Treatment Plant* means the physical plant designated to receive and treat the raw, untreated Sewage from properties connected to the Camp Lake Sanitary Sewer System, including, without limitation, lagoons, separators, reactors, filters, effluent storage ponds, lift stations, odor-control devices, ground water

monitoring wells, earth work, roadways and all equipment and appurtenances related thereto. The Sewage Treatment Facility is owned by the Village.

- (www) *Sewage Works or Treatment Works* means all facilities for collecting, pumping, treating and disposing of Sewage or Wastes, including all Service Connections, mains, manholes and pumping stations.
- (xxx) *Sewage or Wastes* means any combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, including Industrial Wastes and domestic Sewage.
- (yyy) *Sewer* means any pipe, tile, tube or conduit for carrying Sewage or Wastes.
- (zzz) *Sewer Lead* is that portion of the Service Connection which connects to the Sewer main located in the public right-of-way and extends therefrom to the property line.
- (aaaa) *Sewer Rates and Charges* means the Connection Fee, Inspection Fee, User Charge, User Surcharge, Miscellaneous Customer Fee, any civil penalties imposed pursuant to this chapter, and any other charge imposed upon User of the System by this chapter.
- (bbbb) *Shall* is mandatory.
- (cccc) *Significant Violation* means any of the following:
 - (1) A violation which remains uncorrected 45 days after notification of noncompliance.
 - (2) A violation which is a part of a pattern of noncompliance over a 12-month period.
 - (3) A violation which involves a failure to accurately report noncompliance.
 - (4) A violation which results in the exercise of emergency authority under 40 CFR 403.8(f)(2)(vi)(B).
- (dddd) *Slug* means any discharge of water, Sewage or Industrial Wastes which, in concentration of any given constituent or in quantity of flow, exceeds, for any period of time longer than 15 minutes, more than five times the average 24-hour concentration of flows during normal operation.
- (eeee) *Special Assessment District* means the Camp Lake Sewer Special Assessment District, as determined by the Township Board on October 12, 1984.
- (ffff) *Special Assessment Roll* means Sewer Special Assessment Roll No. 1, as confirmed by the Township Board on October 12, 1984, as amended.
- (gggg) *Standard Industrial Classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1972, or its successor publication.
- (hhhh) *State* means the State of Michigan.
- (iiii) *Storm Sewer or Storm Drain* means a Sewer which carries storm water or surface waters, or drainage, but excludes Sewage or Wastes and Industrial Wastes.

- (jjj) *Structure in Which Sanitary Sewage Originates* means a structure in which toilet, kitchen, laundry, bathing or facilities which generate water-carried sanitary Sewage are used or are available for use for household, commercial, industrial or other purposes.
- (kkkk) *Subsurface Disposal System* means an arrangement for distribution of Septic Tank effluent or overflow beneath the ground surface.
- (lll) *Supervisor* means the supervisor of the Township or his Authorized Representative.
- (mmmm) *Suspended Solids (SS)* means solids either floating on the surface of, or suspended in, water, Sewage or Wastes, or other liquids and which are removable by laboratory filtering and biologic processes.
- (nnnn) *SWRC* is the State Water Resources Commission, or successor or affiliate department as provided by law or executive order.
- (oooo) *System* means the Camp Lake Sanitary Sewer System and the Sewage Treatment Facility, and all appurtenances thereto.
- (pppp) *Toilet Device* means a privy, outhouse, toilet, chemical closet or other device used for the disposal of human excreta.
- (qqqq) *Township* means the Township of Algoma, located in Kent County, Michigan, and/or its duly authorized agent or representative.
- (rrrr) *Toxic Pollutant* means any Pollutant or combination of Pollutants which is or can potentially be harmful to public health or to the environment, including those listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of Section 307(a) of the Act.
- (ssss) *Treasurer* means the Treasurer of the Township, or his or her duly authorized deputies, assistants or agents.
- (ttt) *USC* means the United States Code.
- (uuuu) *U.S. EPA or EPA* means the United States Environmental Protection Agency, which ensures the protection of the environment by abating or controlling pollution on a systematic basis.
- (vvvv) *Unit or Units* means a standard basis of measuring relative quantity of Sewage, including the benefits derived from the disposal thereof, based upon the occupancy of a freestanding single-family residential dwelling, including sleeping, kitchen and bathroom facilities. A listing of the relative relationship between the various Users of the System is hereby determined by the Township and is set forth as Appendix II to this chapter. The assignment of Units to a particular User shall be determined from time to time by the Administrator, based upon the use to which the User's property is put. The assignment of Units for any use not enumerated in Appendix II shall, in the discretion of the Administrator, be based upon the most similar use enumerated in Appendix II.
- (wwww) *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed Sewage Treatment Facilities,

inadequate Sewage Treatment Facilities, lack of preventive maintenance or careless or improper operation.

(xxxx) *User* means the recipients of services provided by the System, including Premises which are connected to the discharge of Sewage or Wastes into the System, and shall consist of the following classes:

- (1) Residential User: A User whose Premises are domiciles for single-family or multiple family use and discharge only domestic Sewage.
- (2) Governmental User: A User whose Premises (i) are publicly owned facilities performing local government functions (e.g. government office building, post office, library, school) and (ii) discharge only domestic Sewage.
- (3) Commercial User: A User whose Premises (i) are privately owned and used to perform and/or sell services and/or products for profit (e.g. retail and wholesale stores, restaurants, motel, gasoline stations) and (ii) discharge primarily domestic Sewage.
- (4) Institutional User: A User whose Premises (i) are owned by a non-profit organization pursuant to Section 501 of the Internal Revenue Code of 1954, as amended (e.g. churches, hospitals) and (ii) discharge primarily domestic Sewage.
- (5) Industrial User: Any User who may accidentally or intentionally discharge Industrial Waste to the System.

(yyyy) *User Charges* means the charge, based on Units, levied on Users of the System for the User's proportionate share of the cost of Operation and Maintenance, and the administration of the Camp Lake Sanitary Sewer System, including Replacement, and of fees paid to the Village for use of the Sewage Treatment Facility pursuant to the Agreement.

(zzzz) *User Surcharge* or *Surcharge* means a charge imposed on a User of the System who discharges Sewage or Wastes in excess of Normal Strength.

(aaaaa) *Village* means the Village of Sparta, located in Sparta Township, Kent County, Michigan, or the Person designated by the Village council to represent the Village.

(bbbbbb) *Watercourse* means a channel in which a flow of water occurs, either continuously or intermittently.

(ccccc) *Waters of the State* means all streams, lakes, ponds, marshes, Watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

CONNECTION TO AND EXTENSION OF PUBLIC SEWER SYSTEM

Sec. 18.21 Construction of Sewage Disposal Facilities.

Except as provided in this chapter, no Person shall construct or maintain in the Service District any Sewage Disposal Facilities.

Sec. 18.22 Mandatory Connection of Properties to Public Sewer.

Owners of all Structures in which Sanitary Sewage Originates, now situated or hereafter constructed within the Service District, are hereby required at their own expense to install suitable plumbing fixtures and connect such facilities to an Available Public Sanitary Sewer System, as defined in this chapter (where tapped or untapped by a Service Connection). Connection is subject to the availability of capacity in the System. In the event capacity is not initially available, but later becomes available, connection shall be required at that time as provided in this chapter.

Sec. 18.23 Deadline for Connection; Failure to Comply.

As a matter of public health all connections to the Public Sewer, required hereunder, shall be completed no later than 12 months after official notice by the Township to make said connections. Persons who fail to complete a required connection to the Public Sewer within such 12-month period shall be liable for a civil penalty as set forth in Section 18.82.

Sec. 18.24 Extensions.

Public Sanitary Sewers shall be extended and located in a public road or in a private easement adjacent to:

- (a) Any parcel of property within the Service District that is created after the adoption date of this chapter which is less than 42,000 square feet in area.
- (b) Any parcels of property located within any plat approved after the effective date of this chapter located in the Service District.
- (c) Any parcel of property within the Service District which meets all of the following:
 - (1) The parcel of property was created after the effective date of this chapter.
 - (2) The parcel from which it was created as it existed at the time of the adoption of this chapter has been divided into at least three parcels since the adoption of this chapter.

Sec. 18.25 Properties Eligible for Connection.

- (a) All parcels located within the Service District, and to which subsection (f) of this section is not applicable, which are not assessed on the Special Assessment Roll or whose owners otherwise requested that a Service Connection or Service Lateral not be extended to the parcel at the time the Public Sewer was constructed may, upon application of its owners, be connected to the Public Sewer. Such application shall be approved by the Township in the Township Board's sole discretion, after review by the Township's engineer. If such connection is approved by the Township Board, the Township Engineer shall determine the exact location and method of cutting into the Public Sewer and the materials to be used. The owners of the parcel shall obtain all necessary permission to work in the public right-of-way from the Township and the County road commission, and shall be responsible for payment of all costs related to construction of the Building Drain, Building Sewer and Service Connection, and connection of the Building Sewer to the Service Connection including, but not limited to, actual construction costs, backfill, restoration and Replacement Costs; and all applicable permit, Inspection Fees and Connection Fees. Upon satisfactory completion of the Service Connection, it shall be dedicated to the Township and become part of the Camp Lake Sanitary Sewer System.

- (b) If a Public Sewer main is required to be extended, or is extended at the option of the owner, the extension shall be approved by the Township in the Township Board's sole discretion, after review by the Township's Engineer, who shall determine the location of the Public Sewer, and approve the construction methods and materials used in the construction. The Persons responsible for the extension shall obtain all necessary permission to work in the public right-of-way from the Township and the county road commission, and shall be responsible for the payment of all costs related to construction of the Sewer main and Service Connections including, but not limited to, actual construction costs, restoration and Replacement Costs, costs of connecting to the existing Sewer, permit and Inspection Fees, and reimbursement to the Township for out-of-pocket expenses for Township engineer and attorney review. These costs shall be in addition to all applicable costs of Direct or Indirect Connection Fees, User Charges, and other fees for individual Premises to be connected to the System. The Person responsible for the extension shall post a payment and/or performance bond or letter of credit, or other form of security, determined in the sole discretion of the Township Board, to assure completion of the construction of the extension and the payment of all Township fees, rates and charges, and expenses for the approval, design, construction and conveyance of the extension. The sewer extension shall be constructed in accordance with specifications approved by the Township. Upon satisfactory completion of the extension as verified by the Inspector and proof that all contractors have been paid the cost thereof (including lien waivers, if requested), the sewer extension shall be dedicated to the Township, without cost to the Township, and shall become part of the Camp Lake Sanitary Sewer System.
- (c) The entire cost of installation of the sewer main, including but not limited to engineering, construction, permits and restoration shall be paid by the owner or owners of the premises to whom sewer is being extended.
- (d) In addition to the extension of a sewer main as required, the owner of Premises to be connected to the System shall reimburse the Township for the cost of making improvements to downstream facilities, which are necessary as a result of the additional connections proposed to be made by the owner of the premises or by a development which will be provided with public sewer, including but not limited to increasing the size of downstream sewer mains to provide sufficient capacity, increase in the capacity of lift stations, and increase in treatment capacity of the Wastewater Treatment Plant. In such a situation, the responsible party and the Township shall enter into an agreement whereby the responsible party pays to the Township, in advance, an amount equal to at least the estimated cost of making such improvements. Any excess not required to complete the improvements shall be refunded to the responsible party; any shortfall shall be paid before connection of any premises is permitted.
- (e) In its discretion, the Township Board may require the person requesting the extension or required to construct an extension to provide at the sole expense of said person an engineering report by a consulting engineer acceptable to the Township addressing the cost and feasibility of the proposed extension in the context of the foregoing conditions.

Sec. 18.26 Sewer Extension Agreements.

The Township shall have the authority to negotiate agreements for Sewer extensions with landowners, developers and other municipalities, which agreements may take into consideration issues of demand, benefit, capacity, necessity, timing and funding and may provide for construction advances, prepayment of rates and Charges, pay back arrangements of up to 20 years, and similar matters.

PRIVATE SEWAGE DISPOSAL

Sec. 18.27 Private Sewage Disposal Facilities.

If a Public Sewer is not available to a parcel of land located in the Service District or is not otherwise required under this chapter to be connected to a Public Sewer, the Building Sewer shall be connected to private Sewage Disposal Facilities constructed in compliance with the requirements of the Township, Health Department, the SWRC, and the MDEQ.

Sec. 18.28 Operation and Maintenance.

The owner shall operate and maintain the private Sewage Disposal Facilities in a sanitary manner at all times, at no expense to the Township.

- (a) **Deposit of Excrement, Garbage and Other Waste.** No Person shall place, deposit, or permit to be placed or deposited, in any unsanitary manner upon public or private property within the Service District, any human or animal excrement, Garbage, Sewage or other Wastes.
- (b) **Discharges to Natural Outlets.** No Person shall discharge to any Natural Outlet within the Service District any Sewage or Wastes, or other polluted waters except where suitable treatment has been provided in accordance with standards established by the SWRC, EPA and this chapter.

Sec. 18.29 Governmental Requirements.

No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Township, the Health Department, the SWRC, the MDEQ or any other governmental agency with jurisdiction over the Service District.

Sec. 18.30 Connection to Public Sewer; Abandonment.

At such time as a Public Sewer becomes an Available Public Sanitary Sewer to a parcel served by private Sewage Disposal Facilities, as provided in this chapter, the Building Sewer shall be connected to the Public Sewer in compliance with this chapter. The private Sewage Disposal Facilities shall be abandoned and filled with suitable materials, as required by the Township, the Health Department, the SWRC and the MDEQ.

BUILDING SEWERS AND CONNECTIONS

Sec. 18.31 Permit Required.

No unauthorized Person shall uncover, make any connections with or opening into, use, alter or disturb the Public Sewer, without first obtaining a written permit from the Township.

Sec. 18.32 Connection to be Made by Licensed Contractor; Application; Fees.

A connection to the Public Sewer shall be made only by a licensed contractor upon written authorization and a permit issued by the Township. Prior to such connection, the property owner or his agent shall submit a permit application to the Township. This permit application shall be on a form furnished by the Township and shall be accompanied by the Connection Fee, any civil penalty which has accrued pursuant to Section 18.82, provision for payment of the applicable Inspection Fee,

provision for payment of all costs relating to construction of the Service Connection, the plans and specifications of all plumbing construction within the Premises, and all other information required by the Township. The Township shall determine if the System has sufficient capacity to accommodate Sewage to be generated by the proposed use. The connection shall not be approved if sufficient capacity is not available.

Sec. 18.33 Conditions for Approval of Permit Application.

The approval of a permit application shall be subject to:

- (a) Compliance with all terms of this chapter, including payment of the Connection Fee pursuant to Section 18.64, the payment of any civil penalty which has accrued pursuant of Section 18.23, provision for payment of all costs relating to construction of the Service Connection, provision for payment of the applicable Inspection Fee and all orders, rules and regulations of the Health Department and the SWRC.
- (b) The availability of capacity in the System, including Compatible Pollutant capacity.
- (c) Compliance of the plans and specifications with the following standards for construction:
 - (1) The Building Sewer shall be of vitrified clay pipe meeting specifications of the American Standard for Testing Materials requirement C-700 (denoted ASTM C-700); Acrylonitrile-Butadiene-Styrene (ABS) solid wall Sewer pipe and fittings, designated ASTM D-2741 with minimum sidewall thickness to diameter ratio of 35, designated SDR-35; ABS composite Sewer pipe and fittings designated ASTM D2680 - SDR-35; ductile iron pipe meeting current specifications of the American Waterworks Association (AWWA) C-151, Class 52; polyvinyl chloride (PVC) pipe designated D-3034 - SDR-35; or approved equal. All Building Sewers over ten feet deep below the existing ground elevation shall be of pipe having greater strength than the above-mentioned pipe classes.
 - (2) The size of the Building Sewer shall not be less than four inches in diameter. The minimum diameter of the Service Connection shall be six inches.
 - (3) Whenever possible, the Building Sewer shall be brought to the building at an elevation below the basement floor. No Building Sewer shall be laid parallel to and within three feet of any bearing wall. The minimum depth of the Building Sewer at the property line shall be eight and one-half feet below the established street grade. Where this minimum depth cannot be obtained, the Building Sewer shall be laid with a minimum rise of one-quarter of an inch per foot.
 - (4) In all buildings in which any Building Drain is too low to permit gravity flow to the Public Sewer, the Sewage to be carried by the Building Drain shall be lifted by approved means and discharged to the Sewer.
 - (5) Where the Public Sewer is more than 12 feet deep measured from established street grade, a riser shall be constructed on the Public Sewer using methods and materials approved by the Township.
 - (6) All joints and connections shall be made gastight and watertight. Joints for vitrified clay Sewer pipe shall be of resilient materials conforming to ASTM C-425. Joints

for ABS pipe shall be type SC (solvent cement) or type OR (O-Ring). Joints for PVC pipe shall conform to ASTM D1784.

- (7) Connection of the Building Sewer to the Public Sewer shall conform to requirements of the building and plumbing code or other applicable rules and regulations of the Township, or the procedures in appropriate specifications of the ASTM and Water Pollution Control Federation Manual of Practice No. 9. All deviations from the prescribed procedures and materials must be approved by the Township.
 - (8) Two or more Building Sewers shall not be connected directly or indirectly to the same Service Connection or Lateral.
 - (9) A minimum distance of ten feet shall be maintained between the Building Sewer and all water-carrying pipes.
 - (10) Separate and independent Service Connections shall be provided for each parcel of land located adjacent to the path of the Public Sewer. Additional Service Connections to a parcel shall be provided only when Township zoning requirements for lot size and land use are met, approval of the Township Board is given, all permit and Connection Fees for each additional Service Connection are paid, and Section 18.21 is satisfied.
- (d) Prior to the issuance of a permit for a Premises which will be served by a Grinder Pump, the applicant will be requested to have executed by the property owner(s) of record for the Premises to be connected, an easement in a form provided by the Township granting permission to the Township, its agents, or employees, to operate and maintain, repair and replace the Grinder Pump as part of the Service Connection to be installed on the Premises.
- (1) If the applicant provides such easement, then the Township shall provide, after installation, all needed repairs, operation, maintenance and Replacement of the Grinder Pump and Service Connection in accordance with Section 18.40. Cost of initial installation of a Grinder Pump as part of a Service Connection shall be borne by the property owner as provided in Section 18.25.
 - (2) If the applicant, for any reason, declines to provide said easement, then the permit may be issued in the discretion of the Township. In these circumstances, no more than one Building Sewer may be connected to each Grinder Pump. Following the installation of the Grinder Pump (which installation is subject to inspection by the Inspector in accordance with the terms of this Ordinance), the Grinder Pump and all appurtenances thereto to the point of connection to the Public Sewer shall be considered part of the Building Sewer, and the property owner shall be responsible, at his or her expense, for repair, operation, maintenance, and Replacement of the Grinder Pump and appurtenances thereto as part of the Building Sewer in accordance with Section 18.40.

Sec. 18.34 Standards for Excavations, Pipe Laying and Backfill.

All excavations, pipe laying and backfill required for the installation of Building Sewers shall conform with requirements and standards approved by the Township. No backfill shall be placed until the work has been inspected and approved by the Inspector. Backfill material shall be free of cinders, ashes, refuse, sod, organic material, brush, trees, boulders, rocks larger than six inches in diameter, frozen material or other material which, in the opinion of the Inspector, is unsuitable.

Sec. 18.35 Connection of Building Sewer to Public Sewer.

The connection of the Building Sewer to the Public Sewer shall be made at the Service Connection. If no Service Connection is available, the procedures set forth in Section 18.25 shall be followed.

Sec. 18.36 Notification of Inspector of Readiness.

The applicant for a Building Sewer permit shall notify the Inspector when the Building Sewer is ready for inspection. The Building Sewer and point of connection to the Service Connection shall be left uncovered until inspected by the Inspector. If the Inspector determines that the Building Sewer has been constructed and installed pursuant to this chapter and the permit issued by the Township, the Building Sewer shall then be connected with the Public Sewer under the supervision of the Inspector, and properly buried. The inspection required by this section shall include abandonment of the private Sewage Disposal Facilities in the manner required by this chapter and the Health Department.

Sec. 18.37 Connection of Surface Runoff or Groundwater to Public Sewer.

No Person shall make connection of roof downspouts, exterior footing or foundation drains, areaway drains, storm drains, or other points of entry of surface runoff or groundwater to a Building Sewer or Building Drain which in turn is connected directly or indirectly to the Public Sewer.

Sec. 18.38 Public Safety Requirements; Restoration of Property.

All excavations for Building Sewer installation and connection to the Public Sewer shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored at the cost of the property owner in a manner satisfactory to the Township, the County Road Commission and all other government entities having jurisdiction.

Sec. 18.39 Costs and Expenses.

All costs and expenses incidental to the installation and connection of the Building Sewer to the Public Sewer shall be borne by the owner of the property being connected. No such work shall be commenced before such owner obtains the necessary permission to work in the public right-of-way from the Township and the county road commission. Said owner shall indemnify the Township from all loss or damage that may directly or indirectly be caused by the installation and connection of the Building Sewer to the Public Sewer.

Sec. 18.40 Building Sewers; Cost of Repair, Maintenance and Replacement.

- (a) The cost of all repairs, operation, maintenance and Replacements of Building Sewers, including the point of connection to the Service Connections, shall be borne by the property owner. Property owners or their authorized contractors shall obtain all necessary permits before beginning any work on the Building Sewer.
- (b) The Township shall be responsible for repair and maintenance of the Camp Lake Sanitary Sewer System, including Service Connections, as a cost of said System, subject to the right of the Township to impose a Miscellaneous Customer Fee as provided by this chapter.

Sec. 18.41 Use of Existing Sewers.

Existing Building Sewers and their connections, used to connect previously demolished or removed buildings to the Public Sewer, may be used to connect newly constructed buildings only when such Building Sewers are certified by the Administrator as meeting all requirements of this chapter.

Sec. 18.42 Discharge of Unpolluted Waters.

No Person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, Cooling Water or unpolluted industrial process waters to the Public Sewer.

Sec. 18.43 Storm Water and Other Unpolluted Waters to be Discharged to Natural Outlet or Ground Surface.

Storm water and all other unpolluted drainage shall be discharged to the ground surface or to a Natural Outlet approved by the Township or the SWRC.

Sec. 18.44 Prohibited Discharges.

Except as provided by specific limits stated in Part C of this chapter, no Person shall discharge or cause to be discharged Sewage or Wastes having any of the following characteristics or conditions to any Public Sewer:

- (a) BOD in concentrations exceeding 1,000 mg/l.
- (b) COD in concentrations exceeding 1,000 mg/l.
- (c) Phosphorus in concentrations exceeding 100 mg/l.
- (d) Chlorine demand in excess of 15 mg/l.
- (e) Any Garbage which is not Properly Shredded Garbage. No particle size shall be greater than one-half inch.
- (f) Grease, oils, wax, fats or any other substances that will solidify or become viscous in the Sewer at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
- (g) Any water or waste containing greater than 100 parts per million by weight of fat, oil, grease, wax or other similar materials.
- (h) Substances which tend to settle out in the Sewer, causing stoppage or obstruction of flow.
- (i) Liquids which are corrosive.
- (j) Insoluble, solid or viscous substances such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, tar, feathers, plastics, wood, hair and paunch manure.
- (k) Any noxious or malodorous gas or substance capable of creating a public Nuisance.
- (l) Substances having a pH less than 5.5 and greater than 9.5.

- (m) All toxic (in accordance with federal regulations), poisonous or radioactive wastes or isotopes exceeding limits established by applicable state and federal regulations.
- (n) Any substance harmful to pipes, jointing material, manholes, concrete or structures, or processes of the System.
- (o) Any live animals, fish or reptiles.
- (p) Suspended solids in excess of 250 mg/l.
- (q) Wastes having a temperature less than 32 degrees Fahrenheit or greater than 150 degrees Fahrenheit.
- (r) Solid or viscous substances in amounts which cause obstructions to the flow in collecting or intercepting Sewers or Interference with the proper operation of the Treatment Works, or explosions, or are in any other way injurious to the Sewer work or its operation.
- (s) Any wastes at such temperatures that biological activity is inhibited at the Treatment Works resulting in Interference. The discharge of heat must be regulated so that the temperature at the Treatment Works influent does not exceed 40 degrees Celsius (104 degrees Fahrenheit).
- (t) Arsenic in concentrations in excess of 0.014 mg/l.
- (u) Cadmium in concentrations in excess of 0.06 mg/l.
- (v) Chromium (total) in concentrations in excess of 0.020 mg/l.
- (w) Copper in concentrations in excess of 0.65 mg/l.
- (x) Cyanide in concentrations in excess of 0.19 mg/l.
- (y) Lead in concentrations in excess of 3.6 mg/l.
- (z) Nickel in concentrations in excess of 0.031 mg/l.
- (aa) Zinc in concentrations in excess of 0.490 mg/l.
- (bb) Any material indicated in the EPA Priority Pollutants and/or Michigan Critical Material List or Register.
- (cc) Wastes which create or can create a fire or explosion hazard, defined as being greater than 20 percent of the lower explosive limit (LEL) for the substance. Materials of concern in this regard include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, perchlorates, bromates, carbides, hydrides, standard solvents and sulfides. Also, any liquids, solids or gases which by their nature or quantity are, or may be, sufficient either alone, or by interaction with other substances, as to cause fire.
- (dd) Any Pollutant, including oxygen demanding substances, released in a discharge of such volume or strength which causes Interference.
- (ee) Any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.

- (ff) Any Slug released in a single extraordinary discharge of such volume or strength as to cause Interference to the Sewage Works.
- (gg) Upon the promulgation of the national categorical Pretreatment Standards, Alternative Discharge Limits, or other federal or state limitations, for a particular industrial subcategory, the Pretreatment Standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter and shall be considered part of this chapter. The Township shall notify all affected Users of the applicable reporting requirements.
- (hh) State requirements and limitations on discharges shall apply whenever such measurements and limitations are more stringent than national categorical Pretreatment Standards or limitations presented in this chapter.
- (ii) Silver in concentrations in excess of 0.032 mg/l.
- (jj) Wastes which create or cause corrosive structural damage.
- (kk) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Township in compliance with applicable state or federal regulations.
- (ll) All measurements, tests and analyses of wastewater characteristics described in this section shall be determined in accordance with the current "Standard Methods for the Examination of Water and Sewage," as published by the American Public Health Association and as required by federal regulations.
- (mm) Explosive liquids, solids or gases, benzene, naphtha, fuel oil, gasoline or other flammable material.

Sec. 18.45 Exceeding Discharge Limits.

No customer of the System shall discharge or cause to be discharged any Sewage or Wastes which would cause effluent from the Sewage Treatment Facility to exceed discharge limits established in the NPDES permit issued to the Village of Sparta for operation of the Sparta Wastewater Treatment Plant.

Sec. 18.46 Dilution.

No User shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment.

Sec. 18.47 Action by Township Against Deleterious Discharges.

- (a) If any Sewage or Wastes are discharged, or are proposed to be discharged to the Public Sewer, and such Sewage or Wastes contain the substances or possess the characteristics listed in Section 18.44 of this chapter, and which in the judgment of the Township may have a deleterious effect upon the Sewage Works or Sewage Treatment Facility, or receiving waters, processes or equipment, or which otherwise create a hazard to life or constitute a public Nuisance, or if new or increased contributions of Pollutants or Charges in the nature of Pollutants where such contribution does not meet applicable Pretreatment Standards and

requirements, or where such contributions would cause the Village or Township to violate its NPDES permit, the Township may take the actions necessary to:

- (1) Reject the Sewage or Wastes from the Public Sewer.
 - (2) Require Pretreatment to an acceptable condition for the discharge of the Sewage or Wastes to the Public Sewers.
 - (3) Require control over the quantities and rates of discharge.
 - (4) Require payment to cover the added cost of handling and treating the Sewage or Wastes pursuant to this chapter.
- (b) If the Township permits the Pretreatment or equalization of sewage or waste flows, the design and installation of the plants, processes and equipment shall be subject to the review and approval of the Township, the Health Department, the SWRC, and subject to the requirements of all applicable codes, ordinances, regulations and laws. No construction of Pretreatment facilities shall take place until all necessary approvals are obtained in writing. The Township may:
- (1) Put such conditions on the accepting of such wastewater or Pollutants as the Township Board deems necessary.
 - (2) Set Unit Charges and Surcharges, or a schedule of other Charges and fees for the wastewater to be discharged to the Sewage Works.
 - (3) Limit the average and maximum wastewater constituents and characteristics.
 - (4) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization.
 - (5) Require the installation and maintenance of inspection and sampling facilities.
 - (6) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
 - (7) Establish compliance schedules.
 - (8) Require submission of technical reports or discharge reports.
 - (9) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the Township and affording the Township and Village access thereto, and copying thereof.
 - (10) Require notification of the Township for any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the System.
 - (11) Require notification of Slug discharges.

Sec. 18.48 Maintenance of Pretreatment Facilities.

Where Pretreatment or flow equalizing facilities are provided for any Sewage or Wastes, such facilities shall be maintained continuously in satisfactory and effective operation by the owner at no expense to the Township.

Sec. 18.49 Industrial or Non-Domestic Users to Provide Pretreatment.

Industrial or Non-Domestic Users shall provide Pretreatment as required to comply with this Ordinance, and shall achieve compliance with all Pretreatment Standards within the time limitations as specified by the National Categorical Pretreatment Standards and as required by the Township. Any facilities required to pretreat wastewater to a level acceptable to the Township shall be provided, operated and maintained at the User's expense. Detailed plans showing the Pretreatment facilities and operating procedures shall be submitted to the Township for review, and shall be approved by the Township before construction of the facility. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Township under the provisions of this Ordinance. All subsequent changes in the Pretreatment facilities or method of operation shall be reported to and be acceptable to the Township prior to the User's initiation of the changes.

Sec. 18.50 Submission of Information by Non-Domestic Users.

All Non-Domestic Users proposing to connect to or to contribute to the Sewage Works shall submit information on their processes and wastewater to the Township before connecting to or contributing to the Sewage Works. All current Non-Domestic Users connected to or contributing to the Sewage Works shall submit this information upon request of the Township. The information submitted must be sufficient for the Township to determine the impact of the proposed User's discharge on the Sewage Works and the need for Pretreatment. The User shall submit, in Units and terms appropriate for evaluation, the following information:

- (a) Name, address and location (if different from the address).
- (b) SIC number.
- (c) Time and duration of contribution.
- (d) Average daily and instantaneous peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
- (e) Industries identified as significant industries or subject to the national categorical Pretreatment Standards or Alternative Discharge Limits, or those required by the Township must submit site plans, floor plans, mechanical and plumbing plans and details to show all Sewers, Service Connections, inspection manholes, sampling chambers and appurtenances by the size, location and elevation.
- (f) Description of activities, facilities, and plan processes on the Premises, including all materials which are or could be discharged.
- (g) The nature and concentration of any Pollutants in the discharge which are limited by the Township, state or federal Pretreatment Standards and a statement regarding whether or not the Pretreatment Standards are being met on a consistent basis and, if not, whether additional

O & M and/or additional Pretreatment is required by the Industrial User to meet applicable Pretreatment Standards.

- (h) If additional Pretreatment and/or Operation and Maintenance will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional Pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
 - (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to meet the applicable Pretreatment Standards including, but not limited to, dates related to hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this Ordinance.
 - (2) No increment referred to in subsection (h)(1) of this section shall exceed nine months.
 - (3) Not later than 15 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Township including, as a minimum, whether or not the User complied with the increment of progress to be met on such date and, if not, the date on which the User expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than three months elapse between such progress reports to the Township.
- (i) Each product produced by type, amount, process or processors, and the rate of production.
- (j) Type and amount of raw materials processed, average and maximum per day.
- (k) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of the Pretreatment system.
- (l) Any other information required by the Township to evaluate the impact of the discharge on the Sewage Works.
- (m) Within six months of the promulgation of revision of a Pretreatment Standard, all affected Users must submit to the Township the information required by this section of this chapter.

Sec. 18.51 Report of Compliance with Pretreatment Standards by Users.

Within 90 days following the date for final compliance with applicable Pretreatment Standards or, in the case of a new source, following commencement of the introduction of wastewater into the Sewage Works, any User subject to Pretreatment Standards and requirements, shall submit to the Township a report indicating the nature and concentration of all Pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and requirements and the average and maximum daily flow for these process Units in the User's facility, which are limited by such Pretreatment Standards or requirements. The report shall state whether the applicable Pretreatment Standards or requirements are being met on a consistent basis and, if not, what additional Operation and Maintenance and/or Pretreatment is necessary to bring the User into compliance with the

applicable Pretreatment Standards or requirements. This statement shall be signed by an Authorized Representative of the Industrial User, and certified to by a qualified representative.

Sec. 18.52 Semiannual Reports.

Any User or new source subject to Pretreatment Standards and requirements and discharging into the Sewage Works shall submit to the Township semi-annually, unless required more frequently in a Pretreatment Standard or by the Township, a report indicating the nature and concentration of Pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported to the Township as herein required. At the discretion of the Township and in consideration of such factors as local high or low flow rates, holidays or budget cycles, the Township may alter the months during which the above reports are to be submitted. The Township may also impose mass limitations on Users in cases in which the imposition of mass limitations is appropriate. In such case, the report required by this section shall also indicate the mass of Pollutants regulated by Pretreatment Standards in the effluent of the User.

Sec. 18.53 Control Manhole.

When required by the Township, the owner(s) of any property serviced by a Building Sewer carrying Industrial Wastes shall install a suitable control manhole in the Building Sewer. The purpose of this control manhole shall be to enable observation, sampling and measurements of the Industrial Wastes. Such manhole shall be in a location approved by the Township, shall be easily accessible and shall be constructed in accordance with plans and specifications approved by the Township and the Township engineer. Installation of the control manhole, sampling equipment and other appurtenances required by the Township shall be at the expense of the property owner. The owner shall also maintain the control manhole and appurtenances in a safe and accessible manner at all times at the owner's expense.

Sec. 18.54 Measurements, Test and Analyses.

All measurements, tests and analyses of characteristics of Industrial Wastes shall be conducted on samples obtained at the control manhole. Where no specific control manhole has been constructed, the control manhole shall be considered to be the nearest downstream manhole in the Public Sewer to the point at which the Building Sewer is connected. Costs incurred by the Township for testing may, at the discretion of the Township, be charged to the User discharging the Industrial Wastes as a Miscellaneous Customer Fee.

Sec. 18.55 Storage or Use Area of Oil and Polluting Materials.

The storage or use area for oil, salt or any materials in the polluting materials table prepared by the MDNR pursuant to Section 3106 of the Natural Resources and Environmental Protection Act shall be treated as required by rules promulgated by the MDNR, being Part 5 R324.2001 through R324.2009, as amended.

In addition, each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance to Waters of the State or the Sewage Works. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Township for review, and shall be approved by the Township before construction. Each User shall complete construction of these facilities within a time period specified by the Township. No new User shall be permitted to introduce Pollutants into the System

until approved accidental discharge facilities have been constructed. Review and approval of such plans and operating procedures shall not relieve the User from the responsibility to modify the facility as necessary to meet the requirements of this Ordinance. In the case of an accidental discharge, the User shall immediately telephone and notify the operator of the Sewage Works of the incident. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions.

Sec. 18.56 Report Following Accidental Discharge.

Within five days following an accidental discharge, the User shall submit to the Township a detailed report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage or other liability which may be incurred as a result of damage to the Sewage Works, or any other damage to Person or property; nor shall such notification relieve the User of any fines, civil penalties or other liability which may be imposed by this chapter or other applicable law.

A notice shall be permanently posted by the User in a prominent place on the Premises advising employees of whom to call in the event of an accidental discharge. Employers shall insure that all employees who may cause or suffer such accidental discharge to occur are advised of the emergency notification procedure.

Sec. 18.57 Grease, Oil and Sand Interceptors.

Grease, oil and sand interceptors shall be provided by Users of the System when determined by the Township to be necessary for the proper handling of Sewage or Wastes containing ingredients described in Section 18.44. All interceptors shall be properly maintained on a regular basis by the User and shall be:

- (a) Of the type and capacity prescribed by the Township.
- (b) Located so as to be readily and easily accessible for cleaning and inspection.
- (c) Constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.
- (d) Of substantial construction, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight. Interceptors shall not be required for Residential Users for private living quarters or dwelling Units.

Sec. 18.58 Responsibility for Costs of Design, Construction, Maintenance and Testing of Facilities to Meet Division Requirements.

All costs of design, construction, maintenance and testing of any facilities, plants or processes needed to meet the requirements of this chapter shall not be the responsibility of either the Township, the Village of Sparta or Sparta Township.

Sec. 18.59 Special Agreements with Industrial Users.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the Township and any Industrial User whereby Industrial Wastes of unusual strength or character may be accepted by the Township for treatment, subject to payment of a User Surcharge by the Industrial User.

Sec. 18.60 Special Agreements with Other Municipalities.

Subject to the Agreement, and the rights of the Village of Sparta to determine use of its Sewage Treatment Facility, nothing in this chapter shall prevent any special agreement or arrangement between the Township and any other municipality whereby Sewage or waste from such municipality may be accepted into the Camp Lake Sanitary Sewer System, subject to terms and conditions agreed upon between the Township and such municipality.

Sec. 18.61 Availability of User Data to Public; Exception.

Information and data on a User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the Township that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

Sec. 18.62 Upsets; Procedures to be Followed by Users.

- (a) Any Industrial User which experiences an Upset shall inform the Township upon the User's first awareness of the Upset.
- (b) A documented Upset shall be an affirmative defense to any enforcement action brought by the Township against a User for any noncompliance with the ordinance or any permit issued pursuant hereto, which arises out of violations alleged to have occurred during the period of the Upset.
- (c) An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An Upset occurred and the Industrial User can identify the specific cause(s) of the Upset.
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable Operation and Maintenance procedures.
 - (3) The Industrial User has submitted the following information to the Township within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days):
 - (i) A description of the discharge and cause of noncompliance.
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.
 - (iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (d) In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.

RATES AND CHARGES

Sec. 18.63 Operation of System on Public Utility Basis; Report and Budget.

The System shall, as much as possible, be operated and maintained by the Township on a public utility basis, as authorized by state law. The System shall be operated on the same fiscal year as that of the Township. The Administrator shall annually, on or before February 15 of each year, submit a report to the Township Board on the revenues and expenditures of the System, including a projected budget for the ensuing fiscal year, and recommendations for the Sewer Rates and Charges, if any, for such ensuing year.

Sec. 18.64 Connection Fee.

- (a) A Connection Fee shall be paid for all Premises required to connect to the System, or which do connect to the System.
- (b) The Connection Fee shall be separately established for Direct Connections and Indirect Connections by resolution of the Township Board from time to time. The Connection Fee shall be based upon the number of Units assigned to the property, as determined by this chapter.
- (c) Those parcels located in the Special Assessment District, and subject to a full special assessment on the Special Assessment Roll, shall be deemed to have paid the Connection Fee for the number of Units upon which the special assessment was based. Provided, however, such credit shall not result in a full or partial refund of any special assessment paid or payable pursuant to the Special Assessment Roll. A “partial special assessment” (levied, for example, on a vacant lot) shall be offset against the applicable Connection Fee.
- (d) In addition to the Connection Fee as computed above, the owner of the Premises shall be responsible for all costs of acquiring and installing the Building Sewer, making necessary changes to the Building Drain and building plumbing to connect to the Building Sewer, making connection to the Service Connection, and installing a Service Connection or Service Lateral, if necessary, as provided in Section 18.25.
- (e) The Connection Fee shall be paid in cash, to the extent not offset by a credit, prior to the issuance of a permit for connection to the Public Sewer, and prior to issuance of a building permit if applicable.

Sec. 18.65 User Charges for Sewer Connection.

- (a) User Charges for each Premises within the Township connected to the Public Sewer shall be set from time to time by resolution of the Township Board for Residential, Governmental, Commercial, Institutional and Industrial Users.
- (b) The User Charges imposed pursuant to this section are applicable only to Users who discharge Normal Strength Domestic Sewage. A User who discharges into the System toxic Pollutants or Sewage or Wastes that do not qualify as Normal Strength Domestic Sewage shall also pay a User Surcharge determined pursuant to Section 18.66 for each day such toxic Pollutants or non-qualifying Sewage or Waste are discharged.
- (c) As of February 1, 2007, it is determined that no Users of the System are Industrial Users. Before the Township permits any Industrial User to connect to the System in the future, the

Township shall take the necessary action, including adoption of necessary ordinances, to comply with federal and state guidelines applicable to the collection and treatment of Industrial Wastes.

- (d) Charges shall begin to accrue as of the first day of the first month following the date of occupancy of a building which is required to be connected to the Public Sewer System, or actual usage, whichever shall occur first. User Charges shall be billed according to the billing schedule for Sewer Rates and Charges established by resolution of the Township Board.

Sec. 18.66 Surcharge Fees.

- (a) Wastes with concentrations of Compatible Pollutants in excess of the limits otherwise provided herein may be allowed up to the upper limit indicated below, but shall be subject to a Surcharge in accordance with Surcharges set from time to time by resolution of the Township Board.

Surcharge (\$/l)	Maximum Upper Limit (mg/l)	
BOD – 5 day	\$0.13	1,000
Suspended Solids	\$0.11	1,000
Phosphorus	\$1.44	100

- (b) In the event of any violation of the provisions of this chapter by a User, such User shall pay a Surcharge Fee which amount shall be at least equal to all expenses, losses or damages caused to the Township or Village by reason of any such violation.
- (c) All Industrial and Non-Domestic Users shall pay a Surcharge Fee, in addition to the above, which shall be at least equal to all expenses or costs incurred by the Township in the monitoring, inspection and surveillance procedures and in the setup or operation of Pretreatment programs concerning such Industrial or Non-Domestic User as indicated herein.

Sec. 18.67 Billing and Collection.

It shall be the duty of the Administrator to bill and collect all Sewer Rates and Charges. The Treasurer shall mail each User a bill on or before the 10th day of the first month in the quarterly billing period, or if the billing period is monthly, then by the 10th day of the month, for User Charges and User Surcharges. The bill shall separately itemize the User Charge and User Surcharge, if any. The bills for User Charges and User Surcharges are due and payable on or before the first day of the second month of the quarterly billing period. Bills for Miscellaneous Customer Fees are due and payable 10 days after mailing of the invoice.

Sec. 18.68 Penalty.

If Sewer Rates and Charges are not paid on or before the due date, then a penalty of 10 percent of the amount unpaid shall be added to the balance due.

Sec. 18.69 Township Remedies.

If Sewer Rates and Charges are not paid on or before the due date, the Township, pursuant to Act 178 of the Public Acts of Michigan of 1939, as amended, may:

- (a) Discontinue the services provided by the System by disconnecting the Building Sewer from the Service Connection, and the service so discontinued shall not be reinstated until all sums then due and owing, including penalties, interest and all expenses incurred by the Township for shutting off and turning on the service, shall be paid to the Township.
- (b) Institute an action in any court of competent jurisdiction for the collection of the amounts unpaid, including penalties, interest and reasonable attorney fees.
- (c) Enforce the lien created in Section 18.70 below.
- (d) Before disconnecting service, the Township shall give 30 days written notice to the User at the last known address according to the Township records and the Township tax assessment roll. The notice shall inform the User that the User may request an informal hearing to present reasons why service should not be disconnected.
- (e) These remedies shall be cumulative and shall be in addition to any other remedy provided in this chapter and Code or now or hereafter existing at law or in equity including, without limitation, the alternative procedures set forth in Section 21 of the Revenue Bond Act of 1933, as amended, for certifying delinquent Sewer Rates and Charges for placement on the tax roll. Under no circumstances shall actions taken by the Township to collect unpaid Sewer Rates and Charges, penalties and interest, invalidate or waive the lien created by Section 18.70 below.

Sec. 18.70 Lien.

The Sewer Rates and Charges shall be a lien on the respective Premises served by the System as of the date of provision of service. Whenever Sewer Rates and Charges shall be unpaid when due, they shall be considered delinquent. The Township Treasurer shall certify all delinquent Sewer Rates and Charges and penalty thereon, outstanding, on or before September 1, of each year, to the tax-assessing officer of the Township, who shall enter the delinquent Sewer Rates and Charges, penalty, interest and penalties upon the next tax roll as a charge against the Premises affected and such charge shall be collected and the lien thereon enforced in the same manner as ad valorem property taxes levied against such Premises.

Sec. 18.71 Free Service.

No free service shall be furnished by the System to any Person, public or private, or to any public agency or instrumentality.

Sec. 18.72 Rental Properties.

A lien shall not attach for Sewer Rates and Charges to a Premises which is subject to a legally executed lease that expressly provides that the tenant (and not the landlord) of the Premises or a dwelling Unit thereon shall be liable for payment of Sewer Rates and Charges, effective for services which accrue after the date an affidavit is filed by the landlord with the Township. This affidavit shall include the names and addresses of the parties, the expiration date of the lease and an agreement by the landlord to give the Township 30 days written notice of any cancellation, change in or

termination of the lease. The filing of the affidavit by the landlord shall be accompanied by a true copy of the lease and a security deposit equal in amount to one year's User Charges per Unit. Upon the failure of the tenant to pay the Sewer Rates and Charges when due, the security deposit shall be applied by the Township against the unpaid balance, including interest and penalties. The tenant shall immediately make sufficient payment to the Township to cover the amount of the security deposit so advanced. Upon the failure of the tenant to do so within ten days of said advance, the penalties, rights (including lien rights) and remedies set forth in this chapter shall be applicable with respect to the unpaid Sewer Rates and Charges, including interest and penalties. The security deposit shall be held by the Township without interest and shall be returned to the landlord upon proof of termination of the lease and payment of all accrued Sewer Rates and Charges, including interest and penalties.

Sec. 18.73 Cancellation of Permits; Disconnection of Service.

In addition to all other remedies available to the Township, applications for connection permits may also be canceled and/or Sewer service disconnected by the Township for any violation of this chapter, including, without limitation, any of the following reasons:

- (a) Misrepresentation in the Service Connection permit application as to the nature or extent of the property to be serviced by the System.
- (b) Failure to keep Building Sewers, Service Connections and control manholes in a suitable state of repair.
- (c) Discharges in violation of this Ordinance.
- (d) Damage to any part of the System.

Sec. 18.74 Security Deposit.

If the Sewer service supplied to a User has been discontinued for nonpayment of Sewer Rates and Charges, service shall not be re-established until all delinquent Sewer Rates and Charges, including interest and penalties, and the turn-on charge has been paid. The Township may, as a condition to reconnecting said service, request that the sum equal to one year's User Charges per Unit be placed on deposit with the Township for the purpose of establishing or maintaining any User's credit. Said deposit shall not be considered in lieu of any future billing for Sewer Rates and Charges. Upon the failure of the User to pay the Sewer Rates and Charges when due, the security deposit shall be applied by the Township against the unpaid balance, including interest and penalties. The User shall immediately make sufficient payment to the Township to cover the amount of the security deposit so advanced. Upon the failure of the User to do so within ten days of said advance, the penalties, rights (including lien rights) and remedies set forth in this chapter shall be applicable with respect to any unpaid Sewer Rates and Charges, including interest and penalties. The security deposit shall be held by the Township without interest and shall be returned to the User upon continued timely payments by the User of all Sewer Rates and Charges as and when due, for a minimum of 12 months.

REVENUES

Sec. 18.75 Receiving Fund.

- (a) The Receiving Fund shall be established as a separate depository account of the Township by the Treasurer. The revenues and income derived from the collection of rates and Charges imposed by this division shall be deposited into the Receiving Fund. The moneys deposited

in the Receiving Fund shall be allocated to subaccounts of the Receiving Fund by the Treasurer as follows:

- (1) At the beginning of each quarter of the System's fiscal year there shall be allocated to an Operation and Maintenance account a sum sufficient to pay that quarter's estimated expenses of Operation and Maintenance, exclusive of replacement. Any sums remaining in such account at the end of each quarter shall be carried over and applied towards the next succeeding quarter's expenses for Operation and Maintenance, exclusive of Replacement.
 - (2) At the beginning of each quarter of the System's fiscal year and only after the Operation and Maintenance account is funded in full, there shall be allocated to a Replacement account one-fourth of the sum budgeted for Replacement for the current fiscal year: The moneys on deposit in this account from time to time shall be accumulated and used only for Replacement.
 - (3) At the end of each fiscal year, there shall be set aside all remaining revenues in the Receiving Fund into a surplus account. The funds in this account, at the option of the Township Board, may be used for any legally permissible purpose reasonably related to the System.
- (b) Moneys in the Receiving Fund, or any account thereof, may be invested as permitted by law and subject to the liquidity needs of the particular account.

Sec. 18.76 Annual Audit.

The Township shall maintain complete books and records relating to the operation of the System and its financial affairs and will cause such books and records to be audited annually at the end of each fiscal year and an audit report to be prepared. A copy of each audit report will be made available upon written request to holders of outstanding debt incurred to finance part or all of the cost of the System, and to the U.S. Farmer's Home Administration (FmHA) until the loan taken by the Township from FmHA is paid off and closed. Based on such audits, the Township shall determine whether all Users are paying their proportionate share of Operation and Maintenance and whether the Sewer Rates and Charges are generating sufficient revenues to pay for Operation and Maintenance. If necessary, the Township shall adjust the Sewer Rates and Charges so that such Charges will generate sufficient revenue to pay for Operation and Maintenance. The Township, on an annual basis, shall notify the Users in writing of the Sewer Rates and Charges in effect and the portion of such charges allocated for Operation and Maintenance.

SEWER BACKUP OR OVERFLOW REPORTING PROCEDURES

Sec. 18.77 Notice and Claim Procedures Applicable to Overflow or Backup of the Sewage Disposal System.

This section has been adopted in accordance with Act 222 of the Public Acts of Michigan of 2001 ("Act 222") to set forth the notice and claim procedures applicable to an overflow or backup of the Sewage Disposal System, which, as defined in Act 222, shall be referred to for purposes of this section as a "Sewage Disposal System event." To afford property owners, individuals and the Township greater efficiency, certainty and consistency in the provision of relief for damages or physical injuries caused by a Sewage Disposal System event, the Township and any Person making a claim for economic damages, which, as defined in Act 222, shall be referred to for purposes of this section as a "Claimant," shall follow the following procedures:

- (a) A Claimant is not entitled to compensation unless the Claimant notifies the Township of a claim of damage or physical injury, in writing, within 45 days after the date the damage or physical injury was discovered by the Claimant, or in the exercise of reasonable diligence should have been discovered by the Claimant.
- (b) The written notice under subsection (a) shall contain the Claimant's name, address, and telephone number, the address of the affected property, the date of discovery of any property damages or physical injuries, and a brief description of the claim. As part of the description of the claim, the Claimant shall submit an explanation of the Sewage Disposal System event and reasonable proof of ownership and the value of any damaged personal property. Reasonable proof of ownership and the purchase price or value of the property may include testimony or records. Reasonable proof of the value of the property may also include photographic or similar evidence.
- (c) The written notice under subsection (a) shall be sent to the Township Sewer Administrator, who is hereby designated as the individual at the Township to receive such notices pursuant to Section 19 of Act 222.
- (d) If a Claimant who owns or occupies affected property notifies the Township orally or in writing of a Sewage Disposal System event before providing a notice of a claim that complies with subsections (a), (b) and (c), the Township Sewer Administrator shall provide the Claimant with a written explanation of the notice requirements of subsections (a), (b) and (c) sufficiently detailed to allow the Claimant to comply with said requirements.
- (e) If the Township is notified of a claim under subsection (a) and the Township believes that a different or additional governmental agency may be responsible for the claimed property damages or physical injuries, the Township shall notify the contacting agency of each additional or different governmental agency of that fact, in writing, within 15 business days after the date the Township receives the Claimant's notice under subsection (a).
- (f) If the Township receives a notice from a Claimant or a different or additional governmental agency that complies with this section, the Township may inspect the damaged property or investigate the physical injury. A Claimant or the owner or occupant of affected property shall not unreasonably refuse to allow the Township or its duly Authorized Representatives to inspect damaged property or investigate a physical injury.
- (g) Prior to a determination of payment of compensation by the Township, the Claimant shall provide to the Township additional documentation and proof that:
 - (1) At the time of the Sewage Disposal System event, the Township owned or operated, or directly or indirectly discharged into, that portion of the Sewer system that allegedly caused damage or physical injury.
 - (2) The Sewage Disposal System had a defect.
 - (3) The Township knew, or in the exercise of reasonable diligence, should have known, about the defect in the Sewage Disposal System.
 - (4) The Township, having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct or remedy the defect in the Sewage Disposal System.

- (5) The defect in the Sewage Disposal System was a proximate cause that was 50 percent or more of the cause of the Sewage Disposal System event and the property damage or physical injury.
- (h) Prior to a determination of payment of compensation by the Township, the Claimant shall also provide to the Township additional documentation and proof that neither of the following were a proximate cause that was 50 percent or more of the cause of the Sewage Disposal System event:
 - (1) An obstruction in a service lead (as defined in Act 222) that was not caused by the Township.
 - (2) A connection on the affected Premises, including, but not limited to, a footing drain, sump system, surface drain, gutter, down spout or connection of any other sort that discharged any storm water, surface water, ground water, roof runoff, sub surface drainage, Cooling Water, unpolluted air conditioning water or unpolluted industrial process waters to the Sewage Disposal System.
- (i) If the Township and a Claimant do not reach an agreement on the amount of compensation for the property damages or physical injury within 45 days after the receipt of notice under subsection (a), the Claimant may institute a civil action in accordance with Act 222.
- (j) To facilitate compliance with this section, the Township shall make available to the public information about the notice and claim procedures under this section.
- (k) The notice and claim procedures set forth in this section shall be applicable to a Sewage Disposal System event involving the Sewage Disposal System.
- (l) In the event of a conflict between the notice and claim procedures set forth in this section and the specific requirements of Act 222, the specific requirements of Act 222 shall control.
- (m) As provided in Section 19(7) of Act 222, the notice and claim procedures of this section do not apply to claims for non-economic damages (as defined in Act 222) arising out of a Sewage Disposal System event.

ADMINISTRATIVE APPEALS

Sec. 18.78 Board of Appeals.

- (a) Any differences which may arise between the Users and the Administrator which cannot be resolved may be appealed to the Township Board.
- (b) Any User subject to enforcement action under the provisions of this chapter may request a hearing before the Township Board within ten days of receipt of notification of such action. The Township Board shall serve as the Wastewater Board of Appeals and shall conduct a hearing concerning the violation, the reasons for the action, any proposed enforcement actions, and directing the User to show cause why the proposed enforcement action should not be implemented.
- (c) The Township Board may conduct the hearing and take the evidence, or may designate any officer or employee to:

- (1) Issue in the name of the Township Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
- (2) Take the evidence.
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Township Board for action thereon.
- (d) At any hearing held pursuant to this section, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual Charges thereof.
- (e) After reviewing the evidence, the Township Board may issue an order to the User directing that, following a specified time period, the Sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that such devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
- (f) The Township Board shall also establish appropriate Surcharges or fees to reimburse the Village for the additional cost of Operation and Maintenance of the Wastewater Treatment Works due to any violations of this chapter.
- (g) Any action by the Township Board may be appealed in a court of competent jurisdiction.

Sec. 18.79 Duties of Administrator.

The Administrator, or a Person designated by the Administrator with the Township Board's consent, shall be responsible for billing and collecting Sewer Rates and Charges and any other fees charged under this chapter, administering the terms and conditions of this chapter, ensuring proper enforcement of the provisions of this chapter and taking measures to avoid damage to the System, issuing permits as provided by this chapter, acting as the Authorized Representative of the Township for purposes of this chapter, preparing a proposed annual budget for the System for consideration by the Township, making recommendations for improvements to the System, this chapter, and as part of the budgeting process, and taking all other actions with respect to the proper operation of the System which are not inconsistent with this chapter, or which have not been assigned to some other officer by ordinance or resolution of the Township Board.

ENFORCEMENT

Sec. 18.80 Inspection.

- (a) The duly Authorized Representatives, employees or agents of the Township, including, but not limited to, representatives of the Township, the Township's Engineer, the County's Health Department, any Village representative, or MDEQ (or its successor agency) and EPA (or its successor agency) bearing proper credentials and identification shall be permitted to enter at any time during reasonable or usual business hours in and upon all properties in the Service District for the purposes of inspection, observation, measurement, sampling, testing, emergency repairs and other matters affecting or pertaining to the System in accordance with the provisions of this chapter. Such Persons shall not, however, have authority to inquire into any processes except to the extent that such processes relate to or affect the type and source of discharge to the System, storm drains, Natural Outlets or to the ground surface.

- (b) Customer Safety Rules. While performing the duties in this section, the duly authorized employees or representatives of the Township shall observe all reasonable safety rules applicable to the Premises established by the owner of the property or occupant.

Sec. 18.81 Noncompliance; Notice.

- (a) The Township shall be the strict enforcer of the provisions of this chapter.
- (b) The Township may suspend waste and/or wastewater treatment service when such suspension is necessary, in the opinion of the Township, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of Persons or the environment, causes Interference to the Sewage Works or causes violation of any condition of the NPDES permit.
- (c) Any Person notified of a suspension of the wastewater treatment service shall immediately stop or eliminate the noncomplying discharge. In the event of a failure of the Person to comply voluntarily with the suspension order, the Township shall take such steps as deemed necessary, including, but not limited to, immediate severance of the Service Connection, to prevent or minimize damage to the Sewage Works or endangerment to any individuals. The Township shall reinstate the wastewater treatment service upon proof of the elimination of the noncomplying discharge and upon payment to the Township of all costs of Operation and Maintenance of the wastewater treatment facilities due to the violation. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Township within 15 days of the date of occurrence.
- (d) Where it is not possible for a User or prospective User to bring its wastes within the limits prescribed by this chapter and any orders of determination made under this chapter, the Township may discontinue or deny service to such User or prospective User.
- (e) Whenever the Township determines that any User has violated or is violating this chapter, or any prohibition, limitation or requirement contained in this chapter, the Township may, but is not required to, serve upon such Person a written notice stating the nature of the violation. Within 30 days after the date of the notice, a plan for satisfactory correction thereof shall be submitted to the Township by the User. Except to the extent required by federal or state law or regulation, the Township may instead proceed to utilize other remedies available to it under this chapter and by law, without utilizing the procedure in this subsection.
- (f) The Township shall annually publish in a local newspaper a list of the Users with significant violations during the 12 previous months. The notification shall also summarize any enforcement actions taken against the Users during the same 12 months.

Sec. 18.82 Violations; Penalties.

- (a) No unauthorized Person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with, climb upon, or enter into any structure, appurtenance or equipment of the System.
- (b) No Person shall knowingly make any false statements, representation or certification in any application, record, reports, plan or other document filed or required to be maintained in accordance with this chapter.

- (c) **Notice to Cease and Desist.** Except for violations of Section 18.21(a) hereof, any Person found to be violating any provision of this Ordinance shall be served by the Township with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- (d) **Civil Infraction.** Any violation of Section 18.21(a), or any violation beyond the time limit provided for in Section 18.21(c), shall be a municipal civil infraction, for which the fine shall not be less than \$100 nor more than \$500 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, “subsequent offense” means a violation of this chapter committed by the same Person within 12 months of a previous violation of the chapter for which said Person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense. Each day that such violation occurs or continues shall constitute a separate offense. Any Person violating any of the provisions of this chapter shall, in addition, become liable for any expense, loss, or damage occasioned by reason of such violation. The supervisor is hereby authorized to issue citations for municipal civil infractions for violation of this chapter.
- (e) **Nuisance; Abatement.** Any Nuisance or any violation of this chapter is deemed to be a Nuisance per se. The Township in the furtherance of the public health may enforce the requirements of this chapter by injunction or other remedy and is hereby empowered to make all necessary repairs or take other corrective action necessitated by such Nuisance or violation. The Person who violated the chapter or permitted such Nuisance or violation to occur shall be responsible to the Township for the costs and expenses incurred by the Township in making such repairs or taking such action.
- (f) **Liability for Expenses.** Any Person violating any of the provisions of this chapter shall become liable to the Township and their Authorized Representatives for any expense, including reasonable attorney’s fees, loss, or damage incurred by the Township by reason of such violation.
- (g) In addition to all other penalties provided by this chapter and by law, the Township may impose on one or more Users a Miscellaneous Customer Fee, as necessary, for miscellaneous services, repairs, and related administrative costs including, but not limited to, labor costs, costs for contractors, equipment rental, reasonable attorney fees, and other out-of-pocket costs, associated with the System and incurred, without limitation, as a result of the intentional or negligent acts of such User or Users, including, for example, excessive inspection services not covered by the Inspection fee, costs incurred to remedy a violation of this chapter, and costs incurred by the Township to shut off and turn on Sewer Service.
- (h) **Remedies are Cumulative.** The remedies provided by this chapter shall be deemed to be cumulative and not mutually exclusive.

MISCELLANEOUS

Sec. 18.83 State and Federal Law Requirements.

If any provision of applicable state or federal law imposes greater restrictions than are set forth in this chapter then the provisions of such state or federal law shall control.

Sec. 18.84 Reservation of Right to Amend.

The Township specifically reserves the right to amend this chapter in whole or in part, at one or more times hereafter, or to repeal the same, and by such amendment to repeal, abandon, increase, decrease, or otherwise modify any of the Sewer Rates and Charges herein provided.

PART C – NORTH KENT SANITARY SEWER SYSTEM

GENERALLY

Sec. 18.85 Short Title.

This Part C of this Chapter shall be known as the “North Kent Sewer Connection, Use and Rate Ordinance” and may be cited as such.

Sec. 18.86 Intent.

This Part is intended to apply to all properties served by the North Kent Sewage Disposal System (the “Wastewater System”) located in the Service District as herein defined. This Part shall not apply to the Camp Lake Sanitary Sewer System.

Sec. 18.87 Objectives Regarding Contract Requirements.

This Part is adopted in accordance with and in furtherance of the Township’s obligations as set forth in the Sewer Service Agreement, as amended from time to time.

Sec. 18.88 Findings Regarding Public Health, Safety and Welfare.

The Township hereby determines that the Wastewater System is immediately necessary to protect and preserve the public health, safety and welfare of the Township. This determination is based upon the express determination of the State Legislature set forth in Section 12752 of the Michigan Public Health Code, which reads as follows:

“Sec. 12752. Public sanitary sewer systems are essential to the health, safety, and welfare of the people of the state. Septic Tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of Septic Tank disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of this state. The connection to Available Public Sanitary Sewer Systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.”

Sec. 18.88.1 Purpose and Policy.

This Part sets forth uniform requirements for Users of the Wastewater System and to enable the Township and the North Kent Sewer Authority to protect public health in conformity with all applicable local, State and Federal laws relating thereto.

The objectives of this Part are:

- (a) to prevent the introduction of Pollutants into the Wastewater System which will interfere with its normal operation or contaminate the resulting municipal sludge;
- (b) to prevent the introduction of Pollutants into the Wastewater System which do not receive adequate Treatment in the WWTP, and which will Pass Through the Wastewater System into receiving waters or the atmosphere or otherwise be incompatible with the Wastewater System;
- (c) to improve the opportunity to recycle and reclaim Wastewater and sludge from the Wastewater System;
- (d) to protect both Wastewater System personnel who may be affected by Wastewater and sludge in the course of their employment and the general public.
- (e) to provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Wastewater System; and
- (f) to enable the Authority to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Wastewater System is subject.

This Part shall apply to all Users of the Wastewater System in the Township. This Part authorizes the issuance of individual Wastewater Discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

DEFINITIONS

Sec. 18.89

Sec. 18.89.1 Rules Applying To Text.

The following rules of construction shall apply to the text of this Part.

- (a) The particular shall control the general.
- (b) Except with respect to the definitions which follow in Sec. 18.89.3, the headings which title a division, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Part or as enlarging or restricting the terms and provisions of this Part in any respect.
- (c) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

- (d) Unless the context clearly indicates to the contrary:
 - (1) words used in the present tense shall include the future tense;
 - (2) words used in the singular number shall include the plural number; and
 - (3) words used in the plural number shall include the singular number.
- (e) Words imparting masculine gender shall apply to feminine and also to firms, associations, partnerships, joint ventures, corporations, trusts, and municipal or other public entities.
- (f) With regard to any conflicts between the provisions of Part C of this Chapter and the applicable federal regulations, the federal regulations shall control.
- (g) The word “person” includes a firm, association, partnership, joint venture, corporation, trust, municipal or public entity, or equivalent entity or a combination of any of them as well as a natural person.

Sec. 18.89.2 Words Not Defined.

Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

Sec. 18.89.3 Definitions.

For the purpose of their use in this Part, the following terms and words are hereinafter defined.

- (a) *40 CFR 403*: The general Pretreatment regulations outlined at 40 Code of Federal Regulations Part 403.
- (b) *Abbreviations*: The following abbreviations shall have the designated meanings:

ASTM:	American Society for Testing and Materials
BMP:	Best Management Practice
BMR:	Baseline Monitoring Report
CFR:	Code of Federal Regulations
CIU:	Categorical Industrial User
COD:	Chemical Oxygen Demand
ERP:	Enforcement Response Plan
gpd:	Gallons Per Day
l:	Liter
MAHL:	Maximum Allowable Headworks Loading
MDL:	Method Detection Limit
mg:	Milligrams
mg/l:	Milligrams Per Liter
MRP:	Mercury Reduction Plan
NPDES:	National Pollutant Discharge Elimination System
RCRA:	Resource Conservation and Recovery Act
SIC:	Standard Industrial Classification
SIU:	Significant Industrial User
SWDA :	Solid Waste Disposal Act
TSS:	Total Suspended Solids

ug/l: Micrograms Per Liter
USC: United States Code
WEF: Water Environment Federation
WWTP: Wastewater Treatment Plant

- (c) *Act or the Act:* The Federal Water Pollution Control Act, as amended by the Clean Water Act and the Water Quality Act of 1987, 33 U.S.C 1251, et. seq.
- (d) *Authority:* The North Kent Sewer Authority.
- (e) *Authorized Representative:* An Authorized Representative of a User is:
 - (1) If the User is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager: is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual Wastewater Discharge permit requirements; and to whom authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the User is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in paragraphs 1 through 3 above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Director.
- (f) *Available public sanitary sewer system:* Within the Service District, a public sanitary sewer system located in a right of way, easement, highway, street or public way which crosses, adjoins or abuts upon the property and passing not more than 200 feet at the nearest point from a Structure in Which Sanitary Sewage Originates; provided, however, that the local collector line, trunk, interceptor sewer line or a sewer lateral connection point must be present on the same side of the road as the structure if said road is paved. For the purpose of measuring the 200-foot distance described above, the measurement shall be from the sewer lateral if said sewer lateral is the closest portion of the public sanitary sewer system to the

Structure in Which Sanitary Sewage Originates, and if there is no existing sewer lateral to serve the premises, the measurement shall be from the local collector line, trunk or interceptor sewer line.

- (g) *BMPs (Best Management Practices)*: Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 18.110.1 and 18.110.2. BMPs include Treatment requirements, operating procedures, and practices to control plan site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (h) *BOD or BOD5 (denoting Biochemical Oxygen Demand)*: The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Celsius, expressed in parts per million by weight or in milligrams per liter.
- (i) *Building Sewer*: The extension of the building drain which begins five (5) feet outside the inner face of the building wall and continues to the Public Sewer or other place of disposal.
- (j) *Bypass*: The diversion of wastestreams from any portion of a User's treatment facility as outlined in 40 CFR 403.17.
- (k) *Categorical Industrial User (CIU)*: An industrial User subject to a categorical Pretreatment Standard or categorical standard.
- (l) *Categorical Pretreatment Standard*: A regulation promulgated by the U.S. EPA under Sections 301 or 307 of the Clean Water Act, as amended (33 USC 1311 or 1317).
- (m) *COD (denoting Chemical Oxygen Demand)*: The amount of oxygen required to chemically oxidize organic and inorganic constituents of Wastewater as measured under the standard laboratory procedures.
- (n) *Combined Wastestream*: The wastestream at facilities where effluent from one (1) regulated process is mixed, prior to Pretreatment or Treatment, with Wastewaters other than those generated by that regulated process. Where required by federal or state law, the Combined Wastestream formula provided in 40 CFR 403 will apply to limits applicable to a Combined Wastestream.
- (o) *Composite Sample*: A series of representative samples taken over a specific time period which are then combined into one (1) sample for testing purposes.
- (p) *Daily Maximum Concentration*: The arithmetic average of all effluent samples for a Pollutant collected during a calendar day.
- (q) *Daily Maximum Limit*: The maximum allowable Discharge limit of a Pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily Discharge is the total mass Discharged over the course of the calendar day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily Discharge is the arithmetic average measurement of the Pollutant concentration derived from all measurements taken that calendar day.
- (r) *DEQ*: The Michigan Department of Environmental Quality or any successor governmental agency having similar regulatory jurisdiction.

- (s) *Director*: The Authority or the Authority’s designated representative responsible for the administration and enforcement of this Part.
- (t) *Discharge*: Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into the Wastewater System.
- (u) *Domestic User*: A User of the Wastewater System from which the Discharge into the Wastewater System is primarily domestic waste.
- (v) *Domestic Waste*: A water carried waste from, but not limited to, toilet, kitchen, laundry, bathing, or other facilities used for household purposes, but excluding industrial wastes.
- (w) *EPA*: The United States Environmental Protection Agency.
- (x) *Existing Source*: Any source of Discharge that is not a “New Source.”
- (y) *Garbage*: The solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
- (z) *Grab Sample*: A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- (aa) *Industrial User (IU)*: Any person who introduces Pollutants into a WWTP from any non-domestic source regulated under the Act, state law, or local ordinance or this Part.
- (bb) *Industrial Wastes*: The liquid or liquid borne wastes from industrial or manufacturing processes, and/or trade or business operations, as distinct from Domestic Wastes.
- (cc) *Instantaneous Limit*: The maximum concentration of a Pollutant allowed to be Discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial wastewater flow rate and the duration of the sampling event.
- (dd) *Interceptor Device*: A device, including but not limited to, grease traps, sand traps, oil separators, etc., designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter. In case of acid or caustic wastes, an interceptor is a device in which the wastes are neutralized prior to their Discharge into the Wastewater collection system of the premises, the building drain, the Building Sewer, private sewer, or Public Sewer.
- (ee) *Interference*: Any Discharge which alone or in conjunction with a Discharge or Discharges from other sources, both:
 - (1) Inhibits or disrupts the Wastewater System and any of its process or operations, or its sludge use or disposal; and
 - (2) Therefore is a cause of a violation of any requirement of the WWTP’s NPDES permit (including an increase in the magnitude of duration of a violation) or of the prevention of sludge use or disposal in compliance with applicable local, State or Federal law.
- (ff) *Local Limit*: Specific Discharge limits developed for the Wastewater System and enforced upon industrial or commercial facilities to implement the general and specific Discharge prohibitions listed in 40 CFR 403.5(a)(1)(b).

- (gg) *Medical Waste*: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (hh) *Monthly Average Concentration*: The sum of the concentrations of the subject Pollutant in all of the individual samples from that Discharge divided by the number of samples analyzed for that Pollutant during a calendar month. If the Pollutant concentration in any sample is less than the limit of detection, that value shall be regarded as zero (0) when calculating Monthly Average Concentration.
- (ii) *National Categorical Pretreatment Standard Or Categorical Pretreatment Standard*: Any regulation containing Pollutant Discharge limits promulgated by the U.S. EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1317), which applies to a specific category of Industrial Users.
- (jj) *Natural Outlet*: Any outlet into a Watercourse, pond, ditch, lake or other body of surface or ground water.
- (kk) *New Source*: A new source is a facility from which there is, or may be a Discharge of Pollutants, construction of which commenced after the publication of proposed Pretreatment Standard under Section 307(c) of the Clean Water Act, as amended (33 USC 1317), which will apply to the facility if the standards are promulgated in accordance with that Section, and where the Discharge source is the result of:
- (1) construction of a facility at a site where no other Point Source is located;
 - (2) the process or production equipment causing the Discharge is totally replaced due to construction; or
 - (3) production of Wastewater generating processes of the facility are substantially independent of an Existing Source at the same site; and/or as further or otherwise defined in the applicable federal regulations, being 40 CFR 403.3(k)(2).
- (ll) *Non-Domestic Users*: Any User, including SIUs, of the Wastewater System that Discharges wastes other than or in addition to water-carried Domestic Wastes.
- (mm) *Non-Domestic Waste*: All water carried wastes other than Domestic Wastes.
- (nn) *NPDES or State Discharge Permit*: A permit issued pursuant to Section 402 of the Act (33 USC 1342).
- (oo) *Nuisance*: Any condition or circumstance defined as a nuisance pursuant to Michigan statute, at common law or in equity jurisprudence which includes, but is not limited to, any condition where Sewage, Industrial Waste, or the effluent from any Sewage disposal facility or toilet device is exposed to the surface of the ground or is permitted to drain on or to the surface of the ground or into any ditch, storm sewer, lake or Watercourse, or when the odor, appearance, or presence of this material has an obnoxious or detrimental effect on or to the senses or health of persons, or when it shall obstruct the comfortable use or sale of adjacent property, except as otherwise permitted.
- (pp) *Operation and Maintenance*: Shall include all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce

discharges to receiving waters that conform with all related federal, state and local requirements. (These costs include Replacement of Sewer lines and appurtenant structures.)

- (qq) *Pass Through*: A Discharge which exits the WWTP in quantities or concentrations which, alone or with Discharges from other sources, causes a violation of the Authority's NPDES permit (including an increase in the magnitude or duration of a violation) and/or as further defined in 40 CFR 403.3(n).
- (rr) *pH*: The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.
- (ss) *Plainfield*: The Charter Township of Plainfield.
- (tt) *Plainfield Sewer Ordinance*: The ordinance or ordinances adopted by Plainfield from time to time which regulate the connection to, the use of and the rates for connection to and services provided by the Wastewater System located within Plainfield.
- (uu) *Point Source*: Any discernable confined and discrete conveyance or vessel from which Pollutants are or may be Discharged into a public waterway or Public Sewer system.
- (vv) *Pollutant*: Dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, Garbage, Sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or Discharged equipment, rock, sand, cellar dirt, municipal, agricultural and Industrial Wastes, and certain characteristics of Wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (ww) *Premises*: The lands included within the boundaries of a single description as set forth, from time to time, on the general tax rolls of the Township as a single taxable item in the name of the taxpayer or taxpayers at one address, but, in the case of platted lots or site condominiums, shall be limited to a single platted lot or site condominium unit unless an existing building or structure is so located on more than one lot as to make the same a single description for purposes of assessment or conveyance now or hereafter.
- (xx) *Pretreatment or Treatment*: The reduction, elimination, or alteration of Pollutant properties to a less harmful state prior to or in lieu of Discharge or introduction into the Wastewater System. This can be accomplished by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 CFR Section 403.6(d).
- (yy) *Pretreatment Requirements*: Any substantive or procedural requirement related to Pretreatment imposed on a User.
- (zz) *Pretreatment Standard or Standard*: Any local, state or federal regulation containing Pollutant Discharge limits. This term includes Local Limits, prohibitive Discharge limits including those promulgated under 40 CFR 403.5, and Categorical Pretreatment Standards.
- (aaa) *Prohibited Discharge Standards or Prohibited Discharges*: Absolute prohibitions against the Discharge of certain substances; these prohibitions appear in Sections 18.110.1 and 18.110.2.
- (bbb) *Public Sewer*: A sewer which is owned by, or under the operational responsibility and control of Plainfield or the Authority in accordance with the Sewer Service Agreement.

- (ccc) *Replacement Costs*: Those expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the Wastewater System to maintain the capacity and performance for which such works are designed and constructed.
- (ddd) *Residential Equivalent Unit, REU, Unit or Units*: Shall be related to the quantity of sanitary sewage ordinarily arising from the occupancy of a residential building by a single family and the benefit derived therefrom, as determined from time to time by Plainfield in accordance with the Sewer Service Agreement and the Plainfield Sewer Ordinance.
- (eee) *Residential User*: All non-commercial premises used only for human residency and which are connected to the Wastewater System.
- (fff) *Septic Tank Waste*: Any Sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (ggg) *Severe Property Damage*: Substantial physical damage or property damage to the Wastewater System which causes all or part of the Wastewater System to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a Bypass. Severe property damage does not mean economic loss caused by delays in production.
- (hhh) *Service District*: All geographic areas located within the Township served by the Wastewater System in accordance with the Sewer Service Agreement.
- (iii) *Sewage*: The water-carried wastes from human excrement and gray water (household showers, dishwashing, etc.) from residences, business buildings, industrial establishments and/or other premises together with such infiltration as may be present.
- (jjj) *Sewage Disposal Services*: The collection, transportation, treatment and disposal of sanitary sewage originating from a Premises now or hereafter.
- (kkk) *Sewer Lateral Charge*: The amount charged to each Premises in the Wastewater System for the actual construction of one or more sewer laterals from the Wastewater System to the property line of the Premises.
- (lll) *Sewer Rates and Charges*: As defined from time to time in the Plainfield Sewer Ordinance and including, without limitation, the Availability Fee, Trunkage Connection Fee, Trunkage Connection Fee Surcharge, NKSA Joint System Connection Fee, Sewer Lateral Charge, Sewer Lateral Inspection Fee, Debt Service Charge, Inspection and Approval Fee, Charges for Sewage Disposal Services, surcharges, permit fees, together with the Special Connection Charge, Infrastructure Fee and Algoma Rate Surcharge referenced in Paragraph 7 of the Sewer Service Agreement, and interest and penalties thereon, as established from time to time by the Authority or by resolution of the Plainfield Township Board of Trustees.
- (mmm) *Sewer Service Agreement*: That certain Sewer Service Agreement dated as of October 20, 2008, and entered into by and between the Township, Plainfield and the Authority, as said Agreement may be amended and restated by the parties from time to time.
- (nnn) *Significant Industrial User (SIU)*: Except as provided in paragraph (3) of this definition, the term SIU means:

- (1) All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
 - (2) Any other Industrial User that: Discharges an average of 25,000 gpd or more of process Wastewater to the Wastewater System (excluding sanitary, non-contact cooling and boiler blowdown Wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the WWTP; or is designated as such by the Director as defined in 40 CFR 403.12(a) on the basis that the Industrial User has a reasonable potential for adversely affecting the WWTP's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)[6]).
 - (3) Upon a finding that an Industrial User meeting the criteria in paragraph (2) of this definition has no reasonable potential for adversely affecting the WWTP's operation or for violating any Pretreatment Standard or requirement (as defined in 40 CFR 403.12[a]) the Director may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a SIU.
- (ooo) *Significant Non-Compliance (SNC)*: The event of any one (1) or more of the following having occurred:
- (1) Chronic violations of Wastewater Discharge limits, defined as where 66% or more of all the measurements accepted by the Director taken for the same Pollutant parameter during a six (6) month period exceed (by any magnitude) any applicable maximum limit including an Instantaneous Limit.
 - (2) Technical Review Criteria (TRC) violations, defined as where 33% or more of all the measurements accepted by the Director for each Pollutant parameter taken during a six (6) month period equal or exceed the product of any applicable maximum limit including an Instantaneous Limit multiplied by the applicable TRC (1.4 for BOD, TSS, fats, oil and grease; and 1.2 for any other Pollutant except pH).
 - (3) Any other violation of a Pretreatment limit that the Director determines has caused, alone or in combination of other Discharges, Interference or Pass Through, or endangerment of the health of WWTP personnel or the general public.
 - (4) Discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the exercise of emergency authority to halt or prevent such Discharge under 40 CFR 403.8(f)(1)(vi)(B), by Plainfield or the Authority.
 - (5) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order (administrative or judicial) for starting construction, completing construction, or attaining final compliance.
 - (6) Failure to provide, within thirty (30) days after the due date, required reports, including, without limitation, such reports as BMR's, ninety (90) day Compliance Reports, Periodic Self-Monitoring Reports, and reports on compliance with compliance schedules.

- (7) Failure to accurately or fully report non-compliance.
- (8) Any other violation or group of violations, which may include violation(s) of BMP's, which the Director determines will, or has, an adverse effect on the operation of the Wastewater System or implementation of the local Pretreatment program.
- (9) Any other violation which meets one (1) or more of the listed criteria to assure compliance as set forth in 40 CFR 403.8(f)(2)(vii).
- (ppp) *Structure in Which Sanitary Sewage Originates or Structure*: A building in which toilet, kitchen, laundry, bathing, or other facilities which generate water-carried sanitary sewage, are used or are available for use for household, commercial, industrial or other purposes.
- (qqq) *Slug Discharge*: A Discharge of non-routine, episodic nature, including, but not limited to an accidental spill or a non-customary batch Discharge.
- (rrr) *Total Suspended Solids (TSS)*: The solids that either float on the surface of or are in suspension in water, Wastewater or other liquids and which are removable by laboratory filtering.
- (sss) *Township*: The Township of Algoma.
- (ttt) *Township Engineer*: The engineer retained, employed or contracted by the Township of Algoma to advise the Township with respect to the Wastewater System.
- (uuu) *Upset*: An exceptional incident in which a User unintentionally and temporarily is in a state of non-compliance with the requirements of this Part due to factors beyond the reasonable control of the User, and excluding non-compliance to the extent caused by operational error, improperly designed Treatment facilities, inadequate Treatment facilities, lack of preventive maintenance, or careless or improper operation thereof and as further defined in 40 CFR 403.16.
- (vvv) *User*: Any person (including any domestic or foreign corporation, partnership, governmental unit or other legal entity) who contributes, causes or permits the contribution of Wastewater into the Wastewater System.
- (www) *Wastewater*: Water-carried waste from residences, business buildings, industrial establishments and/or other Premises together with such infiltration as may be present.
- (xxx) *Wastewater System*: The WWTP as well as all Public Sewers and other facilities owned by or over which the Authority and/or Plainfield has operational responsibility and control, including without limitation those Public Sewers and facilities subject to the Sewer Service Agreement, for collecting, sampling, monitoring and pumping Wastewater which discharges to the WWTP.
- (yyy) *Wastewater Treatment Plant or "WWTP"*: The Authority's PARCC-Side Clean Water Plant, located at 4775 Coit Avenue, Grand Rapids, MI 49525
- (zzz) *Waters of the State*: Waters of the State include the following:

- (1) Both surface and underground waters within the boundaries of this State subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within this State, other than those designed and used to collect, convey, or dispose of Wastewater; and
 - (2) The flood plain free-flowing waters determined by the DEQ on the basis of one hundred (100) year flood frequency; and
 - (3) Any other waters specified by state law.
- (aaaa) *Watercourse*: A channel, natural or artificial, in which a flow of water occurs either continuously or intermittently.

RETAIL WASTEWATER SERVICE

Sec. 18.90 Retail Wastewater Service to Service District in Accordance with Sewer Service Agreement; Connections; Sewer Rates and Charges.

- (a) In accordance with the Sewer Service Agreement, (1) Plainfield provides sanitary sewage disposal services to the Service District on a retail basis; and (2) Plainfield is responsible for the operation, maintenance, repair, replacement and service necessary for the Wastewater System in the Service District, the connection of Users to the Wastewater System in the Service District and the establishment, billing and collection of Sewer Rates and Charges applicable to Users in the Service District.
- (b) A User required, or desiring, to obtain sewer service shall make application to Plainfield on forms prescribed by Plainfield. Review and approval of the application and issuance of a connection permit, the conditions and requirements related to the connection of building sewers to sewer laterals and the inspection thereof, the operation, maintenance and replacement of the sewer lateral, and all other matters, including enforcement, related to sewer connections shall be subject to the terms and conditions embodied from time to time in the Plainfield Sewer Ordinance and related rules and regulations.
- (c) In accordance with the terms of the Sewer Service Agreement, the Sewer Rates and Charges for connection to and use of the Wastewater System, together with related penalties and surcharges, shall be established and adjusted from time to time by Plainfield with respect to Users in the Service District in the same amount, on the same basis, with the same customer classifications and on the same terms with respect to those same rates, charges, penalties and surcharges as apply to sewer customers located within Plainfield subject to the exceptions set forth in Paragraph 7 of the Sewer Service Agreement.

CONNECTION TO AND EXTENSION OF SYSTEM

Sec. 18.91 Connection to System; Notice of Availability.

- (a) Except as otherwise provided in subsection (b) or (c) of this section, Premises in the Service District that have an Available Public Sanitary Sewer System as defined in Section 18.89.3 and in which sanitary sewage originates, shall connect to the Wastewater System no later than the first to occur of the following events:

- (1) The county health department determines that connection to the Available Public Sanitary Sewer System is required due to failure or partial failure of the on-site septic system, as determined by the county health department; or
 - (2) Ten years after the date the Wastewater System first becomes available; or
 - (3) A construction or building permit is issued for a new habitable building.
- (b) Notwithstanding subsection (a) of this section, Premises within the Service District in which sanitary sewage is originating and which are or become under pollution control court orders shall be connected to the Wastewater System within three months after service is available.
- (c) Notwithstanding subsection (a) or (b) of this section, Premises in the Township that have an Available Public Sanitary Sewer System as defined in section 18.89.3, in which sanitary sewage originates, and which is located within an area designated by resolution of the Plainfield township board as a special service area within the Service District, shall connect to the Wastewater System no later than the first to occur of the following events:
- (1) The county health department determines that connection to the Available Public Sanitary Sewer System is required due to failure or partial failure of the on-site septic system, as determined by the county health department; or
 - (2) Twenty years after the date the Wastewater System first becomes available; or
 - (3) A construction or building permit is issued for a new habitable building.

Sec. 18.92 Extensions of Wastewater System.

- (a) The owner of Premises located within the Service District but not served by an Available Public Sanitary Sewer System may elect to extend the Wastewater System and connect his Premises thereto, subject to the conditions for sewer extensions set forth in subsection c.
- (b) All plats, site condominiums, planned unit developments and multi-family developments, and all commercial, institutional and industrial uses within the Service District, shall extend and connect to the Wastewater System in the Service District, provided that the existing terminus of the Wastewater System in the Service District is not located further from the nearest edge of the proposed development or use than the total distance determined by multiplying the number of Residential Equivalent Units proposed for the development or use times 150 feet. The number of Residential Equivalent Units for purposes of this Agreement shall be reasonably determined in accordance with the Table of Residential Equivalent Unit Factors adopted from time to time by Plainfield and applicable to sanitary sewage disposal customers located within Plainfield. Notwithstanding the provisions of this subsection to the contrary, a development or use which proposes to include a Non-Domestic User as defined in Section 18.89.3, shall not be required to extend, if applicable, and connect to the Wastewater System unless the connection of such Non-Domestic User is approved by Plainfield and the Authority in accordance with the Sewer Service Agreement.
- (c) If connection to the Wastewater System is required by subsection b of this Ordinance, but there is no Available Public Sanitary Sewer System adjacent to the Premises, or if a property owner elects to extend the Wastewater System to his Premises, such extension shall be made in accordance with the following requirements:

- (1) The sewer main shall be extended to the Premises in a public right of way, or in an easement owned by the public to the Premises in question. If the sewer is to be extended for the purpose of serving a User or development, including but not limited to a plat, site condominium, planned unit development or multi-family development which involves the installation of a new public or private road, the sewer main shall be extended throughout such new road so that the sewer abuts all units or lots within the development, within an easement dedicated to the public if not located in a public street right of way.
- (2) If a sewer main is extended to a Premises, the main shall be installed across the entire frontage of the Premises served, to the border of the adjacent Premises. For developments for which a new public or private road is constructed, the sewer main shall be extended across the entire frontage of the development on the existing adjacent public or private road, in addition to being extended within the new road to all lots or units within the development. All sewer main extensions shall be located within an easement dedicated to the public, if not located in a public street right of way.
- (3) The sewer main shall be constructed and inspected in accordance with specifications approved by the Township and Plainfield.
- (4) Upon completion of the sewer main, verification by Plainfield that it has been properly constructed, and proof that all contractors have been paid for the cost thereof (including lien waivers if requested), the sewer main shall be dedicated to Plainfield, without cost to Plainfield. Upon acceptance of dedication, Plainfield shall thereafter be responsible for maintenance of the sewer main in accordance with the Sewer Service Agreement. Plainfield shall be assigned, or be a third party beneficiary of, all construction contracts and material and equipment warranties.
- (5) The entire cost of installation of the sewer main, including but not limited to engineering, inspection, construction, right-of-way and land acquisition, permits and restoration shall be paid by the owner or owners of the Premises to which sewer is being extended.
- (6) In addition to the extension of a sewer main as required, the owner of Premises to be connected to the System shall reimburse the Township, Plainfield and/or the Authority, as applicable, for the cost of making improvements to downstream facilities, which are necessary as a result of the additional connections proposed to be made by the owner of the Premises or by a development which will be provided with public sewer, including but not limited to increasing the size of downstream sewer mains to provide sufficient capacity, increase in the capacity of lift stations, and increase in treatment capacity of the Wastewater Treatment Plant. In such a situation, the responsible party shall enter into an agreement whereby the responsible party pays to the Township, Plainfield and/or the Authority, as the case may be, in advance, an amount equal to at least the estimated cost of making such improvements, including but not limited to engineering, inspection, construction, right-of-way and land acquisition, permits and restoration. Any excess not required to complete the improvements shall be refunded to the responsible party; any shortfall shall be paid before connection of any premises is permitted.
- (7) In its discretion, the Township Board may require the person requesting the extension or required to construct an extension to provide at the sole expense of said

person an engineering report by a consulting engineer acceptable to the Township, Plainfield and/or the Authority, as the case may be, addressing the cost and feasibility of the proposed extension in the context of the foregoing conditions.

- (8) The extension, and all connections to such extension, shall be subject to the terms and conditions of the Sewer Service Agreement.

Sec. 18.93 Connection to System; Plats, Site Condominiums; Exception.

Where a public sewer is required to be extended or constructed to serve a plat, site condominium, planned unit development, or multi-family development, or a commercial, institutional or industrial use, no building intended for any structure for human use or occupancy shall be erected nor shall any building permit be issued on behalf of the Township unless sewer laterals are provided to each lot, parcel, or unit included in said plat or site condominium. The Plainfield township board may, at its discretion, waive the preceding requirement in this subsection if it determines that, due to the size or nature of the development, it is not necessary to have all the sewer laterals installed prior to the issuance of any building permits. As a condition of said waiver, Plainfield may require a letter of credit or other type of financial guarantee for the completion of the sewer system within the development. Connection of each lot, parcel or unit shall be made to the system when the sewer has been approved and connections thereto are permitted.

SEWER RATES AND CHARGES

Sec. 18.94 Applicability.

All Persons connecting to and utilizing the Wastewater System shall pay Sewer Rates and Charges as set forth in this Part C and as required by the Sewer Service Agreement.

Sec. 18.95 No Free Service.

No free service shall be furnished by the Wastewater System to the Township or any Person, firm, or corporation, public or private, or any public agency or instrumentality.

Sec. 18.96 Late Payment; Penalty; Interest: Discontinued Service.

If Sewer Rates and Charges (or any installment thereof) billed to a User by Plainfield are not paid on or before the due date, a penalty or interest, in the amount and under the circumstances established by Plainfield in the Plainfield Sewer Ordinance shall be added thereto. In the event that any Sewer Rates and Charges (or any installment thereof) for any services furnished to any Premises shall not be paid within 90 days after the due date thereof, then all services furnished by the Wastewater System may be discontinued by Plainfield by means of discontinuing public water service to the Premises. Service so discontinued shall not be restored until all sums then due and owing, including penalties and interest, are paid, plus all expenses incurred by the Township, Plainfield, and/or the Authority for shutting off and turning on the water service.

Sec. 18.97 Unpaid Charges, Fees; Lien.

Sewer Rates and Charges for services furnished by the Wastewater System to any Premises and any interest and penalties thereon shall, except as provided in the next sentence, become a lien on the Premises serviced immediately upon the provision of the services. Trunkage connection fees, trunkage connection surcharge fees, sewer lateral charges, and any interest and penalties thereon shall be a lien on the Premises upon the date of actual connection or the date of mandatory connection,

whichever occurs first. On or before September 30 of each year, the Plainfield Township Treasurer shall certify any such Sewer Rates and Charges, fees, installments, penalties and interest which have been delinquent 90 days or more, plus additional interest accrued thereon, plus a penalty of an additional amount of 6 percent of the aggregate amount, to the Algoma Township Board, who shall cause the same to be entered upon the next Algoma Township tax roll as a charge against the Premises to which such services shall have been rendered and against the Premises such trunkage connection fee, availability fee and/or sewer lateral charge has been placed, and said unpaid Sewer Rates and Charges and unpaid fees, with penalties and interest accrued thereon, shall be collected by Algoma, and said lien shall be enforced by Algoma in the same manner as provided in respect to ad valorem taxes assessed upon such roll. When such delinquent Sewer Rates and Charges, penalties, interest and other fees are collected by Algoma, the proceeds shall be promptly paid by Algoma to Plainfield in accordance with the Sewer Service Agreement.

Sec. 18.98 **Reserved.**

Sec. 18.99 **Reserved.**

Sec. 18.100 **Reserved.**

Sec. 18.101 **Reserved.**

Sec. 18.102 **Reserved.**

Sec. 18.103 **Reserved.**

Sec. 18.104 **Reserved.**

Sec. 18.105 **Reserved.**

Sec. 18.106 **Reserved.**

Sec. 18.107 **Reserved.**

USE, OPERATION AND MAINTENANCE OF SYSTEM

Sec. 18.108 **Use, Operation and Maintenance of System.**

The operation, maintenance and management of the Wastewater System shall be under the immediate supervision and control of Plainfield and the Authority, in accordance with the Sewer Service Agreement.

SEWER BACKUP OR OVERFLOW REPORTING PROCEDURES

Sec. 18.109 **Notice and Claim Procedures Applicable to Overflow or Backup of the Public Sewer System.**

This section has been adopted in accordance with Act 222 of the Public Acts of Michigan of 2001 (“Act 222”) to set forth the notice and claim procedures applicable to an overflow or backup of the Wastewater System, which, as defined in Act 222, shall be referred to for purposes of this Sec. 18.109 as a “Sewage Disposal System Event.” To afford property owners, individuals and Plainfield, as the owner and operator of the Wastewater System located in the Service District in accordance with the Sewer Service Agreement, greater efficiency, certainty and consistency in the provision of

relief for damages or physical injuries caused by a Sewage Disposal System Event, the Township, Plainfield and any Person making a claim for economic damages, which, as defined in Act 222, shall be referred to for purposes of this Sec. 18.109 as a “Claimant,” shall follow the following procedures:

- (a) A Claimant is not entitled to compensation unless the Claimant notifies Plainfield of a claim of damage or physical injury, in writing, within 45 days after the date the damage or physical injury was discovered by the Claimant, or in the exercise of reasonable diligence should have been discovered by the Claimant.
- (b) The written notice under subsection (a) shall contain the Claimant’s name, address, and telephone number, the address of the affected property, the date of discovery of any property damages or physical injuries, and a brief description of the claim. As part of the description of the claim, the Claimant shall submit an explanation of the Sewage Disposal System Event and reasonable proof of ownership and the value of any damaged personal property. Reasonable proof of ownership and the purchase price or value of the property may include testimony or records. Reasonable proof of the value of the property may also include photographic or similar evidence.
- (c) The written notice under subsection (a) shall be sent to the Plainfield Township Utilities Administrator, who is hereby designated as the individual at Plainfield to receive such notices pursuant to Section 19 of Act 222, with a copy to the Township Supervisor.
- (d) If a Claimant who owns or occupies affected property notifies Plainfield orally or in writing of a Sewage Disposal System Event before providing a notice of a claim that complies with subsections (a), (b) and (c), the Plainfield Utilities Administrator shall provide the Claimant with a written explanation of the notice requirements of subsections (a), (b) and (c) sufficiently detailed to allow the Claimant to comply with said requirements.
- (e) If Plainfield is notified of a claim under subsection (a) and Plainfield believes that a different or additional governmental agency may be responsible for the claimed property damages or physical injuries, Plainfield shall notify the contacting agency, including without limitation, Plainfield, the Authority and the Township of each additional or different governmental agency of that fact, in writing, within 15 business days after the date the Township receives the Claimant’s notice under subsection (a).
- (f) If Plainfield receives a notice from a Claimant or a different or additional governmental agency that complies with this Sec. 18.109, Plainfield may inspect the damaged property or investigate the physical injury. A Claimant or the owner or occupant of affected property shall not unreasonably refuse to allow Plainfield or its duly authorized representatives to inspect damaged property or investigate a physical injury.
- (g) Prior to a determination of payment of compensation by Plainfield, the Claimant shall provide to Plainfield additional documentation and proof that:
 - (1) At the time of the Sewage Disposal System Event, Plainfield owned or operated, or directly or indirectly discharged into, that portion of the Wastewater System that allegedly caused damage or physical injury.
 - (2) The Wastewater System had a defect.
 - (3) Plainfield knew, or in the exercise of reasonable diligence, should have known, about the defect in the Wastewater System.

- (4) Plainfield, having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct or remedy the defect in the Wastewater System.
- (5) The defect in the Wastewater System was a proximate cause that was 50 percent or more of the cause of the Sewage Disposal System Event and the property damage or physical injury.
- (h) Prior to a determination of payment of compensation by Plainfield, the Claimant shall also provide to Plainfield additional documentation and proof that neither of the following were a proximate cause that was 50 percent or more of the cause of the Sewage Disposal System Event:
 - (1) An obstruction in a sewer lateral, a Building Sewer or building drain that was not caused by Plainfield or the Township; or,
 - (2) A connection on the affected Premises, including, but not limited to, a footing drain, sump system, surface drain, gutter, down spout or connection of any other sort that discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage, Cooling Water, unpolluted air-conditioning water or unpolluted industrial process waters to the Wastewater System.
- (i) If Plainfield and a Claimant do not reach an agreement on the amount of compensation for the property damages or physical injury within 45 days after the receipt of notice under subsection (a), the Claimant may institute a civil action in accordance with Act 222.
- (j) To facilitate compliance with this Section, Plainfield shall make available to the public information about the notice and claim procedures under this Sec. 18.109.
- (k) The notice and claim procedures set forth in this Sec. 18.109 shall be applicable to a Sewage Disposal System Event involving the Wastewater System.
- (l) In the event of a conflict between the notice and claim procedures set forth in this Sec. 18.109 and the specific requirements of Act 222, the specific requirements of Act 222 shall control.
- (m) As provided in Section 19(7) of Act 222, the notice and claim procedures of this Sec. 18.109 do not apply to claims for non-economic damages (as defined in Act 222) arising out of a Sewage Disposal System Event.
- (n) Any word, term or phrase used in this Sec. 18.109, if defined in Act 222, shall have the same meaning provided under Act 222.

USE OF PUBLIC SEWERS

Sec. 18.110

Sec. 18.110.1 Prohibited Discharge.

No person shall Discharge or cause to be Discharged to the Wastewater System any Wastewater or waste which (i) contains the substances or possesses the characteristics described in Sec. 18.110.2 or which exceeds the limits set forth on the attached Appendix A, except as allowed by a Special

Discharge Permit issued pursuant to Sec. 18.112.10, (ii) prevents effective operation of the Wastewater System, (iii) will cause Pass Through or Interference or which is otherwise incompatible with the WWTP, or (iv) is prohibited by any Federal or State law, regulation, permit requirement or standard which is applicable to Plainfield, the Authority, or the Wastewater System. With respect to such Wastewater or waste, the Director shall have the option to:

- (a) reject the waste or Wastewater;
- (b) require satisfactory Pretreatment as provided in Sec. 18.111.1 et. seq.; and/or
- (c) require, the payment of extra charges to Plainfield and/or to the Authority to pay for the added costs of handling and treating the waste or Wastewater.

Sec. 18.110.2 Prohibited Wastes and Wastewater.

The prohibited wastes and Wastewater referenced in Sec. 18.110.1 are as follows:

- (a) Waste or Wastewater for which a Discharge permit under Sec. 18.112.1 et. seq., is required if such permit is not obtained or valid.
- (b) Materials which can, alone or by interaction with other substances, cause fires or can be explosive including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and stoddard solvents and/or any wastestream with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius (using test methods specified in 40 CFR 261.21 or its successors).
- (c) Any Wastewater or waste with a pH of less than 6.5 or greater than 10.0.
- (d) Solid or viscous substances which will obstruct the flow in Sewers or otherwise interfere with the proper operation of the Wastewater System including, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, or paunch manure, or any material which can be disposed of as trash.
- (e) Any Wastewater or waste containing substances released in a Discharge at a flow rate and/or Pollutant concentration which:
 - (1) causes the WWTP Discharge to exceed the allowable concentrations of substances established by the Authority's NPDES Discharge permit or by the General Rules of the Water Resources Commission under Act 245 of the Public Acts of Michigan of 1929, as amended;
 - (2) causes the WWTP sludges to exceed the allowable levels of substances as established by the U.S. EPA which causes restricted use of these sludges;
 - (3) interfere(s) with the operation of the WWTP;
 - (4) causes a release(s) to the atmosphere in quantities which violate the Rules under Act 348 of the Public Acts of Michigan of 1965, as amended; or
 - (5) which may cause Interference as determined by the Director or other governmental entity with jurisdiction.

When specific substances are present in concentrations which cause the WWTP to establish limits for such substances, the Director shall publish such limits or notice of the limits and shall maintain and distribute upon request a list of the limits. These limits shall also be subject to the provisions of Sec. 18.112.10, entitled Special Discharge Permits.

New Users or existing Users which propose to implement new Discharges of Wastewater or waste, which will contain measurable amounts of any substances detected in U.S. EPA 600 series or 8000 series analytical methods, shall submit to the Director an estimate of the concentrations and quantities of these substances prior to implementing the Discharge. The Director shall determine the need to establish limits for the substances based on these estimates.

- (f) Any Wastewater or waste having a temperature exceeding 140 degrees Fahrenheit or which causes the influent to the WWTP to exceed a temperature of 104 degrees Fahrenheit.
- (g) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.
- (h) Any noxious gas, malodorous gas, or any gas or fumes, or a Pollutant which results in the presence of such gas or fumes which would injuriously effect the safety or health of the public or the employees of the Township, Plainfield, or the Authority, or work substantial annoyance, inconvenience or injury to the public.
- (i) Any trucked or hauled Pollutants.
- (j) Garbage which is not shredded to such a degree that (i) all particles can be carried freely under the flow conditions normally prevailing in Public Sewers and (ii) no particle is greater than one-half (1/2) inch in any dimension.
- (k) Any Wastewater or waste having corrosive properties capable of causing damage or hazards to structures, equipment, and/or personnel of the Wastewater System.
- (l) Any substance which may cause a public Nuisance, cause hazard to life or prevent entry into the sewers for maintenance and repair, as determined by Plainfield, the Authority or other governmental entity with jurisdiction.
- (m) Any Wastewater or waste which:
 - (1) contains a toxic or poisonous substance or has a high chlorine demand in sufficient quantity to injure or interfere with the Wastewater treatment process or the WWTP,
 - (2) contains over-strength conventional wastes in sufficient quantity to injure or interfere with the Wastewater treatment process or the WWTP,
 - (3) constitutes a hazard to humans or animals, or
 - (4) creates any hazard in the receiving waters or the effluent of the WWTP.
- (n) Any Wastewater or waste containing more than the Local Limits identified in attached Appendix A. Where applicable state or federal law mandates lower maximum concentrations, such limits shall supersede the limits set forth in and shall be incorporated by

reference into Appendix A. The Director may impose mass limitations and/or seasonal limitations in addition to or in place of the concentration limitations in Appendix A.

- (o) Any Discharge of nitrates, sugars, or other nutrients, or Wastewater or waste containing these items, shall be limited as necessary to prevent adverse effects on the Wastewater treatment processes and the WWTP and to prevent the stimulation of the growth of algae, weeds, and slimes which are or may become injurious to the water supply, the recreational use of water, fish, wildlife, or other aquatic life.
- (p) Any Wastewater or waste containing very light suspended solids (such as potato skins, fats, or cottage cheese whey) or any other constituent of such character and quantity that unusual attention or expense is required for the WWTP to effectively treat such Wastewater or waste.
- (q) Any hazardous waste, or any waste which if otherwise disposed of would be hazardous waste under 40 CFR Part 261.
- (r) Any radioactive waste or isotopes.
- (s) Any sludge, precipitate, or congealed substance which results from an industrial or commercial process or which results from the Pretreatment of Wastewater, waste, or air pollutants.
- (t) Any Medical Wastes, except as specifically authorized by the Director.
- (u) Storm water, surface water, groundwater, artesian well water roof runoff, subsurface drainage from footing drains or otherwise, deionized water, noncontract cooling water, and unpolluted water, unless specifically authorized by the Director.
- (v) Any water from a dewatering operation, without prior written authorization by the Director. Such written authorization shall be on the conditions and subject to such charges as determined by the Director. Nothing contained in this Section or in any written authorization provided hereunder shall excuse compliance by the discharger with any other provision of this Part or other applicable law. No recipient of such authorization shall be deemed to have any vested right or property interest to Discharge substances as specified in such permit but instead only a temporary permissive right to Discharge within the limits of such written authorization.
- (w) Any water Discharged from an environmental remediation project, without prior written authorization by the Director. Such written authorization shall be on the conditions and subject to such charges as determined by the Director. Nothing contained in this Section or in any written authorization provided hereunder shall excuse compliance by the discharger with any other provision of this Part or other applicable law. No recipient of such authorization shall be deemed to have any vested right or property interest to Discharge substances as specified in such permit but instead only a temporary permissive right to Discharge within the limits of such written authorization.
- (x) Mercury, in any amount detectable at or above the MDL as provided in Sec. 18.110.5.

Sec. 18.110.3 National Categorical Pretreatment Standards.

Users shall comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471, and such standards are hereby incorporated into this Part.

Sec. 18.110.4 Local Limits.

The Director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c), which shall be and are incorporated into this Part as Appendix A hereto. The Director shall publish such limits or notice of adoption of such Local Limits and upon request shall make a list of such limits available.

Sec. 18.110.5 Mercury Provisions.

- (a) Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with U.S. EPA Method 245.1. The MDL, developed in accordance with the procedure specified in 40 CFR 136 shall not exceed 0.2 ug/L for mercury, unless higher levels are appropriate due to matrix Interference.

The evaluation of potential matrix Interference(s) shall include, at a minimum, the following:

- (1) A demonstration that the laboratory conducting the analysis is capable of achieving the MDL of 0.2 ug/l in reagent water;
 - (2) A demonstration that the MDL of 0.2 ug/l cannot be achieved in the effluent; and
 - (3) A demonstration that an attempt has been made to resolve the matrix Interference(s).
 - (4) In cases where true matrix Interference(s) can be demonstrated, a Discharge-specific MDL will be developed in accordance with the procedure in 40 CFR 136. Discharge-specific MDLs will be incorporated into the Discharge permit of a Non-Domestic User.
- (b) Mercury Reduction Plans. To ensure that the maximum allowable mercury loading to the WWTP is not exceeded, the Director may require any Non-Domestic User with a reasonable potential to Discharge mercury to develop, submit for approval and implement a MRP. The MRP may be required by permit if the Non-Domestic User has not violated the Local Limit for mercury, but the Director has determined that a reasonable potential for such a violation may exist. MRPs may be required in notices of violations, orders or other enforcement actions when the Non-Domestic User has violated the mercury Local Limit. At a minimum, an approvable MRP shall contain the following:

- (1) A written commitment by the Non-Domestic User to reduce all Discharges of mercury in Non-Domestic Waste to levels below the MDL within the time frame specified by the Director;
- (2) Within sixty (60) days of notification by the Director that a MRP is required, The Non-Domestic User shall supply an initial identification of all potential sources of mercury which could be Discharged to the sanitary sewer system;
- (3) Specific strategies for mercury reduction with time frames for implementation as specified by the Director;
- (4) A program for sampling and analysis for mercury of the Discharge of Non-Domestic Wastes in accordance with 245.1 methods, if and as specified by the Director;
- (5) A demonstration of specific, measurable and/or otherwise quantifiable mercury reductions consistent with the goal of reducing mercury in Discharges to below the

specified MDL. Where such reductions can not be demonstrated through normal effluent monitoring (e.g., mercury Discharges are already near MDL), the demonstration should incorporate the following:

- a. Internal process monitoring, documenting the results of mercury reduction strategies at sampling locations within the facility (e.g., a program of regular monitoring of sink traps where mercury containing reagents had previously been disposed, but have since been substituted for by non-mercury containing compounds);
 - b. Internal and/or effluent sampling utilizing clean and/or ultra-clean sampling and analytical methods as referenced by U.S. EPA Federal Register. Note that the results of such monitoring will not be used for compliance purposes unless performed in accordance with U.S. EPA Method 245.1 and collected at the appropriate compliance measurement location.
 - c. Loading calculations wherein the Non-Domestic User calculates the total mass of mercury reduced from the sanitary sewer Discharge through reagent substitutions, changes in disposal practices and/or other approved MRP strategies implemented.
- (6) A report on the status of the mercury reduction efforts, as and when directed by the Director. At a minimum, these reports shall:
- a. identify compliance or non-compliance with specific reduction commitments in the MRP;
 - b. summarize the analytical, mass-based or other quantifiable demonstrations of mercury reductions performed to date;
 - c. provide all applicable analytical data;
 - d. provide an evaluation of the effectiveness of actions taken to date;
 - e. provide updates to the initial list of mercury-containing compounds Discharged to the sanitary sewer; and
 - f. where applicable or necessary, propose for approval new strategies and/or modifications to the current MRP to continue and improve mercury Discharge reduction efforts.
- (7) Any other conditions that the Director deems necessary to ensure that mercury reduction efforts are effective in achieving the goals of this Section.

Failure to submit an approvable MRP within thirty (30) days after the required due date shall constitute Significant Non-Compliance.

A MRP may be evaluated for adequacy at any time by the Director. If such an evaluation determines that the MRP is inadequate, or the Non-Domestic User has not complied with its approved MRP, the Non-Domestic User will be notified. Failure to comply with the MRP requirement constitutes non-compliance, and will subject the User to enforcement actions as described in this Part.

A Non-Domestic User may request a release from MRP requirements if (i) four (4) consecutive samples of the Discharge are less than the specified MDL; (ii) the Non-Domestic User has complied with minimum the monitoring frequency specified by the Director; and (iii) the Director deems that MRP commitments have been fulfilled sufficiently to ensure continued compliance with the mercury limitation. In order to be effective, any release from MRP requirements, the Non-Domestic User must obtain such release from the Director in writing.

If the MRP requirement is waived by the Director, the Non-Domestic User remains subject to the Local Limitation for mercury in accordance with the requirements of this Part.

Re-discovery of mercury in the Non-Domestic User Discharge shall subject such User to the submission of a new MRP, or escalation of enforcement in accordance with this Part.

Sec. 18.110.6 Affirmative Defenses.

A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in Sec. 18.110.1(iii) and the specific prohibitions in Sec. 18.110.2(d), (e), (f) and (g) where the User can demonstrate that:

- (a) It did not know or have reason to know that its Discharge alone, or in conjunction with a Discharge or Discharges from other sources, would cause Pass Through or Interference; and
- (b)
 - (1) A Local Limit designed to prevent Pass Through and /or Interference, as the case may be, was established pursuant to Sec. 18.110.4 for which each Pollutant in the User's Discharge that caused Pass Through or Interference, and the User was in compliance with each such Local Limit directly prior to and during the Pass Through or Interference; or
 - (2) If a Local Limit designed to prevent Pass Through and/or Interference, as the case may be, has not been established for the Pollutants(s) that caused the Pass Through or Interference, the User's Discharge directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the User's prior Discharge activity when the Authority was regularly in compliance with the Authority's NPDES permit requirements and in the case of Interference, applicable requirements for sludge use or disposal.

Sec. 18.110.7 Operating Upsets.

Any User which experiences an Upset (as defined in this Part and/or in 40 CFR 403.16, as amended, or its successors) in operations which places the User in a temporary state of non-compliance with this Part or whose Discharge could cause problems or damages to the Wastewater System (as determined by the Director), including slug loadings, whether planned or unplanned, shall immediately telephone and notify the thereof. A written follow-up report thereof shall be filed by the User with the Director within five (5) days. The report shall specify:

- (a) Description of the Upset, the cause thereof and the Upset's impact on a User's compliance status.

- (b) Duration of non-compliance, including exact dates and times of non-compliance, and if the non-compliance continues, the time by which compliance is reasonably expected to occur.
- (c) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an Upset or other conditions of non-compliance.
- (d) A timely documented and verified bona fide operating Upset shall be an affirmative defense to any enforcement action brought by the Director against a User for any non-compliance with a Pretreatment Standard under this Part which arises out of violations alleged to have occurred during the period of the Upset, if:
 - (1) The User demonstrates, through properly signed, contemporaneous operating logs or other evidence:
 - a. The cause of the non-compliance:
 - b. That the non-compliance was unintentional and temporary;
 - c. That the facility was being operated in a prudent manner in compliance with all applicable operation and maintenance procedures; and
 - d. That the non-compliance was caused by factors beyond the reasonable control of the User and not caused by operational error, improperly designed Treatment facilities, inadequate Treatment facilities, lack of preventive maintenance, or careless or improper operation; and
 - (2) The User reports the non-compliance as required by this Part.

Sec. 18.110.8 Bypasses.

Bypasses (as defined in the applicable federal regulations) are prohibited unless the Bypass is unavoidable or necessary to prevent loss of life, personal injury or Severe Property Damage. An anticipated Bypass shall be reported to the WWTP if possible at least ten (10) days before the date of the Bypass, or as far in advance as reasonably possible if less than ten (10) days. The Director may, in his discretion, approve an anticipated Bypass, after considering its potential adverse effects, if the Bypass is unavoidable to prevent loss of life, personal injury, or Severe Property Damage; if there is no feasible alternative; and if the User submits notice as required above; and/or subject to the provisions of 40 CFR 403.17(d). The WWTP shall be given oral notice of an unanticipated Bypass as soon as possible, and not later than twenty-four (24) hours from the time the User becomes aware of the Bypass. The Director may require a written report of the unanticipated Bypass incident. The report shall contain the description and cause of the Bypass, duration (exact dates and times), and steps taken or planned to reduce, eliminate and prevent reoccurrence of the Bypass. A Bypass report shall be signed by an Authorized Representative.

Subject to the requirements and limitations set forth above, a User shall have an affirmative defense to an action brought for non-compliance with violations of Categorical Pretreatment Standards if the User demonstrates that:

- (a) (1) The Bypass did not cause a violation of any Pretreatment Standard or requirement, and

- (2) The Bypass was essential for maintenance necessary to ensure efficient operation, and
- (3) The User timely submitted any report(s) under this Section; or
- (b) (1) The Bypass was unavoidable to prevent loss of life, personal injury, substantial physical damage to property, damage to treatment facilities that would cause them to become inoperable, or substantial and permanent loss of natural resources, but not merely economic loss caused by delays in production;
- (2) The User had no alternative to the Bypass, such as using auxiliary treatment facilities, retention of untreated waters, or maintenance during normal periods of equipment downtime;
- (3) If the Bypass occurred during normal periods of equipment downtime or equipment maintenance, reasonable engineering judgment indicates that back-up equipment was not justified; and
- (4) The User timely submitted the reports required by this Section.

Sec. 18.110.9 Dilution.

Except as expressly authorized under applicable categorical Pretreatment Standards, no User shall increase the use of potable or process water nor mix separate wastestreams for the purpose of diluting a Discharge, or otherwise dilute a Discharge in any way, as a partial or complete substitute for adequate treatment to achieve compliance.

PRETREATMENT OF WASTEWATER

Sec. 18.111

Sec. 18.111.1 Pretreatment Facilities.

Users shall provide Wastewater Pretreatment or treatment as necessary to comply with this Part and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Sections 18.110.1 and 18.110.2 of this Part within the time limitations specified by the U.S. EPA, the State or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a Discharge acceptable to the Director under the provisions of this Part.

Where preliminary treatment is required by this Section for a New Source, all pollution control or Pretreatment equipment must be installed and started-up prior to Discharge, and such User shall adhere to a compliance schedule which is in compliance with all applicable federal regulations. Where preliminary treatment is required by this Section, and the User is already discharging waste or Wastewater into the Wastewater System, then the User shall, at the request of the Director, comply with a schedule established by the Director after input from the User which shall specify by date those items which are to be accomplished by the User to complete all necessary preliminary Treatment facilities and to bring the waste and Wastewater being Discharged into compliance with all

requirements of this Part. The Director may require that such compliance schedule include liquidated damage provisions for failure to comply with the schedule.

Sec. 18.111.2 Additional Pretreatment Measures.

- (a) Whenever deemed necessary, the Director may require Users to restrict their Discharge during peak flow periods, designate that certain Wastewater be Discharged only into specific sewers, relocate and/or consolidate points of Discharge, separate Sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the Wastewater System and determine the User's compliance with the requirements of this Part.
- (b) The Director may require any person discharging into the Wastewater System to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual Wastewater Discharge permit may be issued solely for flow equalization.
- (c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of Wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for Residential Users. All interception units shall be of a type and capacity approved by the Director, shall comply with all other applicable Township ordinances and shall also be located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at their expense.
- (d) Users with the potential to Discharge flammable substances may be required by the Director to install and maintain an approved combustible gas detection meter.

Sec. 18.111.3 Accidental Discharge/Slug Discharge Control Plans.

The Director shall evaluate whether each SIU needs an accidental Discharge/Slug Discharge control plan or other action to control Slug Discharges. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User, at the User's expense. The adequacy of such plan and frequency at which such plan will be evaluated shall be determined by the Director pursuant to the provisions of 40 CFR 403.8(f)(2)(v). The Director shall evaluate the need for such a plan at least once every two (2) years. Such a plan shall include the following:

- (a) Description of Discharge practices, including non-routine batch Discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the Director of any accidental or Slug Discharge, as required by Sec. 18.113.4; and
- (d) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants, including solvents, and/or measures and equipment for emergency response.

- (e) The Director may require, as part of such plan, that the User provide, at his expense, suitable containment facilities within a time period specified by the Director. Plans, specifications and other pertinent information relating to the proposed containment facilities shall be prepared and submitted for approval by the Director, and no construction of such facilities shall be commenced until approval by the Director is given in writing. Such containment facilities shall be maintained continuously in satisfactory condition by the User at his cost.

Sec. 18.111.4 Hauled Wastewater.

Septic tank and trucked or hauled Industrial Waste shall not be discharged to the Wastewater System.

DISCHARGE PERMIT

Sec. 18.112

Sec. 18.112.1 Wastewater Analysis and Disclosure.

All non-domestic Users proposing to connect to or to contribute Wastewater or waste to the Wastewater System shall submit such information as the Director shall reasonably request on their processes and Wastewater before connecting to or contributing to the Wastewater System. All existing non-domestic Users connected to or contributing to the Wastewater System shall promptly submit such information on their processes and Wastewater as the Director shall reasonably request, and additionally shall notify the Director in advance of substantial change(s) in volume or characteristics of the User's Discharge as provided in 40 CFR 403.12(j). Such information shall be submitted for all New Sources at least ninety (90) days (or more, if required by applicable federal and/or state statutes or regulations) prior to connection to the sanitary sewer or the commencement of Discharges to the Wastewater System. The information submitted shall be sufficient for the Director to determine the impact of the User's Discharge on the Wastewater System and the need for Pretreatment, shall include a BMR, and shall be signed by an Authorized Representative of the User who is a legally authorized signatory as defined in 40 CFR 403.12(l). Copies of all such information submitted or required to be submitted by a User shall be maintained on file by the User. Without limiting the generality of the foregoing disclosure requirements, the information which may be required pursuant to this Section may include any or all of the following:

- (a) Disclosure of name, address, and location of the User.
- (b) Disclosure of Standard Industrial Classification (SIC) number according to the SIC Manual, Federal Bureau of the Budget, 1972, as amended.
- (c) Disclosure of Wastewater constituents and characteristics including, but not limited to, those mentioned in this Part, as determined by bona fide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the U.S. EPA and contained in 40 CFR, Part 136, as amended.
- (d) Disclosure of time and duration of Discharges.
- (e) Disclosure of average daily and instantaneous peak Wastewater flow rates, in gallons per day, including daily, monthly and seasonal variation, if any. All flows shall be measured unless other verifiable techniques are approved by the Director due to cost or non-feasibility.

- (f) Disclosure of site plans, floor plans, mechanical and plumbing plans (including non-contact water cooling systems) and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.
- (g) Description of activities, facilities and plant processes on the premises including all materials which are or may be Discharged to the Wastewater System.
- (h) Disclosure of the nature and concentration of any Pollutants or materials prohibited by this Part in the Discharge, together with a statement regarding whether or not compliance is being achieved with this Part on a consistent basis and if not, whether additional operation and maintenance activities and/or additional Pretreatment is required for the User to comply with this Part.
- (i) New Sources shall have in operating condition and shall “start-up” all pollution control equipment required to comply with this Part before beginning to Discharge into the Wastewater System. New Sources must meet all applicable Pretreatment Standards within the shortest feasible time and in any case within not more than ninety (90) days.
- (j) Where additional Pretreatment and/or operation and maintenance activities will be required to comply with this Part, the User shall provide a declaration of the shortest schedule by which the User will provide such additional Pretreatment and/or implementation of additional operational and maintenance activities. This schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to comply with the requirements of this Part including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this Part. No increment in this schedule shall exceed nine (9) months unless the User can establish, to the satisfaction of the Director that a time period of more than nine (9) months is required. The Director may require revision of any such schedule or schedule increment as a pre-condition of any and all Discharges or the further Discharges by the User to the Wastewater System.
- (k) Disclosure of each product produced by type, amount, process or processes and rate of production.
- (l) Disclosure of the type and amount of raw materials utilized and stored on the User’s premises (average and maximum per day).
- (m) Any other information required by 40 CFR Section 403.12, by amendments and/or successors thereto, or by other applicable law.

Sec. 18.112.2 When Permit Required.

All CIUs shall obtain from the Director and maintain a valid Discharge permit as a precedent to making any Discharge to the Wastewater System. In addition, any SIU, any other person that exceeds the limits set forth in Appendix B, or any other person so directed by the Director shall obtain from the Director and maintain a valid Discharge permit as a condition precedent to making any Discharge to the Wastewater System. The Director may in his discretion, require that any existing User, potential User or New Source procure and maintain in effect a Discharge permit, issued by the Director, as a condition precedent to making any Discharge to the Wastewater System.

Sec. 18.112.3 Permit Application.

Every existing or potential User required to procure a Discharge permit pursuant to this Part shall make application for such permit in the form and manner prescribed by the Director. The application shall include all facts and information necessary for the Director to reasonably consider and evaluate the granting or denial of the Discharge permit. To be valid, all permit applications must be certified by an Authorized Representative of the User as follows:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Sec. 18.112.4 Permit Approval.

Upon receipt of a completed permit application, the Director shall, within a reasonable time, grant or deny the requested Discharge permit. However, the permit shall not be effective prior to the time that the prospective or current User delivers to the Director a copy of the permit executed by an Authorized Representative of the User. During the pendency of an application, an existing User may continue to Discharge to the Wastewater System subject, however, to full compliance with this Part and all other applicable provisions of local, state and Federal law. A Discharge permit may be granted with such conditions and restrictions as the Director shall reasonably determine to be necessary or appropriate. These conditions and restrictions may be amended from time to time during the term of the permit, on written notice to the permit holder, as the Director shall determine to be reasonably necessary or appropriate to permit the WWTP to operate effectively, to comply with all applicable provisions of local, state and Federal law, to prevent any detriment to the Wastewater System, the receiving stream or the use or disposal of sludge, or to meet the requirements of all permits applicable to the Wastewater System operation.

Sec. 18.112.5 Permit Fee.

The Director may establish the fee to be paid to the Authority for a permit to discharge to the Wastewater System.

Sec. 18.112.6 Permit Expiration and Renewal.

All Discharge permits, unless otherwise specified in the permit, shall expire three (3) years following issuance, or such shorter period as stated in the permit. The expiration date shall be stated on the face of the permit. The User shall be responsible to apply for renewal of any existing permit. An application for renewal of a permit shall be filed at least one hundred twenty (120) days prior to the expiration of the existing permit, and shall be considered in the same manner as an original application.

Sec. 18.112.7 Transfer.

No permit shall be transferred to a different User, a different premises or to a new or changed source or operation without the prior written consent of the Director.

Sec. 18.112.8 Permit Denial, Suspension or Revocation.

- (a) A Discharge permit may be revoked or suspended by the Director at any time for any of the following causes:
 - (1) Fraud, misrepresentation or any material false statement or material omission in the application for the permit;
 - (2) Any violation of the conditions and restrictions included as part of the permit; or
 - (3) Any violation of this Part.
- (b) Written notice of suspension or revocation, stating the cause of causes therefore, shall be delivered to the permit holder personally or mailed, by certified or registered mail, return receipt requested, to the permit holder's address as shown in the application for the permit.

Sec. 18.112.9 Substances Subject to Special Discharge Permit.

No person shall Discharge or cause to be Discharged any Wastewater or waste which exceed the limits set forth on Appendix A unless such Discharge has first been authorized by a special Discharge permit pursuant to Sec. 18.112.10. However, under no circumstances shall any person Discharge or introduce into the Wastewater System any of the substances described in 40 CFR 403.5(a) and (b), and/or listed or described in Section 18.110.2.

Sec. 18.112.10 Special Discharge Permits.

Sec. 18.112.9 of this Part authorizes the Discharge of substances in excess of identified maximums, as shown on Appendix A, if such Discharge is authorized in advance by a special Discharge permit issued by the Director. Such special Discharge permit shall be applied for and be otherwise subject in all respects to all of the terms and provisions of this Part. The following additional provisions shall be specifically applicable to special Discharge permits:

- (a) No special Discharge permits shall be issued by the Director, or if issued or existing contrary to applicable state or federal law, shall be valid to allow any exceedances or variances from federally prohibited Discharges, unless and until such exceedances or variances are specifically approved by the U.S. EPA, Region V or by the DEQ, as appropriate. The burden and expense of obtaining such state or federal approval shall be the sole responsibility of the User seeking the special Discharge permit.
- (b) For those substances which may be the subject of a special Discharge permit including, but not limited to, those substances listed on Appendix A, the Authority may by resolution periodically establish the level of each such substance which can be permitted in the WWTP influent without:
 - (1) preventing the effective operation of the Wastewater System,
 - (2) causing the WWTP to violate the provisions of any local, state or federal law or regulation which is applicable to the WWTP,
 - (3) having a detrimental effect on the Wastewater System, the receiving stream, or the land to which the WWTP sludge is applied, or

- (4) causing the WWTP to violate the requirements of any permit applicable to its operation.
- (c) The Director shall determine, from time to time, the actual level of the various substances eligible for a special Discharge permit which are in the WWTP influent.
- (d) For those substances which may be the subject of a special Discharge permit, the Director shall periodically establish a safety reserve for each such substance which it deems necessary or advisable to protect the WWTP, the receiving stream and the land to which the WWTP sludge is applied (if applicable) and to accommodate any new or modified Discharge to the WWTP.
- (e) The Director may then allocate the balance of the difference between the actual amount of the substance in the WWTP influent and the maximum allowable amount in the WWTP influent, less the safety reserve referenced in subsection (d) above, among those Users of the Wastewater System (i) who anticipate discharging in excess of the limits specified in this Part, and (ii) who apply for a special Discharge permit to authorize such excess Discharge. To allocate the balance of the difference between the actual level of a substance in the WWTP influent and the MAHL, the Director may implement a system for setting special alternative limits which incorporates a component of this allocation for batch Discharges. Special alternative limits may be approved when all of the following conditions are met:
 - (1) The User requests a special alternative limit through the special alternative limit application process on an application form provided by the Director. This request must include a written acknowledgment whereby the User consents to comply with all terms and conditions which may be imposed by the Director;
 - (2) The Director makes a determination that adequate Treatment capacity exists to allow this special alternative limit consistent with the MAHL;
 - (3) U.S. EPA, Region V and/or the DEQ, as appropriate, approves the technical basis for establishment of the special alternative limit; and
 - (4) A proposed permit containing the increased limitation has been issued by the Director in accordance with approved Pretreatment procedures developed to satisfy 40 CFR 403.5(c)(3).
- (f) The allocation referenced in subsection (e) above between those Users applying for a special Discharge permit shall be in proportion to their flows unless the Director shall determine that some other objective standard is more equitable.
- (g) In no event shall a special Discharge permit be granted or effective which authorizes a Discharge in excess of the limitations imposed by any final federal or state Pretreatment Standard or Discharge limit. In addition the Director shall not consider any request for an increase above the maximum limit which was calculated based upon health or safety.
- (h) All special Discharge permits may be amended, restricted, suspended or terminated by the Director at any time. It is recognized that as new Users connect to the Wastewater System, or for other reasons, it may be necessary to reduce and restrict the limits on the Discharge of substances specified in a special Discharge permit. No holder of a special Discharge permit shall be deemed to have any vested right or property interest to Discharge substances as

specified in such permit but instead only a temporary permissive right to Discharge within the limits specified in the special Discharge permit.

- (i) Additional fees may be charged to Users seeking a special alternative limit to compensate for the costs to review the User's application or request and to establish and administer the special alternative limit program, in addition to all other applicable fees and charges.

Sec. 18.112.11 Permit Modification.

The Director may modify an individual Wastewater Discharge permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised, Federal, State, or local Pretreatment Standards or requirements, including establishment of new or different Local Limits;
- (b) To address significant alterations or additions to the User's operation, processes, or Wastewater volume or character since the time of the individual Wastewater Discharge permit issuance;
- (c) A change in the Wastewater System that requires either a temporary or permanent reduction or elimination of the authorized Discharge;
- (d) Information indicating that the permitted Discharge poses a threat to the Wastewater System, its personnel, the receiving waters or the use or disposal of sludge;
- (e) Violation of any terms or conditions of the individual Wastewater Discharge permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the Wastewater Discharge permit application or in any required reporting;
- (g) Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13; or
- (h) To correct typographical or other errors in the individual Wastewater Discharge permit.

Sec. 18.112.12 Violation of Permit.

A violation of any condition or restriction in a User's Discharge permit or special Discharge permit shall be deemed a violation of this Part.

DATA COLLECTION AND REPORTING REQUIREMENTS

Sec. 18.113

Sec. 18.113.1 Sampling Facilities.

When required by the Director to assure adequate monitoring and control of the waste or Wastewater Discharge, the User of any building or premises served by a Building Sewer shall install a suitable control vault or station in the Building Sewer to facilitate observation, sampling and measurement of the waste or Wastewater being Discharged. Such control vault or station shall be equipped by the User with a suitable Composite Sampler and continuous flow recorder. Such vault or station shall be accessible and safely located and shall be constructed in accordance with plans approved in writing

by the Director. Such vault or station shall be installed by the User at his cost and shall be maintained by him so as to be safe and accessible at all times. The person operating and maintaining such facilities shall, at the request of the Director, submit to the Director records or true copies thereof of the Wastewater or waste Discharged and such other reports and information as shall be necessary to assess and assure compliance with this Part.

Sec. 18.113.2 Pretreatment Compliance Reporting.

- (a) **Compliance Data Report.** Within ninety (90) days following the date for final compliance with an applicable Pretreatment Standard or Discharge limit referenced in Sections 18.110.3 or 18.110.4, or, in the case of a new kind of waste or Wastewater, following commencement of introduction of the new waste or Wastewater into the Wastewater System, any User subject to Pretreatment Requirements pursuant to this Part shall submit to the Director a written report signed by an Authorized Representative, which report shall indicate the nature and concentration of all Pollutants in the Discharge from the regulated process which are limited by Pretreatment Standards or Discharge limits and the average and maximum daily flow for those process units in the User facility which are limited by such Pretreatment Standards or Discharge limits. The report shall also include a reasonable measure of the User's long term production rate. The report shall state whether the applicable Pretreatment Standards or Discharge limits are being met on a consistent basis and if not, what additional operation and maintenance or Pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Discharge limits.
- (b) **Periodic Compliance Reports.** Any CIU or other SIU subject to Pretreatment Standards or Discharge limits shall submit to the Director semi-annually, unless required more frequently by the applicable Pretreatment Standard or by the Director, or by applicable federal regulations, a report signed by an Authorized Representative, which report shall indicate the nature and concentration of the Pollutants in the effluent which are limited by the applicable Pretreatment Standard or Discharge limit. This report shall include a record of all daily flows. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the User. In the discretion of the Director, and after considering such factors as local high or low flow rates, holidays, budget cycles, etc., the Director may alter the months during which the above reports are to be submitted.
- (c) **Special Reports.** In those instances where a schedule of additional Pretreatment and/or implementation of additional operational and maintenance activities has been submitted pursuant to this Part or an order, notice or compliance schedule issued by the Director not later than fourteen (14) days following each milestone date in that schedule and the final date for compliance, the User shall submit to the Director a progress report signed by a representative authorized to do pursuant to applicable federal regulations, which report shall include no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule. In no event shall more than nine (9) months elapse between such progress reports to the Director. In addition, any User that anticipates or does make a batch Discharge, whether pursuant to a special Discharge permit or otherwise, shall provide such additional monitoring report(s) as and when requested by the Director in his discretion. Any User shall also provide any additional monitoring reports as and when reasonably requested by the Director.

- (d) All Wastewater samples must be representative of the User's Discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its Discharge.
- (e) As required by 40 CFR 403.12(g)(5), if a User monitors any Pollutant more frequently than required by the Director, the User shall report the results of such monitoring to the Director.
- (f) Any User shall report to the Director any violation of the terms of its Discharge permit and/or of the provisions of this Part as soon as possible and in any case within twenty-four (24) hours of learning of the violation.
- (g) In the event any User violates any Discharge limit contained in its Discharge permit, this Part, and/or state or federal statute, rule or regulation, it shall resample its effluent for the Pollutant(s) causing the violation(s) and provide the results to the Director within thirty (30) days, unless sooner required by the Director. Resampling by the User is not required if the Director performs sampling at the User's facility at least once a month, or if the Director performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Director receives the results of this sampling, or if the Director has performed the sampling and analysis in lieu of the User.
- (h) In his discretion, in lieu of or in addition to that required of the User, the Director may perform any sampling or analysis required under this Section. Such sampling and/or analysis shall not relieve a User from its obligation to perform sampling and/or analysis required by applicable law or this Part or otherwise required by the Director.

Sec. 18.113.3 Certification Statements.

All reports required under this chapter shall be signed by an Authorized Representative of the User who is a legally authorized signatory as defined in 40 CFR 403.12(l), and shall contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the System or the person or persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Sec. 18.113.4 Accidental Spills, or Batch or Slug Discharges.

- (a) In the case of an accidental spill or unanticipated non-customary batch Discharge, the User shall immediately telephone and notify the WWTP of the incident. This notification shall include the location of the spill, the type of waste, concentration, and volume, and corrective action.
- (b) In the case of an anticipated non-customary batch Discharge, the User shall provide telephone and written notice to the Director as long in advance of the anticipated Discharge as possible. The User shall also immediately confirm by telephone the actual occurrence of

the anticipated Discharge, or notify the WWTP by telephone as soon as possible that the threat of the anticipated batch Discharge has passed.

- (c) The telephone notice(s) shall be followed up, within five (5) days of the spill or Discharge, with a detailed written report from the User to the Director describing the cause of the Discharge and the measures to be taken by the User to prevent similar future occurrences. This notification shall not relieve the User of any expense, loss or damage or other liability which may be incurred as a result of the damage to the Wastewater System or any other damage to person or property resulting from the spill or Discharge. In addition, such notification shall not relieve the User of any fines, civil penalties or other liabilities which may be imposed pursuant to this Part or other applicable ordinance, law, rule or regulation.
- (d) SIU's are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

Sec. 18.113.5 Sampling Requirements.

- (a) Except as indicated in subsections (b) and (c) below, the User must collect Wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate U.S. EPA guidance, multiple Grab Samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved U.S. EPA methodologies may be authorized by the Director as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.
- (b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in Sections 18.112.1 and 18.113.2(a), a minimum of four (4) Grab Samples must be used of pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required pursuant to Sec. 18.113.2(b), or other reports required from non-categorical SIU's, the User is required to collect the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and requirements.

Sec. 18.113.6 Recordkeeping.

Users subject to the reporting requirements of this Part shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by or pursuant to this Part, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, any other records related to compliance requirements under this Part obtained or generated by the User, and documentation associated with BMPs. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the

analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least five (5) years. This period shall be automatically extended for the duration of any litigation concerning the User, the Township, Plainfield, or the Authority, or where the User has been specifically notified of a longer retention period by the Director. Such records shall be made available for inspection and copying at the request of the Director, the DEQ or the U.S. EPA.

Sec. 18.113.7 Hazardous Waste Notification.

A User shall notify in writing the Director, the U.S. EPA Regional Waste Management Director, and the appropriate hazardous waste authorities of the DEQ of any Discharge into the Wastewater System of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the information and be made within the time frame as required in 40 CFR 403.12(p) and as required by an other applicable law.

Sec. 18.113.8 Measurement.

- (a) All measurements, tests and analysis of the characteristics of Wastewater and waste to which reference is made in this Part shall be determined in accordance with the methods set forth in 40 CFR Part 136, or if specifically authorized by the DEQ and/or the U.S. EPA, alternatively in accordance with "Standard Methods for Examination of Water and Sewage," as amended; a joint publication of the American Public Health Association, the American Waterworks Association, and the WEF, or similar successor publication. All determinations shall be made based on samples taken at a control vault or station. If no vault or station has been required, then such determination shall be made at the nearest downstream manhole in the Public Sewer from the point at which the Building Sewer is connected to the Public Sewer.
- (b) For purposes of BMR's and ninety (90) day Compliance Reports required under Sec. 18.113.2, samples must be taken and analyzed as required under 40 CFR 403.12 (b)(5).
- (c) The Director may convert Pollutant Discharge limits expressed as concentration limits to equivalent mass-per-day limits, as determined pursuant to 40 CFR 403.6(c) and/or other applicable law.

Sec. 18.113.9 Confidential Information.

Information and data concerning a User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public and other governmental agencies without restriction, subject to the provisions set forth below and applicable state and federal law.

- (a) A User may specifically request that such information and data not be divulged because it is information, processes or methods of production entitled to protection as trade secrets of the User. Wastewater constituents and characteristics shall not be considered as confidential information.
- (b) To the extent permitted by law, information accepted by the Director as confidential shall not be transmitted to any governmental agency other than the Township, Plainfield, or the Authority, or to the general public by them unless authorized by the User. If the User refuses to authorize transmittal of information to a person requesting it, the User shall defend such request and/or indemnify and hold the Director, the Township, Plainfield and the Authority harmless from the costs, expenses and liability resulting from the denial of such request.

However, notwithstanding any other provision of this Section, the U.S. EPA and/or the DEQ) shall have immediate and unlimited access to (subject to the confidentiality rules applicable to it) any information (whether or not it is otherwise deemed confidential) collected or maintained by the Director, the Township, Plainfield or the Authority with regard to the Wastewater System.

Sec. 18.113.10 Inspection.

The Director and duly authorized employees or agents of the Township, Plainfield or the Authority, when bearing proper credentials and identification, shall be permitted, with or without advance notice, to enter in and upon buildings and Premises and to set up or install equipment on the User's Premises as may be necessary or appropriate for the purposes of inspection, surveillance, measurement, sampling and testing to determine compliance with this Part. Denial of or unreasonable delays to entry to the Director and/or duly authorized employees or agents of the Township, Plainfield or the Authority, shall be grounds for immediate termination of service to that User.

VIOLATIONS AND REVIEW OF DECISIONS

Sec. 18.114

Sec. 18.114.1 Notification of Violation.

Whenever the Director finds that any User has engaged in conduct which is in violation of this Part, or a permit or order issued hereunder, the Director may serve or cause to be served upon such User, a written notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within thirty (30) days of the date of receipt of the notice, the User shall respond personally or in writing to the Director, advising of the User's position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof. This provision shall be in addition to and shall not restrict the Director's right to take other enforcement measures allowed by this Part or by other applicable law. No actions or responses contemplated in this Section shall relieve the User of liability for any violations occurring before or after receipt of the notice of violation or the User's response thereto.

Sec. 18.114.2 Other Administrative Actions.

- (a) **Consent Orders.** The Director is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial User responsible for the non-compliance. Such orders will include compliance schedules, stipulated fines and/or remedial actions, and signatures of the Director and an Authorized Representative of the User.
- (b) **Show Cause Order.** The Director may order any User which causes or contributes to violation of this Part, Discharge permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be serviced on any principal executive, general partner or corporate officer. Whether or not a duly notified User appears as noticed, enforcement action may be pursued as appropriate.

- (c) **Compliance Order.** When the Director finds that a User has violated or continues to violate this Part or a permit or order issued thereunder, he may issue an order to the User responsible for the Discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate Treatment facilities, devices, or other related appurtenances have been installed and are properly operated, and compliance is achieved. Orders may also contain such other requirements as may be reasonably necessary or appropriate to address the non-compliance, including the installation of Pretreatment technology; additional self-monitoring; and waste, Wastewater and/or hazardous materials management practices.
- (d) **Cease and Desist Orders.** When the Director finds that a User has violated or continues to violate this Part or any permit or order issued hereunder, he may issue an order to cease and desist all illegal or un-authorized Discharges immediately.
- (1) In an emergency, the order to cease and desist may be given by telephone.
 - (2) The cease and desist order may be used to suspend or permanently revoke industrial Wastewater Discharge permits.
 - (3) The cease and desist order may order the User to take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating Discharge(s) into the Wastewater System.
- (e) **Administrative Fines or Penalties.** Notwithstanding any other Section of this Part, any User who is found to have violated any provision of this Part, or permits and orders issued hereunder, shall be subject to a fine or penalty in an amount not to exceed \$1,000.00 per violation, or such greater amount as is permitted by law. Each day on which non-compliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the User's next scheduled sewer service charge and the Township shall have such other collection remedies as they may have under applicable law to collect other service charges. A User desiring to dispute such fines or penalties must file a request for the Director to reconsider the fine or penalty pursuant to Sec. 18.114.3.
- (f) **Emergency Suspensions.**
- (1) The Director may suspend the Wastewater service and/or Wastewater permit of a User whenever such suspension is necessary in order to stop an actual or threatened Discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the Wastewater System, or the environment.
 - (2) Any User notified of a suspension of Wastewater service and/or its Wastewater permit, shall immediately stop or eliminate its Discharge into the Wastewater System. In the event a User fails to immediately comply voluntarily with the suspension order, the Director shall take such steps as he deems necessary, including immediate severance of the sewer connection, to prevent or minimize damages to the Wastewater System, its receiving stream, or endangerment to any individuals. The Director shall allow the User to recommence its Discharge when the endangerment has passed, unless he institutes termination of the User's Discharge permit as provided in subsection (g) of this Section.
 - (3) A User that is responsible, in whole or in part, for imminent endangerment, shall submit a detailed written statement describing the causes of the harmful contribution

and the measures taken to prevent any future occurrence to the Director within ten (10) days, or such other time as determined by the Director prior to the date of the administrative review described in this Part.

- (g) **Termination of Permit.** An individual Wastewater Discharge permit may be terminated for any of the following:
- (1) Violation of permit conditions;
 - (2) Failure to accurately report the Wastewater constituents and characteristics of its Discharges;
 - (3) Failure to report significant changes in operations or Wastewater constituents and characteristics;
 - (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling;
 - (5) Falsifying reports or certification statements;
 - (6) Tampering with equipment;
 - (7) Failure to pay any fees, charges, costs or fines.
 - (8) Violation of an order issued pursuant to this Part;
 - (9) Violation of any applicable state or federal law.

Non-compliant Users will be notified of the proposed termination of their Wastewater permit and in nonemergency situations shall be offered an opportunity to show cause under subsection (b) of this Section why the proposed action should not be taken.

Sec. 18.114.3 Administrative Review of Authority Decisions.

- (a) **Introduction.** The procedures set forth in this Section shall be used to review decisions of the Director under this Part.
- (b) **Review.**
- (1) Any person aggrieved by a decision under this Part may petition that the Director review its decision.
 - (2) The Director, shall review a decision according to this subsection if he receives a petition for review within thirty (30) days after the person petitioning review received notice of the decision. Failure by the User to timely submit an administratively complete petition for review shall be deemed a waiver of the administrative review.
 - (3) A request for review shall be in writing and shall contain facts and arguments supporting modification or reversal of the decision.
 - (4) Within fifteen (15) days after receiving the request for review, the Director shall review the decision or provide to the person requesting review notification of when

the review will be complete. The Director may affirm, reverse, or modify the initial decision. The Director shall provide to the person requesting review, a written decision and the reasons for the decision. If the Director fails to act within the time indicated in or pursuant to this subsection, the petition shall be deemed denied.

- (c) **Appeal.** The Authority's Board of Trustees may uphold or reverse any determination to issue or to deny the issuance of a permit, the imposition of any condition or restriction, or any revocation of a permit. The Authority's Board of Trustees may also grant or reinstate any permit.
- (d) **Exhaustion.** A decision of the Director under this Part is not final until a person has exhausted all of the procedures of this Section. A decision under subsection (b) shall be a final determination for purposes of judicial review by any party.

Sec. 18.114.4 Effectiveness of Authority Decisions During Review.

During the pendency in any forum of any challenge to a decision of the Director, a User affected by the decision shall comply with the decision.

Sec. 18.114.5 Subpoenas.

The Director may issue a subpoena to require the attendance of a witness or the production of documents or other materials at a hearing or to assist an investigation undertaken by the Director.

Sec. 18.114.6 Citations and Appearance Tickets.

The Director may issue a citation or appearance ticket to any person who is reasonably believed to have violated this Part. Fines and/or penalties as described in Sections 18.114.8(b)(1) and (c)(1) are applicable to violation(s) which are the subject of such a citation or appearance ticket.

Sec. 18.114.7 Legal Action.

If any person Discharges Wastewater or waste into the Wastewater System contrary to the provisions of this Part, or otherwise violates any Pretreatment Standard or requirement (including both Discharge and Non-Discharge violations), the Director, Township and/or Authority may commence an action for appropriate legal and/or equitable relief.

Sec. 18.114.8 Judicial Remedies.

If any person Discharges Wastewater, or other wastes into the Wastewater System contrary to the provisions of this Part, or any order or permit issued hereunder, the Director, through the an attorney, may commence an action for appropriate legal and/or equitable relief in the District or Circuit Court for Kent County.

- (a) **Injunctive Relief.** Whenever a User has violated or continues to violate the provisions of this Part or of a permit or order issued hereunder, the Director, may petition the Court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the User. To the extent permitted by applicable law it shall be presumed that violations of this Part shall result in irreparable harm to the Wastewater System, its personnel, the public and/or the environment.

(b) **Civil Penalties.**

- (1) Any User who has violated or continues to violate this Part or any order or permit issued hereunder, shall be responsible for a municipal civil infraction of not more than \$1,000.00, or such greater amount as is permitted by law, per violation per day for as long as the violation continues, plus actual damages incurred by the Director, the Township, Plainfield, the Authority, and/or the Wastewater System. The Director is authorized to enforce citations pursuant to the foregoing on behalf of the Township. In addition to the foregoing, the Director may recover reasonable attorney's fees, engineering fees, court costs, and other expenses associated with the investigation, surveillance and/or enforcement activities, such as sampling, monitoring and analysis expenses, including the time devoted by the Director and other Township, Plainfield and/or Authority personnel.
- (2) The Director may petition the Court to take other appropriate lawful action to impose, assess, and recover such sums. In determining amount of a civil fine, municipal civil infraction, or liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions voluntarily taken by the User, the compliance history of the User, and any other factor as justice requires.

(c) **Criminal Prosecution.**

- (1) **Violations - Generally.** Any User who willfully or negligently violates any provision of this Part or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$500.00 per violation per day or imprisonment for not more than ninety (90) days, or both, or such greater amount or imprisonment as is permitted by law.
- (2) **Falsifying Information.** Any User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Part or any order or permits hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Part shall, upon conviction, be punished by a fine of not more than \$500.00 per violation per day or imprisonment for not more than ninety (90) days or both, or such greater amount or imprisonment as is permitted by law, or be punished under any other applicable state or federal law.

Sec. 18.114.9 Rules for Continuing Violations.

- (a) A separate violation occurs for each Pollutant that exceeds an applicable Pretreatment Standard and for each report that is late;
- (b) Each day on which a violation occurs is a separate violation;
- (c) Any non-compliance with or violation of any Pretreatment Standard that is a monthly or other average, shall be deemed a violation for each day of the averaging period;
- (d) If for any period a User has violated both a maximum and an average Pretreatment Standard for a particular Pollutant, then the total number of violations is the sum of the days on which

the maximum standard was violated plus the number of the averaging periods for which the maximum standard was violated; and

(e) One (1) violation occurs on:

- (1) Each day (including each additional day) that a report is late; and
- (2) Each day after an action required to be completed is not completed.

Sec. 18.114.10 Public Nuisances.

Any violation of the prohibitions of this Part or permit or order issued hereunder is hereby declared a public Nuisance and shall be corrected or abated as directed by the Director, including reimbursing the Director for any costs incurred in removing, abating, or remedying said Nuisance. Any person(s) creating a public Nuisance, per se, shall also be subject to the provisions of the applicable Township ordinance governing such Nuisance.

Sec. 18.114.11 Water Supply Severance.

Whenever a User has violated or continues to violate any provision of this Part, an individual Wastewater Discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply to the Director.

Sec. 18.114.12 Remedies Nonexclusive.

The remedies provided for in this Part are not exclusive. The Director may take any, all or any combination of these actions against a non-compliant User. The Director is empowered to take more than one (1) enforcement action against any non-compliant User.

FEES AND CHARGES

Sec. 18.115

Sec. 18.115.1 General.

Standard rates and charges applicable to Users for Discharges to the Wastewater System shall be as duly established by this Part or other ordinance or contract. However, the Director may impose other charges and fees as it determines to be appropriate, as authorized under this Part.

Sec. 18.115.2 Industrial Surveillance Fee.

With respect to all Users that are required to maintain preliminary treatment facilities or sampling facilities pursuant to this Part, the Director shall institute a program pursuant to which the Director periodically checks and assesses, through the taking of its own samplings, the accuracy and completeness of the sampling records and other reports and information provided to the Director pursuant to this Part. The cost and expense of the Director incurred in conducting this program of periodic review may be recovered from an industrial surveillance charge to be established by the Director and charged to the User. The amount of this charge shall be determined for each User or class of Users to which it applies and may be billed as part of each affected sewer customer's periodic sewer billing.

If, based upon its review, the Director determines that the sampling records or other reports and information provided by a User are not substantially accurate, are otherwise inadequate, or due to the facts and circumstances warrant verification by the Director, the Director may institute such sampling, laboratory analysis and other procedures necessary to accurately sample and measure the waste and Wastewater being Discharged. All expenses and charges incurred by the Director for such sampling, review and analysis shall be charged to the affected sewer customer.

In addition, in its discretion, the Director may charge a User pursuant to this Section if the Director performs any sampling and analysis required to be performed by the sewer customer pursuant to this Part.

Sec. 18.115.3 Surcharges.

The Director may establish a system pursuant to which all non-domestic Users of the Wastewater System shall pay a surcharge for the Discharge of Wastewater or waste containing more of a substance than the threshold amount or concentration established by the Director. However, nothing contained in this Section shall affect the obligation of a User to comply with the Discharge limits in its local Discharge permit and these Rules, or to obtain a special Discharge permit as necessary or desired by the User where applicable.

The amount of such surcharge shall be based on samples taken by the Director of a frequency and number as determined by the Director. In the alternative, with the prior written approval of the Director, the User may utilize an independent company to take such samples, at the User's expense, under conditions and standards determined to be acceptable by the Director.

Sec. 18.115.4 Recovery of Costs.

Any User violating any of the provisions of this Part or who Discharges or causes a Discharge producing a deposit or obstruction, or causes damage to or impairs the Wastewater System, shall be liable for any expense, loss, or damage caused by such violation or Discharge. The Director may bill the User for the costs incurred by the Director for any cleaning, repair, or replacement work caused by the violation or Discharge.

Sec. 18.115.5 Other Fees and Charges.

In addition to the other fees and charges specifically provided for in this Part, the Director may impose other charges and fees which may include:

- (a) Fees for reimbursement of costs of setting up and operating the Wastewater System's Pretreatment program;
- (b) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by a User;
- (c) Fees for reviewing accidental Discharge procedures and construction;
- (d) Fees for permit applications including the cost of processing such applications;
- (e) Fees for filing appeals or requests for administrative review;
- (f) Other fees as the Director may deem necessary to carry out the requirements contained herein.

Sec. 18.115.6 Interest.

Unpaid charges, fees, costs, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of one and one-half percent (1.5%) of the unpaid balance, and interest shall accrue thereafter at a rate of one and one-half percent (1.5%) per month. Unpaid charges, fees, costs, fines and penalties shall constitute a lien against the User's property.

GENERAL

Sec. 18.116

Sec. 18.116.1 Protection From Damage.

No unauthorized person shall enter or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, equipment or other part of the Wastewater System.

Sec. 18.116.2 Effect of Director Approval of Plans, Specifications, or Operating Procedures.

Director approval of plans, specifications, or operating procedures does not entitle a User to relief from enforcement actions if the treatment facilities do not achieve compliance with applicable Pretreatment Standards and requirements.

Sec. 18.116.3 Emergency Action.

Notwithstanding any other provision of this Part, the Director may, for good cause shown, suspend the Wastewater treatment service to a User when it appears to the Director that an actual or threatened Discharge presents or threatens an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interferes with the operation of the Wastewater System, or violates any Pretreatment limits imposed by this Part. Any User notified of a suspension of Wastewater treatment service shall cease all Discharges at the time directed by the Director or as soon as reasonably possible. In the event of failure of the User to comply voluntarily with the suspension order within the specified time, the Director may commence judicial proceedings immediately thereafter to compel the User's compliance with such order. The Director shall reinstate the Wastewater treatment service and terminate judicial proceedings upon proof by the User of the elimination of the non-complying Discharge or conditions creating the threat of imminent or substantial danger as set forth above.

Sec. 18.116.4 Administrative Determinations of Threat to Wastewater System.

The Director shall have the power to make all determinations (which shall be binding on all Users) as to whether any Discharge or threatened Discharge could threaten, endanger, or cause problems to or threaten the Wastewater System, compliance with the Authority's NPDES permit, or to the health, safety and welfare of the Wastewater System personnel.

Sec. 18.116.5 Falsification of Information.

Any person who knowingly makes any false representation, statements or certification in any application, report, record, plan or other document filed or required to be maintained pursuant to this Part, or who falsifies, tampers with or knowingly renders inaccurate any monitoring or sampling device shall be guilty of violation of this Part.

Sec. 18.116.6 Annual Publication of Significant Non-Compliance.

The Director shall annually publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the Wastewater System, a list of the Users which have been determined by the Director to be in Significant Non-Compliance during the twelve (12) previous months. This notification shall also summarize any enforcement actions taken against the User during the same twelve (12) months.

MISCELLANEOUS PROVISIONS

Sec. 18.117

Sec. 18.117.1 Administrative Liability.

Neither the Director nor any representative, agent or employee of the Director, the Township, Plainfield or the Authority, shall render himself or herself personally liable for any damage that may accrue to any person as a result of any acts, decisions or other consequence or occurrence arising out of the Discharge of their duties and responsibilities pursuant to this Part.

Sec. 18.117.2 Severability.

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

Sec. 18.118

Sec. 18-118.1 Implementation and Enforcement.

To the extent permitted by law and in accordance with the Sewer Service Agreement, the Township hereby designates Plainfield and the Authority, as the case may be, to implement and enforce the provisions and requirements of this Part, as agent for the Township.

Sec. 18.119 Reserved.

**PART D – ALGOMA-PLAINFIELD PUBLIC WATER SUPPLY SYSTEM
SHORT TITLE, FINDINGS, PURPOSE**

Sec. 18.120 Short Title.

This Part D of this chapter shall be known as the “Water (Plainfield System) Connection, Use and Rate Ordinance” and may be cited as such.

Sec. 18.121 Intent.

This Part D of this chapter is intended to apply to all properties served by the System located in the Service District.

Sec. 18.122 Objectives Regarding State and Federal Law Requirements.

This Part D of this chapter sets forth uniform requirements for Users of the System and enables the Township to comply with all state and federal laws applicable to a publicly owned water supply system. In addition, the objectives of this Part D of this chapter include the following:

- (a) To provide for proportional distribution of the cost of the System; and
- (b) To protect the physical integrity of the System and its components and to provide for the safety of the public and workers on and in the System.

Sec. 18.123 Objectives Regarding Contract Requirements.

This Part D of this chapter is adopted in accordance with and in furtherance of the Township's obligations as set forth in the Water Service Agreement, as amended from time to time.

Sec. 18.124 Findings Regarding Public Health, Safety and Welfare.

The Township hereby determines that the System is immediately necessary to protect and preserve the public health, safety and welfare of the Township by providing potable water to Users of the System and fire protection to properties in the Township.

DEFINITIONS

Sec. 18.125

Unless the context specifically indicates otherwise, the meaning for the terms used in this Part D of this chapter shall be as follows:

- (a) *Backflow* means water of questionable quality, wastes or other contaminants entering the System due to a reversal of flow.
- (b) *Commercial User* means a Person whose Premises are used to offer services and/or products such as, but not limited to, retail and wholesale stores, gasoline stations, restaurants, schools, churches, hotels, motels, nursing homes, private clubs, theaters and governmental buildings.
- (c) *County* means Kent County, Michigan.
- (d) *Cross-Connection* means a connection or arrangement of piping or appurtenances through which a Backflow could occur.
- (e) *Domestic User* means a Person whose Premises are domiciles for single or multiple family use.
- (f) *Industrial User* means a Person who operates a manufacturing or process facility which is engaged in producing a product.
- (g) *Local Distribution Lines* means those pipes which serve only the abutting property within only one local service area.
- (h) *Meter Equivalent Factor* means a factor derived from the water meter size and which increases with the size of the water meter and the corresponding water flow capacity. A

meter equivalent factor for each of the following water meter sizes is hereby established as follows:

Meter Size	Meter Equivalent Factor
1.00	1.00
1.50	2.25
1.75	3.06
2.00	4.00
2.25	5.06
2.50	6.25
2.75	7.56
3.00	9.00
3.25	10.50
3.50	12.25
3.75	14.06
4.00	16.00
4.25	18.06
4.50	20.25
4.75	22.56
6.00	36.00
6.25	39.06
6.50	42.25
6.75	45.56
8.00	64.00
8.25	68.06
8.50	72.25
8.75	76.56
10.00	100.00
12.00	144.00

If the meter size falls between the meter sizes set forth in the table above, the meter equivalent factor corresponding to the next highest meter size shall be applied.

- (i) *Non-Potable* refers to water that is not safe for human consumption or that is of questionable potability.
- (j) *Person* means any individual, firm, company, association, society, corporation, or group, public or private.
- (k) *Plainfield* means the Charter Township of Plainfield, Kent County, Michigan.
- (l) *Plainfield Water Ordinance*: The ordinance or ordinances adopted by Plainfield from time to time which regulate the connection to, the use of and the rates for connection to and services provided by the System located within Plainfield.

- (m) *Premises* means each lot or parcel of land, building, Premises, dwelling Unit or apartment Unit having any connection to the System.
- (n) *Public Water* means potable water provided by the System.
- (o) *Residential Equivalent Unit (REU)* means the quantity of sanitary sewage ordinarily arising from the occupancy of a residential building by a single family and the benefit derived therefrom, as determined from time to time by Plainfield in accordance with the Sewer Service Agreement and the Plainfield Sewer Ordinance (as such terms are defined in Part C of this Chapter 18).
- (p) *Secondary Water Supply* means a water supply system maintained in addition to Public Water supplied by the System, including but not limited to water systems from ground or surface sources not meeting the requirements of Public Act 451 of 1994 (MCL 324.4101 et seq.).
- (q) *Service District* means the geographical area located within the Township served by the System in accordance with the Water Service Agreement.
- (r) *Service Line* means the line on the Premises, installed and maintained by the User, connecting the System to the Premises.
- (s) *Submerged Inlet* means a Service Line, water pipe or extension thereto from the System terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminants and which is unprotected against Backflow.
- (t) *System or Water Distribution System* means the Township water supply and distribution system.
- (u) *Township* means the Township of Algoma, Kent County, Michigan.
- (v) *Township Board* means the governing body of the Township.
- (w) *User* means the owner, lessee or occupant of any Premises connected to or served by the System.
- (x) *Water Connection* means that part of the Water Distribution System connecting the system to the Service Line.
- (y) *Water Department* means the Plainfield Charter Township Water Department, Kent County, Michigan.
- (z) *Water Main* means the primary and intermediate transmission and Local Distribution Lines of the System.
- (aa) *Water Service Agreement* means the Amended and Restated Water Service Agreement entered into by and between the Township and Plainfield and dated October 11, 2016 for the supply and distribution of water in the Service District by Plainfield as said Agreement may be amended and restated from time to time by the Township and Plainfield.
- (bb) *Water Supply Rates and Charges* shall, as defined from time to time in the Plainfield Water Ordinance, include, without limitation, the Commodity Charge, Base Charge, Tap-on

Charge, Meter Installation Charge, Meter Test Charge, Connection Charge and miscellaneous user fee, shut-off and turn-on charges and interest and penalties thereon, together with the charges referenced in Paragraph 6b of the Water Service Agreement, as established from time to time by resolution of the Plainfield Township Board of Trustees.

CONNECTION TO AND USE OF SYSTEM

Sec. 18.126 Water Connection Required.

- (a) The owner of each newly constructed premises, building or structure used for human occupancy shall at the owner's expense (unless such expense is expressly provided by other sources) install suitable plumbing facilities therein and connect such facilities to the water distribution system if available. For any single-family residence or duplex, public water shall be deemed available if any portion of such dwelling is located within 200 feet of any right of way, easement, highway, street or public way, in which is located the water distribution system. As to all other premises, buildings or structures used for human occupancy, public water shall be deemed available if: (i) the premises, building or structure is situated on any parcel, lot or site unit abutting on any right-of-way or easement in which there is located a public water supply system; or (ii) any boundary of the parcel, lot, or site unit on which the premises, building, or structure is situated within 200 feet of any right-of-way, highway, street or public way in which is located the water distribution system.
- (b) Notwithstanding the foregoing requirement to connect, the township shall have the right to deny connection to its public water supply if said connection is proposed to be constructed in an easement and the township determines said proposed connection to be inappropriate for the proper operation of the water distribution system.
- (c) If the water distribution system is available as described in this subsection for any premises, building or structure used for human occupancy existing at the time of this amendment, the owner shall at the owner's expense (unless such expense is expressly provided by other sources) install suitable plumbing facilities therein and connect such facilities to the water distribution system upon the occurrence of any of the following:
 - (1) The failure of a private water system servicing the premises, resulting in a determination by the county health department that the private water system servicing the premises is unsafe.
 - (2) The need to either drill a deeper well or drill a new well.

Sec. 18.127 Expansion of Service District.

- (a) The owner of Premises located within the Service District but not required to connect in accordance with Section 18.126 may elect to extend the System and connect his Premises thereto, subject to the conditions for water extensions set forth in subsection c.
- (b) All plats, site condominiums, planned unit developments and multi-family developments, and all commercial, institutional and industrial uses within the Service District, shall extend and connect to the System in the Service District, provided that the existing terminus of the System in the Service District is not located further from the nearest edge of the proposed development or use than the total distance determined by multiplying the number of Residential Equivalent Units proposed for the development or use times 150 feet. The number of Residential Equivalent Units for purposes of this Agreement shall be reasonably

determined in accordance with the Table of Residential Equivalent Unit Factors adopted from time to time by Plainfield and applicable to sanitary sewage disposal customers located within Plainfield.

- (c) If connection to the System is required by subsection b of this Ordinance, but there is no available water distribution system adjacent to the Premises, or if a property owner elects to extend the System to his Premises, such extension shall be made in accordance with the following requirements:
- (1) The water main shall be extended to the Premises in a public right of way, or in an easement owned by the public to the Premises in question. If the water main is to be extended for the purpose of serving a new User or development, including but not limited to a plat, site condominium, planned unit development or multi-family development which involves the installation of a new public or private road, the water main shall be extended throughout such new road so that the water main abuts all units or lots within the development, within an easement dedicated to the public if not located in a public street right of way.
 - (2) If a water main is extended to a Premises, the main shall be installed across the entire frontage of the Premises served, to the border of the adjacent Premises. For developments for which a new public or private road is constructed, the water main shall be extended across the entire frontage of the development on the existing adjacent public or private road, in addition to being extended within the new road to all lots or units within the development. All water main extensions shall be located within an easement dedicated to the public, if not located in a public street right of way.
 - (3) The water main shall be constructed in accordance with specifications approved by the Township and Plainfield.
 - (4) Upon completion of the water main, verification by Plainfield that it has been properly constructed, and proof that all contractors have been paid for the cost thereof (including lien waivers if requested), the water main shall be dedicated to Plainfield, without cost to Plainfield. Upon acceptance of dedication, Plainfield shall thereafter be responsible for maintenance of the water main in accordance with the Water Service Agreement. Plainfield shall be assigned, or be a third party beneficiary of, all construction contracts and material and equipment warranties.
 - (5) The entire cost of installation of the water main, including but not limited to engineering, inspection, construction, right-of-way and land acquisition, permits and restoration shall be paid by the owner or owners of the Premises to which the water main is being extended.
 - (6) In addition to the extension of a water main as required, the owner of Premises to be connected to the System shall reimburse the Township or Plainfield, as applicable, for the cost of making improvements to upstream facilities, which are necessary as a result of the additional connections proposed to be made by the owner of the Premises or by a development which will be provided with public water, including but not limited to increasing the size of upstream supply, treatment, storage and pumping facilities to provide sufficient capacity. In such a situation, the responsible party shall enter into an agreement whereby the responsible party pays to the Township or Plainfield, as the case may be, in advance, an amount equal to at least

the estimated cost of making such improvements, including but not limited to engineering, inspection, construction right-of-way and land acquisition, permits and restoration. Any excess not required to complete the improvements shall be refunded to the responsible party; any shortfall shall be paid before connection of any premises is permitted.

- (7) In its discretion, the Township Board may require the person requesting the extension or required to construct an extension to provide at the sole expense of said person an engineering report by a consulting engineer acceptable to the Township and Plainfield addressing the cost and feasibility of the proposed extension in the context of the foregoing conditions.
- (8) The extension and all connections to such extension shall be subject to the terms and conditions of the Water Service Agreement.

RETAIL WATER SERVICE

Sec. 18.128 Retail Water Service to Service District in Accordance with Water Service Agreement; Connections; Water Supply Rates and Charges.

- (a) In accordance with the Water Service Agreement, (1) Plainfield provides water supply services to the Service District on a retail basis; and (2) Plainfield is responsible for the operation, maintenance, repair, replacement and service necessary for the System in the Service District, the connection of Users to the System in the Service District and the establishment, billing and collection of Water Supply Rates and Charges applicable to Users in the Service District.
- (b) A User required, or desiring, to obtain water service shall make application to Plainfield on forms prescribed by Plainfield. Review and approval of the application and issuance of a connection permit, the conditions and requirements related to the connection of Service Lines to the System, the connection and use of water meters and the inspection thereof, the operation, maintenance and replacement of the Service Line, and all other matters, including enforcement, related to water connections shall be subject to the terms and conditions embodied from time to time in the Plainfield Sewer Water Ordinance and related rules and regulations.
- (c) In accordance with the terms of the Water Service Agreement, the Water Supply Rates and Charges for connection to and use of the System, together with related penalties and surcharges, shall be established and adjusted from time to time by Plainfield with respect to Users in the Service District in the same amount, on the same basis, with the same customer classifications and on the same terms with respect to those same rates, charges, penalties and surcharges as apply to water customers located within Plainfield subject to the exceptions set forth in Paragraph 6b of the Water Service Agreement..

Sec. 18.129 Connections.

Applications for connections shall be made to Plainfield on forms prescribed and furnished by it. Plumbing and water meters shall be installed in accordance with the specifications, rules and regulations of Plainfield. No new water connections shall be made and no water meter shall be increased in size as to an existing water connection until payment of all applicable charges and fees established, from time to time by resolution of the Plainfield Township Board. All meters and water connections shall be the property of Plainfield. Construction of a water service line shall be done by,

and at the expense of, the user, as expeditiously as possible after written notice to proceed, but the time for construction of the water connection line shall be at the convenience of Plainfield. All new service lines and water connection lines and repairs to any service line or water connection line shall be inspected and approved by Plainfield or its designee prior to backfilling.

Sec. 18.130 Institution of or Restarting Water Service.

Written notice given not less than 48 hours in advance shall be made to Plainfield by the property owner and/or occupant of the Premises when water service is desired. It shall be unlawful for any Person to connect to or use water supplied by the System without first giving notice as provided herein. Plainfield shall have the right to require that an amount of money equal to an anticipated bill for three months of water service be placed on deposit with Plainfield for the purpose of establishing or maintaining any User's credit. No Person, other than an authorized employee of the Township or Plainfield shall turn on or off any water service, except that a licensed plumber may, with the prior express approval of Plainfield, turn on water service for testing his work (when it must be turned off immediately following such testing) or upon receiving a written order from Plainfield, water may be turned on for construction proposes upon payment to Plainfield of the charges applicable thereto.

Sec. 18.131 Meters.

All Premises using water supplied by the System shall be metered, except as otherwise provided herein. Plainfield reserves the right to determine the size and type of meter used. Meters shall be installed in an accessible location approved by Plainfield. Plainfield shall have the right to install remote meter reading equipment.

Sec. 18.132 Access to Meters.

Plainfield shall have the right to shut off the supply of water to any Premises where Plainfield is not able to obtain access to the meter. Any qualified employee of Plainfield shall, at all reasonable hours, have the right to enter the Premises where such meters are installed for the purpose of reading, testing, removing or inspecting the same and no Person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.

Sec. 18.133 Injury to Facilities.

No Person, except an employee of Plainfield in the performance of his duties, shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Water Distribution System. The owner shall report any theft or damage to the meter or any other structure, appurtenance or equipment which is part of the Water Distribution System at once.

Sec. 18.134 Reimbursement for Damage.

Any damage which a meter may sustain, including that resulting from carelessness of the owner, agent, tenant or other, or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to Plainfield on presentation of a bill therefor; and in cases where the bill is not paid, the water may be shut off and shall not be turned on until all such charges have been paid as currently established or as hereafter adopted by resolution of the Plainfield Township Board from time to time, to cover the costs of shut off and turn on.

Sec. 18.135 Responsibility for Damages.

The Township and Plainfield shall not be responsible for any damages because of failures of the System, or actions by the Township or Plainfield to correct such failures.

Sec. 18.136 Water Leakage.

It shall be the responsibility of the owner of a Premises to repair any leaks in the Service Line within 72 hours of notice by Plainfield or an additional fee shall be charged for estimated water loss. If a leak is not repaired, the water may be shut off until the leak is repaired.

Sec. 18.137 Hydrant Use.

No Person, except an employee of, or a Person approved by Plainfield in the performance of his duties, shall open or use any fire hydrant, except in case of emergency, without first securing a written permit from Plainfield and paying such charges as may be prescribed by Plainfield.

Plainfield must approve the type, size of openings, and types of nozzle thread on all hydrants installed on private property serviced by the System.

No Person shall, in any manner, obstruct or prevent free access to or place or store temporarily or otherwise any object, material, snow, debris, automobile or structure of any kind within a distance of 15 feet of any fire hydrant. Upon the failure of said Person to remove said obstruction which shall be set forth in a notice which shall be mailed to said Person by Plainfield, Plainfield is hereby authorized and empowered to remove said obstruction and charge the cost of said removal to said Person.

All fire hydrants installed on private property shall be dedicated to the System together with an access easement with a minimum width of 15 feet centered on the hydrant service lead.

Sec. 18.138 Unlawful Connections.

Unless by written approval of Plainfield, no Person shall make a connection on a Service Line between the water meter and the Local Distribution Lines, or install a bypass around the meter.

Sec. 18.139 Sale by User Unlawful.

It shall be unlawful for any User to sell water or to make any connection through which water may pass from one property or Premises to another, even if the ownership of the property or Premises is the same, except as approved by Plainfield.

Sec. 18.140 Cross-Connections Control.

It shall be unlawful for any User to install, and shall eliminate and prevent, all Cross-Connections, except as authorized by Plainfield and approved by the state department of environmental quality, pursuant to the requirements of Sections 325.11401 through 325.11407 of the 1979 Michigan Administrative Code, as the same may be amended from time to time.

The Township hereby adopts by reference any and all rules and regulations adopted by Plainfield and Plainfield may enforce such rules and regulations in the Service District in accordance with this chapter, the Water Service Agreement and the Plainfield Water Ordinance.

- (a) **Inspections.** It shall be the duty of Plainfield to cause inspections to be made of all Premises served by the System where Cross-Connection is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by Plainfield.
- (b) **Right of Entry.** The representative of Plainfield shall have the right to enter at any reasonable time any property served by a connection to the System for the purpose of inspecting the piping system or systems thereof for Cross-Connections. On either oral or written request of any Plainfield official, the owner, lessees or occupants of any property so served shall furnish to Plainfield any pertinent information regarding the piping system or systems on the Premises. The refusal of such information or refusal of access, when reasonably requested, shall be deemed evidence of the presence of cross connections.
- (c) **Testing.** All testable backflow prevention assemblies shall be tested within 30 days of installation to be sure that the assembly is working properly. Subsequent testing of assemblies shall be tested on an annual basis or as required by Plainfield and in accordance with the state department of environmental quality requirements. Only individuals that are approved and state certified shall be qualified to perform such testing. That individual shall certify to the Water Department the results of his/her testing.

Sec. 18.141 Protection of Water Supply.

The potable water supply made available on the Premises served by the System shall be protected from possible contamination as specified by this Ordinance and by the State of Michigan's and any other applicable plumbing codes. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the Water Distribution System must be labeled in a conspicuous manner as "water unsafe for drinking."

Sec. 18.142 Discontinuance of Service.

In the event a User of the System desires water service to be discontinued, said User shall so request in writing to Plainfield not less than one work week prior to the time such discontinuance of service is desired. Plainfield will not recognize the discontinuance of water service unless the provisions of the foregoing sentence have been fully met. Under any other circumstances, discontinuance of service will be charged to the customer at the actual cost of labor, materials and equipment. Plainfield may refuse or discontinue water service for any violation of this Ordinance, the Plainfield Water Ordinance, any rule, regulation, or condition of service and may take such other precautionary measures deemed necessary to eliminate any danger of contamination of the System. Where a Cross-Connection exists on the Premises, water service to the Premises shall not be restored until the Cross-Connection has been eliminated.

Sec. 18.143 Shut Off Water.

Plainfield reserves the right at all times (and will endeavor to give due notice) to shut off the water at the Water Mains or Local Distribution Lines or to require reduced use or no use of the System for the purpose of making repairs or extensions or for other purposes. All Persons having equipment on the Premises and depending on water from the System are hereby cautioned against danger which might arise from an emergency necessitating the shutting off of water by the Plainfield. In the event of such emergency, Plainfield may designate in any notice the extent of any regulation, limitation or prohibition and the date and time on which it shall take effect.

Sec. 18.144 Additional Regulations.

The Township and Plainfield may make and issue additional rules and regulations concerning the System, connections thereto, meter installations and maintenance, connection and meter installation fees, hydrants and Water Mains and the appurtenances thereto, not inconsistent herewith. All connections to the System in the Township are subject to the Plainfield Water Ordinance, and any and all rules promulgated by Plainfield with respect to the System.

Sec. 18.145 Other Laws.

If any statutes of the State of Michigan shall impose greater restrictions than those set forth in this Part D of this chapter, then such statutes shall control.

USE OF PRIVATE WATER WELLS

Sec. 18.146 Private Water Wells.

Subject to the provisions of this Part D of this chapter with respect to Cross-Connections, existing water wells on Premises connected to the System may be used for lawn watering, irrigation, automobile or equipment washing, as a source of water for a building's heating or cooling system or for similar purposes not involving human consumption or prolonged bodily contact with such Non-Potable Water. Any fixtures connected to such non-Public Water systems shall only be located outside of structures intended for human occupancy, employment, recreation or similar purposes. Notwithstanding Part D of this chapter, piping connected to a private water well shall be physically and completely separated from all plumbing used for Public Water.

CONTROLLED USE

Sec. 18.147 Limitation of Water Use.

Plainfield may regulate, limit or prohibit the use of water for any purpose. Such regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for firefighting. No such regulation, limitation or prohibition shall be effective until 24 hours after the publication thereof in a newspaper of general circulation in the Township, except in an emergency as may be determined by Plainfield. In case of an emergency the regulation, limitation or prohibition shall take effect as indicated by Plainfield and notice shall be given on a local radio and/or television station. Any Person violating such rule or regulation shall, upon conviction thereof, be punished as prescribed in this Ordinance.

WATER RATES AND CHARGES

Sec. 18.148 Applicability.

All Users of the System shall pay Water Supply Rates and Charges as set forth in this Part D and as required by the Water Service Agreement.

Sec. 18.149 No Free Service.

No free service shall be furnished by the Water System to the Township or any Person, firm, or corporation, public or private, or any public agency or instrumentality.

Sec. 18.150 Late Payment; Penalty; Interest: Discontinued Service.

If Water Supply Rates and Charges (or any installment thereof) billed to a User by Plainfield are not paid on or before the due date, a penalty or interest, in the amount and under the circumstances established by Plainfield in the Plainfield Water Ordinance shall be added thereto. In the event that any Water Supply Rates and Charges (or any installment thereof) for any services furnished to any Premises shall not be paid within 90 days after the due date thereof, then all services furnished by the Water System to the Premises may be discontinued by Plainfield. Service so discontinued shall not be restored until all sums then due and owing, including penalties and interest, are paid, plus all expenses incurred by the Township, Plainfield, and/or the Authority for shutting off and turning on the water service.

Sec. 18.151 Unpaid Water Supply Rates and Charges, Fees: Lien.

Water Supply Rates and Charges for services furnished by the System to any Premises and any interest and penalties thereon shall become a lien on the Premises serviced immediately upon the provision of the services. On or before September 30 of each year, the Plainfield Township Treasurer shall certify any such Water Supply Rates and Charges, fees, installments penalties and penalties and interest which have been delinquent 90 days or more, plus additional interest accrued thereon, plus a penalty of an additional amount of 6 percent of the aggregate amount, to the Algoma Township Board, who shall cause the same to be entered upon the next Algoma Township tax roll as a charge against the Premises to which such services shall have been rendered and said unpaid Water Supply Rates and Charges, with penalties and interest accrued thereon, shall be collected by Algoma, and said lien shall be enforced by Algoma in the same manner as provided in respect to ad valorem taxes assessed upon such roll. When such delinquent Water Supply Rates and Charges, penalties, interest and other fees are collected by Algoma, the proceeds shall be promptly paid by Algoma to Plainfield in accordance with the Water Service Agreement.

Sec. 18.152 Reserved.

Sec. 18.153 Reserved.

Sec. 18.154 Reserved.

Sec. 18.155 Reserved.

Sec. 18.156 Reserved.

Sec. 18.157 Reserved.

Sec. 18.158 Reserved.

Sec. 18.159 Reserved.

Sec. 18.160 Reserved.

Sec. 18.161 Reserved.

Sec. 18.162 Reserved.

USE, OPERATION AND MAINTENANCE OF SYSTEM

Sec. 18.163 Use, Operation and Maintenance of System.

The operation, maintenance and management of the System shall be under the immediate supervision and control of Plainfield in accordance with the Water Agreement.

PENALTIES

Sec. 18.164 Destruction of System.

No unauthorized Person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with, climb upon, or enter into any structure, appurtenance, or equipment of the System or connect or disconnect any Service Line to the System.

Sec. 18.165 Notice to Cease and Desist.

Except for those violations provided in Sec. 18.164 hereof, any Person found to be violating any provision of this Ordinance shall be served by the Township with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Sec. 18.166 Civil Infraction.

Any violation of Section 18.164, or any violation beyond the time limit provided for in Section 18.165, shall be a municipal civil infraction, for which the fine shall not be less than \$100 nor more than \$500 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of this Ordinance committed by the same Person within 12 months of a previous violation of the ordinance for which said Person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for the first offense shall all be considered separate first offenses. Each day that such violation occurs or continues shall constitute a separate offense. Any Person violating any of the provisions of this Ordinance shall, in addition, become liable for any expense, loss, or damage occasioned by reason of such violation. The supervisor is hereby authorized to issue citations for municipal civil infractions for violation of the ordinance.

Sec. 18.167 Nuisance.

Any Nuisance or any violation of this Ordinance is deemed to be a Nuisance per se. The Township or Plainfield in the furtherance of the public health are each hereby empowered to make all necessary repairs or may enforce the requirements of this Ordinance by injunction or other remedy, or take other corrective action necessitated by such Nuisance or violation. The Person who violated the ordinance or permitted such Nuisance or violation to occur shall be responsible to the Township and/or Plainfield for the costs and expenses incurred by the Township or Plainfield, as the case may be, in making such repairs or taking such action.

Sec. 18.168 Liability for Expense.

Any Person violating any of the provisions of this Ordinance shall become liable to the Township and its representatives for any expense, including reasonable attorney's fees, loss, or damage, incurred by the Township by reason of such violation.

Sec. 18.169 Remedies Cumulative.

The remedies provided by this Ordinance shall be deemed to be cumulative and not mutually exclusive.

Sec. 18.170 Reserved.

POWERS AND AUTHORITY OF TOWNSHIP EMPLOYEES OR REPRESENTATIVES

Sec. 18.171 Township Representatives.

Duly authorized employees or representatives of the Township, including representatives of Plainfield, bearing proper credentials and identification, shall be permitted to enter upon all Premises at all reasonable hours served by the System for the purpose of meter reading, inspection, observation, measurement, sampling, testing, Replacement and repairs in accordance with the provisions of this Ordinance.

Sec. 18.172 Inspection of Plumbing System.

Duly authorized employees or representatives of the Township, including representatives of Plainfield, bearing proper credentials and identification, shall be permitted to enter upon all Premises served by the System for the purpose of determining the presence of Cross-Connections and test or inspect devices preventing Cross-Connections. On request, the User shall furnish to the Township and Plainfield all pertinent information regarding the plumbing system of the Premises. Refusal of such access or information shall be prima facie evidence of the presence of Cross-Connection.

Sec. 18.173 User Safety Rules.

While performing the duties in Sec. 18.171 and 18.172 above, the duly authorized employees or representatives of the Township and Plainfield shall observe all reasonable safety rules applicable to the Premises established by the User.

MISCELLANEOUS

Sec. 18.174 State and Federal Law Requirements.

If any provision of applicable state or federal law imposes greater restrictions than are set forth in this Part D then the provisions of such state or federal law shall control.

Sec. 18.175 Administrative Liability.

Neither the Township nor Plainfield, nor any representative, agent or employee of the Township or Plainfield, shall render himself or herself personally liable for any damage that may accrue to any person as a result of any acts, decisions or other consequence or occurrence arising out of the discharge of their duties and responsibilities pursuant to this Part D.

Sec. 18.176 Severability.

This Part D and the various parts, sections, paragraphs, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Part shall not be affected thereby.

Sec. 18.177 Implementation and Enforcement.

To the extent permitted by law and in accordance with the Water Service Agreement, the Township hereby designates Plainfield to implement and enforce the provisions and requirements of this Part D, as agent for the Township.

PART E – ROCKFORD PUBLIC WATER SUPPLY SYSTEM

SHORT TITLE, FINDINGS, PURPOSE

Sec. 18.178 Short Title.

This Part E of this chapter shall be known as the “Water (Rockford System) Connection, Use and Rate Ordinance” and may be cited as such.

Sec. 18.179 Intent.

This Part E of this chapter is intended to apply to all properties served by the System located in the Service District.

Sec. 18.180 Objectives Regarding State and Federal Law Requirements.

This Part E of this chapter sets forth uniform requirements for Users of the System and enables the Township to comply with all state and federal laws applicable to a publicly owned water supply system. In addition, the objectives of this Part E of this chapter include the following:

- (a) To provide for proportional distribution of the cost of the System; and
- (b) To protect the physical integrity of the System and its components and to provide for the safety of the public and workers on and in the System.

Sec. 18.181 Objectives Regarding Contract Requirements.

This Part E of this chapter is adopted in accordance with and in furtherance of the Township’s obligations as set forth in the Water Service Agreement, as amended from time to time.

Sec. 18.182 Findings Regarding Public Health, Safety and Welfare.

The Township hereby determines that the System is immediately necessary to protect and preserve the public health, safety and welfare of the Township by providing potable water to Users of the System and fire protection to properties in the Township.

DEFINITIONS

Sec. 18.183

Unless the context specifically indicates otherwise, the meaning for the terms used in this Part E of this chapter shall be as follows:

- (a) *Backflow* means water of questionable quality, wastes or other contaminants entering the System due to a reversal of flow.
- (b) *Cross-Connection* means a connection or arrangement of piping or appurtenances through which a Backflow could occur.
- (c) *Department* means the Water Department of the City.
- (d) *Rockford or City* means the City of Rockford, Kent County, Michigan.
- (e) *Rockford Water Ordinance*: The ordinance or ordinances adopted by Rockford from time to time which regulate the connection to, the use of and the rates for connection to and services provided by the System located within Rockford.
- (f) *Secondary water supply* means a water supply system maintained in addition to a public water supply, including but not limited to water systems from ground or surface sources not meeting the requirements of Act No. 98 of the Public Acts of 1913, as amended, being Sections 325.201 to 325.214 of the Compiled Laws of 1948, or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stored in other than an approved storage facility.
- (g) *Service District* means the geographical area located within the Township served by the System in accordance with the Water Service Agreement.
- (h) *Submerged Inlet* means a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminants and which is unprotected against Backflow.
- (i) *System* or *Water Distribution System* means the water supply and distribution system provided in accordance with the Water Service Agreement.
- (j) *Township* means the Township of Algoma, Kent County, Michigan.
- (k) *Township Board* means the governing body of the Township.
- (l) *User* means the owner, lessee or occupant of any Premises connected to or served by the System.
- (m) *Water connection* means that part of the water distribution system connecting the water main at the curb cock with the premises served.
- (n) *Water main* means that part of the water distribution system located within easement lines or streets designed to supply more than one (1) water connection.

- (o) *Water Service Agreement* means the Public Water Service Agreement entered into by and between the Township and Rockford and dated January 13, 2016 for the supply and distribution of water in the Service District by Rockford, as said Agreement, may be amended and restated from time to time by the Township and Rockford.
- (p) *Water Supply Rates and Charges* shall, as defined from time to time in the Rockford Water Ordinance, include, without limitation, the commodity charge, readiness to serve charge, shut-off and turn-on charges and interest and penalties thereon, together with the assessment charge referenced in Paragraph 3c of the Water Service Agreement, as established from time to time by resolution of the Rockford City Council.

RETAIL WATER SERVICE

Sec. 18.184 Retail Water Service to Service District in Accordance with Water Service Agreement; Connections; Water Supply Rates and Charges.

- (a) In accordance with the Water Service Agreement, (1) Rockford provides water supply services to the Service District on a retail basis; and (2) Rockford is responsible for the operation, maintenance, repair, replacement and service necessary for the System in the Service District, the connection of Users to the System in the Service District and the establishment, billing and collection of Water Supply Rates and Charges applicable to Users in the Service District.
- (b) A User required, or desiring, to obtain water service shall make application to Rockford on forms prescribed by Rockford. Review and approval of the application and issuance of a connection permit, the conditions and requirements related to the connection of service lines to the System, the connection and use of water meters and the inspection thereof, the operation, maintenance and replacement of the service line, and all other matters, including enforcement, related to water connections shall be subject to the terms and conditions embodied from time to time in the Rockford Sewer Water Ordinance and related rules and regulations.
- (c) In accordance with the terms of the Water Service Agreement, the Water Supply Rates and Charges for connection to and use of the System, together with related penalties and surcharges, shall be established and adjusted from time to time by Rockford with respect to Users in the Service District in the same amount, on the same basis, with the same customer classifications and on the same terms with respect to those same rates, charges, penalties and surcharges as apply to water customers located within Rockford subject to the exceptions set forth in Paragraph 3A and 3B of the Water Service Agreement.

CONNECTION TO AND USE OF THE SYSTEM

Sec. 18.185 Water Connection Required.

The owner of each house, building or property used for human occupancy, employment, recreation or other purposes situated within the Service District and abutting on any street, alley, or right-of-way in which there is located, or may in the future be located, a water main of the City, shall, at his expense, within 180 days after said water main becomes available, install suitable plumbing facilities therein and to connect such facilities directly to the City water distribution system, provided said water main is within a 200 foot radius of the house or building. If said main is not within a 200 foot radius of the house or building, a written request to waive the connection requirement must be made to the City Manager. The City Manager may grant such waiver based upon the circumstances presented.

Sec. 18.186 Service Connections.

Applications for water connections shall be made to the Department on forms prescribed and furnished by it. Water connections, plumbing and water meters shall be installed in accordance with rules and regulations promulgated by the City and upon payment of the connection fee and meter installation fee set from time to time by the City Council. All meters and water connections shall be the property of the City. All fees charged by the City related to providing water service shall not be less than the cost of materials, installation and overhead attributable to such installations. Water service will not commence until payment in full for the installation has been made to the City. In case of nonpayment, the cost of the installation shall be a lien on the property served and enforced in accordance with Section 18.213. Construction of a water service line shall be done as expeditiously as possible after written notice to proceed, but the time for construction shall be at the convenience of the City.

Sec. 18.187 Institution of or Restarting Water Service.

Written notice given not less than 48 hours in advance shall be made to the City by the property owner when water service is desired. It shall be unlawful for any person to connect to or use water supplied by the City without first giving notice as provided herein. The City shall have the right to request a nominal sum be placed on deposit with the City for purpose of establishing or maintaining any customer's credit.

Sec. 18.188 Meters.

The City reserves the right to determine the size and type of meter used. The City reserves the right to require the installation of remote meter reading equipment. The cost of said equipment and installation cost shall be charged to the owner at the prevailing rates and cost of material and labor.

Sec. 18.189 Access to Meters.

The Department shall have the right to shut off the supply of water to any premises where the Department is not able to obtain access to the meter. Any qualified employee of the department shall, at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of readings, testing, removing, or inspecting same and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.

Sec. 18.190 Reimbursement for Damage.

Any damage which a meter may sustain resulting from carelessness of the owner, agent, or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to the City on presentation of a bill therefore; and in cases where the bill is not paid, the water may be shut off and shall not be turned on until all charges have been paid to the City.

Sec. 18.191 Turning on Water Service.

Only personnel authorized by the Department shall operate any water main valve or curb box on public property, or within a public easement or right-of-way. Any curb stop found in the "on" position and a meter bar installed on the meter setting without prior authorization of the Department shall be an unlawful use of public water and the contractor or plumber installing such meter bar or the owner of the property benefiting from such water use shall pay the City a penalty of \$500 for each

violation. A request for water service shall be submitted to the Department at least twenty-four (24) hours in advance of the time such service is required.

Sec. 18.192 Hydrant Use.

No person, except an employee of the City in the performance of his duties, shall open or use any fire hydrant except in case of emergency, without first securing a written permit from the department and paying such charges as may be prescribed.

Sec. 18.193 Discontinuance of Service.

In the event a water customer desires water service to be discontinued, said customer shall so request in writing not less than 48 hours prior to time of such discontinuance of service is desired.

- (a) The City will not recognize the discontinuance of water service unless the provisions of the foregoing paragraph have been fully complied with. Under any other circumstances, discontinuance of service will be charged to the customer at the actual cost of labor, materials and equipment.
- (b) The City may refuse or discontinue water service for any violation of any rule, regulation, or condition of service.

Sec. 18.194 Shut off of Water.

The City reserves the right at all times (and will endeavor to give due notice) to shut off the water at the water mains or to require reduced use or no use of the water distribution system for the purpose of making repairs or extensions or for other purposes. All persons having equipment on their premises and depending on water from the water mains are hereby cautioned against danger which might arise from emergency shutting off of water. In the event of such emergency, the City Manager may designate in any notice the extent of any regulation, limitation or prohibition and the date and time on which it shall take effect.

Sec. 18.195 Responsibility for Damages.

The City will not be responsible for any damages because of failures of or within the water distribution system, or actions by the City to correct such failures.

Sec. 18.196 Curb Box.

No person shall remove the cover from any curb box or place any dirt, stone or other obstruction in it or tamper with any meter or commit any act tending to obstruct the use thereof.

Sec. 18.197 Unlawful Connections.

No person shall make a connection on a service line between the water meter and the street mains, or install a by-pass around the meter.

Sec. 18.198 Cross-Connections Control.

The City shall eliminate and prevent all cross-connections pursuant to the plan submitted to and approved by the Department of Public Health, pursuant to the requirements of Sections 325.11401

through 325.11407 of the 1979 Michigan Administrative Code, as the same may be amended or replaced from time to time.

Sec. 18.199 Cross-Connections Prohibited.

- (a) A cross-connection shall not be made between the water distribution system and a secondary water supply.
- (b) A cross-connection shall not be made by submerged inlet.
- (c) A cross-connection shall not be made between the water distribution system and piping which may contain sanitary waste or a chemical contaminant.
- (d) A cross-connection shall not be made between the water distribution system and piping immersed in a tank or vessel which may contain a contaminant.

Sec. 18.200 Inspections.

It shall be the duty of the Department to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Department and as approved by the Michigan Department of Environmental Quality.

Sec. 18.201 Right of Entry.

The representative of the City shall have the right to enter at any reasonable time any property served by a connection to the water distribution system for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

Sec. 18.202 Protection of Water Supply.

The potable water supply made available on the properties served by the water distribution system shall be protected from possible contamination as specified by this Part E and by the State of Michigan and City plumbing codes. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as water unsafe for drinking.

Sec. 18.203 Other Laws.

If any provisions of the Rockford City Code or any ordinances of the County or any statutes of the State of Michigan, shall impose greater restrictions than herein set forth, then such provisions or statutes shall control.

Sec. 18.204 Lawn Sprinkling.

The City Manager, subject to approval by the City Council, may regulate, limit or prohibit the use of water for any purpose. Such regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for

firefighting. No such regulation, limitation or prohibition shall be effective until twenty-four (24) hours after the publication thereof in a newspaper of general circulation in the City, except in an emergency as may be deemed by the City Manager. In the case of such emergency the regulation, limitation or prohibition shall be and take effect as indicated by the City Manager and notice shall be given on the local radio station. Any person violating such rule or regulation shall, upon conviction thereof, be punished as prescribed in Chapter 1 of the Rockford City Code.

Sec. 18.205 Additional Regulations.

Rules and regulations concerning the water distribution system may be established by the City in accordance with Section 1.1(N) of the Rockford City Code. The rules and regulations now in effect shall continue until changed in accordance with this Section.

Sec. 18.206 Injury to Facilities.

No person, except an employee of the City in the performance of his duties, shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the water distribution system.

Sec. 18.207 Reserved.

USE OF PRIVATE WATER WELLS

Sec. 18.208 Private Water Wells.

Subject to the provisions of this Part E of this chapter with respect to Cross-Connections, existing water wells on Premises connected to the System may be used for lawn watering, irrigation, automobile or equipment washing, as a source of water for a building's heating or cooling system or for similar purposes not involving human consumption or prolonged bodily contact with such Non-Potable Water. Any fixtures connected to such non-Public Water systems shall only be located outside of structures intended for human occupancy, employment, recreation or similar purposes. Notwithstanding Part E of this chapter, piping connected to a private water well shall be physically and completely separated from all plumbing used for Public Water.

WATER RATES AND CHARGES

Sec. 18.209 Applicability.

All Users of the System shall pay Water Supply Rates and Charges as set forth in this Part E and as required by the Water Service Agreement.

Sec. 18.210 No Free Service.

No free service shall be furnished by the Water System to the Township or any Person, firm, or corporation, public or private, or any public agency or instrumentality.

Sec. 18.211 Water Supply Rates and Charges.

(a) Water Supply Rates and Charges shall be levied periodically at such intervals as shall be established from time to time by resolution of the City Council against each premises having any water connection to the water distribution system.

- (b) Said Water Supply Rates and Charges shall be based on the quantity of water used on or in the property, as measured by the water meter therein used, except as otherwise provided. If a meter cannot be read, an estimated charge will be made and adjustment, if necessary, will be made when the meter reading can be obtained. Water Supply Rates and Charges for users outside the City shall be in amounts to be established from time to time by the City Council, subject to the Water Service Agreement.
- (c) Any charges remaining unpaid shall be charged against the real property on which the service was rendered, and collected in accordance with Section 18.213.

Sec. 18.212 Turn-on and Turn-off Fees.

The City may charge fees for turning on and turning off water service in amounts to be established from time to time by the City Council.

- (a) Billing and Penalties and Remedies for Nonpayment or Late Payment. The owner of the Premises serviced and the occupants thereof shall be jointly and severally liable for the water service provided such said Premises. However, in all cases where a tenant is, by the terms of a lease, responsible for water charges and the City is notified by an affidavit signed by the landlord and a true copy of the lease, as provided by state law, then the charges shall not become lien on the Premises as provided in Section 2.4(C) and Section 2.4(D) of the Rockford City Code. But, from and after such notice, no further water service shall be rendered to the Premises until a cash deposit of not less than the estimated bill for three (3) months service shall have been made as security for payment of the charges. Deposits shall be applied to any bill, including interest, for water service more than thirty (30) days delinquent. Any deposit so applied shall be promptly refunded by the user. The deposit shall be returned without the payment of any interest and less any balance due when service is discontinued.
- (b) Bills for Water Supply Rates and Charges as herein established shall be mailed to users periodically at such intervals as shall be established from time to time by resolution of the City Council. All bills shall be payable on the 30th day of the month following the period of service and shall be paid at the office of the City Treasurer or his duly appointed agent. If any bill shall not be paid by the 30th of the month in which it is due, a late charge of 10% shall be applied to the current amount past due and collected therewith.
- (c) Water service may be discontinued to any premises to enforce the payment of Water Supply Rates and Charges after the user has been given the opportunity for a hearing before the City Manager or his designated representative to show cause why service should not be discontinued. Services so discontinued shall not be restored until such time as all the rates, charges, penalties are paid or satisfactory arrangements made for the payments thereof.
- (d) Delinquent bills may be collected by any method authorized by the law including, without limitation, making such amounts due a lien on the premises served.

Sec. 18.213 Unpaid Water Supply Rates and Charges, Fees; Lien.

Water Supply Rates and Charges for services furnished by the System to any Premises and any interest and penalties thereon shall become a lien on the Premises serviced immediately upon the provision of the services. On or before September 30 of each year, the Rockford City Treasurer shall certify any such Water Supply Rates and Charges, fees, penalties and interest which have been delinquent 90 days or more, plus additional interest accrued thereon, plus a penalty of an additional

amount of 6 percent of the aggregate amount, to the Algoma Township Board, who shall cause the same to be entered upon the next Algoma Township tax roll as a charge against the Premises to which such services shall have been rendered and said unpaid Water Supply Rates and Charges, with penalties and interest accrued thereon, shall be collected by Algoma, and said lien shall be enforced by Algoma in the same manner as provided in respect to ad valorem taxes assessed upon such roll. When such delinquent Water Supply Rates and Charges, penalties, interest and other fees are collected by Algoma, the proceeds shall be promptly paid by Algoma to Rockford in accordance with the Water Service Agreement.

USE, OPERATION AND MAINTENANCE OF SYSTEM

Sec. 18.214 Use, Operation and Maintenance of System.

The operation, maintenance and management of the System shall be under the immediate supervision and control of Rockford in accordance with the Water Agreement.

PENALTIES

Sec. 18.215 Destruction of System.

No unauthorized Person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with, climb upon, or enter into any structure, appurtenance, or equipment of the System or connect or disconnect any service line to the System.

Sec. 18.216 Notice to Cease and Desist.

Except for those violations provided in Sec. 215 hereof, any Person found to be violating any provision of this Ordinance shall be served by the Township or Rockford with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Sec. 18.217 Civil Infraction.

Any violation of Section 18.215, or any violation beyond the time limit provided for in Section 18.216, shall be a municipal civil infraction, for which the fine shall not be less than \$100 nor more than \$500 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of this Ordinance committed by the same Person within 12 months of a previous violation of the ordinance for which said Person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for the first offense shall all be considered separate first offenses. Each day that such violation occurs or continues shall constitute a separate offense. Any Person violating any of the provisions of this Ordinance shall, in addition, become liable for any expense, loss, or damage occasioned by reason of such violation. The supervisor is hereby authorized to issue citations for municipal civil infractions for violation of the ordinance.

Sec. 18.218 Nuisance.

Any Nuisance or any violation of this Ordinance is deemed to be a Nuisance per se. The Township or Rockford in the furtherance of the public health are each hereby empowered to make all necessary

repairs or may enforce the requirements of this Ordinance by injunction or other remedy, or take other corrective action necessitated by such Nuisance or violation. The Person who violated the ordinance or permitted such Nuisance or violation to occur shall be responsible to the Township and/or Rockford for the costs and expenses incurred by the Township or Rockford, as the case may be, in making such repairs or taking such action.

Sec. 18.219 Liability for Expense.

Any Person violating any of the provisions of this Ordinance shall become liable to the Township and Rockford and their representatives for any expense, including reasonable attorney's fees, loss, or damage, incurred by the Township by reason of such violation.

Sec. 18.220 Remedies Cumulative.

The remedies provided by this Ordinance shall be deemed to be cumulative and not mutually exclusive.

MISCELLANEOUS

Sec. 18.221 Administrative Liability.

Neither the Township nor Rockford, nor any representative, agent or employee of the Township or Rockford, shall render himself or herself personally liable for any damage that may accrue to any person as a result of any acts, decisions or other consequence or occurrence arising out of the discharge of their duties and responsibilities pursuant to this Part E.

Sec. 18.222 Severability.

This Part E and the various parts, sections, paragraphs, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Part shall not be affected thereby.

Sec. 18.223 Implementation and Enforcement.

To the extent permitted by law and in accordance with the Water Service Agreement, the Township hereby designates Rockford to implement and enforce the provisions and requirements of this Part E, as agent for the Township.

APPENDIX A

Inorganic	Daily Maximum (mg/l)	Monthly Avg (mg/l)
Arsenic	0.062	
Cadmium	0.113	
Chromium (total)	3.3	
Copper	1.075	
Cyanides (total)	0.067	
Lead	0.872	
Mercury	ND ¹	
Molybdenum	0.710	
Nickel	1.142	
Selenium	0.189	
Silver	65.682 ²	
Zinc	0.321	
Organic	Daily Maximum (mg/l)	Monthly Avg (mg/l)
Total phenols	0.326	
Polychlorinated biphenyls	ND ³	
Organic – Compatible	Daily (mg/l)	Maximum pounds/day
Biological Oxygen Demand (BOD) ⁴	790	165
Total Suspended Solids (TSS) ⁵	720	150
Total Phosphorus (TP) ⁶	25	5
Total Nitrogen as N ⁷	140	30

- 1 Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with U.S. EPA method 245.1. The detection limit shall not exceed 0.2ug/l unless higher limits are approved due to matrix Interference, or as specified in these Rules and Regulations.
- 2 End-of-process discharge limit in lieu of uniform allocation limit method.
- 3 Indicates nonquantifiable per United States Environmental Protection Agency (USEPA) Method 608.
- 4 Total BOD capacity available for special allocation among all users and safety reserve is 7,326 pounds/day.
- 5 Total TSS capacity available for special allocation among all users and safety reserve is 5,826 pounds/day.
- 6 Total TP capacity available for special allocation among all users and safety reserve is 206 pounds/day.
- 7 Total Nitrogen capacity available for special allocation among all users and safety reserve is 1,032 pounds/day.

APPENDIX B

Compatible Pollutants	Daily Maximum mg/l		Daily Maximum Pounds per Day
Biochemical Oxygen Demand (BOD)	790	and	165
Total suspended solids (TSS)	720	and	150
Total Phosphorus (TP)	25	and	5
Total Nitrogen – as N	140	and	30

CHAPTER 19

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Sec. 19.1 Purpose.

The purpose of this chapter is to protect the interest of the public health, safety and welfare of the citizens of the Township by the regulation, licensing and control of peddlers, solicitors, transient merchants and similar sales persons conducting business within the Township.

Sec. 19.2 License Required.

It shall be unlawful for any peddler, solicitor or transient merchant, whether a person, firm or corporation, to peddle, solicit or engage in business as a transient merchant within the Township as to any merchandise, article or thing without having first secured a license from the Township therefor.

Sec. 19.3 Definitions.

- (a) The term “*solicitor*,” as used in this chapter, shall mean any person traveling either by foot or vehicle from place to place, who solicits, asks for or invites donations of money or goods; or who takes or attempts to take orders for the sale of goods, wares or merchandise for future delivery, or for services to be furnished or performed in the future. Solicitor includes any person who uses or occupies any building, structure or other place in the Township for such purposes. Solicitor also includes the driver of any vehicle used for or associated with soliciting.
- (b) The term “*peddler*,” as used in this chapter, shall mean any person traveling either by foot or vehicle from place to place, carrying goods, wares or merchandise, and offering the same for sale, or making sales and delivering articles to purchasers, or offering to provide services, either immediately or in the future. The term “peddler” shall include “hawker” and “huckster.”
- (c) The term “*transient merchant*,” as used in this chapter, shall mean any person who engages in the temporary business of the retail sale and delivery of goods, wares or merchandise within the Township, and who, for the purpose of conducting such business, uses or occupies any lot, premises, building, room or structure, provided however that such definition shall not include merchants having regularly established places of business within the Township, and shall not apply to persons making sales at any annual fair, street fair, festival, annual celebration or observance.

Sec. 19.4 Exemptions from License.

The licensing provisions of this chapter shall not apply to the following:

- (a) Persons engaged in farming who are selling or offering for sale produce grown and harvested on their own farmlands, if such activity is otherwise in compliance with Township ordinances.
- (b) Public school or private school students soliciting donations, taking orders or selling merchandise solely for the benefit of their respective schools or classes, activity groups or athletic teams thereof. This exemption shall apply only to private schools located in the

Township and to public schools which include any part of the Township within their respective school district boundaries.

- (c) Members of churches, synagogues, mosques and other religious organizations that have a house of worship within the Township and which are established and in good standing as Michigan ecclesiastical corporations. This exemption shall apply only to solicitations or sales that are solely for the benefit or religious missions of such churches, synagogues, mosques or other religious organizations.
- (d) Persons who display and sell used household goods at their own dwellings if such activity is in compliance with the Township Zoning Ordinance.
- (e) Persons soliciting at private homes for the purpose of soliciting or obtaining orders for the sale of goods or merchandise, if such persons are on the premises of such homes because of prior invitation by the owner or resident thereof.
- (f) Any person who is exempt from such license under the terms of state or federal law, but such persons shall remain subject to the other provisions of this chapter, except as to those provisions which may be preempted by state or federal law.

Sec. 19.5 License, Application and Fee.

- (a) Application for a license for a peddler, solicitor or transient merchant shall be made to the Township Clerk. The application shall be in the form prescribed by the Township Clerk and shall include the following:
 - (1) The name, address and telephone number of the applicant, including both local information and permanent information, if different.
 - (2) The name, address and telephone number of each employee, agent and independent contractor who shall be operating as a peddler, solicitor or transient merchant.
 - (3) A description of the nature of the business and the goods or services to be offered.
 - (4) If the applicant believes that the proposed soliciting, peddling or other sales activity is exempt from license under the terms of this chapter, the basis for the asserted exemption shall be stated.
 - (5) The period of time during which the proposed soliciting or sales activity is proposed to occur.
 - (6) The location of the sales activity; if soliciting or peddling, the routes and locations thereof, identified by the relevant streets and cross-streets.
 - (7) The hours of the day and the days of the week during which the applicant and all employees, agents and independent contractors will be engaging in the proposed soliciting, peddling or other sales activity.
 - (8) The place where the goods, if any, are manufacturer or produced, where they are located at the time the application is filed and the proposed method of delivery.

- (9) If the applicant is employed, and will be soliciting, peddling or selling in behalf of his or her employer, the name, address and telephone number of the employer shall be given, together with a letter from the employer stating authorization for the employee to carry out such activity in the employer's behalf.
 - (10) If motor vehicles are to be used in the proposed activity, a description of such vehicles, their respective license numbers and proof of insurance as to each of them.
 - (11) A photograph of the applicant, taken within 90 days immediately prior to the date of filing of the application, clearly showing the head and shoulders of the applicant. Alternatively, the applicant may submit a clear copy of the photograph on his or her current motor vehicle drivers license.
 - (12) If the applicant proposes to handle or sell any food or other item for human consumption, the applicant shall furnish proof of any required health permit issued by the County Health Department.
 - (13) A certificate of insurance giving evidence of the fact that the applicant and any employee, agent or independent contractor acting for the applicant is adequately insured for public liability protection.
 - (14) A comprehensive criminal history of the applicant and any other person who will be engaged in the requested activity, issued by a state or county law enforcement agency within 60 days preceding the filing of the application.
 - (15) A statement by a physician licensed by the State of Michigan and dated not more than 20 days prior to the date of filing of the application, certifying the soliciting or peddling applicant to be free of any contagious, infectious or communicable disease. Such statement shall also be furnished for every employee, agent or independent contractor of the applicant who will be engaged in any of the requested soliciting or peddling.
 - (16) A statement as to whether the applicant has been convicted of any felony or high misdemeanor, including the nature of the offense, the date of the conviction and the resulting punishment or penalty. If the applicant is on probation as a result of a criminal conviction, that fact and the period of time of the probation shall be stated.
 - (17) The address of the place at which the transient merchant sales are to be conducted.
 - (18) Such other information as the clerk may reasonably determine is necessary to determine the nature and character of the proposed soliciting, peddling or other sales activity.
- (b) Any applicant shall pay the application fee established by resolution of the Township Board.
- (c) A license under this chapter shall be for a duration not to exceed six months; provided, however, that the license may be renewed if the information contained in the renewal application remains unchanged from the application. The Township Clerk shall review applications and issue licenses, and determine the duration thereof. A renewal application fee, if any, shall be paid by the applicant.

Sec. 19.6 Review of Application; Further Investigation.

- (a) Upon receiving an application for a license, the Township Clerk shall determine whether all required contents of the application have been submitted. If any required information or items have not been included, the clerk shall notify the applicant and return the application for correction or supplementing.
- (b) If the clerk determines that all required contents of the application have been submitted, and after the application fee has been paid, the clerk shall make such investigation of the applicant, the applicant's business and other matters as the clerk determines necessary for the protection of the public with respect to soliciting, peddling and other sales activity regulated by this chapter.
- (c) If as a result of such investigation, the clerk determines that the applicant should not be issued a license, by reason of noncompliance with the requirements of this chapter or for other reasons, the clerk shall endorse on the application the disapproval of the license and the reasons for the disapproval, and the clerk shall then notify the applicant in writing that the application has been disapproved and that no license shall be issued.
- (d) If as a result of such investigation, the applicant is found to be satisfactory for purposes of issuance of a license under this chapter, such approval shall be endorsed on the application by the clerk. The clerk shall then prepare the license on a form prescribed by the Township and shall forward the license to the applicant.

Sec. 19.7 Prohibited Activities.

The following acts or activities are prohibited:

- (a) No solicitor, peddler or transient merchant shall obstruct any street, alley sidewalk or driveway, nor interfere with the passage of any other persons within such areas.
- (b) No solicitor or peddler shall enter upon and/or call upon a dwelling or business location after having been expressly notified by the owner or occupant of the dwelling or the owner or manager of the business that no solicitation or peddling is desired.
- (c) No solicitor or peddler shall stop or remain in one place for any appreciable period of time within any street, alley or other public place.
- (d) No transient merchant shall operate or maintain any stand, vehicle or other place of business on or within any street, alley or other public place, nor within any private property as to which consent from the owner has not been obtained. A transient merchant shall not locate his or her stand, vehicle or other place of business in such close proximity to a street, alley, sidewalk or other public place such that a person engaged in any transaction must of necessity stand within the boundaries of any such street, alley, sidewalk or other public place.
- (e) No solicitor, peddler or transient merchant shall threaten or accost any resident of the Township in the course of any solicitation, peddling or other sales activity nor engage in any conduct which is a nuisance or would tend to create a nuisance.

Sec. 19.8 Showing of License and Badge.

- (a) A license issued pursuant to this chapter shall be carried by the person to whom the license was issued, while he or she is engaging in the activity authorized by the license. The licensee shall produce the license at the request of any law enforcement official or resident of the Township.
- (b) If the Township issues to a licensee an identifying badge indicating Township approval of the authorized solicitation, peddling or other sales activity, the licensee shall prominently wear or display the badge at all times when the authorized activity is occurring.

Sec. 19.9 Hours and Days of Solicitation or Sales Activity.

No peddler, solicitor or transient merchant shall call at any dwelling or place of business except between the hours of 9:00 a.m. and 7:00 p.m. on Monday through Saturday without an appointment.

Sec. 19.10 Suspension of License.

- (a) The Township Clerk shall have the power to suspend any license issued under the terms of this chapter for violation of any provision of the license or any condition or requirement of this chapter or other applicable Township ordinance. The clerk shall also have the power to suspend any license as a result of unlawful or fraudulent business practices by the applicant or other unlawful activity by the applicant.
- (b) Such suspensions may be effective immediately or at a stated time, in the discretion of the clerk. The clerk shall notify the licensee in writing of any such suspension. Such notification shall be sufficient if the writing is mailed by U.S. mail to the address of the licensee as stated in the application for the license.
- (c) The Township Clerk shall report all suspensions to the Township Board.
- (d) The clerk may, in his or her sole discretion, remove any suspension and thereby cause the license to again become effective, at such time as the licensee has again complied with the license and the terms of this chapter, or at such time as the licensee has otherwise removed the cause for the suspension.
- (e) If a licensee who has had his or her license suspended later applies for a new or different license under the terms of this chapter, the clerk may consider the reasons for previous suspension in evaluating whether the new or different application should be approved.

Sec. 19.11 Appeal from Denial of Application or Suspension of License.

- (a) Any person aggrieved by the action of the Township Clerk in the denial of an application for a license or in the suspension of a license may appeal such action to the Township Board.
- (b) Such appeal shall be commenced by filing with the Township Board, within 14 days after notice of denial or suspension has been mailed to the applicant's or licensee's last known address, a written statement setting forth the grounds for the appeal.
- (c) The applicant shall be given an opportunity for a hearing on the appeal before the Township Board. Notice of the hearing shall be given to the applicant or licensee in writing, mailed to

the last known address of the applicant or licensee at least ten days prior to the date scheduled for the hearing.

- (d) At the hearing the Township Board shall consider comments made by the applicant and any written materials submitted. If the applicant fails to appear at the time of hearing, the Township Board may nevertheless proceed to consider the matter and to reach a decision thereon.
- (e) The decision by the Board shall be made by majority vote of the members present and voting, a quorum being present. The decision and the reasons therefor shall be stated in the minutes of the meeting or shall be set forth in a separate resolution or other writing. The decision of the Board on the appeal shall be final and conclusive.

Sec. 19.12 Revocation of License.

A license issued under the terms of this chapter may be revoked by the Township Board after reasonable notice to the applicant and opportunity for hearing. Notice of proposed revocation shall be sufficient if in writing and sent to the licensee by U.S. mail, directed to the address of the licensee as stated in the application for the license.

- (a) The applicant shall be given an opportunity for a hearing on the proposed revocation before the Township Board. Notice of the hearing shall be given to the applicant or licensee in writing, mailed to the last known address of the applicant or licensee at least ten days prior to the date scheduled for the hearing.
- (b) At the hearing the Township Board shall consider comments made by the applicant and any written materials submitted. If the applicant fails to appear at the time of hearing, the Township Board may nevertheless proceed to consider the matter and to reach a decision thereon.
- (c) The decision by the Board shall be made by majority vote of the members present and voting, a quorum being present. The decision and the reasons therefor shall be stated in the minutes of the meeting or shall be set forth in a separate resolution or other writing. The decision of the Board on the proposed revocation shall be final and conclusive.

The Township Board may revoke a license for any of the following causes:

- (d) Fraud, misrepresentation, or false statement contained in the application for license.
- (e) Fraud, misrepresentation, or false statement made in the course of carrying on other business as a peddler, solicitor or transient merchant.
- (f) Any violation of the terms of the license or any provision of this chapter.
- (g) Conviction of any crime or misdemeanor involving moral turpitude.
- (h) Conducting the business of peddling, soliciting or transient merchant sales in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- (i) Entering a private residence under pretense, other than for soliciting or peddling.

- (j) Remaining in a private residence or on the premises thereof after the owner or occupant has requested any such person to leave.
- (k) Going in and upon the premises of a private residence to solicit or peddle when the owner or occupant thereof has displayed a “no soliciting” or “no peddling” sign on such premises.
- (l) Soliciting or peddling at a private residence other than the times and days permitted therefor by the terms of this chapter.
- (m) The falsification of any of the required information included in the application for the license.

Sec. 19.13 Conduct by Solicitors and Peddlers.

- (a) No peddler or solicitor shall enter a dwelling or place of business under false pretenses, for the purpose of peddling or soliciting, nor remain in a dwelling or on the premises of a place of business after the owner or occupant has requested the solicitor or peddler to leave.
- (b) No peddler, solicitor or transient merchant shall call without an appointment at any dwelling or place of business where a sign is displayed stating “no peddlers,” “no solicitors,” “no salesman,” “no trespassing,” or words of similar meaning or import.
- (c) No peddler or transient merchant shall sell or offer for sale any unsound, unripe or unwholesome food or drink, or defective, faulty, incomplete or deteriorated article of merchandise.
- (d) No solicitor, peddler or transient merchant shall shout, cry out, blow a horn, ring a bell or use any other sound device, including a radio or sound amplifying system upon any of the streets, alleys, parks or other public places of the Township, if the resulting sound is of sufficient volume as to be plainly heard upon the streets, alleys, parks or other public places of the Township, or upon any private premises, for the purpose of attracting attention to any goods, wares or merchandise or for other purposes associated with soliciting, peddling or transient merchant sales activities.

Sec. 19.14 Records to be Kept.

A complete record of each license issued under this chapter, including any renewals, suspensions or revocations thereof, shall be kept on file by the Township Clerk. Such records shall also include any complaints made against the licensee, any change of address on the part of the licensee and other information pertaining to the licensee’s conduct under the license.

Sec. 19.15 Circulation of Lawful Petitions.

The provisions of this chapter shall not apply to the circulation of lawful petitions under the terms of state or federal laws or Township ordinances, if the manner of circulation is in compliance with the state or federal laws or Township ordinances that regulate such circulation of petitions.

Sec. 19.16 Misrepresentation.

Any licensed peddler, solicitor or transient merchant who shall be guilty of any fraud, cheating or misrepresentation, whether directly or through an employee, while acting as a peddler, solicitor or transient merchant within the Township shall in violation of this chapter.

CHAPTER 20

TELECOMMUNICATIONS PROVIDERS

Sec. 20.1 Purpose.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and to exercise reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Public Act No. 48 of 2002 (MCL 484.3101 *et seq.*) and other applicable law, and to ensure that the Township qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

Sec. 20.2 Conflict.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable federal, state or local law.

Sec. 20.3 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All other terms used in this article shall have the same meaning as defined or as provided in the Act, including, without limitation, the following:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Public Act No. 48 of 2002 (MCL 484.3101 *et seq.*).

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to the Act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term “commission” in the Act.

Permit means a nonexclusive permit issued pursuant to the Act and this article to a telecommunications provider to use the public rights-of-way in the Township for its telecommunications facilities.

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. The term “public right-of-way” does not include a federal, state, or private right-of-way.

Telecommunications facilities or *facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunications services or signals. The term “telecommunications facilities” or “facilities” does not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of Part I of Title III of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and telecommunications services mean those terms as defined in section 102 of the Michigan Telecommunications Act, Public Act No. 179 of 1991 (MCL 484.2102). The term “telecommunications provider” does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in section 332(d) of Part I of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this article only, a provider also includes all of the following:

- (1) A cable television operator that provides a telecommunications service.
- (2) Except as otherwise provided by the Act, a person who owns telecommunications facilities located within a public right-of-way.
- (3) A person providing broadband internet transport access service.

Township board means the Township Board of Algoma Township or its designee. This definition does not authorize delegation of any decision or function that is required by law to be made by the Township Board.

Sec. 20.4 Permit.

- (a) **Required.** Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the Township for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.
- (b) **Application.** Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with the Act. A telecommunications provider shall file one copy of the application with the Township clerk, one copy with the Township supervisor, and one copy with the Township attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider’s existing and proposed facilities in accordance with the Act.
- (c) **Confidential Information.** If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the state’s Freedom of Information Act, Public Act No. 442 of 1976 (MCL 15.231 *et seq.*), pursuant to section 6(5) of the Act (MCL 484.3106(5)), the telecommunications provider shall prominently so indicate on the face of each map.
- (d) **Application Fee.** Except as otherwise provided by the Act, an application shall be accompanied by a one-time nonrefundable application fee in the amount of \$500.00.
- (e) **Additional Information.** The Township supervisor may request an applicant to submit such additional information which the Township supervisor deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Township supervisor. If the Township and the applicant cannot agree on the requirement of additional information requested by the Township, the Township or the applicant shall notify the MPSC as provided in section 6(2) of the Act (MCL 484.3106(2)).

- (f) **Previously Issued Permits.** Pursuant to section 5(1) of the Act (MCL 484.3105(1)), authorizations or permits previously issued by the Township under section 251 of the Michigan Telecommunications Act, Public Act No. 179 of 1991 (MCL 484.2251), and authorizations or permits issued by the Township to telecommunications providers prior to the 1995 enactment of section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article. With the exception of fee provisions, which are now covered by Public Act No. 48 of 2002 (MCL 484.3101 *et seq.*), shall remain in full force and effect with regard to telecommunications providers that obtained permits or consent agreements prior to November 1, 2002.

Sec. 20.5 Issuance of Permit.

- (a) **Approval or Denial.** The authority to approve or deny an application for a permit is delegated to the Township supervisor. Pursuant to section 15(3) of the Act (MCL 484.3115(3)), the Township supervisor shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit in accordance with section 36-22(b) for access to a public right-of-way within the Township. The Township supervisor shall notify the MPSC when the Township supervisor has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Township supervisor shall not unreasonably deny an application for a permit.
- (b) **Form of Permit.** If an application for permit is approved, the Township supervisor shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with sections 6(1), 6(2) and 15 of the Act (MCL 484.3106(1), (2), MCL 484.3115).
- (c) **Conditions.** Pursuant to section 15(4) of the Act (MCL 484.3115(4)), the Township supervisor may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and use of the public right-of-way.
- (d) **Bond Requirement.** Pursuant to section 15(3) of the Act (MCL 484.3115(3)), and without limitation on subsection (c) of this section, the Township supervisor may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

Sec. 20.6 Construction/Engineering Permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the Township without first obtaining a construction or engineering permit as required under these ordinances for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

Sec. 20.7 Conduit or Utility Poles.

In accordance with the Act, obtaining a permit or paying the fees required under the Act or under this article does not give a telecommunications provider a right to use conduit or utility poles or erect new METRO Act exempt structures in public rights-of-way.

Sec. 20.8 Route Maps.

Pursuant to section 6(7) of the Act (MCL 484.3106(7)), a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the Township, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the Township. The route maps should be in electronic format unless and until the MPSC determines otherwise, in accordance with section 6(8) of the Act (MCL 484.3106(8)).

Sec. 20.9 Repair of Damage.

A telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the Township, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

Sec. 20.10 Establishment and Payment of Maintenance Fee.

In addition to the nonrefundable application fee paid to the Township set forth in section 20.04(d), a telecommunications provider with telecommunications facilities in the Township's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the Act (MCL 484.3108).

Sec. 20.11 Modification of Existing Fees.

In compliance with the requirements of section 13(1) of the Act (MCL 484.3113(1)), the Township hereby modifies, to the extent necessary, fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and use of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the Act (MCL 484.3113(4)), the Township also hereby approves modification of the fees of providers with telecommunications facilities in public rights-of-way within the Township's boundaries, so that those providers pay only those fees required under section 8 of the Act (MCL 484.3108). The Township shall provide each telecommunications provider affected by the fee a copy of this article, in compliance with the requirement of section 13(4) of the Act (MCL 484.3113(4)). To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the Township's policy and intent, and upon application by a provider or discovery by the Township, shall be promptly refunded as having been charged in error.

Sec. 20.12 Use of Funds.

Pursuant to section 10(4) of the Act (MCL 484.3110(4)), all amounts received by the Township from the authority shall be used by the Township solely for rights-of-way related purposes.

Sec. 20.13 Annual Report.

Pursuant to section 10(5) of the Act (MCL 484.3110(5)), the Township supervisor shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

Sec. 20.14 Cable Television Operators.

Pursuant to section 13(6) of the Act (MCL 484.3113(6)), the Township shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of the ordinance from which this article is derived, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

Sec. 20.15 Existing Rights.

Pursuant to section 4(2) of the Act (MCL 484.3104(2)), except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the Township may have under a permit issued by the Township or under a contract between the Township and a telecommunications provider related to the use of the public rights-of-way.

Sec. 20.16 Compliance.

The Township declares that its policy and intent in adopting the ordinance from which this article is derived is to fully comply with the requirements of the Act, and the provisions of this article should be construed in such a manner as to achieve that purpose.

Sec. 20.17 Reservation of Police Powers.

Pursuant to section 15(2) of the Act (MCL 484.3115(2)), this article shall not limit the Township's right to review and approve a telecommunications provider's access to and ongoing use of a public right-of-way or limit the Township's authority to ensure and protect the health, safety, and welfare of the public.

Sec. 20.18 Authorized Township Officials.

The Township supervisor or his designee is hereby designated as the authorized Township official to issue municipal civil infraction citations (directing alleged violators to appear in court) for violations under this chapter as provided by this code.

Sec. 20.19 Violation of a Municipal Civil Infraction.

Any person violating this article is responsible for a municipal civil infraction.

Sec. 20.20 Publication and Effective Date.

This Ordinance, or a summary of its provisions, shall be published in a local newspaper of general circulation within the Township. This Ordinance shall take effect seven days following such publication.

CHAPTER 21

MISCELLANEOUS PROVISIONS

PART A – BAD CHECKS

Sec. 21.1 **Bad Checks - Prohibited.**

- (a) **Definitions.** The following words, terms and phrases, when used in this Part A of this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Address of record means the address that appears on the check or the last known address of record with the secretary of state at the time the check was presented for payment of goods or services.

Check means any check, draft or order drawn or written on any account, or otherwise, upon any bank or other depository, without sufficient funds for the payment of the same when presentation is made to a drawee.

Dishonored means:

- (1) Any check, draft or order drawn or written on any account, or otherwise, upon any bank or other depository, without sufficient funds for the payment of the same when presentation is made to the drawee.
- (2) Any check drawn or order drawn or written on any account which has been closed with or by the bank or other depository upon which it is drawn.
- (3) Any check, draft or order drawn or written on any account for stop payments, any bank administrative purpose or any other reason that caused the check to become dishonored when presentation is made to the drawee. Exceptions include:
 - (i) A check that was stolen and passed.
 - (ii) A stop payment check where a verified dispute exists between the two parties.

Expenses of dishonored check Responses means the direct and reasonable costs incurred by the Township, the county or a private person or corporation operating at the request and direction of the county, when making a dishonored check response, including the cost of providing police, legal counsel and/or administrative services in response to any dishonored check. These costs further include all of the wages and salaries of county personnel and/or contractors responding to the incident; all salaries and wages of the personnel and contractors engaged in investigations, supervision and report preparation; and all costs connected with the administration and provision of any prosecution of the person causing the incident.

- (b) **Prohibited Acts.** No person shall do any of the following:

- (1) No person shall with intent to defraud, make, draw, utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of the making, drawing or uttering or

delivering, that the maker or drawer does not have sufficient funds in or credit with the bank or other depository, for the payment of the check, draft, or order in full upon such check, draft or order in any amount.

- (2) No person shall with intent to defraud make, draw, utter or deliver any check, draft or order for the payment of money to apply on account or otherwise, upon any bank or other depository, unless the person has sufficient funds for payment of the same when presentment is due to the drawee in any amount, except where the lack of funds is due to garnishment, attachment, levy or other lawful cause, and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of doing so.
- (c) **Evidence of Intent to Defraud.** As against the maker or drawer thereof, the making, drawing, uttering or delivering, of a check, draft or order, payment of such is refused by the drawee, when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all cost and protest fees, within five business days after receiving notice that such check, draft or order has not been paid by the drawee.
- (d) **Notice of Protest.** Where such check, draft or order is protested on the ground of insufficiency of funds or credit, the notice of protest thereof shall be admissible as proof of presentation, nonpayment and protest, and shall be prima facie evidence of intent to defraud and knowledge of insufficient funds or credit with such bank or other depository.

Sec. 21.2 **Bad Checks — Civil Liability.**

- (a) **Findings.** The Township finds that a significant number of checks are written and dishonored within its geographical boundaries causing serious financial loss and hardship to citizens and merchants therein. In addition, the Township finds that the financial loss and hardship incurred by its citizens and merchants seriously impacts on the stream of commerce and the general public by causing increases in the costs of goods and services. As a result of these determinations, a greater operational and financial burden is placed on local law enforcement and legal services by persons who are placing dishonored checks into the stream of commerce.
- (b) Liability for the expense of dishonored check response.
 - (1) **Personal Responsibility.** Any person is liable for the expense of a dishonored check response, if such person proximately causes any incident resulting in a dishonored check response.
 - (2) **Presumptions.** Presumptions shall mean:
 - (i) For the purpose of this section, a person is presumed to be the proximate cause of an incident if such person makes, draws, utters or delivers any dishonored check or causes directly or indirectly a check to become dishonored.
 - (ii) For the purpose of this section, a person is presumed to have acted with intent to defraud if such person shall not have paid the drawer thereof the amount due therein, together with all costs and protest fees, including the

fees assessed hereunder, within five business days after receiving notice by first class mail to the last known address of record that such check, draft or order has not been paid by the drawee.

- (c) **Charges against Person.** The expenses of a dishonored check response shall be a charge against the person liable for the expense under this section. The charge constitutes a debt of that person and is collectible by the Township or the county for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.
- (d) **Cost Recovery Schedule.** The Township Board shall, by resolution, adopt a schedule of costs included within the expense of the dishonored check response. This schedule shall be available to the public from either the Township Clerk, Township Supervisor or the county sheriff's department.
- (e) **Billing.** The Township, the county, or its contractor, may submit a bill for the dishonored check response by first class mail to the last known address of record or personal service to the person liable for the expenses as enumerated under this section. The bills shall require full payment within 30 consecutive days from the date of service. Service by mail shall be effective upon depositing such bill in a United States Postal Service receptacle. In no event shall billing be permitted after one year from the last expense incurred.
- (f) **Failure to Pay; Procedures to Recover Cost.** Any failure by any person described in this section as liable for the expense of a dishonored check response, to pay the bill within 30 consecutive days of service shall be considered in default. In case of default, the Township or the county may commence civil suit to recover the expenses and any costs allowed by law.

PART B – LAKES AND OTHER WATER COURSES

Sec. 21.3 Camp Lake Speed Limit.

On the waters of Camp Lake, Sections 7 and 18, T9N, R11W, Algoma Township, Kent County, it is unlawful at any time to operate a vessel in excess of 40 miles per hour.

Sec. 21.4 Slow-No Wake Speed on Squaw Lake.

- (a) On the waters of Squaw Lake, Section 6, T9N, R11W, Algoma Township, Kent County, State of Michigan, it is unlawful for the operator of a vessel to exceed a slow-no wake speed.
- (b) The boundaries of the area described in subsection (a) of this section shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the state department of natural resources and be in conformance with the State Uniform Waterway Marking System.

Sec. 21.5 Slow-No Wake Speed on High Lake.

- (a) On the waters of High Lake, Section 20, Town 9 North, Range 11 West, Township of Algoma, County of Kent, Michigan, it is unlawful for the operator of a vessel to exceed a Slow-No Wake speed.

- (b) The boundaries of the waters of High Lake shall be marked with signs and buoys. All buoys shall be placed as provided in a permit issued by the Department of Natural Resources and shall be in conformance with the State Uniform Waterway Marking System.
- (c) For the purpose of this Part B, a Slow-No Wake speed is a very slow speed whereby the wake or wash created from a motorized watercraft would be minimal.

PART C – PUBLIC NUDITY

Sec. 21.6 Purpose.

The purpose of this Part C of this chapter is to protect the public safety and welfare of the Township and its residents by the prohibition of public nudity within the Township, the Township Board having recognized the deleterious secondary effects of business activities that utilize or emphasize public nudity, inasmuch as such effects have been experienced in other communities and have been documented in recognized studies and reports.

Sec. 21.7 Public Nudity Prohibited.

No person shall engage in public nudity. No business establishment shall permit persons to engage in public nudity. For purposes of this Part C of this chapter, the term “business establishment” shall include, but not be limited to, owners, officers, employees, and other persons in charge of or in control of a business premises or any part thereof.

Sec. 21.8 Definition.

As used herein “public nudity” means knowingly or intentionally displaying to another person(s) any individual’s genitals, pubic area or anus with less than a fully opaque covering, or a female individual’s breast with less than a fully opaque covering of the nipple or areola: (1) in a public place; or (2) for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee. Public nudity does not include a woman’s breast feeding of a baby, whether or not the nipple or areola is exposed during or incidental to the breast feeding.

Sec. 21.9 Public Place Defined.

As used herein, “public place” means any premises which are open to the general public or any business, club, association, lodge, fraternal organization or other association, group or entity.

Sec. 21.10 Public Nudity Declared A Nuisance.

Any premises in which public nudity is offered, promoted, allowed or encouraged shall constitute a public nuisance, and shall be subject to abatement proceedings.

Sec. 21.11 Enforcement By All Legal Means.

The Township may in its discretion enforce the terms of this Part C of this chapter by any and all available remedies. Such remedies may include legal proceedings for the enjoining or prevention of violations, the issuance of municipal civil infractions and other enforcement means.

PART D – DRUG PARAPHERNALIA

Sec. 21.12 Definition.

The term “*drug paraphernalia*” shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as provided for in Act 368 of the Michigan Public Acts of 1978, as amended.

Sec. 21.13 Possession of Drug Paraphernalia.

It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section. A violation of this section and/or any other provision of this Part D shall be punishable as a misdemeanor.

Sec. 21.14 Manufacture or Delivery of Drug Paraphernalia.

It shall be unlawful for any person to deliver, possess with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section. A violation of this section and/or any other provision of this Part D shall be punishable as a misdemeanor.

Sec. 21.15 Exclusions.

These regulations shall not apply to the following persons:

- (a) Police officers who, in the course of their duties, are required to perform certain acts in investigating illegal drug traffic.
- (b) Persons who are required to handle items proscribed by this Ordinance in the course of their lawful employment or business enterprise.
- (c) Persons for whom marijuana has been prescribed by a physician, duly licensed by the State of Michigan.

CHAPTER 22

TOWNSHIP PLANNING COMMISSION

Sec. 22.1 General Provisions.

- (a) **Short Title.** This chapter shall be known and may be cited as the Algoma Township Planning Commission Ordinance.
- (b) **Statutory Authority.** This Ordinance is authorized by Public Act 33 of 2008, as amended. MCL 125.3801 *et seq.*
- (c) **Continuation of Planning Commission.** The existence and status of the Township Planning Commission is hereby continued for all lawful purposes and effects and without limitation as to duration.
- (d) **Repeal.** Any prior resolution establishing the Township Planning Commission is repealed.
- (e) **Definitions.** Any words not otherwise defined in this Ordinance are defined as stated in Michigan Public Act 33 of 2008, as amended. If such words have not been defined, they are to be understood by their ordinary meaning.

Sec. 22.2 Transition.

- (a) **Former Acts.** All actions taken by the Township Planning Commission preceding the creation of this Ordinance are approved, ratified and confirmed. Any Planning Commission actions in process at the effective date of this Ordinance shall continue, but shall be subject to the terms hereof.

Sec. 22.3 Membership and Officers.

- (a) **Composition.** The Planning Commission shall consist of seven members.
- (b) **Appointment.** The Township Supervisor shall appoint each Planning Commission member, subject to the approval of the Township Board, by majority vote of the Board members elected and serving
 - (1) **Qualifications for Members.** The members of the Planning Commission shall be qualified electors of the Township, except that one of such members need not be so qualified. To be and remain qualified as a member, an elector need not be registered to vote, but shall reside and be eligible to register to vote in the Township. Appointment of one non-qualified elector to the Planning Commission is discretionary only.
 - (2) **Representation.** To the extent practicable, the membership of the Planning Commission shall be generally representative of the diverse interests and areas in the Township.
 - (3) **Township Board Member.** One member of the Planning Commission shall be a member of the Township Board. The term of a Township Board member on the Planning Commission shall be the same as the member's Township Board term. A Township Board member may not serve as chairperson of the Planning Commission.

- (4) **Township Employees.** Township employees shall not be eligible for membership on the Planning Commission.
- (c) **Officers.** At the first meeting of each year, the Planning Commission shall select a chairperson from among its members, who shall serve for a term of one year; the chairperson may be re-elected. At the same meeting, the commission shall also elect a secretary from among the remaining members. The secretary shall have a one-year term and may be re-elected. The Planning Commission shall elect such other officers as the members may determine. The term of each such officer shall be one year; an officer may be re-elected.
- (d) **Term of Office.** Planning Commission members in office at the time of the adoption of this Ordinance shall continue in office until the expiration of their respective terms. Succeeding members shall be appointed for three-year terms. A member's term commences on the date of appointment and terminates three years from the date of appointment, except that a member shall continue to serve until his or her successor is appointed.
- (e) **Vacancies.** The Township Board shall fill vacancies in the membership of the Commission in the same manner as provided for the initial appointments. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term, and may be re-appointed to a full term.
- (f) **Removal.** The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance, after providing written notice to the member and an opportunity for a public hearing.
- (g) **Compensation.** Planning Commissioners may receive such compensation and expense reimbursement as the Township Board may determine.
- (h) **Zoning Board of Appeals.** One member of the Planning Commission shall serve as a member of the Zoning Board of Appeals.

Sec. 22.4 Powers and Duties.

- (a) **In General.** Unless otherwise reserved in this Ordinance, the Planning Commission has all the powers and duties provided by Michigan Public Act 33 of 2008, as amended, Michigan Public Act 110 of 2006, as amended, and applicable township ordinances.
- (b) **Duties and Responsibilities.** The Planning Commission shall perform the following duties and responsibilities, among others:
 - (1) **Bylaws and Other Matters.** The Planning Commission shall adopt bylaws for the transaction of its business and shall keep a public record of its resolutions, findings, determinations and other official actions. Public records shall be available to the public as provided by the Freedom of Information Act, Public Act 442 of 1976, as amended. The bylaws shall provide that members shall not participate in matters as to which they have a conflict of interest. The Planning Commission shall prepare an annual report to the Township Board.
 - (2) **Master Plan.** To guide the development of the Township, the Planning Commission shall prepare a Master Plan in accordance with applicable provisions of Michigan Public Act 33 of 2008, as amended.

(3) **Zoning Ordinance.** The Planning Commission shall administer the Township zoning ordinance and take such other actions with respect to zoning and land use planning as are authorized by the terms of the zoning ordinance, other applicable Township ordinances and state law.

(c) **Reservations.** The Township Board retains the responsibility of adopting a capital improvements program for the Township.

Sec. 22.5 Meetings.

The Planning Commission may hold meetings as frequently as it determines, subject to Township Board oversight, but may not have fewer than four regularly scheduled meetings each year. The time and place of regular meetings shall be determined by resolution adopted in accordance with the Open Meetings Act, Michigan Public Act 267 of 1976, as amended. Meetings shall be held in accordance with the Open Meetings Act.

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CERTIFICATION

This Code of Township Ordinances, became effective July 27, 2007, under the terms of Township Ordinance No. 242, which was originally adopted by the Township Board on June 12, 2007. Such ordinance also repealed the previous Township of Algoma General Ordinance Code as of 7/27/07.

This text of this Ordinance includes all amendments adopted through December 8, 2015.

Dated: _____, 2016

Judy A. Bigney, Township Clerk

**ALGOMA TOWNSHIP GENERAL ORDINANCE
UPDATES/HISTORICAL NOTES**

Chapter 1	General Provisions	
	Ch. 1	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 2	Administration	
	Ch. 2	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 3	Retirement Plans for Township Officers and Employees	
	Ch. 3	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 4	Fire Department and Fire Protection	
	Ch. 4	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
	Ch 4, Part E	Amended 8/13/13, Ord. No. 268, Eff. 9/16/13
Chapter 5	Open Burning	
	Ch. 5	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
	Sec. 5.2(d) and (e)	Amended 8/12/08, Ord. No. 245, Eff. 8/26/08
	Sec. 5.3(c) and (e)	Amended 8/12/08, Ord. No. 245, Eff. 8/26/08
	Sec. 5.4(f) and (g)	Amended 8/12/08, Ord. No. 245, Eff. 8/26/08
Chapter 6	Township Cemeteries	
	Ch. 6	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
	Sec. 6.10(a)	Adopted 6/9/09, Ord. No. 253, Eff. 6/23/09
	Sec. 6.13(b)	Adopted 7/12/11, Ord. 258, Eff. 8/24/11
	Sec. 6.14	Adopted 6/9/09, Ord. No. 253, Eff. 6/23/09
Chapter 7	Parks and Recreation	
	Ch. 7	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07

	Sec. 7.6(b) and (c)	Adopted 8/9/11, Ord. No. 259, Eff. 8/24/11
Chapter 8	Platted Subdivisions	
	Ch. 8	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 9	Land Divisions	
	Ch. 9	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 10	Buildings and Building Regulations	
	Ch. 10	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 11	Sidewalks	
	Ch. 11	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 12	Inoperable and Junked Motor Vehicles; Trash and Junk; Junk Yards and Salvage Yards	
	Ch. 12	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
	Sec. 12.7(b)	Amended 10/9/12, Ord. No. 263, Eff. 10/20/12
	Sec. 12.10(b), (c) and (d)	Amended 10/9/12, Ord. No. 263, Eff. 10/20/12
	Sec. 12.12	Amended 10/9/12, Ord. No. 263, Eff. 10/20/12
	Sec. 12.15(a)	Amended 2/10/09, Ord. No. 249, Eff. 2/24/09
	Sec. 12.20	Amended 12/8/15, Ord. No. 280, Eff. 1/19/16
Chapter 13	Noise Regulations	
	Ch. 13	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 14	Outdoor Gatherings	
	Ch. 14	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 15	Animal Control	
	Ch. 15	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 16	Liquor Control	
	Ch. 16	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07

Chapter 17	Storm Water Management	
	Ch. 17	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 18	Utilities	
	Ch. 18	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
	Sec. 18.65(d)	Amended 12/9/08, Ord. No. 248, Eff. 12/30/08
	Ch. 18, Part C	Amended 5/12/09, Ord. No. 251, Eff. 6/2/09
	Ch. 18, Parts C and D	Amended 11/10/16, Ord. No. 290, Eff. 11/27/16
	Ch. 18, Part E	Added 11/10/16, Ord. No. 290; Eff. 11/27/16
Chapter 19	Peddlers, Solicitors and Transient Merchants	
	Ch. 19	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 20	Telecommunications Providers	
	Ch. 20	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
	Ch. 20	Repealed (2007) and Replaced 5/10/16, Ord. No. 283, Eff. 6/28/16
Chapter 21	Miscellaneous Provisions	
	Ch. 21	Adopted 6/12/07, Ord. No. 242, Eff. 7/27/07
Chapter 22	Township Planning Commission	
	Ch. 22	Adopted 11/11/08, Ord. No. 247, Eff. 1/27/09