CODE OF ORDINANCES
CHARTER TOWNSHIP
OF
WATERFORD, MICHIGAN

Codified through July 28, 2014.

CODE OF ORDINANCES
CHARTER TOWNSHIP OF
WATERFORD, MICHIGAN

_____

Published by Order of the Township Board

_____

OFFICIALS
of the
TOWNSHIP OF
WATERFORD, MICHIGAN
AT THE TIME OF THIS CODIFICATION

_____

Gary Wall
Supervisor

_____

Sue Camilleri
Township Clerk

_____

Margaret Birch
Township Treasurer

_____

Anthony M. Bartolotta
Julie Brown
Karen Joliat
Donna F. Kelley
Trustees

_____

Gary L. Dovre
Township Attorney

CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO.2014-002

ORDINANCE CODE RECODIFICATION ORDINANCE

An Ordinance to adopt a recodification of the Code of Ordinances, Charter Township of Waterford, Michigan, known as the Waterford Charter Township Code, as authorized and provided for in MCL 41.186, including amendments, repeals, revisions, and rearrangements of ordinances or parts of ordinances in the Waterford Charter Township Code.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1- Adoption of Recodified Ordinance Code

The Waterford Charter Township Code, is recodified to include the Chapters, Articles, Divisions, and Appendices, summarized in the Appendix to this Ordinance, with the text of that recodified Code of Ordinances hereby adopted as the Waterford Charter Township Code, which shall serve as the compilation of Township ordinances required by MCL 42.20, and is referred to in this Ordinance as the "Recodified Code."

Section 2 – Amendments and Revisions

The Recodified Code includes amendments and revisions to each Chapter of the Waterford Charter Township Code for one or more purposes that include formatting, definitions, uniformity, clarification, updating to address new or changed conditions, consistency with other laws, procedures, administration, enforcement, and other purposes, and includes changing the title of Chapter 14 from Police to Property, Cost Recovery and Finances, the title of Chapter 13 from Planning to Planning and Economic Development, and the title of Chapter 15 from Subdivision Regulations to Subdivision and Land Management Regulations.

Section 3 – Additions

The Recodified Code includes the addition of new regulations in the following Chapters/Articles:

Chapter 1, General Provisions, Article II, Violations, Enforcement, and Fees.
Chapter 3, Animals, Articles I and III regarding Dangerous Animals.
Chapter 4, Buildings and Building Regulations, Article V, Property Maintenance Code
Chapter 4, Buildings and Building Regulations, Article VI, Vacant Property Registration and Maintenance.
Chapter 8, Article V, Wellhead Protection.
Chapter 8, Article VI, Stormwater Management.
Chapter 8, Article VII, Woodlands Management.
Chapter 9, Article V, Division 4, Control of Trees, Shrubs, and Plants in Public Ways
Chapter 10, Article II, Business Registration.
Chapter 10, Article VII, Peddlers, Solicitors, and Canvassers.
Chapter 14, Article IV, Finances.
Chapter 15, Article VII, Private Street Requirements.
Chapter 16, Article IX, Abandoned Vehicles.

Section 4 – Repeals

The Recodified Code repeals ordinances or parts of ordinances, with those repeals including the Housing Commission Ordinance that was Article II in Chapter 4, the fee based parking regulations that were in Article VI of Chapter 16, the bicycle licensing regulations that were in Division 2 of Article VII in Chapter 16, and other Sections noted as repealed in the Recodified Code.

Section 5 – Rearrangement

The Recodified Code includes the rearrangement of certain regulations, with the location in the Recodifed Code and prior location being as follows:

Chapter 1, Article III, Municipal Civil Infractions was in Chapter 11, Offenses as Article X.
Chapter 4, Article II, Historic District Commission was in Chapter 13, Article II.
Chapter 8, Article III, Lowlands Filling was in Chapter 13, Article III.
Chapter 8, Article IV, Wetlands Preservation was in Chapter 13, Article V.
Chapter 9, Article III, Div. 4, Distressed and Junk Vehicles was in Chapter 10, Article III.
Chapter 10, Business Regulations, Licensing and Registration is reorganized under new Article and Division assignments to the subjects regulated.
Chapter 11, Article VIII, Smoking in Educational Facilities was in Chapter 9, Article VI.
Chapter 11, Article X, Watercraft Regulations was in Chapter 12, Article III.
Chapter 14, Article III, Div. 1, Emergency Response Cost Recovery was in Chapter 16, Article VIII.
Chapter 14, Article III, Div. 2, Hazardous/Toxic Substance Cleanup and Cost Recovery was in Chapter 9, Article VI.
Chapter 15, Subdivision and Land Management Regulations is reorganized under new Article assignments to the subjects regulated.
Chapter 16, Article VIII, Motor Carrier Safety, was in Chapter 10, Article V.
Chapter 18, Electric and Gas Supply Franchise Ordinance was in Appendix B.

Section 6- Severability

Should any section, subdivision, sentence, clause or phrase of this ordinance or the Recodified Code that is hereby adopted, be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 7 – Publication

As authorized in MCL 41.186, the Recodified Code shall not be published in full, with this Ordinance to be published as provided in the Method of Publication Resolution adopted by the Township Board on March 24, 2014. The full text of the Recodified Code is and shall be on file and available for public inspection and distribution in the office of the Township Clerk.

Section 8 – Effective Date

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I certify that this Ordinance Code Recodification Ordinance was introduced on July 28, 2014, and adopted on August 11, 2014, by the Board of Trustees of the Charter Township of Waterford at the regular meetings held on those dates and that this Ordinance was published after introduction and before adoption in the manner specified in the Township Board's March 24, 2014, Method of Publication Resolution.

CHARTER TOWNSHIP OF WATERFORD

_____ By: _____
Date Sue Camilleri, Township Clerk

CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO.2014-
ORDINANCE CODE RECODIFICATION ORDINANCE APPENDIX

The Recodified Code adopted by the Ordinance to which this Appendix is attached has the following Chapters, Articles, Divisions, Sections (§§) and Appendices.

CHAPTER 1 GENERAL PROVISIONS
Art. I. Purpose, Construction, Definitions, and Amendments, §§ 1-001--1-009
Art. II. Violations, Enforcement, and Fees §§ 1-010--1-015
Art. III. Municipal Violations Bureau and Civil Infractions, §§ 1-100--1-108

CHAPTER 2 ADMINISTRATION
Art. I. In General, §§ 2-001--2-025
Art. II. Officers and Employees, §§ 2-026--2-070
Div. 1. Generally, §§ 2-026--2-040
Div. 2. Administrative Merit Employment Service, §§ 2-041--2-070
Art. III. Retirement System, §§ 2-071--2-222
Div. 1. Generally, §§ 2-071--2-090
Div. 2. Pension Committee, §§ 2-091--2-110
Div. 3. Membership, §§ 2-111--2-125
Div. 4. Retirement, §§ 2-126--2-140
Div. 5. Pensions, §§ 2-141--2-155
Div. 6. Disability Retirement, §§ 2-156--2-170
Div. 7. Death Benefits, §§ 2-171--2-180
Div. 8. Members Deposit Funds, §§ 2-181--2-195
Div. 9. Funds, §§ 2-196--2-210
Div. 10. Use of Funds; Interest; Payments; Conflict of Interest, §§ 2-211--2-220
Div. 11. Amendments to Police and Fire Retirement System, §§ 2-221, 2-222

CHAPTER 3 ANIMALS
Art. I. In General, §§ 3-001--3-005
Art. II. Dogs and Cats, §§ 3-011--3-015
Art. III. Pit Bull Terriers, Poisonous/Exotic and Dangerous Animals, §§ 3-021--3-027

CHAPTER 4 BUILDINGS AND BUILDING REGULATIONS
Art. I. In General, §§ 4-001--4-025
Art. II. Historic District Commission, §§ 4-026--4-050
Art. III. State Construction Code, §§ 4-051--4-075
Art. IV. Reserved, §§ 4-076--4-150
Art. V. Property Maintenance Code, §§ 4-151--4-175
Art. VI. Vacant Property Registration and Maintenance, §§ 4-176--4-205
Art. VII. Reserved, §§ 4-206--4-230
Art. VIII. Dangerous Buildings, §§ 4-231--4-239
Art. IX. Rental Certification, §§ 4-240--4-267

CHAPTER 5 CABLETELEVISION/VIDEO SERVICE
Art. I. In General, §§ 5-001--5-030
Art. III. Cable and video service Franchises, §§ 5-031

CHAPTER 6 EMERGENCY PREPAREDNESS, §§ 6-001--6-016

CHAPTER 7 FIRE PREVENTION AND PROTECTION
Art. I. In General, §§ 7-001--7-025
Art. II. Fire Prevention Code, §§ 7-026--7-031

CHAPTER 8 ENVIRONMENTAL PROTECTION
Art. I. In General, §§ 8-001--8-040
Art. II. Flood Damage Prevention and Control, §§ 8-041--8-110
Div. 1. Generally, §§ 8-041--8-070
Div. 2. Administration, §§ 8-071--8-110
Art. III. Lowland Filling §§ 8-111--8-170
Div. 1. Generally, §§ 8-111--8-130
Div. 2. Permit, §§ 8-131--8-170
Art. IV. Wetlands Preservation §§ 8-171--8-230
Div. 1. Generally, §§ 8-171--8-200
Div. 2. Permit, §§ 8-201--8-230
Art. V. Wellhead Protection §§ 8-231--8-370
Div. 1. Generally, §§ 8-231--8-240
Div. 2. Definitions, §§ 8-241--8-250
Div. 3. Establishment and Identification of Wellhead Protection Areas, §§ 8-251--8-260
Div. 4. Use Regulations in Wellhead Protection Areas, §§ 8-261--8-270
Div. 5. Regulated Substances, §§ 8-271--8-290
Div. 6. Facility Closures, §§ 8-291--8-310
Div. 7. Spill Control Plans, §§ 8-311--8-320
Div. 8. Site Plan Review Standards, §§ 8-321--8-340
Div. 9. Violations, Penalties, and Administrative Remedies, §§ 8-341--8-370
Art. VI. Stormwater Management §§ 8-371--8-420
Div. 1. Generally, §§ 8-371--8-390
Div. 2. Administration, §§ 8-391--8-420
Art. VII. Woodlands Management §§ 8-421--8-470
Div. 1. Generally, §§ 8-421--8-440
Div. 2. Permit, §§ 8-441--8-470

CHAPTER 9 HEALTH AND SANITATION
Art. I. In General, §§ 9-001--9-025
Art. II. Abandoned Airtight Containers, §§ 9-026--9-050
Art. III. Waste Materials Control, §§ 9-051--9-130
Div. 1. Generally, §§ 9-051--9-070
Div. 2. Solid Waste, §§ 9-071--9-100
Div. 3. Liquid Waste, §§ 9-101--9-110
Div. 4. Distressed and Junk Vehicles, §§ 9-111--9-130
Art. IV. Rodent and Pest Control, §§ 9-131--9-170
Div. 1. Generally, §§ 9-131--9-140
Div. 2. Rodent Control, §§ 9-141--9-150
Div. 3. Insect Control, §§ 9-151--9-170
Art. V. Vegetation Control, §§ 9-171--9-240
Div. 1. Generally, §§ 9-171--9-180

Div. 2. Noxious Weeds, §§ 9-181--9-200
Div. 3. Control of Trees, Shrubs, and Plants in Public Ways, §§ 9-221--9-250
Art. VI. Hazardous/Toxic Substance Cleanup, §§ 9-251--9-300

CHAPTER 10 BUSINESS REGULATIONS, LICENSING AND REGISTRATION
Art. I. In General, §§ 10-001--10-025
Art. II. Business Registration, §§ 10-026--10-050
Art. III. Business Licensing, §§ 10-051--10-400
Div. 1. Generally, §§ 10-051--10-070
Div. 2. License Application and Review, §§ 10-071--10-120
Div. 3. Guidelines for License Revocation, §§ 10-121--10-140
Div. 4. Distressed Vehicle, Junk, Salvage, and Dismantling Yard Licensing, §§ 10-141--10-160
Div. 5. Massage Establishment Licensing, §§ 10-161--10-200
Div. 6. Pawnbroker Licensing, §§ 10-201--10-210
Div. 7. Carnival Licensing, §§ 10-211--10-220
Div. 8. Teen Club Establishment Licensing, §§ 10-221--10-230
Div. 9. Transient Merchant Licensing, §§ 10-231--10-250
Div. 10. Secondhand Dealers and Junk Dealers Licensing, §§ 10-251--10-400
Art. IV. Liquor Control, §§ 10-401--10-430
Art. V. Precious Metals and Gem Dealers, §§ 10-431--10-450
Art. VI. Alarm Systems, §§ 10-451--10-480
Art. VII. Peddlers, Solicitors and Canvassers, §§ 10-481--10-500
Div. 1. Generally, §§ 10-481 - 10-489
Div. 2. General Regulations for Canvassers, Solicitors and Peddlers, §§ 10-490--10-489
Div. 3. Solicitor Regulations, §§ 10-510--10-529
Div. 4. Peddler Regulations, §§ 10-530--10-536

CHAPTER 11 OFFENSES
Art. I. In General, §§ 11-001--11-030
Art. II. Offenses Affecting Governmental Functions, §§ 11-031--11-065
Art. III. Offenses Against the Person, §§ 11-066--11-090
Art. IV. Offenses Against Property, §§ 11-091--11-165
Div. 1. Generally, §§ 11-091--11-100
Div. 2. Theft, §§ 11-101--11-125
Div. 3. Destruction of Property, §§ 11-126--11-140
Div. 4. Trespass, §§ 11-141--11-165
Art. V. Offenses Against Public Peace, §§ 11-166--11-200
Art. VI. Offenses Against Public Morals, §§ 11-201--11-300
Div. 1. Generally, §§ 11-201--11-210
Div. 2. Prostitution, §§ 11-211--11-225
Div. 3. Gambling, §§ 11-226--11-240
Div. 4. Controlled Substances, §§ 11-241--11-260
Div. 5. Drug Paraphernalia, §§ 11-261--11-275
Div. 6. Model Glue, §§ 11-276--11-300
Art. VII. Offenses Against Public Safety, §§ 11-301--11-350
Div. 1. Generally, §§ 11-301--11-315
Div. 2. Weapons, §§ 11-316--11-350
Art. VIII. Offenses on School Grounds, §§ 11-351--11-380
Div. 1. Generally, §§ 11-351--11-370
Div. 2. Smoking in Educational Facilities, §§ 11-371--11-380

Art. IX. Offenses Involving Minors, §§ 11-381--11-399.1
Div. 1. Generally, §§ 11-381--11-395
Div. 2. Curfew, §§ 11-396--11-399
Art. X. Watercraft Regulations, §§ 11-400--11-404

CHAPTER 12 PARKS AND RECREATION
Art. I. Alcohol Prohibition, §§ 12-001--12-025
Art. II. Recreation System, §§ 12-026--12-070
Div. 1. Generally, §§ 12-026--12-045
Div. 2. Recreation Board and Hess Hathaway Advisory Committee, §§ 12-046--12-070

CHAPTER 13 PLANNING AND ECONOMIC DEVELOPMENT
Art. I. In General, §§ 13-001--13-025
Art. II. Corridor Improvement Authority, §§ 13-226--13-231

CHAPTER 14 PROPERTY, COST RECOVERY AND FINANCES
Art. I. In General, §§ 14-001--14-025
Art. II. Lost and Abandoned Property, §§ 14-026--14-099
Div. 1 General, §§ 14-026--14-029
Div. 2 Lost Property, §§ 14-030--14-036
Div. 3 Abandoned Property, §§ 14-037--14-099
Art. III Cost Recovery, §§ 14-100--14-140
Div. 1 Emergency Response Cost Recovery, §§ 14-100--14-020
Div. 2 Hazardous/Toxic Substance Cleanup and Cost Recovery, §§ 14-121--14-140
Art. IV Finances, §§ 14-141--14-156
Div. 1 Escrows and payment of review expenses, §§ 14-141--14-150
Div. 2 Bonds and Performance Guarantees, §§ 14-151--14-156

CHAPTER 14.5 RIGHT-OF-WAY MANAGEMENT
Art. I. General, §§ 14.5-001--14.010
Art. II. Disruption Permits, §§ 14.5-011--14.5-020
Art. III. Use Permits, §§ 14.5-021--14.5-0307
Art. IV. Telecommunications Permits, §§ 14.5-031--14.5-050
Art. V. Permit Application Requirements and Process, §§ 14.5-051--14.5-070
Art. VI. Ordinance and Permit Terms and Conditions, §§ 14.5-071--14.5-080
Art. VII. Stop Work or Use Orders, Revocations and Penalties, §§ 14.5-081--14.5-090
Art. VIII. Miscellaneous, §§ 14.5-091--14.5-095

CHAPTER 15 SUBDIVISION AND LAND MANAGEMENT REGULATIONS
Art. I. In General, §§ 15-001--15-019
Art. II. Subdivision Control, §§ 15-020--15-069
Div. 1 Generally, §§ 15-020--15-029
Div. 2 Review and Approval Procedures, §§ 15-030--15-049
Div. 3 Development Requirements and Design Layout Standards, §§ 15-050--15-069

Art. III. Assessor's Plats, §§ 15-070--15-079
Art. IV. Land Divisions, §§ 15-080--15-099
Art. V. Tax Parcels, §§ 15-100--15-109
Art. VI. Vacation of Subdivision Streets, §§ 15-110--15-129
Art. VII. Private Street Requirements, §§ 15-130--15-132

CHAPTER 15.5 TAXATION
Art. I. In General, §§ 15.5-001--15.5-030
Div. 1. State Housing Development Authority Act Tax Exemptions §§ 15.5-001--15.5-013
Art. II. Tax Exemption--Riverside Gardens, §§ 15.5-031--15.5-037

CHAPTER 16 TRAFFIC AND MOTOR VEHICLES
Art. I. In General, §§ 16-001--16-025
Art. II. Michigan Vehicle Code, §§ 16-026--16-050
Art. III. Recreational Vehicles, §§ 16-051--16-085
Art. IV. School Property, §§ 16-086--16-115
Art. V. Shopping Centers, §§ 16-116--16-145
Art. VI. Reserved, §§ 16-146--16-185
Art. VII. Bicycles and Other Nonmotorized Modes of Transportation, §§ 16-186--16-299
Art. VIII. Motor Carrier Safety
Art. IX. Abandoned Vehicles, §§ 16-321--16-330

CHAPTER 17 WATER AND SEWERS
Art. I. In General, §§ 17-001--17-025
Art. II. Inspections, §§ 17-026--17-050
Art. III. Sewers and Sewage Disposal, §§ 17-051--17-220
Div. 1. Generally, §§ 17-051--17-090
Div. 2. Use of Public Sewers, §§ 17-091--17-115
Div. 3. Private Disposal, §§ 17-116--17-135
Div. 4. Laterals Generally, §§ 17-136--17-155
Div. 5. Rates and Charges, §§ 17-156--17-190
Div. 6. Sewer Connection Hardship Provisions, §§ 17-191--17-220
Art. IV. Wastewater Disposal Standards and Regulations, §§ 17-221--17-325
Div. 1. Generally, §§ 17-221--17-240
Div. 2. Regulations of County Department of Public Works, Sewage Disposal Systems, §§ 17-241--17-270
Div. 3. Regulations of County Drain Commissioner, Sewage Disposal System, §§ 17-271--17-290
Div. 4. General Wastewater Disposal Regulations, §§ 17-291--17-325
Art. V. Water, §§ 17-326--17-368
Div. 1. Generally, §§ 17-326--17-365
Div. 2. Supply Wells, §§ 17-366--17-368

CHAPTER 18 ELECTRIC AND GAS SUPPLY FRANCHISE ORDINANCE

Art. I. General, §§ 18-001—18-005
Art. II. Franchise Application Requirements and Process, §§18-011--18.014

Art. III. General Franchise Terms and Conditions, §§ 18-021—18-039
Art. IV. Franchise Terms and Renewals, §§ 18-041—18-042
Art. V. Violations and Penalties, §§ 18-051—18-055
Art. VI. Miscellaneous, §§ 18-061—18-065

APPENDIX A **ZONING**

APPENDIX B **FRANCHISES**

CERTIFICATION

I certify that this is the Appendix attached to the Ordinance Code Recodification Ordinance adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on August 11, 2014.

CHARTER TOWNSHIP OF WATERFORD

_____ By: _____
Date Sue Camilleri, Township Clerk

CHAPTER 1 GENERAL PROVISIONS

Art. I. Purpose, Construction , Definitions and Amendments, §§ 1-001--1-009.....Page 1-1 through 1-6
Art. II. Violations, Enforcement and Fees, §§ 1-010--1-015.....Pages 1-7 through 1-10
Art. III. Municipal Violations Bureau and Civil Infractions, §§ 1-100--1-108 .....Pages 1-10 through 1-13

ARTICLE I. PURPOSE, CONSTRUCTION, DEFINITIONS, AND AMENDMENTS.

Sec. 1-001. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Charter Township of Waterford, Michigan," and may be so cited. Such Code may also be cited as the "Waterford Charter Township Code," and is referred to herein as this or the "Code."

State law references: Codification authority, MCL 42.20.

Sec. 1-002. Rules of construction and definitions.

(a) It is the legislative intent of the Township Board, in adopting this Code, that all provisions and sections of this Code be considered as minimum requirements and liberally construed to protect and preserve the peace, health, safety and welfare of the citizens of the Township. Such regulations are not intended to repeal, abrogate or supersede any existing state, county, or federal statue, law, or regulations, except that the regulations in this Code shall prevail in cases where such regulations impose a lawful restriction or requirement that is not preempted by law, even if it is more severe, stringent, or restrictive. In order to effectively achieve the legislative intent of the Township Board, the application and enforcement of all chapters and articles of this Code and any amendment thereto shall utilize the following rules of construction and definitions, unless a specific ordinance clearly indicates otherwise:

(b) Rules of construction. For the purposes of this Code, these general terms or words used therein shall be interpreted as follows:

(1) In case of any difference of meaning and implication between the text of any section of this Code and any caption, preamble or illustration, the text shall control.

(2) A word imputing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males. The word "he" in this ordinance shall be used synonymous with the words "she," "it," and "they," and the word "his" synonymous with the words "her," "its" and "theirs."

(3) The word "**shall**" is mandatory, the word "**may**" is permissive.

(4) The word "**month**" shall be construed to mean a calendar month.

(5) A word imputing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

(6) The word "**oath**" shall be construed to include the word "**affirmation**" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "**sworn**" shall be construed to include the word "**affirmed**."

(7) Words used in the present or past tense include the future as well as the present and past.

(8) The word "**week**" shall be construed to mean seven (7) consecutive calendar days.

(9) The words "**written**" or "**in writing**" may include any form of reproduction or expression of language.

(10) The word "**year**" shall be construed to mean a calendar year.

(11) The word "**premises"** includes "**zoning lot**", "**lot of record**", "**tax parcel**", and "**building**".

(12) The phrase "**used for**" may include "**arranged for**", "**designed for**", "**intended for**", "**maintained for**", or "**occupied for.**"

(*CHAPTER 1, ARTICLE I, SECTION 1-002 cont.*)

(c) Computation of compliance time. The time within which an act is to be completed to be in compliance with one or more requirements, as provided in this Code or in any order issued pursuant to this Code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Sunday or a legal holiday it shall be excluded; and when the time is expressed in hours, the whole of a Sunday or a legal holiday, from midnight to midnight, shall be excluded.

(d) Use and clarification of technical terms used in this Code. Several articles of this Code involve regulatory matters utilizing scientific methodology, resulting in the use of terms that are complex in nature. Effort has been made to simplify terms to the extent the subject matter permits within the context of an article. The Township official assigned responsibility for enforcement of a specific article of this Code is hereby authorized to provide assistance in understanding of technical terminology through the provision of as many textual and graphic examples as needed for the interpretation and understanding of the subject terminology.

(e) Effective date**.** Upon adoption of an ordinance established in this Code, or any subsequent amendment adopted, by the Township Board the effective date shall commence at 12:01 a.m. on one of the following dates:

(1) The ordinance shall take effect the date of the publication of the ordinance or any date following publication specified in the ordinance; or

(2) If the ordinance is a zoning ordinance, the ordinance shall take effect seven (7) days after the date of the publication of the ordinance if there is no notice of intent to file a petition in accordance with Public Act 110 of 2006, Michigan Zoning Enabling Act; at such later date following publication as may be specified by the Township Board; or in the timeframe prescribed by Public Act 110 of 2206 if a notice of intent to file a petition is submitted.

(f) When used in or having application to the interpretation of this Code, defined terms from the Township Zoning Ordinance shall apply and are incorporated as definitions in this Code, specifically including but not limited to the following terms: **"Building", "Building Official",** "**Condominium Development**" and its sub-definitions, **"Dwelling" in all its forms**, **"Land Development"**, **"Lot of Record"**, **"Mobile Home Park", "Non-motorized Pathway", "Right-of-Way", "Street" in all its forms, "Street Agency", "Structure", "Tax Parcel"**, "**Township Engineer**", "**Township Engineering Standards**", "**Zoning Lot and all other forms of the term Lot**" and "**Zoning Official.**"

(g) Defined terms. For the purpose of this Code, the following terms shall be defined as follows:

Approving Body. Shall mean the board or commission designated in a chapter or section of this Code as having the authority to grant a variance from the specified requirements of the subject chapter or section.

Civil infraction. Means an offense that is not a crime, and includes an offense designated as a civil infraction in the Michigan Vehicle Code adopted in Chapter 16 of this Code, or other state law, and a municipal civil infraction as provided for in Chapter 87 of the Revised Judicature Act, as amended, MCL 600.8701 – MCL 600.8735.

Code. The term "this Code" or "Code" shall mean the Code of Ordinances, Charter Township of Waterford, Michigan, as designated in Section 1-001.

County. The term "the County" or "this County" shall mean the County of Oakland in the State of Michigan.

***County Water Resources Official*.** The Oakland County Water Resources Commissioner and such duly assigned staff members reporting to the Water Resources Commissioner.

Officer, Department, Office, Agency, and Comparable Terms. Whenever any officer, department or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the Charter Township of Waterford, Michigan." Whenever, by the provisions of this Code, any officer of the Township is assigned any

(*CHAPTER 1, ARTICLE I, SECTION 1-002 cont.*)

duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate. Whenever in accordance with the provisions of this Code, any specific act is required to be done by any designated officer or official of the Township, such act may be performed by any Township employee duly authorized to perform that act by such officer or official.

Officials. The following Township officials shall be defined as follows:

Assessing Official. The Township management position, agency, organization, or combination of such, and staff members reporting to such, assigned by resolution of the Township Board to perform the duties and responsibilities of the assessing functions for the Township.

Fire Chief. The Township management position, agency, organization, or combination of such, and staff members reporting to such, assigned by resolution of the Township Board to perform the duties and responsibilities of providing fire-fighting, fire prevention, emergency medical, and related services for the Township.

Parks and Recreation Official. The Township management position, agency, organization, or combination of such, and staff members reporting to such, assigned by resolution of the Township Board to implement and manage programs and services to enhance the quality of life and the environment; to acquire, conserve, and protect natural resources; and to provide leisure time opportunities for the benefit of the citizens and families of the Township.

Police Chief. The Township management position, agency, organization, or combination of such, and staff members reporting to such, assigned by resolution of the Township Board to *preserve the safety of the public, promote orderly flow of traffic, investigate reported acts of criminal activity, provide services in addition to the enforcement of laws, and protect the rights of all people within* the Township.

Public Works Official. The Township management position, agency, organization, or combination of such, and staff members reporting to such, assigned by resolution of the Township Board to provide essential services in the areas of water treatment and conveyance, wastewater pumping and conveyance, facilities management, fleet management, cemetery operations and bike path management to enhance the quality of life for residents and businesses in Waterford Township.

Township Attorney. The Township management position, agency, organization, or combination of such, and staff members reporting to such, assigned by resolution of the Township Board to provide legal representation to the Township.

Township Official. Any of the above Officials, the Township Supervisor, Clerk, and Treasurer, and any other Township employee that has authority or responsibility for administering and/or enforcing a provision of this Code.

Person. The word "person" includes individual natural persons, firms, joint ventures, partnerships, limited partnerships, sole proprietorships, limited liability companies, corporations, other forms of business entities, and all clubs, associations, or organizations of natural persons and/or business entities, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

Public Place. Shall mean a place to which the general public has access for business, entertainment, or other lawful purpose, and includes but is not limited to highways, sidewalks, parks, publicly owned or operated property, transportation facilities, schools, places of amusement, parking areas, playgrounds, the immediate area adjacent to a business establishment, and hallways, stairs, lobbies and other common use areas of apartment houses and other multi-user buildings or structures.

(*CHAPTER 1, ARTICLE I, SECTION 1-002 cont.*)

S.E.A. The acronym S.E.A. shall mean the State enforcement agency bearing responsibility for enforcing one or more State statutes and/or regulations within the boundaries of the Township. This shall include but not limited to the following State enforcement agencies possessing responsibility for enforcement activities within the Township:
MDEQ means the Michigan Department of Environmental Quality.

MDNR means the Michigan Department of Natural Resources.

MLARA means the Michigan Department of Licensing and Regulatory Affairs.

State. The term "the State" or "this State" shall be construed to mean the State of Michigan.

Township. Means Charter Township of Waterford, in Oakland County, Michigan, and when used in the context of an action to be taken, means the Township Official with authority or responsibility to take that action under this Code or a Township Board resolution.

Township Board or Board. The terms "Township Board" or "Board" shall mean the Township Board of Trustees for the Charter Township of Waterford, Michigan.

Township Clerk. The terms “Township Clerk” or _”Clerk” shall mean the Township Clerk of the Charter Township of Waterford, Michigan and such duly assigned staff members reporting to the Township Clerk**.**

Township Supervisor. The term “Township Supervisor” shall mean the Township Supervisor of the Charter Township of Waterford, Michigan and such duly assigned staff members reporting to the Township Supervisor**.**

Township Treasurer. The terms “Township Treasurer” or _”Treasurer” shall mean the Township Treasurer of the Charter Township of Waterford, Michigan and such duly assigned staff members reporting to the Township Treasurer**.**

Township Zoning Ordinance. Means the Charter Township of Waterford Zoning Ordinance No. 135-A, adopted February 22, 2010, as amended.

Variance. Means a grant of relief to a person from the requirements of a specified chapter or section of this Code.

Water Resources. The following terms shall apply to the water resources within the Township when referenced in the chapters or sections of this Code**:**

Groundwater means subsurface water occupying the saturation zone, from which wells and springs are fed.

Inland lake or stream means a natural or artificial lake, pond, or impoundment; a river, stream, or creek; or any other body of water that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water. Inland lake or stream does not include any lake or pond that has a surface area of less than 5 acres.

Stormwater means any water flow occurring during or following any form of natural precipitation and resulting therefrom.

Surface water means all water on the surface as distinguished from groundwater or subterranean water.

Watercourse Any lake or pond that has a surface area of less than 5 acres, or any natural or artificial stream, river, creek, ditch channel, canal, conduit, culvert, drain, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or seasonally, and has a definite channel, bed and banks and includes any area adjacent thereto subject to inundation by reason of overflow or flood water. Watercourse does not include storm drainage control facilities constructed, approved, or established by the County Water Resources Official or the Township, as a drainage course facility or district.

(*CHAPTER 1, ARTICLE I, SECTION 1-002 cont.*)

Waters of the State or "waterbody" means groundwater, inland lakes and streams, wetlands, and all other watercourses and waters within the jurisdiction of the State of Michigan. Waters of the State do not include drainage ways and ponds designed and constructed exclusively for wastewater conveyance, treatment, or control.

Wetlands mean land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, aquatic vegetation or aquatic life, may act as a filter as surface water transitions to groundwater, and is commonly referred to as a bog, swamp or marsh.

Sec. 1-003. Section catchlines and other headings.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

Sec. 1-004. References and notes.

Cross references, state law references, editor's notes and history notes are by way of explanation only and shall not be deemed a part of the text of any section.

Sec. 1-005. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance, when not inconsistent with this Code:

(a) Promising or guaranteeing the payment of money for the Township, or authorizing the issuance of any bonds of the Township or any evidence of the Township's indebtedness, or any contract or obligation assumed by the Township.
(b) Containing any administrative provisions of the Township Board.
(c) Acquiring a specific water and sewer system.
(d) Granting any right or franchise.
(e) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the Township.
(f) Making any appropriation.
(g) Levying or imposing taxes.
(h) Establishing or prescribing grades in the Township.
(i) Providing for local improvements and assessing taxes therefore.
(j) Dedicating or accepting any plat or subdivision in the Township.
(k) Prescribing the number, classification or compensation of any Township officers or employees.
(l) Prescribing specific parking restrictions, no parking zones, specific speed zones, parking meter zones, specific stop or yield intersections or other traffic ordinances pertaining to specific streets.
(m) Pertaining to zoning generally or to rezoning of specific property.
(n) Any other ordinance, or part thereof, which is not of a general and permanent nature.
(o) Any ordinance adopted after September 9, 1991.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the Township Clerk's office.

Sec. 1-006. Code does not affect prior offenses, rights, and the like.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance in the Township in effect on the date of adoption of this Code.

(*CHAPTER 1, ARTICLE I cont.*)

Sec. 1-007. Amendments to Code.

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, Charter Township of Waterford, Michigan (or Waterford Charter Township Code), is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Charter Township of Waterford, Michigan (or Waterford Charter Township Code), is hereby amended by adding a section, to be numbered _____, which said section reads as follows: . . . ." The new section shall then be set out in full as desired.

Sec. 1-008. Supplementation of Code.

(a) By contract or by Township personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Township Board. A supplement to the 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 a supplement shall be so numbered that they will fit properly in the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and 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 this Code which 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 codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).

(5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-009. Severability.

Should any provision or section of this Code be held unconstitutional or invalid such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the Township Board that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

(*CHAPTER 1 cont.*)

ARTICLE II. VIOLATIONS, ENFORCEMENT, AND FEES.

Sec. 1-010. Violations, penalties and sanctions.

(a) **Misdemeanor.** Unless another penalty or sanction is expressly provided by this Code for any particular provision or section, the punishment for a violation of a Section of this Code which is designated as a misdemeanor shall be a fine of not more than five hundred dollars ($500.00), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment, plus costs assessed by the court.

(b) **Civil infractions.** The punishment for a violation of a Section of this Code which is designated as civil infraction shall be a civil fine and costs payable to any Township municipal ordinance violations bureau established under Article III of this Chapter, or the court, with the amount to be as specified in the Code Section being violated, Article III of this Chapter, or as established by the court, and shall or may also include:

(1) The payment of up to $500.00 for the Township's costs of the enforcement action for all direct and indirect expenses in connection with the civil infraction to the date of a court judgment.

(2) Payment of costs, damages, expenses, and assessments ordered by the court as provided In MCL 600.8727 – MCL 600.8733, as amended, which are incorporated by reference.

(3) A court order or writ to enforce and secure compliance with the Code Section being violated, including requirements that persons responsible for the violation take or refrain from taking actions as necessary to such compliance.

(4) Where the violation involves the use or occupation of land, building, or structure, and fines, costs, assessments, expenses, and damages are not paid by a responsible person are not paid within 30 days of the time payment is due, a court ordered lien in favor of the Township against the land involved that shall be enforceable, collected and discharged as provided in MCL 600.8731, as amended.

(c) **Daily offenses.** Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense and be separately punishable as provided in Subsections (a) or (b), as applicable.

(d) **Enjoining and abating violations.** In addition to the penalties provided in subsection (a) and (b) of this section, the Township may enjoin or abate any violation of this Code by appropriate action in the Oakland County Circuit Court or other court of competent jurisdiction.

(Ord. of 7-8-2002)

State law references: Limitation on penalties, MCL 42.21.

Sec. 1-011. Notices of violation and appearance tickets/citations

(a) **Intent and purpose.** It is the intent and purpose of this section to identify and authorize certain public servants of the Township to issue and serve notices of violation or appearance tickets or citations as provided by Act Number 366 of Public Acts of 1984 (MCL 764.9c) and in Article III of this Chapter.

(b) **Definitions.** For purposes of applying this section and its application throughout this Code, the following words and phrases have the meanings indicated:

Appearance Ticket or Citation means a complaint or written notice, on a form determined by the attorney general, state court administrator and director of the department of state police as modified with the prior approval of such state officials to accommodate local enforcement and court procedures and practices, issued and subscribed by a public servant authorized by this section, directing a designated person to appear in a designated local court at a designated future time in connection with an alleged violation of this Code for which the maximum permissible penalty does not exceed

(*CHAPTER 1, ARTICLE II, SECTION 1-011 cont.*)

ninety-three (93) days in jail and/or a fine of five hundred dollars ($500.00), or for which civil infraction sanctions are designated. The citations shall be numbered consecutively and shall consist of the following parts:

(a) The original, which shall be a complaint and notice to appear by the officer, employee or other individual filed with the court.
(b) The first copy, which shall be an abstract of court records.
(c) The second copy, which shall be retained by the appropriate local enforcement agency.
(d) The third copy, which shall be delivered to the alleged violator. With the prior approval of such state officials, the citation may be appropriately modified as to content or number of copies to accommodate the law enforcement agency and local court procedures and practices.

Issue means preparing a citation or appearance ticket by placing on it all known and available information required on the ticket for the alleged violation and person to whom it is directed.

Notice of violation is a municipal civil infraction violation notice as defined in Section 1-101 of this Code.

Persons authorized The Township Supervisor, the Zoning Official, the Building Official, the Township Engineer, the Public Works Official, the Fire Chief, the Police Chief, the Zoning Official, Parks and Recreation Official, and such other Township public servants who are authorized pursuant to state law or in writing by the Township Supervisor or resolution of the Township Board, to enforce one (1) or more provisions of this Code.

Serve means personal delivery or mailing by registered or certified mail, return receipt requested, delivery restricted to addressee, receipt of which is acknowledged by signature of the addressee on the return receipt, and posting on the property in a conspicuous manner or place, when allowed by law or court order.

(c) **Authority.** Persons authorized may issue and serve appearance tickets or citations and notices of violation when they have reasonable cause to believe that a person has violated a provision of this Code, the enforcement of which is the responsibility or within the authority of the public servant. Citations for municipal civil infractions may be issued as provided in Section 1-105.

(Ord. of 7-8-2002)
Editor's note: *An ordinance of July 8, 2002 amended the Code by repealing former § 1-011. Former § 1-011 pertained to appearance tickets, and derived from Comp. Ords. 1986, §§ 12.061--12.071.*

Sec. 1-012. Stop work orders; Violations; Misdemeanor.

(a) Notwithstanding any Code provisions to the contrary, after a written violation notice from a Township public servant with appearance ticket authority under Section 1-011, indicating that work on any property should be stopped because it is being done in violation of a provision of this Code, a stop work order may be issued immediately when there is an imminent danger to persons, property or the environment from the violation. In other situations, a stop work order may be issued if the property owner or such owner's agent does not appear at the township as specified in the notice and show or demonstrate good cause for the stop work order to not be issued. The notice shall allow at least one (1) full township business day for the appearance. If a stop work order is issued, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work, and posted upon the property in a manner which will be in plain view of any person doing work upon the property.

(*CHAPTER 1, ARTICLE II, SECTION 1-012 cont.*)

The stop work order shall state the scope of the stop work order and state the conditions under which work may be resumed.

(b) Any person who shall perform any work prohibited by a stop work order after being served with or having notice of that stop work order, shall be guilty of a misdemeanor, punishable as provided in Section 1-010(a) of this Code, which violation and punishment shall be in addition to punishment for Code violations upon which the stop work order was based. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense.

(c) Any person who shall remove a posted stop work order notice placed upon any premises shall be guilty of a misdemeanor punishable as provided in Section 1-010(a) of this Code.

Sec. 1-013. Fees.

Fees and other charges required or authorized by this Code and established by Township Board resolution may not be waived or modified without approval by the Township Board, which it shall have no obligation to grant. A Township Board approval under this Section may be by an authorization in the resolution that establishes a fee, or by a separate decision in response to a written request that identifies the fee from which relief is requested and the reasons for requesting that relief. Decisions on fee relief requests are within the sole discretion of the Township Board to be made on a case by case basis.

Sec. 1-014. Liens for fees, costs, expenses, fines, damages and assessments.

(a) For any provision of this Code that provides for a lien against property for payment to or for the Township of fees, costs, expenses, fines, damages, or assessments, the lien may be recorded and collected as provided in the Code section that provides for it. Liens that are allowed by law to be collected on the Township tax roll as a tax lien, special assessment lien, or otherwise, shall be assessed on the December (winter) tax bill for the property against which the lien applies. The placement on the December tax roll shall be approved by resolution of the Township board in September of each year in the amount of unpaid fees, costs, expenses, fines, damages, and assessments as of September 1 that have been certified to the Township Board by the appropriate Township Official.

(b) Prior to placement on the December Township tax roll, unpaid fees, costs, expenses, fines, damages, or assessments that are certified to the Township Treasurer as delinquent by the appropriate Township Official may be placed on the July (summer) tax bill as an item separate from the taxes on the bill and noted as being payable to the Township.

Sec. 1-015. Township Board reserved appeal and variance authority.

(a) Where any Chapter or Article of this Code does not provide procedures for appeals from determinations made in the administration of such chapter or article, the appeal procedures provided herein shall apply.

(b) An appeal may be taken to the Township Board by any person adversely affected by, and claiming error in, any order, requirement, permit, decision or refusal of a Township Official in carrying out or enforcing the provisions of this Code. Such an appeal shall be filed with the Township Clerk within ten (10) days of the determination from which the appeal is made.

(*CHAPTER 1, ARTICLE II, SECTION 1-015 cont.*)

(c) A variance may be granted by the Township Board from regulatory provisions of this Code when all of the following conditions are satisfied:

(1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;

(2) The alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and

(3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

(d) This section is not intended to replace appeal procedures otherwise provided in this Code, and shall have no application to those Code Chapters and Articles which contain specific appeal procedures.

ARTICLE III MUNICIPAL VIOLATIONS BUREAU AND CIVIL INFRACTIONS*

**Editor's note:* *An ordinance of July 23, 2001, amended the Code by adding a new art. X, §§ 11-400--11-411. The editor has not included the provisions to be numbered § 11-411, which pertained to severability, because general severability provisions for the Code are located in § 1-009.*

Sec. 1-100. Purpose.

The purpose of this article is to establish the appropriate civil sanctions for certain enumerated violations of this Code, to provide for a municipal violation bureau within the Township, and to establish procedures to simplify enforcement for municipal civil infraction violations of this Code.
(Ord. of 7-23-2001)

Sec. 1-101. Definitions.

The following definitions shall apply in the interpretation of this article:

Bureau shall mean the municipal ordinance violations bureau established in the following section.

Citation *or* ***court citation*** means a written complaint or notice prepared by an authorized person directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction.

Municipal civil infraction shall mean a violation of a provision of this Code for which the remedy and/or penalty is prescribed to be a civil fine or other sanction other than a criminal penalty. A municipal civil infraction is not a lesser-included offense of a criminal offense or of an ordinance violation that is not a civil infraction.

Municipal civil infraction determination shall mean a determination that a defendant is responsible for a municipal civil infraction by one of the following:

(1) An admission of responsibility for the municipal civil infraction.
(2) An admission of responsibility for the municipal civil infraction, "with explanation."
(3) A preponderance of the evidence at an informal hearing or formal hearing.
(4) A default judgment for failing to appear at a scheduled appearance.

(*CHAPTER 1, ARTICLE III, SECTION 1-101 cont.*)

Municipal civil infraction violation notice shall mean a written notice prepared by an authorized official, directing a person to appear at the Township ordinance violations bureau for the purpose of paying a civil fine and/or costs for a violation which is prescribed to be a municipal civil infraction.

Person means a natural person, or the principal, officer, director, partner or agent of any other entity, wherein he or she acted in bringing about a violation or municipal civil infraction.

Repeat offense shall mean a determination of responsibility for second or any subsequent municipal civil infraction with regard to the same code provision committed by the same person.

Responsible *or* ***responsibility*** shall mean a voluntary admission or determination entered by a court or magistrate that a person is in violation of a provision of this Code prescribed to be a municipal civil infraction.

Violation shall mean any act which is prohibited or made or declared to be unlawful or an offense under this Code, including affirmative acts as well as omissions and/or failure to act where the act is required by this Code.

Zoning violation means any violation or municipal civil infraction of the sections of the Township Code adopted pursuant to Public Act 110 of 2006, Michigan Zoning Enabling Act, as amended. A zoning violation is declared a nuisance per se in accordance with Section 407 of the Act.

(Ord. of 7-23-2001)

Sec. 1-102. Establishment of bureau.

A Township municipal ordinance violations bureau may be established by resolution of the Township Board for the purpose of accepting admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices. If established, the bureau shall be under the supervision and control of the Township Treasurer and Township Supervisor, subject to the review of the Township Board. The location of the bureau shall be as designated by the Township Treasurer. Payments made to the bureau shall be retained and accounted for as fines and costs, and shall be deposited in the general fund of the Township.

The fines and costs shall be in an amount in accordance with the schedule thereof for each offense in accordance with Section 1-108 herein or in accordance with amendments thereto as established by the Township Board resolution. The bureau is not authorized to alter the amount of the fines and costs or to adjudicate the violation in any way.

(Ord. of 7-23-2001)

Sec. 1-103. Violation notice; payment at municipal ordinance violations bureau.

(a) Where a municipal ordinance violations bureau has not been established, authorized local officials may issue a violation notice for the commission of a civil infraction to any person responsible therefor under the law to obtain compliance prior to the issuance of a court citation.

(b) Where a municipal ordinance violations bureau has been established in accordance with Section 1-102,authorized local officials may issue a violation notice for the commission of a civil infraction to any person responsible therefor under the law, provided:

(1) The violation notice form shall be approved by the state court administrator within the time allowed on the notice of civil infraction, the person or entity designated as responsible therefore may avoid the issuance of a court citation by the acknowledgment of responsibility on the notice, together with payment of the fines and costs, as prescribed on the established schedule of fines and costs, at the Township ordinance violations bureau, in person or by mail.

(2) Failure to pay the fines and costs within the time allowed on the notice may result in a court citation being filed pursuant to MCL 600.8707 and Section 1-106.

(Ord. of 7-23-2001)

(*CHAPTER 1, ARTICLE III, cont.*)

Sec. 1-104. Service of municipal civil infraction violation notice.

(a) Except as provided in subparagraph (b), below, an authorized official shall personally serve a copy of the municipal civil infraction violation notice upon an alleged violator.

(b) In a municipal civil infraction involving the use or occupancy of land or a building or other structure, a copy of the municipal civil infraction violation notice need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the notice shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.

(Ord. of 7-23-2001)

Sec. 1-105. Grounds for issuance of violation notice or court citation.

The basis for issuance of a municipal civil infraction notice or court citation shall be as set forth below, as the case may be:

(a) An authorized official who witnesses a person violate an ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three (3) copies of a citation unless such official issues a municipal civil infraction violation notice.

(b) An authorized official may issue a violation notice or a citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.

(c) An authorized official may issue a violation notice or a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the Township Attorney for whom the authorized Township official is acting approves in writing the issuance of the citation.

(Ord. of 7-23-2001)

Sec. 1-106. Municipal civil infraction violations notice unresolved; issuance of court citation; service by first-class mail.

In the event a person does not comply after being served with a violation notice by admitting responsibility and paying the specified civil fine and costs prescribed for the respective violation where a municipal ordinance violations bureau has been established, a municipal civil infraction citation may be filed with the district court, in which case a copy of the citation shall be served by first-class mail upon the person charged with the municipal civil infraction at such person's last known address. The citation filed with the court shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the defendant how to respond to the citation. The citation shall comply with MCL 600.8707. The citation or complaint may contain a request by the Township Official or Township Attorney issuing it to the court that, upon the entry of a not responsible plea, the matter shall be set for a formal hearing. Without such designation by the Township Official or Township Attorney, the defendant shall have the option of an informal or formal hearing.

(Ord. of 7-23-2001)

Sec. 1-107. Failure to respond to court citation; Misdemeanor.

Failure to answer a court citation issued herein or a notice to appear in court is a misdemeanor punishable as provided in Section 1-010(a) of this Code. The issuance of a complaint for failure to appear before the court for a civil infraction court citation shall be in accordance with the procedures set forth by law and in this Code.

(Ord. of 7-23-2001)

(*CHAPTER 1, ARTICLE III, cont.*)

Sec. 1-108. Bureau schedule of fines and costs.

A Township Board resolution that establishes a municipal ordinance violations bureau shall also establish a schedule of fines and costs that shall apply where an admission of responsibility is made at the municipal ordinance violations bureau, which may be based on the type of offenses and provide for increased fines and costs for second and subsequent offenses by a person after an initial violation that occur within specified times of the initial or subsequent violations. The maximum fine under any such schedule shall be $500.00 for each offense.:

(Ord. of 7-23-2001)

CHAPTER 2 ADMINISTRATION

Art. I. In General, §§ 2-001--2-025 ..... Page 2-1
Art. II. Officers and Employees, §§ 2-026--2-070 ..... Pages 2-1 through 2-4
Div. 1. Generally, §§ 2-026--2-040 ..... *Pages 2-1 and 2-2*
Div. 2. Administrative Merit Employment Service, §§ 2-041--2-070 ..... *Pages 2-2 through 2-4*
Art. III. Retirement System, §§ 2-071--2-222 ..... Pages 2-4 through 2-29
Div. 1. Generally, §§ 2-071--2-090 ..... *Pages 2-4 through 2-7*
Div. 2. Pension Committee, §§ 2-091--2-110 ..... *Pages 2-8 and 2-9*
Div. 3. Membership, §§ 2-111--2-125 ..... *Pages 2-9 and 2-11*
Div. 4. Retirement, §§ 2-126--2-140 ..... *Pages 2-11 through 2-14*
Div. 5. Pensions, §§ 2-141--2-155 ..... *Pages 2-14 and 2-16*
Div. 6. Disability Retirement, §§ 2-156--2-170 ..... *Pages 2-16 and 2-17*
Div. 7. Death Benefits, §§ 2-171--2-180 ..... *Pages 2-18 and 2-19*
Div. 8. Members Deposit Funds, §§ 2-181--2-195 ..... *Pages 2-19 through 2-21*
Div. 9. Funds, §§ 2-196--2-210 ..... *Pages 2-21 and 2-22*
Div. 10. Use of Funds; Interest; Payments; Conflict of Interest, §§ 2-211--2-220 ..... *Pages 2-22 and 2-23*
Div. 11. Amendments to Police and Fire Retirement System, §§ 2-221, 2-222 … *Pages 2-23 through 2-29*

ARTICLE I IN GENERAL

Secs. 2-001--2-025. Reserved.

ARTICLE II OFFICERS AND EMPLOYEES

Division 1 Generally

Sec. 2-026. Compensation of civil service commission.

(a) *Title*. This section shall be known and cited as the "Civil Service Compensation Ordinance."

(b) *Purpose*. The purpose of this section is to establish legislative authority for the Township to provide compensation to police and fire civil service commissioners for services rendered under Act 78 of 1935 (MCL 38.501 et seq.), as amended.

(c) *Amount*. The members of the Township civil service commission shall be entitled to payment from the general fund of the Charter Township for each regular meeting of the commission in which the members attend in such amount as established by resolution of the Township Board from time to time. Such members shall also be entitled to compensation for each special meeting in which they are in attendance, if prior approval is obtained by the Township Supervisor for such special meeting, in such amount as established by the Township Board from time to time. The Township Board reserves the right to investigate questions of members attendance before payment is authorized.

(d) *Right to repeal*. The members of the commission acquire no vested rights to compensation other than granted herein. The Township Board reserves the right to amend or repeal this section.

(Comp. Ords. 1986, §§ 12.001--12.004)

Sec. 2-027. Employee coverage under state employment security law.

(a) *Election*. The Township hereby elects, in accordance with the provisions of Section 25(1) (MCL 421.25) of the Michigan Employment Security Act, that all services performed by individuals in its various departments with the exception of elected and appointed officials, shall constitute employment within the meaning of such act.

(*CHAPTER 2, ARTICLE II, DIVISION 1, SECTION 2-207* cont.)

(b) *Period of coverage and termination*. This election shall be effective for at least two (2) calendar years and may be terminated thereafter as of the end of the calendar quarter in which written notice is received by the state employment security commission.

(c) *Effective date of liability*. This election shall become effective as of the first day of the calendar quarter in which the state employment security commission receives the application for election.

(d) *Reports and notices*. The Township, through its various departments and establishments, shall furnish to its employees and to the state employment security commission all reports, information and notices required of employers by the Michigan Employment Security Act and Commission rules and regulations.

(e) *Payments to state employment security commission*. As required by the act, the Township shall pay to the state employment security commission an amount equivalent to the amount of benefits paid and charged to its rating account, and the treasurer of the Township is hereby required and authorized to make such payments at such times and in such manner as the state employment security commission may prescribe.

(Comp. Ords. 1986, §§ 22.051--22.055)

Secs. 2-028--2-040. Reserved.

Division 2 Administrative Merit Employment Service

Sec. 2-041. Title.

This division shall be known and cited as the "Waterford Charter Township Administrative Merit Employment Service Ordinance."

(Comp. Ords. 1986, § 22.021)

Sec. 2-042. Purpose.

The purpose of this division shall be to guarantee to all employees in administrative and managerial capacities fair conditions of employment, which will attract employees of ability and character, and thus increase the efficiency of Township government through improved principles of public personnel administration.

(Comp. Ords. 1986, § 22.022)

Sec. 2-043. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002, the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appointing authority means the Township Board, to which Board shall be referred for approval all nominations for appointment of managerial and/or administrative employees.

Managerial employee and administrative employee mean all persons employed in a managerial or an administrative position except those specifically excluded in Section 2-044.

(Comp. Ords. 1986, §§ 22.023--22.025)

Sec. 2-044. Employees excluded.

The following employees are specifically excluded from the provisions of this division:

(a) The Township Supervisor, the Township Clerk and the Township Treasurer.

(b) The Deputy Clerk and the Deputy Treasurer.

(c) All managerial and administrative employees who are members of any organization which has been certified as a collective bargaining agent for any association of employees or any group of employees which negotiates wages, hours and conditions of employment with the Township.

(d) Any employee covered by the civil service system presently in effect or hereafter established in the Township.

(Comp. Ords. 1986, §§ 22.026--22.030)

(*CHAPTER 2, ARTICLE II, DIVISION 2, cont.*)

Sec. 2-045. Probationary employees.

All managerial and administrative employees, employed by the Township on May 6, 1974, shall be covered by and subject to the provisions of the administrative merit employment service system set forth in this division. All managerial and administrative employees employed by the Township subsequent to such date shall be excluded from the coverage and provisions of this division for a period of six (6) months from the date of their employment, and shall become eligible and subject to the provisions hereof only upon a determination by the appointing authority that such managerial or administrative employee has satisfactorily performed the duties of his employment during the six-month probationary period.

(Comp. Ords. 1986, § 22.031)

Sec. 2-046. Personnel board.

The personnel board shall consist of three (3) members who shall be sitting members of the Township Board of Trustees, and appointed by the Township Board. Should a duly appointed member of the personnel board no longer sit on the Township Board, the current Board shall appoint a replacement to serve the balance of the term. The appointment of the members shall be for a four-year term to coincide with the term of office as a trustee or officer of the Township.

In the event a managerial or administrative employee governed by the provisions of this division invokes the appeal process as set forth in Section 2-047, and the appellant is under the direct supervision of an appointed member of the personnel board (Township officer), the appellant may request of the Supervisor that the said Township officer be disqualified on this appeal only and the Supervisor shall, at a meeting of the Township Board, appoint an alternate to sit on the personnel board for the limited and sole purpose of hearing the appeal of the aggrieved applicant.

(Comp. Ords. 1986, § 22.032; Ord. of 1-23-2006)

Sec. 2-047. Dismissal, suspension or demotion, hearing.

A managerial or administrative employee covered by the provisions of this division may be dismissed, suspended or demoted by the appointing authority for good and sufficient cause, by an order in writing, stating specifically the reasons therefor. A copy of such order shall be filed with the personnel board. Such employee may within ten (10) days after presentation of such an order to him, appeal from such order to the personnel board. The board shall within two (2) weeks from the date of filing such appeal commence hearings thereon and shall thereupon hear and determine the matter and either affirm, modify or revoke such order. The employee shall be entitled to appeal personally, produce evidence, have counsel and have a hearing open to the public, if he so desires. The findings and decisions of the personnel board shall be promptly delivered to such employee, and shall be certified to the appointing authority from whose order the appeal is taken and shall forthwith be enforced and followed by the appointing authority.

(Comp. Ords. 1986, § 22.033)

Sec. 2-048. Nondiscrimination.

A person entitled to the benefit of a hearing by the personnel board shall not be removed, promoted, demoted, nor in any way favored or discriminated against because of race, color, religion, national origin, age, sex, height, weight, sexual orientation, or marital status, or because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

(Comp. Ords. 1986, § 22.034)

Sec. 2-049. Temporary suspensions.

When, in the judgment of the appointing authority, a managerial or administrative employee's work performance or conduct justifies disciplinary action short of dismissal, the employee may be suspended without pay by the appointing authority. A suspended employee may not request a hearing before the personnel board unless the suspension is for more than ten (10) working days, or

unless the employee had received a previous suspension within the six (6) months immediately prior thereto.

(Comp. Ords. 1986, § 22.035)

Sec. 2-050. Right to amend.

The Township specifically reserves the right to amend this division in whole or in part, or to repeal the same; provided, however, that, the rights which shall have been vested to any employee under this division shall not be abrogated by such amendment or repeal.

(Comp. Ords. 1986, § 22.037)

Secs. 2-051--2-070. Reserved.

ARTICLE III RETIREMENT SYSTEM*

**Editor's note:* *Ord. No. 124, §§ 1.00--11.06, adopted December 14, 1992, has been treated as superseding the provisions of former Art. III, §§ 2-71--2-79, 2-91--2-97, 2-111--2-114, 2-126--2-128, 2-141--2-143, 2-156--2-160, 2-171, 2-172, 2-181--2-185, and 2-196--2-201; and adding a new Art. III, as set out herein. Former Art. III pertained to similar subject matter, and derived from the Compiled Ordinance Code of 1986, §§ 22.160, 22.165, 22.170, 22.188, 22.270, 22.280, 22.290, 22.300, 22.320, 22.181--22.187, 22.191--22.194,22.201--22.203, 22.211--22.213, 22.221--22.225, 22.231, 22.232, 22.241--22.247, 22.251--22.257, and 22.261--22.266.*

Division 1 Generally

Sec. 2-071. Short title.

This article shall be known and cited as the Waterford Township Employees Retirement System Ordinance; and it shall be deemed sufficient in any action for enforcement of the provisions hereof; to define the same by such title and reference to the number hereof.

(Ord. No. 124, § 1.00, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-072. Purpose.

The purpose of this article is:

(a) To establish a retirement system for the elected officials and designated employees of the Township under the authority of Act 77 of 1989 (MCL 41.110b).

(b) To authorize certain deductions of contributions from elected official's and designated employee's compensation and from the Township general fund.

(c) To authorize contracts of insurance, annuities and pension agreements for the financing, funding and payment of benefits.

(d) To preserve and continue all rights, privileges, duties and obligations of the Township employees retirement system of September 1, 1966 created and subsequently amended by resolutions of the Township Board of the Charter Township.

(Ord. No. 124, § 1.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-073. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following words and phrases, as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

Accumulated contributions means the sum of all amounts deducted from the compensations of a member, plus all single sum contributions made by the member, and credited to his individual account in the member's deposit fund, together with regular interest thereon.

Beneficiary means any person, except a retirant, who is in receipt of, or who has entitlement to, a pension or other benefit, payable from funds of the retirement system.

(*CHAPTER 2, ARTICLE III, DIVISION 1, SECTION 2-073* cont.)

Compensation means the salary or base hourly rate, whether payment thereof is deferred to a later date or not, longevity pay, worker's compensation supplement and shift premium. This definition shall be exclusive of any remuneration for payments in consideration for unused sick leave accumulations, for overtime services, basic worker's compensation benefits and for allowances or reimbursement for clothing, equipment, travel expenses, or other similar expenses. The annual compensation of each employee taken into account in determining benefit accruals in any retirement system year beginning after December 31, 2001, shall not exceed two hundred thousand ($200,000.00). Annual compensation means compensation during the calendar year or such other consecutive twelve-month period over which compensation is otherwise determined under this article (the determination period). In determining benefit accruals in years beginning after December 31, 2001, the annual compensation limit for determination periods beginning before January 1, 2002 shall be one hundred fifty thousand dollars ($150,000.00) for any determination period beginning in 1996 or earlier; one hundred sixty thousand dollars ($160,000.00) for any determination period beginning in 1997, 1998, or 1999; and one hundred seventy thousand dollars ($170,000.00) for any determination period beginning in 2000 or 2001. The two hundred thousand dollars ($200,000.00) limit on annual compensation shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

Contract shall mean a written bargain or agreement made between a group (meaning a number of persons classified together) of employees and the Township Board.

Credited service means service credited to a member's service account to the extent provided in this article.

Defined contribution plan means the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust (ICMA plan and trust) as adopted by the Township on January 1, 2005. Members must refer to the ICMA plan and trust for a description of the eligibility requirements and benefits thereunder.

Elected official means any person who gains a seat by election of the voters or is duly appointed to serve on the Township Board of Trustees and is properly installed by the Township Clerk.

Employee means any person in the employ of the Township.

Final average compensation means the monthly average of the compensation paid a member during the period of the highest three (3) consecutive years contained within his or her five (5) years of credited service immediately preceding termination of his or her last employment with the Township.

Member means any employee who is included in the membership of the retirement system.

Part-time employee means any person hired as less than a full time or permanent employee and is designated to work a limited number of hours. Such an employee shall work approximately twenty (20) hours per week during a normal work week.

Pension means a monthly amount payable by the retirement system throughout the future life of a person or for a temporary period as provided in this article.

Pension committee or ***committee*** means the pension committee provided for in this article.

Pension reserve means the present value of all future payments to be made on account of any pension. Such pension reserve shall be computed on the basis of such mortality and other tables of experience, and regular interest, as the pension committee shall from time to time adopt.

Regular interest means such rate or rates of interest per annum, compounded annually, as the pension committee shall from time to time adopt.

Retirant means any member who retires with a pension payable from funds of the retirement system.

(*CHAPTER 2, ARTICLE III, DIVISION 1, SECTION 2-073* cont.)

Retirement means a member's withdrawal from the employ of the Township with a pension payable by the retirement system.

Retirement system or ***system*** means the Waterford Township Employees Retirement System created and established by this article.

Service means personal service rendered to the Township by an employee of the Township.

Temporary employee means any person hired as less than a permanent employee designated to work a limited number of days, not to exceed ninety (90) days in any calendar year.

Township means the Charter Township of Waterford, Oakland County, Michigan, and shall include its several departments, commissions, boards and agencies.

Township Board or ***Board*** means the Board of Trustees of the Charter Township of Waterford.

Worker's compensation period means the time period a member or retirant is in receipt of worker's compensation arising out of Township employment. If the claim is redeemed by payment of a single sum "worker's compensation period" shall be the time period, if any, the member was in receipt of weekly worker's compensation benefits plus the period arrived at by dividing the said single sum by the weekly worker's compensation benefit paid prior to redemption.

(Ord. No. 124, § 2.01, 12-14-1992; Ord. of 2-19-2002; Ord. of 3-28-2005; Ord. of 4-10-2006)

Sec. 2-074. Correction of errors.

Should any change or error in the records of the Township or the retirement system result in any person receiving from the system more or less than he would have been entitled to receive had the records been correct, the pension committee shall correct such error and as far as is practical shall adjust the payment of the benefit in such manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

(Ord. No. 124, § 12.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-075. Subrogation.

In the event a person becomes entitled to a pension or other benefit payable by the retirement system as the result of an accident or injury caused by the act of a third party, the Township shall be subrogated to the rights of the said person against such third party to the extent of the benefits to which the Township pays or becomes liable to pay.

(Ord. No. 124, § 13.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-076. Rights unassignable; Township set-off rights.

The right of a person to a pension, to the return of accumulated contributions, the pension itself, any pension option, and any other right accrued or accruing to any member, retirant or beneficiary, under the provisions of this article, and all moneys belonging to the retirement system, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this article: Provided, that if a member is covered by a group insurance or prepayment plan participated in by the Township, and should he or she be permitted to, and elect to, continue such coverage as a retirant, he or she may authorize the pension committee to have deducted from his pension the payments required of him or her to continue coverage under such group insurance or prepayment plan; provided further, that the Township shall have the right of set-off for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

(Ord. No. 124, § 13.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-077. Division of benefits as marital property.

The right of an individual to a pension, to the return of member contributions, the pension itself, or any other benefit under the provisions of the retirement ordinance shall be subject to award by a court of competent jurisdiction pursuant to Section 18 of Chapter 84, Revised Statutes of 1846, being Section 552.18 of the Michigan Compiled Laws, and to any other order of a court of

(*CHAPTER 2, ARTICLE III, DIVISION 1, SECTION 2-077 cont.*)

competent jurisdiction pertaining to child support. If an award or order requires the retirement system to withhold payment of a pension, accumulated member's contributions or other benefit from the individual to whom it is due, or requires the retirement system to make payment to a spouse, former spouse or child, the withholding or payment provisions of the award shall be effective only against the amounts as they become payable to the individual being paid the pension or other benefit unless otherwise provided in an eligible domestic relations order under the eligible domestic relations order act. These limitations shall not apply to accumulated member contributions of an individual who is neither a member nor a vested former member.

(Ord. No. 124, § 13.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-078. Qualified plan.

(a) The Township intends the retirement system to be a qualified pension plan under Section 401 of the Internal Revenue Code, as amended, and that the trust be an exempt organization under Section 501 of the Internal Revenue Code. The pension committee shall administer the retirement system so as to fulfill this intent.

(b) Upon termination of the retirement system or upon complete discontinuance of Township contributions under this article, the rights of all employees to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable.

(c) The provisions of this Retirement System Ordinance notwithstanding, the accrued benefit for plan participants shall be non-forfeitable upon the attainment of normal retirement age.

(Ord. No. 124, § 14.01, 12-14-1992; Ord. of 2-19-2002; Ord. of 1-24-2011)

Sec. 2-079. Compliance with Section 415 Internal Revenue Code.

The requirements of Section 415 of the Internal Revenue Code are incorporated herein by reference and such requirements override any other plan provision to the contrary.

For purposes of Section 415, compensation shall mean compensation actually paid during the limitation year and the limitation year shall be the calendar year.

For limitation years beginning after December 31, 1997, for purposes of applying the limitations of Section 415 of the Internal Revenue Code, compensation paid or made available during such limitation years shall include any elective deferral (as defined in Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the employee and which is not includable in the gross income of the employee by reason of Sections 125 or 457 of the Internal Revenue Code.

For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations described herein, compensation paid or made available during such limitation years shall include elective amounts that are not includable in the gross income of the employee by reason of Section 132(f)(4) of the Code.

For the purpose of adjusting any benefit or limitation under Section 415 of the Internal Revenue Code, the mortality table used shall be the table prescribed by the United States Secretary of the Treasury in accordance with Section 415(b)(2)(E)(v) of the Internal Revenue Code.

(Ord. No. 124, § 14.02, 12-14-1992; Ord. of 2-19-2002; Ord. of 12-9-2002)

Secs. 2-080--2-090. Reserved.

Division 2 Pension Committee

Sec. 2-091. Committee over retirement system and defined contribution plan.

There is hereby created a pension committee which is vested with the power and authority to administer, manage and operate the retirement system, and to interpret and implement the provisions of this article and the ICMA plan and trust. The committee shall consist of five (5) committeepersons as follows:

(*CHAPTER 2, ARTICLE III, DIVISION 2, SECTION 2-091 cont.*)

(a) The Township Treasurer.
(b) Two (2) citizens who are electors of the Township and who are neither a member, retirant, nor beneficiary of the retirement system, to be appointed by the Township Board.
(c) Two (2) members of the retirement system (or one (1) member of the retirement system and one (1) member of the defined contribution plan) to be elected by the members of the system in accordance with such rules and regulations as the committee shall from time to time adopt to govern such elections. No more than one (1) such member committeeperson shall be from the same Township department. Members of the police and fire pension system who are participants in the defined contribution plan are not eligible to serve on the pension committee.

(Ord. No. 124, § 3.01, 12-14-1992; Ord. of 2-19-2002; Ord. of 4-10-2006)

Sec. 2-092. Committeepersons' term of office.

The regular term of office for the two (2) appointed citizen committeepersons and the two (2) member committeepersons shall be three (3) years. Each committeeperson shall continue to serve as committeeperson until his successor has qualified for the office of committeeperson. For the first pension committee, the term of office shall be three (3) years for the one (1) appointed citizen committeeperson, two (2) years for the other appointed citizen committeeperson and for one (1) appointed member committeeperson, and one (1) year for the other appointed member committeeperson, as designated by the Township Board.

(Ord. No. 124, § 3.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-093. Committeeperson's oath of office.

Each committeeperson shall, within ten (10) days from and after their appointment or election as trustee, take an oath of office before the Township Clerk.

(Ord. No. 124, § 3.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-094. Vacancy on committee; how filled.

In the event a member committeeperson leaves the employ of the Township, he or she shall be considered to have resigned from the committee and the committee shall, by resolution, declare his or her office of committeeperson vacated as of the date of such resolution. If a vacancy occurs in the office of committeeperson, the vacancy shall be filled for the unexpired portion of the term in the same manner as the office was previously filled.

(Ord. No. 124, § 3.04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-095. Committee quorum; vote; meetings; proceedings.

The pension committee shall hold at least four (4) regular meetings each calendar year, one (1) in each calendar quarter, and shall designate in advance the time and place of the meetings. Special meetings and emergency meetings of the pension committee may be held upon call of the chairperson or any three (3) members of the pension committee. Written or oral notice of special meetings shall be sent to each member of the pension committee approximately seventy-two (72) hours in advance of the special meeting. Oral notice of emergency meetings shall be given to as many members as is feasible at least eighteen (18) hours before the emergency meeting, and the meeting shall commence with a statement of the nature of the emergency. The pension committee shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the pension committee shall be public. The committee shall have the right to close portions of the meeting from the public for permissible purposes in accordance with the terms of the Open Meetings Act. A majority of pension committee members shall constitute a quorum. Each attending member of the pension committee is entitled to one (1) vote on each question before the pension committee, and at least three (3) concurring votes shall be necessary for a decision by the pension committee.

(Ord. No. 124, § 3.05, 12-14-1992; Ord. of 2-19-2002)

(*CHAPTER 2, ARTICLE III, DIVISION 2, cont.*)

Sec. 2-096. Committee chairperson; retirement system officers; employees.

(a) The pension committee shall elect from its own number a chairperson and vice-chairperson.

(b) The Township Treasurer shall serve as secretary to the pension committee and shall be the administrative officer of the retirement system.

(c) The Township Treasurer shall be the treasurer of the retirement system and the custodian of its assets, except as to the assets the pension committee may from time to time place in the custody of a nationally chartered bank or trust company. The general bond and/or liability insurance policies of the Township shall cover all liability for acts as treasurer of the retirement system. The treasurer shall credit all receipts of money and assets of the retirement system to the retirement system. The treasurer shall make disbursements from the retirement system assets according to provisions of this article.

(d) The Township attorney shall be the legal advisor to the pension committee.

(e) The pension committee shall designate and fund the cost of an actuary who shall be the technical advisor to the committee, and who shall perform such other duties as are required of him or her under this article.

(f) The pension committee shall employ and fund any professional, technical, clerical and other services as required for the operation of the retirement system. The compensation for employed services shall be fixed by the pension committee.

(Ord. No. 124, § 3.06, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-097. Records; annual reports.

The secretary shall keep, or cause to be kept, such data as shall be necessary for an annual actuarial valuation of the assets and liabilities of the retirement system. The committee shall annually render a report to the Township Board showing the fiscal transactions of the system for the preceding fiscal year, and shall furnish the Board such additional information regarding the operation of the system as the Board shall from time to time request.

(Ord. No. 124, § 3.07, 12-14-1992; Ord. of 2-19-2002)

Secs. 2-098--2-110. Reserved.

Division 3 Membership

Sec. 2-111. Membership in retirement system; defined contribution plan membership after January 1, 2005.

(a) The membership of the retirement system shall include designated employees and elected officials of the Township and the 51st District Court, on the day preceding the effective date of the retirement system and/or hired/elected prior to January 1, 2005, who continue in the employ of the Township.

(b) The membership of the retirement system shall not include:
- (1) Any employee who is employed by the Township on a part-time or temporary basis;
- (2) Any person whose services are compensated on a contractual or fee basis;
- (3) Uniformed members of the police and fire departments;
- (4) Any person who is included by law in the police and fire pension system or any other pension or retirement system of the Township, including the Township's defined contribution plan.

(c) The following persons shall be deemed members of the defined contribution plan:
- (1) All management and administrative group employees, as defined in the Waterford Township Management and Administrative Group Policy, hired after January 1, 2005:
- (2) All full-time employees of the 51st District Court hired after January 1, 2005:
- (3) All full-time elected officials elected to their first term after January 1, 2005;
- (4) All management and administrative group employees, full-time employees of the Township or the 51st District Court and full-time elected officials hired prior to January 1, 2005 who elect to convert their existing pension account to the defined contribution plan, as set forth in the

(*CHAPTER 2, ARTICLE III, DIVISION 3, SECTION 2-111 cont.*)

management and administrative group personnel policy, as may be amended hereafter by action of the Township Board.

(d) Notwithstanding paragraphs (a), (b) or (c) above, members who have accrued the maximum allowable benefit under the retirement system may participate in both the retirement system and the defined contribution plan.

(e) In any case of doubt as to the membership status of any employee or person, the pension committee shall decide the question.

(Ord. No. 124, § 4.01, 12-14-1992; Ord. of 5-12-1997, §§ 1, 2; Ord. of 2-19-2002; Ord. of 3-28-2005; Ord. of 4-10-2006)

Sec. 2-112. Termination of membership.

Should any member cease to be employed in a position covered by the retirement system for any reason, excepting retirement or death, said person shall thereupon cease to be a member, and the credited service at that time shall be forfeited to the fund, unless otherwise provided in this article. In the event said person is reemployed by the Township in a position covered by the system, their membership shall recommence. Should said reemployment occur within a period of five (5) years from and after the date of termination of membership, the credited service previously forfeited shall be restored to the reinstated member's credit, provided there is returned to the members deposit fund the amount, if any, withdrawn there from together with regular interest thereon from the date of withdrawal to the date of repayment. Upon a members' retirement or death, said person shall thereupon cease to be a member of the system.

(Ord. No. 124, § 4.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-113. Service credit.

The pension committee shall fix and determine by appropriate rules and regulations the amount of service to be credited any member. Based upon such rules and regulations, and the provisions of this article, the committee shall credit each member with the years and months of service to which they may be entitled. Rules and regulations adopted by the committee shall not abrogate nor conflict with any collective bargaining agreement in effect.

(Ord. No. 124, § 4.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-114. Military service credit.

Notwithstanding any provision of this article to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

(a) Prior to entering military service, a member is required to provide advance written or verbal notice to the Township unless giving such notice is precluded by military necessity or is otherwise impossible or unreasonable.

(b) A member who enters the armed forces of the United States and thereafter returns to employment with the Township within ninety (90) days of his or her discharge or within one (1) year from hospitalization continuing after such discharge, shall be credited with service for a period not to exceed five (5) years unless such service is extended by the government for military necessity.

(c) A member shall be required to provide documentation to establish the timeliness of his or her application for reemployment. A copy of the member's discharge papers shall be sufficient.

(d) Effective January 1, 2007, the beneficiary of a Member on a leave of absence to perform military service with reemployment rights described in Code Section 414(u) where the Member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the Member died as an active employee, in accordance with Code Section 401(a) 37.

(Ord. No. 124, § 4.04, 12-14-1992; Ord. of 2-19-2002; Ord. of 1-24-2011)

Sec. 2-115. Purchase of additional credited services.

If a member, pursuant to the terms of their collective bargaining agreement or the Management & Administrative Group Personnel Policy, is permitted to purchase additional credited service for

(*CHAPTER 2, ARTICLE III, DIVISION 3, SECTION 2-115 cont.*)

prior active service in the armed forces of the United States or for full-time employment by another state, local, or federal governmental agency, said purchase may be effectuated by a direct trustee-to-trustee transfer of assets from a qualified plan described in Internal Revenue Code sections 401(a), 403(b) or 457(b). This section shall be subject to Section 415 of the Internal Revenue Code and purchased credited service shall not exceed 5 years.

(Ord. of 8-23-2010)

Secs. 2-116--2-125. Reserved.

Division 4 Retirement

Sec. 2-126. Voluntary/normal retirement.

Any member who has attained sixty (60) years of age and has eight (8) or more years of credited service in force, or any member who has attained fifty-five (55) years of age and has twenty-five (25) or more years of credited service in force, including members who have terminated their service prior to attaining age fifty-five (55), may retire upon written application filed with the pension committee establishing the date of retirement. The date shall be not less than sixty (60) days nor more than one hundred twenty (120) days subsequent to the filing of the application with the committee. Upon retirement as determined by the committee, said member shall receive a pension as provided for in Section 2-141 of this article.

In addition, non-union members who are laid off by the Township during the month of May 2005, who have eight (8) or more years of credited service in force and who would have been eligible for a voluntary/normal retirement with [within] twenty-four (24) months from the date of layoff, may retire upon written application filed with the pension committee. The members' retirement date shall be established as the date of the members' lay-off. Members must apply for this benefit within thirty (30) days of the later of their date of layoff or the date this subsection is adopted (July 11, 2005). Upon retirement as determined by the committee, said member shall receive a pension as provided for in Section 2-141 of this article.

(Ord. No. 124, § 5.01, 12-14-1992; Ord. of 2-19-2002; Ord. of 7-11-2005)

Sec. 2-127 Deferred retirement.

Should any member who has eight (8) or more years of credited service cease to be employed in a position covered by the retirement system, for any reason except death or retirement and not withdraw his or her accumulated contributions from the member's deposit fund, said member shall be entitled to a pension computed according to the provisions of division 5 of this article as the section was in force at the time of said member's separation from covered employment. Said pension shall be effective the first day of the calendar month following the month in which he or she files an application for same with the pension committee, on or after the attainment of age sixty (60) years. Notwithstanding the effective date of the member’s pension, said benefit shall commence as soon as administratively feasible after receipt of the member’s application.

(Ord. No. 124, § 5.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-128 Required minimum distributions.

(a) In accordance with Section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, which are incorporated herein by reference, a member's pension shall be distributed to him or her not later than April 1 of the calendar year following the later of:
  (1) The calendar year in which the member attains age seventy and one-half (70 1/2) years, or
  (2) The calendar year in which the member retires.

(b) With respect to distributions under this article made for calendar years beginning on or after January 1, 2001, the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code will be applied in accordance with the regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of this article to the contrary. This amendment shall continue in effect until the end of the last calendar year

(*CHAPTER 2, ARTICLE III, DIVISION 4, SECTION 2-128* cont.)

beginning before the effective date of final regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

(Ord. of 2-19-2002)

Sec. 2-129 Required minimum distribution effective January 1, 2003.

(a) Effective date. The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(b) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the retirement system ordinance.

(c) Requirements of treasury regulations incorporated. All distributions required under this section will be determined and made in accordance with the final treasury regulations under Section 401(a)(9) of the Internal Revenue Code.

(d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this section, other than paragraph (c), distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to Section 242(b)(2) of TEFRA.

(e) Required beginning date. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date.

(f) Death of member before distributions begin. If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age seventy and one-half (70 1/2), if later.

(2) If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.

(3) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(4) If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this paragraph (f), other than paragraph (f)(1), will apply as if the surviving spouse were the member.

For purposes of this paragraph (f) and paragraphs (m), (n), and (o), distributions are considered to begin on the member's required beginning date (or, if paragraph (f)(4) applies, the date distributions are required to begin to the surviving spouse under paragraph (f)(1)). If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (f)(1)),the date distributions are considered to begin is the date distributions actually commence.

(g) Form of distribution. Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with paragraphs (h) through (m) of this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the treasury regulations. Any part of the member's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the treasury regulations that apply to individual accounts.

(*CHAPTER 2, ARTICLE III, DIVISION 4, SECTION 2-129* cont.)

(h) General annuity requirements. If the member's interest is paid in the form of annuity distributions under the retirement system, payments under the annuity will satisfy the following requirements:
  (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;
  (2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in paragraphs (m) through (o);
  (3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(i) Amount required to be distributed by required beginning date. The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under paragraph (f)(i) or (ii)) is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bimonthly, monthly, semiannually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(j) Additional accruals after first distribution calendar year. Any additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(k) Member survived by designated beneficiary. If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in paragraph (f)(1) or (2), over the life of the designated beneficiary or over a period certain not exceeding:
  (1) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or
  (2) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(l) No designated beneficiary. If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(m) Death of surviving spouse before distributions to surviving spouse begin. If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to paragraph (f)(1).

(n) Designated beneficiary. The individual who is designated as the beneficiary under Section 2-073 of the retirement system ordinance and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the treasury regulations.

(o) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first

(*CHAPTER 2, ARTICLE III, DIVISION 4, SECTION 2-129 cont.*)

distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (f).

(p) Life expectancy. Life expectancy as computed by use of the single life table in Section 1.401 (a)(9)-9 of the treasury regulations.

(q) Required beginning date. The date specified in Section 2-128 of the retirement system ordinance.

(r) 2009 Waiver of Required Minimum Distribution Rules. Notwithstanding the above, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are: (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least ten years, will receive those distributions for 2009 unless a participant or beneficiary chooses not to receive such distributions. Such distributions may be treated as an Eligible Rollover Distribution if it otherwise satisfies the requirements of Section 2-188.

(Ord. of 3-8-2004; Ord. of 1-24-2011)

Comment [m1]: This was adopted by the Township Board on 8/13/12 for IRS approval.

Secs. 2-130--2-140. Reserved.

Division 5 Pensions

Sec. 2-141. Straight life pension.

Upon a member's retirement, as provided in this article, the member shall receive a straight life monthly pension equal to the sum of the applicable percent, as provided in the contracts or policy manual currently in effect, of his or her final average compensation, multiplied by his credited service. A Straight life pension benefit may also be referred to as a Regular benefit.

(Ord. No. 124, § 6.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-142. Terminal payments.

If a retirant dies before having received, in straight life pension payments, an aggregate amount equal to the accumulated contributions standing to his or her credit in the members deposit fund at the time of retirement, the difference between the retirant's accumulated contributions and the aggregate amount of straight life pension payments received by the retirant shall be paid to such person or persons as shall have been nominated by written designation duly executed and filed with the pension committee. If there be no such designated person or persons surviving the said retirant, such difference, if any, shall be paid to his or her estate. In no case shall any benefits be paid under this section on account of the death of a retirant if the retirant has elected either Option A or Option B in Section 2-143 of this article.

(Ord. No. 124, § 14.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-143. Pension options.

The amount of pension under forms of payment Option Straight Life, Option A, Option A with Pop-up, Option B, and Option B with Pop-up, shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment Straight Life calculated in accordance with the 1971 Group Annuity Mortality Table using seven (7) percent interest.

Prior to the effective date of his or her retirement, but not thereafter, a member may elect to receive their pension as a straight life pension payable throughout his or her life; or, a member may elect to receive the actuarial equivalent computed as of the effective date of his or her retirement, of the straight life pension in a reduced pension payable throughout his or her life, and nominate a beneficiary, in accordance with the provisions of Option A or B set forth below:

(*CHAPTER 2, ARTICLE III, DIVISION 5, SECTION 2-143* cont.)

Option A. 100 percent contingent survivor pension: Upon the death of a retirant who elected Option A, his or her reduced pension shall be continued throughout the life of and paid to the person or persons having an insurable interest in their life on the effective date of their retirement, as he or she shall have nominated by written designation duly executed and filed with the pension committee prior to the effective date of his or her retirement; or

Option A with Pop-Up. A retiree shall have the option of electing to have his or her retirement benefit provide that in the event the retiree's beneficiary shall predecease the retiree, the retiree's pension benefit would increase ("pop-up") to the Straight Life pension amount. Said election is conditioned upon the cost of the pop-up option being borne by the retiree in the form of a reduced pension benefit.

Option B. 50 percent contingent survivor pension: Upon the death of a retirant, who elected Option B, fifty (50) percent of his or her reduced pension shall be continued throughout the life of and paid to the person or persons having an insurable interest in his or her life on the effective date of his or her retirement as they shall have nominated by written designation duly executed and filed with the pension committee prior to the effective date of his or her retirement.

Option B with Pop-Up. A retiree shall have the option of electing to have his or her retirement benefit provide that in the event the retiree's beneficiary shall predecease the retiree, the retiree's pension benefit would increase ("pop-up") to the Straight Life pension amount. Said election is conditioned upon the cost of the pop-up option being borne by the retiree in the form of a reduced pension benefit.

Option A may be referred to as Option I and Option B may be referred to as Option II in other administrative materials.

(Ord. No. 124, § 6.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-144. Post-retirement adjustments.

The Township, by resolution, may adopt from time to time benefit programs providing for post-retirement adjustments increasing retirement benefits. Such benefit programs may provide for one-time post-retirement percentage increases in retirement benefits; annual or other periodic post-retirement percentage increases in retirement benefits; lump sum post-retirement distributions; or any other method considered appropriate by the Township. The retirement benefit payable after making an adjustment pursuant to the benefit program adopted shall be the new retirement benefit payable until the next adjustment, if any, is made.

(Ord. of 5-12-1997, § 3; Ord. of 2-19-2002)

Sec. 2-145. Benefits for management group and 51st District Court employees.

(a) Retirement benefits for Township employees employed in positions covered by the "Waterford Township Management and Administrative Employees Personnel Policy Manual" shall be as set forth in Township employees retirement system ordinance (Sections 2-071 through 2-216, formerly Ordinance No. 124), as amended, except as, and to the extent, otherwise provided in the "Waterford Township Management and Administrative Employees Personnel Policy Manual" as established and amended from time to time, by resolution of the Township Board.

(b) Retirement benefits for employees employed in the 51st District Court shall be as set forth in the Waterford Employees Retirement System Ordinance, (Sec. 2-071 through Sec. 2-216, formerly Ordinance No. 124) as amended, except as, and to the extent, otherwise provided in the 51st District Court Personnel Policy Manual as established, and amended from time to time, by resolution of the Township Board.

(Ord. of 4-10-2006)

(*CHAPTER 2, ARTICLE III, DIVISION 5, cont.*)

Secs. 2-146--2-155. Reserved.

Division 6 Disability Retirement

Sec. 2-156. Eligibility.

(a) Non-duty disability. Upon the application of a member, or his or her department head, a member who (1) is in the employ of the Township in a position covered by the retirement system, (2) has not attained the age of sixty (60) years, (3) has ten (10) or more years of credited service, and (4) becomes totally and permanently incapacitated for duty in the employ of the Township, by reason of a personal injury or disease, may be retired by the pension committee; provided, that after a medical, physical and/or psychological examination of the said member made by or under the direction of a physician or physicians designated by the pension committee the said physician or physicians certifies to the committee, in writing, (1) that the said member is mentally or physically totally incapacitated for duty in the employ of the Township, (2) that his or her incapacity will probably be permanent, and (3) that the said member should be retired.

(b) Duty disability. If all requirements of subsection (a) hereinabove have been met, then the ten-year credited service requirement contained in this section shall be waived in the case of a member whom the committee finds (1) to be totally and permanently incapacitated for duty as a direct and proximate result of events occurring out of and in the course of the performance of the member's duties while in the employ of the Township, and (2) to be in receipt of worker's compensation on account of his disability arising out of and in the course of his or her Township employment.

(Ord. No. 124, § 7.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-157. Disability pension.

Upon the retirement of a member on account of disability, as provided in Section 2-156 of this article, he or she shall receive a straight life disability pension computed in accordance with Section 2-141 until the member has the right to elect an option as provided in Section 2-143. In no case shall the straight life disability pension be less than ten (10) percent of the member's final average compensation. The said disability shall be subject to Sections 2-158, 2-159, and 2-160.

(Ord. No. 124, § 7.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-158. Reexamination of disability retirement.

At least once each year during the first five (5) years following a member's retirement on account of disability, and at least once in every three-year period thereafter, the pension committee may, and upon the retirant's application shall, require any disability retirant who has not attained age sixty (60) years to undergo a medical, physical and/or psychological examination to be made by or under the direction of a physician or physicians designated by the committee. Should any such disability retirant refuse to submit to such medical examination during any such period of his or her disability, the pension may be suspended by the committee until the withdrawal of such refusal. Should such refusal continue for one (1) year, all retirant's rights in and to a disability pension may be revoked by the committee. If, upon such medical examination of a disability retirant, the reports and/or opinions of said physician or physicians to the committee state that the said retirant is physically able and capable of resuming employment with the Township he or she shall be returned to Township employment and the disability pension shall terminate; provided that the report and/or opinions of the said physician or physicians is adopted by the committee. In returning the retirant to Township employment, reasonable latitude shall be allowed the Township in placing said employee in a position commensurate with the type of work performed, and compensation received, at the time of the employee's retirement.

(Ord. No. 124, § 7.03, 12-14-1992; Ord. of 2-19-2002)

(*CHAPTER 2, ARTICLE III, DIVISION 6, SECTION 2-158 cont.*)

Sec. 2-159. Disability retirant; restored credit.

A disability retirant who is returned to Township employment, as provided in Section 2-158 of this article, shall again become a member of the retirement system. The credited service at the time of his or her retirement shall be restored to full force and effect and the employee shall be given service credit for the period he or she was in receipt of a disability pension, if within said period the retirant was paid worker's compensation for a loss or injury which was the direct and proximate result of events occurring solely and exclusively out of and within the course of the performance of his or her duties while in the employ of the Township. Otherwise the retirant shall not be given service credit for the period he was in receipt of a disability pension.

(Ord. No. 124, § 7.04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-160. Retiree employed; reduced pension.

In the event a disability retirant who has not attained age sixty (60) years becomes engaged in gainful occupation, business, or employment, paying the retirant more than the difference between the annual rate of compensation at the time of retirement and disability pension, the said pension shall be reduced to an amount which, together with the amount so earned by the retirant, shall equal but not exceed the annual rate of compensation. Should the retirant's earnings change, the reduction of the said pension shall be adjusted accordingly.

(Ord. No. 124, § 7.05, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-161. Denial of benefit claim; appeals.

(a) A benefit claimant shall be notified in writing, within thirty (30) days of denial, in whole or part of a claim for benefits. The notification shall give the reason for the denial. A claimant may request a formal rehearing on the denial. The rehearing shall be requested in writing, filed with the Township Clerk no later than ninety (90) days after the denial. The request shall contain a statement of the claimant's reason for claiming the denial to be improper. The pension committee shall rehear the matter within sixty (60) days of receipt of the request. A final written decision on the matter being appealed shall be issued by the pension committee. The decision shall include a summary of the findings of facts and an application of the ordinance provisions or other applicable law.

(b) Appeals from a final decision of the pension committee shall be to the circuit court and initiated by filing a notice of appeal with the circuit court within thirty (30) days after the pension committee has issued its final decision. The review of the court shall be restricted to the record made before the pension committee, and the court shall not permit the introduction of new evidence on any of the issues presented before the pension committee.

The decision of the pension committee shall be upheld by the court unless the court finds the decision of the pension committee to be unlawful, arbitrary or capricious, or not supported by substantial evidence on the entire record as submitted by the pension committee.

(Ord. No. 124, § 7.06, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-162. Reemployment; pension suspended.

Except as otherwise provided in this article, in the event any retirant is employed or reemployed by the Township in a full-time position, payment of their pension shall be suspended during the period of their employment or reemployment. Upon termination of such employment or reemployment, payment of their pension shall be resumed. During the period of their reemployment by the Township, the retirant shall not again become a member of the retirement system.

(Ord. No. 124, § 7.07, 12-14-1992; Ord. of 5-12-1997, § 4; Ord. of 2-19-2002)

Secs. 2-163--2-170. Reserved.

(*CHAPTER 2, ARTICLE III cont.*)

Division 7 Death Benefits

Sec. 2-171. Duty death benefits.

In the event (1) any member dies as the proximate result of a personal injury or disease arising solely and exclusively out of and in the course of his or her employment with the Township, or (2) a disability retirant, while in receipt of worker's compensation arising out of their Township employment, dies prior to age sixty (60) years as the proximate result of the same injury or disease for which they were retired, and in either case such death, injury or disease resulting in death, be found by the committee to have been the result of his or her actual performance of duty in the service of the Township, the applicable benefit provided in paragraphs (1), (2) and (3) of this section shall be paid subject to paragraph (4) of this section and subject to the condition that the decedent's beneficiaries apply for and receive worker's compensation on account of the death of said member or retirant.

(a) The accumulated contributions standing to the member's credit in the members deposit fund at the time of the decedent's death shall be paid in accordance with Section 2-187.

(b) The decedent's spouse shall receive a pension equal to the spouse's weekly worker's compensation converted to a monthly basis. Said pension shall begin upon termination of the spouse's worker's compensation period and shall continue until the sooner of the event of remarriage or death.

(c) The decedent's unmarried child or children under eighteen (18) years shall each receive a pension equal to such child's weekly worker's compensation converted to a monthly basis. Said pension shall begin upon termination of the child's worker's compensation period and shall continue until the sooner of, marriage, death, and attainment of age eighteen (18) years.

(d) As used in this section the term widow, widower or spouse means the person to whom the said member or retirant was married at the time his or her employment with the Township was terminated.

(Ord. No. 124, § 8.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-172. Non-duty death benefits.

(a) Any member who continues in the employ of the Township on or after the date of acquiring ten (10) years of credited service may, at any time prior to the effective date of retirement, but not thereafter, elect Option A provided in Section 2-143 in the same manner as if the member were retiring from the employ of the Township, and nominate a beneficiary whom the committee finds to be dependent upon the said member for at least fifty (50) percent of his financial support. Prior to the effective date of their retirement, but not thereafter, a member may revoke the said election of Option A and nomination of beneficiary and the member may again elect said Option A and nominate a beneficiary as provided in this subsection. Upon the death of a member who has an Option A election in force, the decedents beneficiary, if living, shall immediately receive a pension computed in the same manner in all respects as if the said member had retired the day preceding the date of death, notwithstanding the fact the decedent may not have attained the age sixty (60) years. The pension shall terminate upon the death of the said beneficiary. No benefits shall be paid under this subsection on account of the death of a member if any benefits are paid under Section 2-171 on account of the member's death.

(b) A member who continues in the employ of the Township on or after the date of acquiring ten (10) years of credited service and does not have an Option A election in force as provided in subsection (a) of this section and (1) dies while in the employ of the Township, and (2) leaves a widow, a widower, the widow or widower shall immediately receive a pension computed in the same manner in all respects as if the member had (1) retired the day preceding the date of death, notwithstanding that the decedent may not have attained age sixty (60) years, (2) elected Option A provided in Section 2-143, and (3) nominated the said widow or widower as beneficiary. The pension shall terminate upon the death of said widow or widower. No benefits shall be paid under this subsection on account of death of a member if any benefits are paid under Section 2-171 on account of the member's death. The ten (10) year credited

(*CHAPTER 2, ARTICLE III, DIVISION 7, SECTION 2-172 cont.*)

service requirement shall be reduced to eight (8) years upon a member's attainment of age sixty (60) years.

(Ord. No. 124, § 8.02, 12-14-1992; Ord. of 2-19-2002)

Secs. 2-173--2-180. Reserved.

Division 8 Members Deposit Fund

Sec. 2-181. Fund created.

The members deposit fund is hereby created. It shall be the fund in which shall be accumulated, at regular interest, the contributions deducted from the compensations of members, and from which shall be paid refunds, and made transfers, or accumulated contributions, as provided in this article.

(Ord. No. 124, § 9.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-182. Contributions.

Unless otherwise provided by a collective bargaining or other employment agreement, a member's current contributions to the retirement system shall be fully funded by the Township.

All member contributions made prior to 1985 shall remain within the fund credited to the individual members account with interest compounded annually.

(Ord. No. 124, § 9.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-183. Deductions; consent.

The officers responsible for making up the payroll shall cause certain contributions provided for in Section 2-182 of this article to be deducted from the compensation of the member. When deducted, each of the said contributions shall be paid to the retirement system and shall be credited to the member's individual account in the members deposit fund from which said deduction was made.

(Ord. No. 124, § 9.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-184. Withdrawal of contributions; repayment.

In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, a member shall deposit in the members deposit fund, by a single contribution or by an increased rate of contribution as approved by the committee, all amounts the member may have withdrawn there from and not repaid thereto, together with regular interest thereon from the date of withdrawal to the date of repayment, if the reemployed member meets the requirement of Section 2-112. In no case shall a member be given credit for service rendered prior to the date of withdrawal of accumulated contributions until repayment to the members deposit fund the amounts due said fund by the member.

(Ord. No. 124, § 9.04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-185. Accumulated contributions; transfer.

Upon any member's retirement, or the death of a member on whose behalf a pension becomes payable, their accumulated contributions standing to their credit in the members deposit fund shall be transferred to the retirement reserve fund. Except as otherwise provided in this article, at the expiration of a period of five (5) years from and after the date an employee ceases to be a member any balance standing of his or her credit in the members deposit fund, unclaimed by the said member or his or her legal representative, shall be transferred to the income fund.

(Ord. No. 124, § 9.05, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-186. Refund of contribution.

Should any employee cease to be a member before they have satisfied the age and service requirements for retirement provided in Section 2-126 and is not otherwise entitled to a pension, they shall be paid their accumulated contributions standing to their credit in the members deposit fund, minus taxes, upon demand in writing on forms furnished by the pension committee.

(*CHAPTER 2, ARTICLE III, DIVISION 8, SECTION 2-186* cont.)

(Ord. No. 124, § 9.06, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-187. Refund of contribution; designated beneficiary; installment payments.

Should any member die before their retirement becomes effective, and no pension is or becomes payable on account of his or her death, their accumulated contributions standing to their credit in the members deposit fund at the time of their death shall be paid to such person or persons as shall have been nominated by written designation duly executed and filed with the committee. If there should be no such designated person or persons surviving the said member, his or her said accumulated contributions shall be paid to his or her legal representative. Payments of accumulated contributions, as provided in this section, maybe made in equal installments according to such rules and regulations as the pension committee shall from time to time adopt.

(Ord. No. 124, § 9.07, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-188. Eligible rollover distributions.

(a) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the pension committee, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(1) Definitions.

i ***Eligible rollover distribution***: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

ii. ***Eligible retirement plan***: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

iii. ***Distributee***: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, or an eligible domestic relations order under the eligible domestic relations order act, are distributees with regard to the interest of the spouse or former spouse. A distributee also includes an eligible designated non-spouse beneficiary.

iv. ***Direct rollover***: A direct rollover is a payment by the retirement system to the eligible retirement plan specified by the distributee.

(2) If a distribution is one to which Sections 401(a)(11) and 417 of the Internal Revenue Code do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Income Tax Regulations is given, provided that:

a. The pension committee clearly informs the member that the member has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and

b. The member, after receiving the notice, affirmatively elects a distribution.

Comment [m2]: This was adopted by Township Board on 8/13/12 for IRS approval.

(*CHAPTER 2, ARTICLE III, DIVISION 8, SECTION 2-188* cont.)

(b) This subsection shall apply to distributions made after December 31, 2001.

(1) For purposes of the direct rollover provisions in this section, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to account separately for amounts transferred into such plan from this retirement system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, or an eligible domestic relations order under the eligible domestic relations order act.

(2) For purposes of the direct rollover provisions in this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to account separately for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(Ord. of 2-19-2002)

Secs. 2-189--2-195. Reserved.

Division 9 Funds

Sec. 2-196. Pension reserve fund created.

The pension reserve fund is hereby created. It shall be the fund in which shall be accumulated the contributions made by the Township to the retirement system and from which shall be made transfers of pension reserves, as provided in this section.

(Ord. No. 124, § 10.01, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-197. Pension reserve fund; computation of appropriations.

Upon the basis of such mortality and other tables of experience, and regular interest, as the pension committee shall from time to time adopt, the actuary shall annually compute the pension reserves for service rendered and to be rendered by members, and the pension reserves for pensions being paid retirants and beneficiaries. The pension reserve liabilities so determined shall be financed by annual Township contributions appropriated by the Township Board; said contributions to be determined in accordance with the provisions of subparagraphs (1), (2) and (3) set forth below:

(a) The appropriations for members' current service shall be a percent of their annual compensations which will produce an amount which if paid annually by the Township during their future service will be sufficient, at the time of their retirements, to provide the pension reserves, not financed by members' future contributions, for the portions of the pensions to be paid them based upon their future service; and

(b) The appropriation for members' accrued service shall be a percent of their annual compensations which will produce an amount which if paid annually by the Township over a period of years, to be determined by the Township Board, will amortize, at regular interest, the unfunded pension reserves for the accrued service portions of the pensions to which they may be entitled upon retirement; and

(c) The appropriation for pensions being paid retirants and beneficiaries shall be a percent of the annual compensations of members which will produce an amount which if paid annually by the Township over a period of years, to be determined by the Township Board, will amortize, at regular interest, the unfunded pension reserves for pensions being paid retirants and beneficiaries.

(Ord. No. 124, § 10.02, 12-14-1992; Ord. of 2-19-2002)

(*CHAPTER 2, ARTICLE III, DIVISION 9* cont.)

Sec. 2-198. Pension reserve fund; insufficiencies covered by Township.

In the event the amount appropriated in the budget in any fiscal year is insufficient to pay, in full, the amounts due in said year to all retirants and beneficiaries of the retirement system, the amount of such deficiency shall thereupon be funded by the Township.

(Ord. No. 124, § 10.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-199. Retirement fund.

Upon the retirement of any member, the difference between the pension reserve for the pension payable on their account and his or her accumulated contributions shall be transferred from the pension reserve fund to the retirement reserve fund.

(Ord. No. 124, § 10. 04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-200. Retirement reserve fund created.

The retirement reserve fund is hereby created. It shall be the fund from which shall be paid all pensions as provided in this article. In the event a disability retirant returns to Township employment his or her pension reserve at that time shall be transferred from the retirement reserve fund to the members deposit fund and the pension reserve fund in the same proportion as the pension reserve was originally transferred.

(Ord. No. 124, § 10. 05, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-201. Income fund created.

The income fund is hereby created. It shall be the fund to which shall be credited all interest, dividends, and other income from investments of the retirement system; all transfers from the members deposit fund by reason of lack of claimant; and all other moneys received by the retirement system, the disposition of which is not specifically otherwise provided for in this article. The pension committee may accept gifts and bequests and the same shall be credited to the income fund. There shall be transferred from the income fund all amounts required to credit regular interest to the members deposit fund, retirement reserve fund, and pension reserve fund, as provided in this article. Whenever the committee determines that the balance in the income fund is more than sufficient to cover the current charges to the fund, the committee may, by resolution, provide for contingency reserves, or for the transfer of such excess or portion thereof to cover the needs of the other funds of the retirement system.

(Ord. No. 124, § 10.06, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-202. Other funds.

The pension committee may create such other funds as it deems necessary for proper operation of the retirement system.

(Ord. No. 124, § 10.07, 12-14-1992; Ord. of 2-19-2002)

Secs. 2-203--2-210. Reserved.

Division 10 Use of Funds; Interest; Payments; Conflict of Interest

Sec. 2-211. Investment of funds.

Subject to the provisions of Act. No. 135, Public Acts of 1945, as amended, and subject to state law pertaining to the investment of public employee retirement system funds, the committee shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments of the system, as well as the proceeds of said investments and any moneys belonging to the system.

(Ord. No. 124, § 11.02, 12-14-1992; Ord. of 2-19-2002)

(*CHAPTER 2, ARTICLE III, DIVISION 10 cont.*)

Sec. 2-212. Restricted use of funds.

All moneys and investments of the retirement system shall be held for the exclusive purpose of meeting the disbursements for pensions and other payments authorized by this article and shall be used for no other purpose whatsoever. Available cash in a noninterest earning form shall not exceed five (5) percent of the total assets of the retirement system.

(Ord. No. 124, § 11.02, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-213. Assets not segregated.

The members deposit fund, pension reserve fund, retirement reserve fund, income fund, and any other funds created by the pension committee shall be interpreted to refer to the accounting records of the retirement system and not to the actual segregation of the assets of the system in the said fund.

(Ord. No. 124, § 11.03, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-214. Allowance of regular interest.

The pension committee shall, at the end of each fiscal year, allow and credit four (4) percent regular interest to the members' individual accounts in the members deposit fund computed upon their individual balances at the beginning of such fiscal year; and to the mean balances for the year in the pension reserve fund and the retirement reserve fund. The amounts of interest so credited shall be charged to the income fund. In the event the balance in the income fund is not sufficient to cover the amounts of interest charged to it, the amount of such insufficiency shall be transferred from the pension reserve fund to the income fund.

(Ord. No. 124, § 11.04, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-215. Prohibition against conflict of interest.

Except as otherwise provided in this article, no member of the pension committee and no employee of the Township shall have any interest direct or indirect in the gains or profit arising from any investments made by the pension committee. No person directly or indirectly, for himself or herself or as an agent or partner of others, shall borrow any moneys or investments of the retirement system, or in any manner use the same except to make current and necessary payments as are authorized by the committee. No such person shall become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the committee. Nothing contained herein shall be construed to impair the rights of any member, retirant, or beneficiary of the retirement system to benefits provided by the system.

(Ord. No. 124, § 11.05, 12-14-1992; Ord. of 2-19-2002)

Sec. 2-216. Methods of making payments.

All payments from moneys of the retirement system shall be made by the Township Treasurer; provided that such payments shall be made only upon the written authority signed by two (2) persons designated by the pension committee. A duly attested copy of a resolution designating such persons and bearing upon its face specimen signatures of such persons shall be filed with the Township Treasurer. No such written authority to make payments from the moneys of the system shall be executed unless the payment or payments shall have been previously authorized by a specific or continuing resolution adopted by the committee.

(Ord. No. 124, § 11.06, 12-14-1992; Ord. of 2-19-2002)

Secs. 2-217--2-220. Reserved.

Division 11 Amendments to Police and Fire Retirement System

Sec. 2-221. Post retirement pension improvements to members retiring from the position of Police Chief, Deputy Police Chief, Fire Chief, and Deputy Fire Chief.

Pursuant to Section 6(d) of the Public Act 345 of 1937, as amended, the retirement system is hereby amended to provide increased retirement benefits to a member who has retired from the position of

(*CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221* cont.)

Police Chief, Deputy Police Chief, Fire Chief, or Deputy Fire Chief, as of the day following their effective retirement date in accordance with the following:

(a) *Final average compensation and multiplier.*

(1) Effective June 1, 1991, the retiree shall have his or her retirement benefits re-computed to reflect a final average compensation computed using the best three (3) of the last five (5) years of service and a multiplier of two and one-quarter (2.25) percent.

(2) Effective November 1, 1995 the retiree shall have his or her retirement benefits re-computed to reflect a final average compensation computed using the best three (3) of the last five (5) years of service and a multiplier of two and one-half (2.5) percent.

(3) Effective January 1, 1996 for a retiree who retired between January 1, 1996 and December 31, 1996 shall have his or her retirement benefits re-computed to reflect inclusion in final average compensation of accumulated vacation time (up to a maximum of four hundred (400) hours).

(4) Effective January 1, 2007, a retiree shall have his or her retirement benefits re-computed to reflect a final average compensation computed using the best three (3) of the last ten (10) years of service and a multiplier of two and one-half (2.5) percent.

(b) *Pension escalator.*

(1) Effective August 14, 1995, a retiree will receive credit for two (2) years of credit for every one (1) full year of service beyond his or her date of eligibility for retirement up to a maximum of ten (10) years of escalation. An eligible retiree shall have his or her retirement benefit re-computed to reflect an annual increase of two (2) percent of the original benefit per year for each year of earned escalation credit up to a maximum of ten (10) years.

(2) Effective January 1, 2007, service rendered after an employee has requested to participate in the DROP will continue to qualify for escalation calculation purposes.

(c) *Pop-up option.* Effective November 1, 1995, a retiree shall have the option of electing to have his or her retirement benefits re-computed to provide that in the event the retiree's spouse shall predecease the retiree, the retiree's pension benefit would increase ("pop-up") to the regular pension amount. Said election is conditioned upon the cost of the pop-up option being borne by the retiree in the form of a reduced pension benefit. Said election must be made at the time of the retiree's termination of employment.

(d) *Purchase of other governmental service.* Effective June 1, 1996, a retiree shall have the option of having his or her retirement benefits re-computed to reflect other full-time federal, state, or local governmental service. Said election is conditioned upon the retiree making payments to the retirement system of fifty (50) percent of the actuarially determined Township contribution rate for said period as of the retiree's effective retirement date. Said payments shall not be subject to annuity withdrawal. The retiree shall not be eligible to purchase more than five (5) years of combined other governmental service and military service. A retiree electing this option shall be required to exercise the option at the time of retirement and make payment in full within sixty (60) days of their retirement date.

(e) *Deferred retirement option plan.*

(1) *Overview.* Effective January 1, 2007, the police and fire management employees (i.e. Police chief, deputy police chief, fire chief and deputy fire chief), who are members of the Township's police and fire retirement system may voluntarily elect to participate in the Township's police and fire retirement system management employee deferred retirement option plan (hereinafter "DROP") after attaining the minimum requirements for a normal service retirement/pension. DROP participation will be granted by the Township as a retroactive post-retirement adjustment as of the day following the member's effective retirement date in accordance with Section 6(d) of Public Act 345 of 1937, as amended, and the terms herein. The participant's DROP benefit shall be the dollar amount of the employee's monthly pension benefit computed by using the contractual guidelines and formula(s) that are in effect on the DROP date. After filing an election to participate in the DROP, the employee continues with full employment status, receives all future promotions and benefit/wage increases, and is considered an employee of the Township, not a retiree. Subject to compliance with the DROP provisions provided herein, upon termination of employment, the retiree shall be granted DROP participation and shall be eligible for distribution(s) from his or her individual DROP account as described herein. The participant's DROP benefit shall be credited monthly to the participant's DROP account which shall be established within the Township police and fire retirement system (the "police and fire retirement system"). The participant's DROP account shall be maintained and managed by the

(*CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221* cont.)

board of trustees of the police and fire retirement system (the "retirement board"). The participant is solely responsible for analyzing the tax consequences of DROP participation.

(2) *Eligibility.* Effective January 1, 2007 the following members of the management employee and administrative group unit may voluntarily elect to participate in the DROP at any time after attaining the minimum requirements for a normal service retirement/pension: the fire chief, the deputy fire chief(s), the police chief, and the deputy police chief(s).

(3) *Election to participate.* Once selected, participation in the DROP program is irrevocable (except as specifically provided in subsection l. herein). An eligible employee who wishes to participate in the DROP shall complete and sign such application form or forms as shall be required by the retirement board. The retirement board shall review the application within a reasonable time period and make a determination as to the employee's eligibility for participation in the DROP. An employee electing to participate in the DROP must file said election prior to their DROP date. Notwithstanding the foregoing, an employee eligible to participate in the DROP prior to the adoption of this section establishing this DROP shall have sixty (60) days after its adoption to file a retroactive DROP election to any date after January 1, 2007. A member electing DROP participation shall be granted DROP participation commensurate with their retirement and shall have his or her retirement benefits adjusted, as of the date following his or her effective retirement date, to reflect his or her retroactive DROP election as of his or her DROP date.

As of the retiree's effective DROP date, he or she shall cease to accrue additional retirement benefits otherwise credited to active members of the police and fire retirement system. The amount of credited service, multiplier and average final compensation shall be fixed as of the retiree's DROP date. Increases in compensation and accrual of additional service after a retiree's effective DROP date will not be factored into the pension benefits of active or former DROP participants (except as specifically provided in subsection l.). Except with regard to the retirement benefits expressly provided herein, employees electing DROP participation will continue with full employment status with all rights and privileges afforded to respective employees of the police department or fire department and the management and administrative employee group, including, but not limited to, future promotions, benefit and wage increases, as well as, retirement system membership and board representation.

The Township may extend participation in an alternative retirement plan (e.g. defined contribution plan) to those applicable management employees who continue in their employment after expiration of their DROP participation period.

(4) *Participation period.* The maximum period for participation in the DROP is five (5) years (the "participation period"). There is no minimum time period for participation. A retiree's DROP participation shall cease within five (5) years from their DROP date.

The Township may extend participation in an alternative retirement plan (e.g. defined contribution plan) to those employees who continue in their employment after expiration of their DROP participation period.

The retiree's monthly pension benefit otherwise credited to their DROP account shall cease as of the earlier of the retiree's termination of employment or expiration of the DROP participation period. Interest on the DROP account will continue to be credited until distributed in accordance with subsection i. herein. Upon retirement, the retiree's monthly retirement benefit shall be the monthly amount credited to their DROP account and the retiree shall be eligible for distribution of their DROP account balance in accordance with section i. herein.

(5) *DROP benefit.* The retiree's DROP benefit shall be the regular monthly retirement benefit to which the retiree would have been entitled if the retiree had actually terminated employment and retired on their DROP date (less the annuity withdrawal reduction as set forth in subsection f. and the actuarial reductions as a result of the retiree electing an optional form of benefit under the plan, if applicable). The retiree's DROP benefit shall be credited monthly to an individual DROP account. A management employee may at the time of DROP election elect to receive his or her benefit in the form of the plan's option I or option II benefit and nominate a named beneficiary in accordance with the police and fire retirement system provisions.

The term "spouse" for purposes of benefit qualification of management DROP participants, shall mean:

(*CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221* cont.)

i. The person to whom the employee was legally married to on the employee's date of death if such death occurs after the employee's DROP date, but prior to termination of employment; or

ii. The person to whom the retiree was legally married on both the effective date of termination of employment and the retiree's date of death provided such death occurs after termination of employment.

The definition of "spouse" herein may be amended pursuant to an eligible domestic relations order entered pursuant to Michigan Public Act 46 of 1991, as amended (MCL § 38.1701 et seq.).

(6) *Annuity withdrawal.* An employee electing DROP participation (who no longer accrues additional retirement benefits otherwise credited to active members of the police and fire retirement system) may elect the annuity withdrawal option provided by the police and fire retirement system at the time of electing DROP participation. The annuity withdrawal option and all other retirement options under the police and fire retirement system which are available to retirement system members shall only be available to the employee at such time as he or she elects DROP participation.

The annuity withdrawal option election shall be made commensurate with the participant's DROP election, and not thereafter, and the annuity withdrawal amount at the time of DROP election will be utilized to compute the actuarial reduction of the retiree's DROP benefit, as well as the retiree's monthly retirement benefit from the police and fire retirement system after termination of employment. The annuity withdrawal amount (accumulated contributions) shall be withdrawn from the police and fire retirement system at the time of termination of employment and shall not be subject to withdrawal by an employee at the time of DROP election.

Retirees who do not elect the annuity withdrawal option at the time of DROP election shall have their full unreduced benefit credited to their DROP account.

At the time of the annuity withdrawal option election, if an employee is electing a straight life form of benefit with no qualifying spouse, the reduction computation is based in-part upon the actuarial life expectancy of the employee (rather than the life expectancies of both the employee and qualified spouse). There shall be no adjustment to the benefits payable to the DROP participant upon the subsequent marriage of a qualifying spouse. In the event such spouse (i.e. qualified after calculation of the annuity withdrawal election) subsequently qualifies for benefits payable by the police and fire retirement system, said benefits shall not be adjusted based upon the employee's annuity withdrawal option election.

(7) *DROP accounts.* An individual DROP account shall be created for each retiree who previously elected DROP participation during employment. The retiree's DROP benefits shall be retroactively accumulated at DROP interest in the DROP account. All individual DROP accounts shall be maintained for the benefit of each employee and will be managed by the retirement board in the same manner as the primary pension fund. DROP interest for each retiree's DROP account on an annual basis shall be based upon the corresponding prior calendar year's market rate of investment return on the total assets in the police and fire retirement system portfolio but in no event shall DROP interest be greater than four (4) percent or less than zero (0) percent per annum compounded monthly. If the retirement system earns between zero (0) percent and four (4) percent, then the DROP interest will be the actual market rate of investment return. If the retirement system earns more than four (4) percent then DROP interest will be four (4) percent and if the retirement system earns less zero (0) percent then DROP interest will be zero (0) percent. DROP interest will be credited to each individual DROP account on the first day of each month on the prior month's principal and interest balance. [By way of example, the following illustration is provided: The retirement system's market rate of investment return for calendar year 2006 is eight and one-half (8.5) percent. The DROP interest rate for calendar year 2007 will be four (4) percent per annum compounded monthly (e.g. 0.3333 percent monthly). A retiree's DROP account balance on February 1, 2007 is twelve thousand five hundred dollars ($12,500.00) (including principal and interest). On March 1, 2007, the retiree's DROP account will be credited with forty-one dollars and sixty-six cents ($41.66) in interest.

(*CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221* cont.)

The retirement board shall provide each retiree with a statement of their DROP account. The reference to individual DROP accounts shall be interpreted to refer to the accounting records of the police and fire retirement system and not to the actual segregation of moneys in the funds of the police and fire retirement system.

(8) *Contributions.* The payroll of those employees electing DROP participation shall be included in the covered compensation upon which regular Township employer contributions to the police and fire retirement system are based. Employer contributions shall be credited to the retirement system and not to any individual DROP account.

(9) *Distribution of DROP funds.* Upon termination of employment, the retiree must choose one (1), or a consistent combination of, the following distribution methods to receive payment(s) from his or her individual DROP account:

i. A total lump sum distribution to the retiree.
ii. A partial lump sum distribution to the retiree.
iii. A lump sum direct rollover to another qualified plan to the extent allowed by federal law and in accordance with the retirement board's rollover procedures.
iv. An annuity payable for the life of the retiree.
v. An optional form of annuity as established by Public Act 345 of 1937, as amended.
vi. No distribution, in which case the accumulated balance shall remain in the retirement system to the extent allowed by federal law.

A retiree may change his or her distribution method as may be applicable no more than once per annum prior to June 30 of each year in accordance with such procedures and time guidelines as adopted by the retirement board. A retiree may elect a total lump sum distribution of any remaining balance in his or her DROP account at any time after termination of employment which will be paid within ninety (90) days after receiving the request. All benefit payments under the retirement system shall be made (or commence in the case of an annuity) as soon as practical after entitlement thereto, but in no event later than the April 1 following the later of:

a. The calendar year in which the participant attains age seventy and one-half (70 ½); or
b. The calendar year in which the participant's employment terminated.

If the accumulated balance in any retiree's DROP account becomes less than five thousand dollars ($5,000.00) (or such other amount as provided in Internal Revenue Code Section 411(a)(11)(A)), then the retirement board, in its sole discretion, may distribute the retiree's entire DROP account, in the form of a lump sum, to the retiree.

Any and all distributions from a retiree's DROP account shall not be subject to offset by any workers' compensation wage loss payments received by the participant, including any redemption amounts.

(10). *Death during DROP participation.* Except as otherwise provided in subsection l., if an employee who has made a DROP election dies either:

i. Before termination of service; or
ii. After retirement but before his or her DROP account balance has been fully paid out,

the designated beneficiary or beneficiaries shall receive the participant's DROP account balance in the manner in which they elect from the previously mentioned distribution methods (subsection i.). In the event the employee or retiree has failed to name a beneficiary, the DROP account balance shall be payable to the employee's or retiree's beneficiary of benefits from the police and fire retirement system. If there is no such beneficiary, the account balance shall be paid in a lump sum to the employee's or retiree's estate. In the event such death occurs prior to termination of service, benefits payable from the police and fire retirement system shall be determined as if the employee had terminated service on the day prior to the employee's date of death.

(11). *Disability during DROP participation.* Except as otherwise provided in subsection l., in the event an employee who has elected DROP participation becomes totally and permanently disabled from further performance of duty as a fire fighter or police officer, the employee shall not be eligible for disability benefits from the police and fire retirement system, except as specifically provided in subsection l. The employee shall terminate employment and be eligible for those benefits provided to a retiree in accordance with the DROP provisions.

(*CHAPTER 2, ARTICLE III, DIVISION 11, SECTION 2-221* cont.)

(12). *Special provision for duty disability and duty death.* An employee who has elected DROP participation who the retirement board, in accordance with retirement system provisions, finds to be totally and permanently incapacitated for duty by reason of a personal injury or disease occurring as the natural and proximate result of causes arising out of and in the course of the employee's employment with the Township, may retroactively revoke his or her DROP election. If an employee who has elected DROP participation dies in the line of duty while in the employ of the Township, the employee's eligible survivors (i.e., survivors qualified under Section 6(2) of Public Act 345 of 1937, as amended) and the employee's eligible DROP beneficiary or beneficiaries may, by unanimous agreement, retroactively revoke the employee's DROP election if the revocation occurs before payment of a distribution from the employee's DROP account or payment of benefits from the police and fire retirement system. If a DROP election revocation is made as prescribed by this subsection, the employee's DROP account is not distributed, and the beneficiary or beneficiaries, as applicable, are entitled to all benefits provided by the police and fire retirement system as if a DROP election had not been made.

(13). *Promotion.* In the event an employee who has previously elected to participate in a DROP pursuant to an applicable collective bargaining agreement is promoted to a police or fire management position in the management and administrative group, said employee's DROP participation period, DROP benefit and DROP account shall be governed by the provisions of the DROP plan in effect at the time of the DROP election. The thirty-three-year service limitation on DROP participation periods as provided in applicable collective bargaining agreements shall not apply to employees promoted to a management position. The Township may extend participation in an alternative retirement plan (e.g. defined contribution plan) in the event an employee's participation period expires prior to termination of employment. The DROP account shall be distributed as a post-retirement adjustment upon termination of employment in accordance with the provisions herein.

(14). *Pension escalator*. The pension escalator as provided to police and fire management employees shall not be applied to a retiree's DROP benefit or DROP account. Management employees electing DROP participation shall continue to earn two (2) years of escalation for every one (1) full year of service as a management employee which is beyond their date of eligibility for retirement and during their DROP participation period.

(15). *Re-employment.* In the event a retiree is re-employed by the Township in the capacity of a sworn police officer or firefighter, they shall not be eligible for membership in the police and fire retirement system or DROP participation. Retirement benefits payable from the police and fire retirement system shall continue during such period of re-employment. The Township may extend participation in an alternative retirement plan (e.g., defined contribution plan) during such period of re-employment.

(16). *DROP cost.* The Township and the police and fire members of the management and administrative group intend for the DROP to be essentially cost neutral (i.e., ± 0.2% of covered payroll). The parties recognize the complexity in estimating the actuarial cost impact of this DROP on the police and fire retirement system. Accordingly, ten (10) years after this DROP is established, the retirement board will direct that the retirement system's actuary conduct an evaluation as to the cost impact of this DROP on the retirement system. In the event that the actuary determines that this DROP has had a positive cost to the retirement system (i.e., < .2% of covered payroll), the DROP shall be amended in such manner, as recommended by the actuary and approved by the parties, to result in an essentially cost neutral program.

(17). *I.R.C. compliance.* The DROP is intended to operate in accordance with Section 415 and other applicable laws and regulations contained within the Internal Revenue Code of the United States. Any provision of the DROP, or portion thereof, that is found by the retirement board to be in conflict with an applicable provision of the Internal Revenue Code of the United States is hereby declared null and void.

The Township police and fire retirement system consists of a defined benefit plan. The DROP account shall be established as part of the defined benefit plan of such retirement system or such other plan as the retirement board and the management and administrative employees group shall agree upon (i.e., I.R.C. Section 415(m) benefit plan) after consultation with appropriate legal counsel.

(Ord. of 4-28-1997, § 1; Ord. of 2-12-2007)

(*CHAPTER 2, ARTICLE III, DIVISION 11 cont.*)

Sec. 2-222. Pension improvements to members employed in the position of police chief, deputy police chief, fire chief, and deputy fire chief.

(a) *Retirement eligibility.* A police or fire management employee shall have the option of having his or her retirement benefits commence to reflect full normal retirement benefits on or after the date the employee has accumulated twenty-five (25) years of service credit regardless of the employee's age.

(b) *Purchase of military service.* In accordance with Public Act 345 of 1937, as amended, an employee shall have the option of having his or her retirement benefits computed to reflect prior active service in the armed forces of the United States. Said election is conditioned upon the employee making payments to the retirement system of fifty (50) percent of the actuarially determined Township contribution rate for said period as of the employee's date of application of purchase. Said payments shall not be subject to annuity withdrawal. The employee shall not be eligible to purchase more than five (5) years of combined other governmental service and military service. An employee electing this option shall be required to make payment in accordance with such rules as established by the board of trustees of the police and fire retirement system.

(Ord. of 2-12-2007)

Sec. 2-223. Purchase of additional credited services.

If a member, pursuant to the terms of their collective bargaining agreement or the Management & Administrative Group Personnel Policy, is permitted to purchase additional credited service for prior active service in the armed forces of the United States or for full-time employment by another state, local, or federal governmental agency, said purchase may be effectuated by a direct trustee-to-trustee transfer of assets from a qualified plan described in Internal Revenue Code sections 401(a), 403(b) or 457(b). This section shall be subject to Section 415 of the Internal Revenue Code and purchased credited service shall not exceed 5 years.

(Ord. of 8-23-2010)

CHAPTER 3 ANIMALS

Art. I. In General, §§ 3-001--3-005 ..... Page 3-1 through 3-3
Art. II. Dogs and Cats, §§ 3-011--3-015 ..... Page 3-3 through 3-4
Art. III. Pit Bull Terriers, Poisonous/Exotic and Dangerous Animals, §§ 3-021--3-027 ..... Pages 3-4 through 3-8

ARTICLE I IN GENERAL

**Editor's note:* *The 2014 ordinance recodification amended the Code transferring the definitions formerly located in Article III of this Chapter, formerly § 3-077, which were derived from Comp. Ords. 154, § 3.00(A)--(F), (H)--(K), and ordinances of January 22, 1990 and January 13, 1992; into this Article pertaining to similar subject matter and derived from the same historical ordinance sources, along with additional definitions so that all definitions contained herein are applicable to this Chapter.*

Sec. 3-001. Definitions

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Chapter:

Animal means any one (1) or more of a kingdom of living beings (except humans) differing from plants in capacity for spontaneous movement and rapid motor response to stimulation.

Animal Control Officer means a Township official, employee, or contractor authorized by the Township Board to enforce the provisions of this Chapter who (i) satisfies the minimum requirements for physical, educational, mental and moral fitness for an animal control officer and (ii) is a police officer, has served as an animal control officer for at least 3 years, or has completed a minimum course of study of not less than 100 instructional hours as prescribed by the State Department of Agriculture for animal control officers.

Dangerous Animal means a dog or other animal that bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog while the other dog is on the property or under the control of its owner. However, a dangerous animal does not include any of the following:

(i) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.

(ii) An animal that bites or attacks a person who provokes or torments the animal.

(iii) An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

(iv) Livestock.

Domestic Animal As more specifically defined in the Waterford Township Zoning Ordinance, means a household or container pet and hoofed or small livestock.

Exotic Animals generally means the species of animals which are not native to the state or the United States and/or are introduced from another country.

Hybrid(s) means any animal which is the offspring of two (2) different varieties or species.

Kennel means a lot where domestic animals are housed, groomed, bred, boarded, trained, or sold for a fee or compensation.

On a Suitable Leash means both: (1) That the animal is attached to a leash that is no more than fifteen (15) feet in length and of such material that the leash is capable of restraining, and does restrain the type and size of animal to which it is attached; and (2) That such a leash is continuously held by a person who is reasonably able to and does restrain and prohibit the animal from being out of that person's physical control.

(*CHAPTER 3, ARTICLE I, SECTION 3-001 cont.*)

Owner means any person who owns, has right of property in, harbors, or has care or custody of an animal, or who knowingly permits an animal to remain on or about any premises occupied or controlled by him.

Pit Bull or Pit Bull Terrier means any dog which exhibits those phenotypical characteristics which:

(1) Substantially conform to the breed standards established by the American Kennel Club for American Staffordshire Terriers or Staffordshire Bull Terriers.

(2) Substantially conform to the breed standards established by the United Kennel Club for American Pit Bull Terriers. The standards of the United Kennel Club referred to herein as "Appendix A," shall remain on file with the Township Clerk. Technical deficiencies in the dog's conformance to the standards of this definition shall not be construed to indicate that the subject dog is not a "pit bull terrier" under this Article.

Poisonous means a substance which, through its chemical action, usually kills, injures or substantially impairs an organism.

Possess or Maintain means the act or ability of having or exerting control and influence over an animal regulated herein, without regard to ownership.

Reasonable Control of a Dog means keeping an animal on a suitable leash.

Reasonable Control of a Cat, recognizing the nature of this animal, requires that the owner take all reasonable efforts to ensure that a cat does not become a nuisance to any other person by a violation of or destruction to private or public property.

(Ord. No. 154, § 3.00(A)--(F), (H)--(K), 1-22-1990; Ord. of 1-13-1992)

Sec. 3-002. Cruelty to animals; Misdemeanor.

No owner or person shall treat an animal in a cruel or inhumane manner, or willfully or negligently overwork, torture, torment, deprive of necessary sustenance, or adequate shelter, cruelly beat, mutilate, or cruelly kill any animal. The physical alteration of animal body parts shall be considered to be a mutilation or cruelty to an animal within the meaning of this Section, unless such physical alteration is performed by a licensed veterinary surgeon. Violation of this Section is a misdemeanor punishable as provided in Section 1-010(a).

(Ord. of 2-26-1996)

Sec. 3-003. Kennels; Civil Infraction.

No person shall own or operate any kennel in the Township without first complying with the Zoning Ordinance and obtaining and complying with all conditions of site plan and other applicable zoning approvals. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b).

(Ord. of 2-26-1996; Ord. of 3-10-2003; Ord. of 12-13-2010)

Sec. 3-004. Excessive number of household pets; Civil Infraction.

Except for lawful kennels and litters of puppies or kittens up to five (5) months old, no person shall possess, keep, or house more than three (3) household pets (dogs, cats) of the same species, or more than a total of five (5) household pets on a zoning lot, Violation of this Section is a civil infraction punishable as provided in Section 1-010(b).

(Ord. of 2-26-1996; Ord. of 3-10-2003; Ord. of 12-13-2010)

Secs.3-005. Livestock; Civil Infraction.

A violation of this Section is a civil infraction, punishable as provided in Section 1-010(b). As defined and provided in the Zoning Ordinance:

(*CHAPTER 3, ARTICLE I, SECTION 3-005* cont.)

(a) No person shall possess or keep small livestock on a zoning lot or parcel less than five (5) contiguous acres in size without a special approval use and complying with all special approval use conditions on allowed number, maintenance, location, and containment area requirements.

(b) No person shall possess or keep hoofed livestock on a zoning lot or parcel less than five (5) contiguous acres in size, or where the average zoning lot size within a ¼ mile radius of the property is less than three (3) acres.

(c) On a zoning lot or parcel that is at least five (5)contiguous acres in size in a neighborhood where the average zoning lot size within a ¼ mile radius is at least three (3) acres, no person shall possess or keep more than three (3) hoofed livestock.

(Ord. of 12-13-2010)

Secs. 3-006--3-010. Reserved.

ARTICLE II DOGS AND CATS

Sec. 3-011. Licensing of dogs; Misdemeanor.

It shall be unlawful for any person to own or keep a dog which is six (6) months of age or older that is not vaccinated for rabies and licensed, or that does not wear a collar with the license tag attached at all times the dog is not on the owner's property or engaged in lawful hunting accompanied by the owner, as required and provided for in the Dog Law of 1919, Public Act No. 339 of 1919, as amended. Violation of this Section is a misdemeanor punishable as provided in Section 1-010(a), except the minimum fine is $10.00 and the maximum fine is $100.00.

Sec. 3-012. Vaccination certification of cats; Civil Infraction.

No owner shall keep a cat which is six (6) months or older without obtaining a certificate of vaccination for rabies and being able to produce such proof of vaccination at the request of an animal control officer. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b).

Sec. 3-013. Confinement and reasonable control of dogs and cats; Civil Infraction.

(a) The owner of a dog shall keep it confined upon the owner's premises at all times except when the dog is otherwise under reasonable control or is on other private property with the express permission of the owner or occupant of that private property.

(b) The owner of a cat shall be responsible for reasonable control of the cat at all times.

(c) No owner of a dog shall cause or allow such dog to defecate on public property, including a street, sidewalk, path, play area, park, or any place where people congregate or walk, or upon any private property without permission of the owner of such property unless:

(1) The owner immediately removes all fecal material droppings deposited by such dog by any sanitary method. The person shall possess a container of sufficient size to collect and remove above-mentioned droppings and exhibit the container, if requested by any official empowered to enforce this Article.

(2) The droppings removed shall be disposed of in a sanitary method on the zoning lot of the owner.

(d) Violation of this Section is a civil infraction punishable as provided in Section 1-010(b).

(*CHAPTER 3, ARTICLE II, cont.*)

Sec. 3-014. Nuisance dogs; Civil Infraction.

a). No owner of a dog shall allow, permit or suffer the dog to bark often enough or loud enough to constitute a nuisance to occupiers of adjoining or surrounding lands or buildings.

b). No owner of a dog shall permit the dog to run freely or unrestrained upon the public or private ways, or private property of another without consent of the property owner.

c). Yards and/or exercise dog runs shall be kept free of dog droppings, uneaten food, and maintained in a sanitary manner so as not to be a nuisance because of odor or attraction for flies and vermin.

d). Violation of this Section is a civil infraction punishable as provided in Section 1-010(b).

Sec. 3-015. Nuisance dogs (Public); Misdemeanor.

The owner of a dog shall exercise proper and necessary care and control of the dog to prevent it from becoming a public nuisance. Excessive, continuous or untimely barking, chasing or attacking pedestrians or bicyclists, chasing vehicles, habitually attacking other domestic animals, trespassing upon school or park grounds, or trespassing upon private property in such manner as to damage property shall be deemed to constitute a public nuisance. Violation of this Section is a misdemeanor punishable as provided in Section 1-010(a).

Secs. 3-016--3-020. Reserved.

ARTICLE III. PIT BULL TERRIERS, POISONOUS/EXOTIC AND DANGEROUS ANIMALS

Sec. 3-021. Purpose.

The purposes of this article are declared to be as follows:

(a) To identify and enumerate certain animals which, by their nature, are sufficiently dangerous, undesirable or unsuitable for incorporation into the residential, agricultural or commercial life of this community.

(b) To impose prohibitory measures to discourage and ban the possession and maintenance of animals considered as exotic and not easily domesticated.

(c) To describe and classify the breeds of dog generally known as pit bulls or pit bull terriers which are determined to pose an unacceptable risk to the health, safety and welfare of the citizens of this community.

(d) To provide for restrictions on the care and custody of existing licensed pit bull terrier dogs on the owners or possessors thereof.

(e) To impose a ban on the prospective possession and maintenance of those breeds of pit bull terrier dogs so classified.

(f) To establish guidelines and procedures to be utilized by animal control personnel in implementing this article.

(g) To provide for penalties and sanctions for violations hereof.

(Ord. No. 154, § 2.00, 1-22-1990)

Sec. 3-022. Legislative classification and findings.

(a) With the increasing urbanization and population density of the Township, the residents of the Township must be protected from the attack and threat of injury or disease from certain exotic animals possessed or maintained as domestic animals.

(b) This article is enacted following the passage of Act 381 of the Public Acts of 1988 (MCL 750.49) by the state legislature which provides for substantial penalties to be imposed against persons who promote the possession or use of dogs bred for fighting or baiting.

(*CHAPTER 3, ARTICLE II, SECTION 3-022* cont.)

(c) This article is enacted following the passage of Act 426 of the Public Acts of 1988 (MCL 287.321 et seq.) by the Michigan Legislature which provides for additional penalties and procedures for the protection against dangerous animals.

(d) The Township staff has collected detailed and reliable data from many sources on the number, nature and severity of attacks by pit bull terriers upon innocent citizens of this community, the Metropolitan-Detroit area, and other communities and urban areas within the state, and the United States of America.

(e) Based upon this data, the Township concludes that pit bull terriers within this community constitute an unacceptable risk of harm and fear to the residents hereof, and must therefore be closely regulated as provided herein.

(f) The Township finds, from many reliable sources, ample evidence to support the following facts about pit bull terriers:

(1) Pit bull terriers were, for centuries, developed and selectively bred for the express purpose of attacking other dogs or other animals such as bulls, bears or wild hogs.

(2) In developing a dog for this purpose, certain traits were selected and maximized by controlled breeding including extremely powerful jaws, a low sensitivity to pain, extreme aggressiveness towards other animals, and a natural tendency to refuse to terminate an attack once it has begun.

(3) Based on the statistical evidence that pit bull dogs are the leading cause of dog bite related fatalities in the United States, and other evidence in the form of individual experiences, the pit bull is infinitely more dangerous once it does attack.

(4) The pit bull terriers' massive canine jaws can crush a victim with up to two thousand (2,000) pounds of pressure per square inch, three (3) times that of a German shepherd or doberman pinscher, making the pit bull's jaws the strongest of any animal, per pound.

(5) The breeds are almost impossible to confine without resorting to fortress-like measures; pit bull terriers can climb over high chain link fences and trees, tear metal sheeting with its teeth, attack through chain link fencing, tear loose its collars, and dig under fences and walls, requiring the adoption of breed-specific restrictions on the care and custody of licensed pit bull terriers for the protection of the citizens of this community.

(g) These findings and facts lead the Township to conclude that a prohibition on the possession, maintenance and harboring of pit bull terriers, as defined herein, is reasonable and necessary for the protection of the public health, safety and welfare. The Board is fully aware that the breed of dog called a "bull terrier," usually considered to be of the same phenotype as the specific breeds banned herein, is not included within the prohibition of this article. The Board finds that this breed is not commonly found or bred at this time in the state nor the United States, and therefore does not pose the same risks.

Sec. 3-023. Pit bull terriers prohibited; Civil Infraction.

(a) It shall be unlawful for any person to own, possess or maintain, within the Township, any pit bull terrier, as defined herein.

(b) This section shall not be construed to apply to any person who is both within the territorial boundaries of the Township and in possession of any dog for the primary purpose of exhibiting or showing said dog at a dog show or similar event sponsored by a nationally recognized kennel club or dog breeders association, or its local affiliate or chapter.

(c) Violation of this Section is a civil infraction punishable as provided in Section 1-010(b), and/or by destruction or removal as provided in Section 3-027.

Sec. 3-024. Pit bull terrier determination guidelines.

The following procedures and standards shall be used by all animal control officers in determining whether a particular animal is subject to the requirements of this article.

(a) An animal control officer will initially determine why the dog is being considered for possible inclusion within this article. Factors to be considered include, but are not limited to the following or a combination of the following:

(*CHAPTER 3, ARTICLE II, SECTION 3-024* cont.)

(1) Registration of the animal as a pit bull terrier, as defined.
(2) Identification of the animal as a pit bull terrier, as defined, by the owner, keeper, or harborer of the dog.
(3) Positive identification of the animal as a pit bull terrier by an officer of the department pursuant to the procedures set forth in this section.
(4) Identification by a lay witness who has personal knowledge that the dog is a pit bull terrier (Examples: Owner has referred to dog as pit bull in witness's presence).
(5) Positive identification of dog as pit bull terrier by licensed veterinarian.

(b) Positive identification of an animal as a pit bull by an officer shall include any or all of the following:
(1) Verification of inclusion by comparison of the physical characteristics of the subject dog with the breed standards in Appendix "A."
(2) Personal and professional experience of the officer in having observed pit bull terriers in the past.
(3) Identification of animal as a pit bull terrier by owner, keeper, or harborer.

(c) If an owner, keeper, or harborer of an animal denies it is subject to the ordinance, an officer shall not consider the animal within the parameters of the ordinance unless the following conditions are met:
(1) The officer believes the animal is a pit bull after comparing the physical characteristics of the animal with the identification material set forth herein.
(2) The officer identification of the animal as a pit bull is verified by an animal control officer or if an animal control officer is not available, by another department officer after comparing the animal to identification materials, provided that any animal identified as a pit bull by a department officer whose owner, keeper, or harborer continues to deny the animal's identification as a pit bull shall be afforded the immediate opportunity to be brought before a licensed veterinarian approved by the Township for identification purposes. The officer shall accept the breed identification of the veterinarian. If an officer cannot determine the predominate breed of the animal in question as pit bull terrier, the animal shall not be subject to the provisions of this article unless the animal is later positively identified as a pit bull by a licensed veterinarian approved by the Township.

(d) All animal control officers shall be familiar with and consult the breed identification materials in Appendix "A" and shall become familiar with the pit bull terrier, as defined, by reference to photographs, physiological diagrams and breed behavior patterns.

Sec. 3-025. Prohibited poisonous and exotic animals; Civil Infraction.

(a) It shall be unlawful for any person to own, possess, or maintain any of the following animals within the Township:
(1) All animals, including snakes and spiders, whose bite or venom is poisonous or deadly to humans.
(2) Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus).
(3) Baboons (Papoi, Mandrillus).
(4) Bears (Ursidae).
(5) Cheetahs (Acinonyxjubatus).
(6) Crocodilians (Crocodilus), and alligators.
(7) Constrictor snakes, or other poisonous reptiles.
(8) Coyotes (Canislatrans).
(9) Elephants (Elephas and Loxondonta).
(10) Gamecocks and other fighting birds.
(11) Hyenas (Hyaenidae).
(12) Jaguars (Pantheraonca).
(13) Leopards (Pantherapardus).
(14) Lions (Pantheraleo).
(15) Lynxes (Lynx).
(16) Ostriches (Sruthio).
(17) Pumas (Felisconcolor); also known as cougars, mountain lions, and panthers.
(18) Wolves (Canis lupus).

(*CHAPTER 3, ARTICLE II, SECTION 3-025* cont.)

(19) Wolf hybrids.
(20) Raccoons (Procyon lotor).
(21) Skunks (Genus Mephitis).
(22) Tigers (Felistigris).

(b) The prohibitions above shall not apply to pet shops licensed by the S.E.A., zoological gardens licensed by the U.S. Department of Agriculture, and accredited by the American Association for the accreditation of zoological parks and gardens, and circuses licensed by the U.S. Department of Agriculture if:
(1) Their location conforms to the provisions of the zoning ordinance of the Township.
(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
(3) Animals are maintained in quarters so constructed as to prevent their escape, and so as to humanely provide for their biological and social needs.
(4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.

(c) The prohibitions above shall not apply to any person who is in possession of an injured animal listed in this section under a valid caregiver's permit issued by the S.E.A.

(d) Violation of this Section is a civil infraction punishable as provided in Section 1-010(b), and/or by destruction or removal as provided in Section 3-027.

Sec. 3-026. Dangerous animals; Civil Infraction and Misdemeanors.

(a) It shall be unlawful for any person to own, possess, or maintain a dangerous animal in the Township. The first violation of this Section for a specific animal is a civil infraction punishable as provided in Section 1-010(b)and/or by destruction or removal as provided in Section 3-027.

(b) A second or subsequent violation of subsection (a) for a previously adjudicated dangerous animal is a misdemeanor, punishable as provided in Section 1-010(a) and/or by destruction or removal as provided in Section 3-027.

(c) The owner of a previously adjudicated dangerous animal shall keep it confined upon the owner's premises at all times except when the dog is otherwise under reasonable control or is on other private property with the express permission of the owner or occupant of that private property. A violation of this subsection is a misdemeanor, punishable as provided in Section 1-010(a).

Sec. 3-027. Destruction or removal of prohibited animals.

(a) Upon a sworn complaint that an animal is a pit bull terrier, poisonous or exotic animal, and/or dangerous animal prohibited by this article, and is currently being illegally owned, possessed, or maintained, a district court judge or magistrate shall issue a summons to the owner ordering him to appear to show cause why the animal should not be destroyed or removed from the Township.

(b) Upon the filing of a sworn complaint as provided herein, the court may order the owner or possessor to immediately turn the animal over to the animal control officer, an incorporated humane society, a licensed veterinarian, or a boarding kennel, at the owner's option, to be retained by them until a hearing is held and a decision is made for the disposition of the animal. The expense of the boarding and retention of the prohibited animal is to be borne by the owner. After a hearing, the court shall issue its findings and opinion as to whether the animal is prohibited so as to be subject to destruction or removal under this article. The court shall order destruction if the animal has been found to be a dangerous animal that caused serious injury or death to a person or dog, and may order destruction if the animal is found to be a dangerous animal that did not cause serious injury or death to a person but is likely in the future to cause such injury or death or has been adjudicated a dangerous animal in the past. If the court orders the destruction of the animal, it shall be at the expense of the owner. If the

(*CHAPTER 3, ARTICLE II, SECTION 3-027* cont.)

court finds the animal to be prohibited by this article but does not order destruction, the court may order the animal removed from the Township under terms and conditions which ensure such removal, or in the case of a dangerous animal, may order the owner to take designated actions at the owner's expense, including having the animal permanently identified with a number tattoo applied by or under the supervision of a licensed veterinarian, the erection, maintenance, and containment of the animal in an escape and entry proof enclosure, sterilization of the animal, obtaining and maintenance of sufficient liability insurance coverage to protect the public from damage or harm caused by the animal, and other actions appropriate to protect the public.

(c) Animals who reasonably appear to have become a dangerous animal, as defined by this chapter, are subject to immediate seizure or pickup by an animal control officer when the owner cannot be found or contacted and the health and safety of the general public requires immediate containment of the animal. The impounded animal shall be held at a facility designated by the animal control officer, at the owner's expense. The complaining witness shall promptly comply with the complaint requirements of subsections (a) and (b) of this section.

CHAPTER 4 BUILDINGS AND BUILDING REGULATIONS*

Art. I. In General, §§ 4-001--4-025 ..... Page 4-1
Art. II. Historic District Commission, §§ 4-026--4-050 ..... Page 4-1 through 4-4
Art. III. State Construction Code, §§ 4-051--4-075 ..... Pages 4-4 through 4-6
Art. IV. Reserved, §§ 4-076--4-150 ..... Page 4-6
Art. V. Property Maintenance Code, §§ 4-151--4-175 ..... Pages 4-6 through 4-8
Art. VI. Vacant Property Registration and Maintenance, §§ 4-176--4-205 ..... Page 4-8 through 4-12
Art. VII. Reserved, §§ 4-206--4-230 ..... Page 4-12
Art. VIII. Dangerous Buildings, §§ 4-231--4-239 ..... Pages 4-13 through 4-16
Art. IX. Rental Certification, §§ 4-240--4-267 ..... Pages 4-16 through 4-24

ARTICLE I IN GENERAL

Secs. 4-001--4-025. Reserved.

ARTICLE II HISTORIC DISTRICT COMMISSION*

**Editor's note:* *The 2014 ordinance recodification amended the Code repealing the Housing Commission Ordinance in this Article, formerly §§ 4-026 – 4-050; and further transferring the Historic District Commission Ordinance from Article II of Chapter 13, formerly §§ 13-026 – 13-080, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 4-026. Short title.

This Article shall be known and cited as the "Historic District Commission Ordinance." It shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such title, and reference to the number hereof.

(Comp. Ords. 1986, § 22.101)

Sec. 4-027. Statement of purpose.

The purpose of this Article is hereby declared to be:

(a) To safeguard the heritage of the Township by preserving districts in the Township which reflect the elements of its cultural, social, economic, political, and architectural history, pursuant to Act 169 of the Public Acts of 1970 (MCL 399.201 et seq.).

(b) To foster civic beauty and pride, and to stabilize and improve property values; and thereby strengthen the local economy.

(c) To promote the use of historic districts for the education, pleasure and welfare of the citizens of the Township.

(Comp. Ords. 1986, § 22.102)

Sec. 4-028. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following terms shall be as defined in Act 169 of the Public Acts of 1970,as amended, (MCL 399.201a) and incorporated as definitions in this ordinance: "**Alteration**", "**Demolition**", **"Demolition by neglect"**, "**Historic District**", "**Historic Preservation**", "**Historic Resource**", "**Ordinary Maintenance**", and "**Resource**".

(Comp. Ords. 1986, §§ 22.103--22.107, 22.110)

(*CHAPTER 4, ARTICLE II cont.*)

Sec. 4-029. Creation; zoning map.

The geographic boundaries of the historic district, as adopted on June 27, 1977 as Appendix A of Ordinance No. 106, shall be clearly designated upon the zoning map as amended, within the Waterford Township Zoning Ordinance.

(Comp. Ords. 1986, § 22.111)

Sec. 4-030. Historic District Commission created; members; term of office.

(a) The Waterford Historic District Commission, or Commission as used in this Article, is hereby created consisting of seven (7) members who shall be residents of the Township. A majority of members shall have a clearly demonstrated interest in or knowledge of historic preservation. At least two (2) members shall be appointed from a list of citizens submitted by one (1) or more duly organized local historic preservation organizations. If available, a graduate of an accredited school of architecture who has 2 years of architectural experience or who is an architect registered in this State shall be appointed as a member.

(b) All members of the Commission shall be appointed by the Township Supervisor, with consent of the Township Board. Members shall be appointed for 3-year terms except the initial appointments of some of the members shall be for less than 3 years so that the initial appointments are staggered and that subsequent appointments do not recur at the same time. Members of the Commission may be reappointed after their terms expire. Members shall serve without compensation.

(c) A vacancy occurring in the membership of the Commission for any cause shall be filled by a person appointed by the Township Supervisor, with the consent of the Township Board, for the unexpired term. Members of the Commission may be removed from office by the vote of the Township Board for cause upon written charges and after public hearing.

(Comp. Ords. 1986, § 22.113)

Sec. 4-031. Duties and powers generally.

(a) It shall be the duty of the Commission to review all plans for the exterior alteration or repair, relocation, or demolition of buildings in the historic district, ensure that such plans provide for the historic preservation of the district's historic resources, and provide a written record of the decision to the Building Official. The Commission's power shall be limited to evaluating only the exterior features of district buildings and shall not consider interior arrangements except where the Building Official requests the Commission's input regarding interior conditions that threaten the structural integrity of the exterior features.

(b) The Commission may be designated by the Township Board to act as its duly appointed agent to accept and administer grants and gifts for historical preservation purposes within the district.

(c) The Commission shall review publicly funded district historic preservation and acquisition projects for, and provide recommendations on such projects to, the Township Board.

(d) The Township Board may delegate to the Commission the responsibility for the oversight and maintenance of publicly owned buildings within the district, using funds of the Commission or other public funds designated for historic preservation purposes.

(e) The Commission, on its own initiative, may file a petition with the Building Official requesting the correction of defects or repairs of any building covered by this Article in accordance with the Building Code so that such building shall be preserved and protected in accordance with the purposes of this Article.

(Comp. Ords. 1986, § 22.114)

Sec. 4-032. Plan review by Commission.

(a) It is prohibited and a violation of this Article for any building to be altered or demolished within a historic district, unless such action complies with the requirements set forth in this Article.

(*CHAPTER 4, ARTICLE II, SECTION 4-032 cont.*)

(b) Whenever alterations or demolition of buildings within the historic district are considered, permit applications shall be submitted to the Building Official in accordance with the procedures established by the Building Official. Plans and building elevations sufficient to clearly illustrate the proposed changes shall be submitted with the permit application in a format and quantity acceptable to the Building Official. Upon the submittal of such application, the Building Official shall transmit copies of the documentation to the Historic District Commission for review.

(c) The Commission shall schedule a meeting in accordance with Public Act 267 of 1976, the Open Meetings Act, after receipt of the documentation from the Building Official. The Commission shall review the plans solely according to the preservation standards established under Section 4-034 of this Article. In reviewing the plans and considering its decision, the Commission may meet and confer with the Building Official and the applicant.

(d) The Commission, in making its recommendation to the Building Official, shall state the reasons and findings for its action in its minutes and file its decision with the Building Official within thirty (30) days of the meeting at which the decision was made. Building permits for the activities under consideration shall not be issued until the Commission has filed its decision. If the Commission denies a request, the decision shall be binding on the Building Official and building permits shall not be issued for the denied work items. A denial decision shall be accompanied with a notice that an application may be resubmitted for Commission review when suggested changes have been made. The denial shall also include notification of the applicant's rights of appeal to the State Historic Preservation Review Board within 60 days of being furnished the Commission's decision, and upon exhausting that right to appeal, to the circuit court. The failure of the Commission to act within 60 calendar days after the date the Building Official submits an applicant's documentation with the Commission, unless an extension is agreed upon in writing by the applicant and the Commission and submitted to the Building Official, shall be considered to constitute approval by the Commission and the Building Official shall process the application and may issue a permit if all other requirements have been satisfied.

Sec. 4-033. Activities exempt from Commission review.

Alterations, relocation, or demolition of a building in the district is exempt from Commission review if any of the following conditions prevail:

(a) The building is declared a dangerous building in accordance with Article VIII of this Chapter.

(b) The building is a deterrent to a major improvement program implemented by the Township, County, State, or Federal government.

(c) Retention of the building in its current location would result in the loss of the building from neglect due to financial hardship to the owner and relocation will result in preservation.

(d) Exterior alterations will result specifically in a change of color only.

Sec. 4-034. Preservation standards and guidelines.

In reviewing plans, the Commission shall follow the United States secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67. The Commission shall also consider all of the following:

(a) The historical or architectural value and significance of the building and its relationship to the historical value of the surrounding area.

(b) The relationship of the exterior architectural features of such building to the rest of the building and the surrounding area.

(c) The general compatibility of exterior design, arrangement, texture and materials proposed to be used.

(d) Other factors, such as aesthetic value, that the Commission finds relevant.

(*CHAPTER 4, ARTICLE II cont.*)

Sec. 4-035. Ordinary maintenance and repair.

Nothing in this Article shall be construed to prevent ordinary maintenance or repair of any building within the historic district under a permit issued by the Building Official.

(Comp. Ords. 1986, § 22.127)

Sec. 4-036. Rules of the historic district Commission; quorum.

The historic district Commission shall elect from its membership a chairperson, a vice-chairperson, and a secretary. The term of each officer shall be one (1) year. The Commission shall adopt rules for the transaction of business and shall keep a public record of its resolutions, transactions, findings, and determinations. At least four (4) members of the Commission shall constitute a quorum for the transaction of its business. All meetings of the Commission shall be conducted in accordance with Public Act 267 of 1976, the Open Meetings Act. The concurring affirmative vote of four (4) members of the Commission shall constitute approval of plans before it for review, or for the adoption of any resolution, motion or other action of the Commission.

(Comp. Ords. 1986, § 22.118)

Sec. 4-037. Appeals.

An appeal by an applicant of a Commission decision to the State Historic Preservation Review Board in accordance with Public Act 169 of 1970, the Local Historic Districts Act, must be filed within 60 days of the applicant being furnished the decision. Appeals to the circuit court allowed by the Local Historic District Act must be filed within the time required by the applicable Michigan Court Rules or applicable law.

Sec. 4-038. Violation of this article.

Violations of this Article are a civil infraction punishable as provided in Section 1-010(b) of this Code.

Secs. 4-039--4-050. Reserved.

ARTICLE III STATE CONSTRUCTION CODE*

_____

***Cross references:** Fire prevention code, § 7-26 et seq.*

_____

Sec. 4-051. Short title.

This article shall be known and cited as the "State Construction Code Ordinance." It shall be deemed sufficient in any action for enforcement of the provisions of this article to define the same by such title and reference to the number hereof.

(Comp. Ords. 1986, § 17.001)

Sec. 4-052. Purpose.

The purpose of this article shall be:

(a) To accept and provide for the Township's administration and enforcement of the Stille-DeRossett-Hale Single State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, MCL 125.1501 -MCL 125.1531, referred to in this article as the "Act" ,and the state construction code promulgated under the Act, referred to in this article as the "Code.".

(b) To provide for the number and terms of a construction board of appeals.

(c) To provide for and establish reasonable fees to be charged for acts and services performed in the administration and enforcement of the Act and Code and for the Township's construction board of appeals.

(d) To provide penalties for any and all violations of this article.

(Comp. Ords. 1986, §§ 17.002--17.005)

(*CHAPTER 4, ARTICLE III cont.*)

Sec. 4-053. Nature and description of Act and Code.

(a) Since amendments of the Act in 1999, the Act and Code promulgated under the Act apply throughout the State and may not be amended by a governmental subdivision. The Township accepts and assumes responsibility for the administration and enforcement of the Act and Code within the political boundaries of the Township

(b) The State construction code ("Code"), which is prepared, promulgated, and periodically updated as provided in the Act, is to consist of the International Residential Code, the International Building Code, the International Mechanical Code, the International Plumbing Code, the International Existing Building Code, and the International Energy Conservation Code published by the International Code Council, and the National Electric Code published by the National Fire Prevention Association, with amendments, additions, or deletions as the director of the State Department of Licensing and Regulatory Affairs determines appropriate.

(Comp. Ords. 1986, § 17.006; Ord. of 7-8-2002)

Sec. 4-054. Enforcing agency designated.

The Building Official is hereby designated as the enforcing agency to discharge the responsibilities of the Township under the Act.

(Comp. Ords. 1986, § 17.007)

Sec. 4-055. Fees.

(a) By resolution, the Township Board shall establish reasonable fees to be charged and collected by the Township for acts and services performed in the administration and enforcement of the Act and Code, which shall bear a reasonable relation to the cost, including overhead, of doing so, which shall only be used for the Township enforcing agency's operation and/or the Construction Board of Appeals, and may be established in a schedule of fees, charges, and expenses for all matters pertaining to this article, which may include but are not limited to:

(1) Construction permit fees, including for building, plumbing, electrical, mechanical and any other individual permits issued for work that is not covered by the main building permit.
(2) Demolition permit fees.
(3) Construction inspection and re-inspection fees.
(4) Building relocation fees.
(5) Engineering review fees.
(6) Plan and specification examination and review fees.
(7) Permanent and temporary certificate of use and occupancy fees.
(8) Fees for costs incurred in Building Official determinations.
(9) Fees for time involved in enforcement actions.
(10) Construction Board of Appeals hearing fees.

(b) The schedule of fees shall be posted and available for inspection by and distribution to the public in the office of the Building Official.

(Comp. Ords. 1986, §§ 17.008--17.011; Ord. of 6-12-1989(5), § 1)

Sec. 4-056. Construction Board of Appeals.

The Construction Board of Appeals required by the Act shall consist of five (5) members appointed by the Township Supervisor and approved by the Township Board for terms of three (3) years, with initial appointments allowed to be for less than three (3) years to provide for the staggering of terms.

Sec. 4-056. Violations and sanctions.

Violation of the Act or Coded, is a civil infraction punishable as provided in Section 1-010(b) of this Code, with the Township entitled to retain any civil fines imposed.

(Ord. of 7-8-2002)

(*CHAPTER 4, ARTICLE III cont.*)

Secs. 4-057--4-075. Reserved.

ARTICLE IV RESERVED*

**Editor's note:* *An ordinance of July 8, 2002, repealed art. IV, §§ 4-86--4-89, and 4-101--4-118, in its entirety. Former art. IV pertained to electrical regulations, and derived from ordinances of February 12, 1996; January 11, 1999; and May 30, 2001. This Article is currently reserved for future use.*

Secs. 4-076--4-150. Reserved.

ARTICLE V PROPERTY MAINTENANCE CODE*

Sec.4-151. Adoption of Property Maintenance Code.

The *International Property Maintenance Code*, 2009 edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code and ordinance of the Township, with the insertions and amendments specified in sections 4-152, 4-153, and 4-154 of this article. Printed copies of such code shall be kept in the office of the Township Clerk and be made available for inspection by the general public at all times that office is open. Complete or partial copies of such code are available for distribution to the public upon requests and payment to the Township of its labor and material costs and/or costs to obtain the copy of or copying rights for the requested material from the International Code Council if required by law.

Sec.4-152. Insertions.

The following sections of the Property Maintenance Code are completed by inserting the following information where indicated in said Code:

101.1 Insert "Charter Township of Waterford ("Township")" as the Name of Jurisdiction.

103.5 Insert "Fee Schedule adopted by Resolution of the Township Board."

112.4 Insert a minimum fine of $200.00 and a maximum fine of $500.00.

302.4 Insert ten inches (10") as the maximum allowed height of weeds and plants.

304.14 Insert April 1 to October 31 as the dates for insect screens to be supplied.

602.3 Insert October 15 to May 15 as the dates for heat to be supplied.

602.4 Insert October 15 to May 15 as the dates for heat to be supplied.

Sec.4-153. Amendments.

(a) Sections 103.1, 106.1, 106.3, 106.4, 109.5, and 111.2 of the Property Maintenance Code are hereby amended to read as follows:

103.1 General. The Township Building Official is designated as the code official for purposes of administering and enforcing this code.

(*CHAPTER 4, ARTICLE V, SECTION 4-153 cont.*)

106.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to be in conflict with or in violation of any of the provisions of this code by action or omission, or directing, authorizing, allowing, or directly or indirectly causing such conflict or violation.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed responsible for a municipal civil infraction, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official may institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure or premises in violation of the provisions of this code or of the order or direction made pursuant thereto. The cost of any action authorized or ordered by the court in such a proceeding and undertaken by the Township shall be charged against and secured by a lien upon the real estate upon which the violation is located and may be assessed and collected on the tax rolls in the same manner and with the same interest and penalties as delinquent special assessments or as otherwise provided in Chapter 1 of the Township Code.

106.4. Violation penalties. Any person, firm or corporation who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be responsible for a civil infraction punishable as provided in Section 1-010(b) of the Township Ordinance Code. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense. A violation of any of the provisions of this code is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

109.5. Costs for emergency repairs. Costs incurred in the performance of emergency work shall be the responsibility of the owner of the premises where the unsafe structure is or was located, and if paid by the Township, shall be reimbursed by the owner within 30 days of the Township's billing for those costs, with the payment of that reimbursement secured by a lien on the real estate that may be assessed and collected as provided in Section 106.3.

111.2 Membership of board. The Board of Appeals shall be the Township Construction Board of Appeals, established and appointed as provided in Article III of Chapter 4 of the Township Ordinance Code.

(b) Sections **108.2 and 109.2** of the Property Maintenance Code are amended to add the following at the end of each Section.

"The following standards shall be the minimum boarding and enclosing standards required by code official orders under this Section:

(1) All windows and other openings of the building or structure shall be boarded up utilizing one-half-inch exterior plywood or oriented strand board (OSB), bolted through two-by-fours which cross the interior of the opening.

(2) Such plywood or OSB and two-by-fours shall extend three (3) inches beyond the opening on all sides.

(3) Doors shall be subject to the same requirements except that three-quarter-inch exterior plywood with concealed hinges with a hasp and lock on all doors shall be required.

(*CHAPTER 4, ARTICLE V, SECTION 4-153 cont.*)

(4) All exterior surfaces of plywood, OSB, and other wood used in boarding up an opening shall be protected from deterioration by the elements, and shall be painted or otherwise made to look like what was previously in the opening being covered, such as a window or door, or to match the color of the wall or roof around the opening being closed.

(5) Emergency or temporary exterior boarding of doors, windows, or other openings in a roof or wall shall not be allowed for longer than three (3) months.

(6) Vacant structures may only be boarded on the interior with materials that are painted or otherwise treated so as to not be visible from the exterior.

(c) **Sections 111.2.1, 111.2.2, 111.2.3, 111.2.4 and 111.2.5** of the Property Maintenance Code are deleted.

(d) **Section 302.4, Weeds**, of the Property Maintenance Code is amended to add the following sentence at the end of the Section.
"All excessive weed and plant growth and noxious weeds in violation of this section are subject to separate proceedings and penalties as provided in Article V of Chapter 9 of the Township Ordinance Code."

Sec.4-154. Referenced Codes.

(a) References to the International Building, Existing Building, Fuel Gas, Mechanical and Plumbing Codes, and the list of those ICC Codes in Chapter 8 of the Property Maintenance Code are amended to refer to the versions of those codes that are part of the State Construction Code that is administered and enforced in the Township as provided in Article III of Chapter 4 of the Township Ordinance Code.

(b) References to the International Fire Code in the Property Maintenance Code are amended to refer to the Fire Prevention Code adopted in Article II of Chapter 7 of the Township Ordinance Code.

(c) References to the International Zoning Code in the Property Maintenance Code are amended to refer to the Township Zoning Ordinance.

Secs. 4-155--4-175. Reserved.

ARTICLE VI VACANT PROPERTY REGISTRATION AND MAINTENANCE

Sec. 4-176. Purpose.

The purpose of this article is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring safe and sanitary maintenance of dwellings, commercial and industrial buildings. Due to economic conditions, mortgage fraud, foreclosures and increased bankruptcies, many homes and buildings have become vacant and unsupervised. This has caused properties to become attractive nuisances for minors and criminal activity. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are deterred by the presence of nearby vacant abandoned buildings. There is an increased instance of unsecured or open doors and windows, broken water pipes, theft of metals and other materials, overgrowth of grass, weeds, shrubs and bushes, illegal dumping and rat and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and commercial areas. Further, it is important for the Township to be able to contact owners of vacant properties for fire safety and police purposes.

(*CHAPTER 4, ARTICLE VI cont.*)

Sec. 4-177. Scope.

The provisions of this article shall apply to all residential, commercial and industrial structures and all vacant land.

Sec. 4-178. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, as used in this Article the following words and phrases shall have the meanings indicated:

Abandoned vacant property means a vacant property as defined in this section that has been vacant for thirty (30) days or more and meets any of the following criteria:

(a) Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity;
(b) Has one (1) or more broken or boarded windows;
(c) Has taxes in arrears for a period of time exceeding three hundred sixty-five (365) days;
(d) Has utilities disconnected or not in use;
(e) Is not maintained in compliance with this Code, including without limitation, other building and building regulations in this Chapter 4, the fire prevention code in article II of chapter 7 and the waste materials, rodent and pest, and vegetation control regulations in Articles III, IV, and V of Chapter 9;
(f) Is only partially completed and is not fit for human occupancy.

Building means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.

Evidence of vacancy means any condition that on its own or combined with other conditions present ,would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, broken or boarded up windows, abandoned vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with habitation or occupation, statements by neighbors, passersby, delivery agents or government employees that the property is vacant.

Foreclosure means the process by which a mortgage is enforced against a parcel of real property through sale or offering for sale to satisfy the debt of the trustor (borrower).

Mortgage means a recorded lien or interest in real property to secure payment of a loan.

Owner means a person having a legal or equitable title or any interest in any real property.

Structure means anything constructed or erected the use of which requires location on or attachment to the ground and includes buildings.

Trustee means a person, firm or corporation holding a mortgage on a property.

Trustor means a borrower under a mortgage, who grants a lien or interest in property to a trustee as security for the payment of a debt.

Vacant property means an unimproved lot or parcel of real property that is not currently used or occupied and an improved lot or parcel of real property with at least one (1) building or structure that is not currently used or occupied.

Sec. 4-179. Registration of vacant and abandoned vacant property.

(a) An owner of a vacant property in the township shall be responsible for registering that property with the Township by complying with the affidavit and registration and inspection fee requirements in this article within the times in this section.
(b) A vacant property shall be registered within sixty (60) days of the vacancy.
(c) An abandoned vacant property shall be registered within thirty (30) days of the vacancy or ten (10) days of the inspection described in section 4-183.
(d) Commercial structures that are vacant at the time this article takes effect shall be registered within thirty (30) days of that date.

(*CHAPTER 4, ARTICLE VI cont.*)

Sec. 4-180. Registration affidavit.

Owners who are required to register their properties pursuant to this article shall do so by submitting a copy of a driver's license and an affidavit containing the information specified in this section. The affidavit may be provided by an agent for an owner provided the agent's written authorization from the owner is provided with the affidavit.

(a) The name of the owner of the property.

(b) A mailing address where mail may be sent that will be acknowledged as received by the owner. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed" or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

(c) The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be someone other than the owner with whom he/she has contracted.

(d) A current address, telephone number, facsimile number and email address where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property. If certified mail return receipt requested is sent to the address and the mail is returned marked refused or unclaimed, or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

Sec. 4-181. Registration, inspection and other fees.

All fees applicable to this article shall be set by resolution of the Township Board. Registration and inspection fees shall be paid at the time of submitting the registration affidavit. There shall also be a fee for the filing of any additional or new owner's affidavit, with such fee being set by resolution of the Township Board. For properties that are not registered within the required time, an additional fee for the added cost of the Township's expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable. The payment of all fees required under this article is secured by a lien against the property which may be placed on the tax roll for collection which shall be effective upon recording with the register of deeds and shall be collected by the Assessing Official in the same manner as provided for property tax liens under the general property tax act, MCL 211.1 – MCL 211.157.

Sec. 4-182. Requirement to keep information current.

If at any time the information contained in the affidavit is no longer valid, the property owner has ten (10) days to file a new affidavit containing current information. There shall be no fee to update a registered owner's current information.

Sec. 4-183. Inspections.

(a) If the vacant property includes vacant or unoccupied buildings, the owners of that property are also responsible for immediately obtaining and paying for the township's safety and maintenance inspection of the building and property, obtaining necessary permits, making required repairs and obtaining inspections from the township annually thereafter until a certificate of occupancy has been issued and the building is lawfully occupied, to ensure the buildings are safe, secured and well-maintained. The owner or the owner's agent shall demonstrate that all water, sewer, electrical, gas, HVAC and plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings and structures, roofing, structural systems, foundation, drainage systems, gutters, doors, windows, parking areas, signage, driveway aprons, service walks, sidewalks and other public areas are sound, operational or properly disconnected. No certificate of occupancy will be issued until all Code requirements are met.

(b) Any trustee who holds a mortgage on a property located within the township, shall perform an inspection, to the extent permitted by law or under the mortgage of the property that is the

(*CHAPTER 4, ARTICLE VI, SECTION 4-183 cont.*)

security for the mortgage, upon default by the trustor, within five (5) days after either the filing of a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement). If the property is found to be vacant or shows evidence of vacancy, it is, by this article, deemed abandoned and the trustee shall, within ten (10) days of the inspection, register the property in accordance with this article and be subject to the provisions of this article.

Sec. 4-184. Maintenance and security requirements.

All owners are responsible for compliance with the requirements of this section, which apply to all vacant property from the time of vacancy, including the time between vacancy and when registration is required.

(a) Property shall be kept free from weeds, grass more than ten (10) inches high, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded items, including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials or any other items that give the appearance that the property is abandoned.

(b) Property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(c) All visible front, rear and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, groundcovers, bushes, trees, shrubs, hedges or similar plantings. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscaping and removal of all trimming.

(d) Pools, spas and other water features shall be kept in working order so that the water remains clear and free of pollutants and debris or drained and kept dry and free of debris. In either case, properties with pools and/or spas must comply with the minimum security fencing and barrier requirements of applicable construction, building and property maintenance codes and ordinances.

(e) Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors, gates and any other opening of such size that may allow a child to access the interior of the property and/or structures. Broken windows must be repaired or replaced within fourteen (14) days. Boarding up of open or broken windows is prohibited except as a temporary measure, with any other boarding to only be done on the interior with materials that are painted or otherwise treated so as to not be visible from the exterior of the structure.

(f) Owners shall inspect or cause the inspection of vacant property on a weekly basis to verify compliance with this section and other applicable laws and shall contract with a local property management company if necessary to performance of the weekly inspections to verify that the requirements of this section and any other applicable laws are being met. The property shall be posted with name and a twenty-four-hour contact telephone number of a property management company located within thirty (30) miles of the subject property. The posting shall be no less than eighteen (18) inches x twenty-four (24) inches and shall be of a 72-point Arial font and shall contain, along with the name and twenty-four-hour contact number, the words: "THIS PROPERTY MANAGED BY AND TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street or secured to the exterior of the building structure facing the street to the front of the property so that it is visible from the street, or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property, but not readily accessible to vandals. The local property management company shall inspect the property at least on a weekly basis to determine if the property is in compliance with the requirements of this section, shall create and maintain a written record of the inspections and provide written notice to the owner, any person registered as responsible for the care and control of the property and township of any areas of noncompliance.

(*CHAPTER 4, ARTICLE VI, SECTION 4-186 cont.*)

Sec. 4-185. Fire damaged property.

If a building is fire damaged, the owner has 90 days from the date of the fire to apply for a permit to start construction or demolition. Additional 90 day extensions may be granted by the Township Board provided the owner can demonstrate substantial progress towards completing repairs. Failure to do so will result in the property being deemed vacant and subject to the requirements of this article.

Sec. 4-186. Right of entry.

If the owner has failed to secure a property and it has been secured by the Township, the Township and/or its contracted agent, may enter or re-enter the structure to conduct necessary inspections to assure compliance with the requirements of this Code and to determine if there are emergency or hazardous health and safety conditions in existence.

Sec. 4-187. Re-occupancy.

A vacant or unoccupied building or structure on vacant property shall not be occupied until a certificate of occupancy has been issued by the Building Official and all violations have been corrected in accordance with the applicable requirements of the state construction code administered and enforced under Article III of this Chapter, the property maintenance code adopted under Article V of this Chapter, the fire prevention code adopted under Article II of Chapter 7 of this Code, and other applicable provisions of this Code. All mechanical, electrical, plumbing and structural systems shall be certified by a licensed contractor as being in good repair. In addition, a certificate of occupancy shall not be issued until all outstanding costs, assessments and/or liens owed to the township have been paid in full.

Sec. 4-188. Violation and penalty.

Violations of this article are civil infractions punishable as provided in Section 1-010(b) of this Code.

Secs. 4-189--4-205. Reserved.

ARTICLE VII RESERVED*

***Editor's note:** An ordinance of July 8, 2002, amended the Code by repealing former art. VII, §§ 4-206--4-210. Former art. VII pertained to the plumbing code, and derived from the Compiled Ords. Of 1986, §§ 18.281 and 18.285--18.287; and ordinances of April 12, 1999; and June 12, 1989. This Article is currently reserved for future use.*

Secs. 4-206--4-230. Reserved.

(*CHAPTER 4 cont.*)

ARTICLE VIII DANGEROUS BUILDINGS

Sec. 4-231. Short title.

This article shall be known and cited as the "Dangerous Building Ordinance." It shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such title and reference to the number hereof.

(Comp. Ords. 1986, § 18.251)

Sec. 4-232. Purpose.

The purpose of this article is to:

(a) Define and prohibit dangerous dwellings, buildings, and structures within the Township.
(b) Provide for notice and hearing on rendering the building safe.
(c) Provide for a proper method of rendering the building safe and taxing cost thereof to the property.
(d) Provide for judicial review of the action of the Township.

(Comp. Ords. 1986, § 18.252)

Sec. 4-233. Definition.

As used in this article, "dangerous building or structure" means any building or structure which has any of the following defects or is in any of the following conditions:

(a) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the Township, it shall be considered that such dwelling does not meet the requirements of this article.
(b) Whenever any portion has been damaged by fire, wind, flood or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of this article or building code of the Township for a new building or similar structure, purpose or location.
(c) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
(d) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to wind than is required in the case of new construction by the building code of the Township.
(e) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal of movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.
(f) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.
(g) Whenever the building or structure has been so damaged by fire, wind, or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts, or for use as a public nuisance, or other hazard to the public health, safety and welfare.
(h) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, or is in a condition that is likely to cause sickness or disease when so determined by the designated administrative officer, or is likely to work injury to the health, safety or general welfare of those living within.
(i) Whenever any building becomes vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(Comp. Ords. 1986, § 18.254)

(*CHAPTER 4, ARTICLE VIII cont.*)

Sec. 4-234. Prohibition.

It is unlawful for any owner, lessee, or agent in possession or control of property to keep, maintain, or allow a dangerous building or structure on that property.

(Comp. Ords. 1986, § 18.253)

Sec. 4-235. Notice of dangerous and unsafe condition; filing with register of deeds.

(a) Notwithstanding any other provision of this article when the whole or any part of any building or structure is found to be a dangerous building or structure the Building Official shall issue a notice of the dangerous building or structure.

(b) Such notice shall be directed to each owner of and party in interest in whose name the property appears on the last local tax assessment records.

(c) The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the persons to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

(d) A Hearing Officer shall be appointed by the Township Board to serve at its pleasure. The Building Official shall file a copy of the notice of the dangerous and unsafe condition with the Hearing Officer.

(e) All notices shall be in writing and shall be served upon the person to whom they are directed personally or by certified mail, return receipt requested, to the address shown on thetax records, and by first class mail, at least ten (10) days before the date of the Hearing described in the notice and shall be posted upon a conspicuous part of the building or structure.

(f) The Building Official shall cause to be prepared and filed with the register of deeds a notice of commencement of administrative proceedings under this section, which shall serve as notice to all interested parties of the dangerous building proceedings.

(Comp. Ords. 1986, §§ 18.255--18.259; Ord. No. 3-27-1995)

Sec. 4-236. Conduct of hearings; cost assessed against property.

(a) The Hearing Officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than five (5) days after completion of the hearing, the Hearing Officer shall render his decision that shall include findings and an order either closing the proceedings or for the building or structure to be demolished or otherwise made safe. The findings and order shall be included in a single document, which upon being signed by the Hearing Officer shall be shall be served on the same persons and posted in the same manner as provided in subsection 4-235(e).

(b) A Hearing Officer order that the building or structure should be demolished or otherwise made safe shall specify the required action, fix a time for the owner, agent or lessee to comply, which may include deadlines for commencement and completion of the required action, and shall include provisions for filing with and enforcement by the Township Board if it is not complied with.

(c) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the Hearing Officer's order, it shall be filed with the Township Board by delivery to the Township Clerk and serve as the Hearing Officer's request that the Township Board take the necessary action to enforce the order.

(d) Upon the filing of the Hearing Officer's order under subsection (c), the Township Clerk shall schedule a date, time and place for a hearing by the Township Board to review the findings and order of the Hearing Officer, and shall give notice of the hearing to the same persons and in the same time and manner as provided in subsection 4-235(e). At the hearing, any person to whom the notice was given or that is described in Section 4-234 shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe. After completion of its hearing, which may be adjourned from time to time, the

(*CHAPTER 4, ARTICLE VIII, SECTION 4-236* cont.)

Township Board shall make a decision and order that approves, disapproves, or modifies the Hearing Officer's order.

(e) A Township Board decision and order under subsection (d) shall be effective as of the date of the hearing at which it is made, and after being placed in written form and certified by the Township Clerk as the decision and order of the Township Board, shall be served on the same persons and posted in the same manner as provided in subsection 4-235(e), and be recorded with the register of deeds.

(f) All costs and expenses reasonably and necessarily incurred by the Township in connection with investigations, notices, hearings, proceedings, temporary and emergency measures, and the enforcement or implementation of Hearing Officer and/or Township Board orders shall be the joint and several responsibility of all persons identified in Section 4-234, which shall be paid to the Township within 30 days of the Township's first class mailing of a billing for those costs and expenses to the responsible persons at their addresses shown on the tax/assessment records and any other addresses shown on Township records. As security for payment of any of those costs that are not paid within that time, the Township shall have a lien against the real property which shall be effective upon recording with the register of deeds and shall be collected by the Assessing Official in the same manner as provided for property tax liens under the general property tax act, MCL 211.1 – MCL 211.157.

Reasonable and necessary costs and expenses include, but are not limited to, the following:

(1) Actual expenses and costs of the Township for photographs, publication, mailing and title history reports.
(2) Actual Hearing Officer charges on those cases in which the buildings are not made safe or demolished prior to the hearing.
(3) An administrative fee of one hundred dollars ($100.00) in all cases where a notice is issued under Section 4-235.
(4) The cost of preparing, mailing, posting, recording, and discharging notices and orders.
(5) Fees and charges for recording and transcription of hearings.
(6) Costs of demolition or making of the building(s) or structure(s) safe.
(7) Costs of temporary or emergency measures taken by the Building Official to board-up or otherwise make the building(s) or structure(s) safe pending the hearing on, or disposition of, the dangerous building petition.

The Building Official shall prepare a statement of the costs and expenses to be included on or provided with the Township's billing described above, and shall have the authority to equitably allocate and pro-rate the expenses of the Hearing Officer and the costs of recording and transcription of the hearings at which more than one (1) case is heard.

(Comp. Ords. 1986, §§ 18.260--18.265; Ord. No. 3-27-1995; Ord. of 6-8-1998)

Sec. 4-237. Temporary or emergency measures by the Township.

In accordance with the Property Maintenance Code adopted in Article V of this Chapter, the Building Official shall have the authority to order and implement temporary or emergency measures to close, board-up, or otherwise safeguard dangerous buildings or structures, including the retention of private contractors, with all costs incurred in doing so recoverable as provided in the Property Maintenance Code, Section 4-236, and/or as provided in Chapter 1 of this Code

(Comp. Ords. 1986, § 18.266; Ord. of 3-27-1995)

Sec. 4-238. Violations; Civil infractions.

Violation of Section 4-234 and failure to comply with a Hearing Officer order or Township Board order under Section 4-236 is each a civil infraction punishable as provided in Section 1-010(b) of this Code. In the event the Building Official issues an order under Section 4-237, the minimum boarding and enclosing standards in the Property Maintenance Code shall be complied with.

(Comp. Ords. 1986, § 18.267)

(*CHAPTER 4, ARTICLE VIII cont.*)

Sec. 4-239. Review.

An owner aggrieved by any final decision or order of the Township Board under subsections 4-236(d) and (e), may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.

(Comp. Ords. 1986, § 18.268)

ARTICLE IX RENTAL CERTIFICATION

Sec. 4-240. Short title.

This Article shall be known and cited as the "Rental Certification Ordinance."

(Ord. of 7-12-2010)

Sec. 4-241. Purpose.

The Charter Township of Waterford recognizes the importance to the general health, safety and welfare of all of its citizens including its citizens who rent residential rental buildings. The Charter Township of Waterford therefore also recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental buildings and residential rental units in the Township. This ordinance is designed to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property value of all properties, and to reduce the causes of blight and other deleterious factors affecting neighborhoods. This Ordinance is designated as “interim” for the reason that a comprehensive update of the Code of Ordinances will be adopted in the near future.

(Ord. of 7-12-2010)

Sec. 4-242. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following words and phrases shall have the following meanings:

Certification A certificate issued by the Charter Township of Waterford which certifies compliance with this ordinance and the date of such certification.

Housing and building codes The Fire Prevention Code adopted in Article II of Chapter 7 of this Code, the State Construction Code described in Article III of this Chapter, the Property Maintenance Code adopted in Article V of this Chapter, and any other standards of construction and maintenance for residential property in general and residential rental property in particular, as may be adopted in another Article of this Chapter.

Inspection guidelines Those guidelines as adopted by a Township Board resolution and based on the housing and building codes to be used by the Building Official in conducting inspections and setting forth the minimum requirements for residential rental units under this Article.

Lease Any written or oral agreement by or on behalf of an owner that allows the use and occupancy of property by one or more persons.

Manager A person that actively operates or manages a residential rental building for the owner.

Occupants Tenants, lessees and/or other persons lawfully residing in a residential rental building or residential rental unit.

Owner Any person having a legal or equitable interest in a residential rental building or a residential rental unit.

Premises Any zoning lot or parcel of land that includes a residential rental building or a residential rental unit.

Rent Shall include let, lease, barter, or any other arrangement whereby one person pays or provides, or agrees to pay or provide, money or other consideration to another in exchange for the right to use and occupy property for any period of time.

(*CHAPTER 4, ARTICLE IX, SECTION 4-242 cont.*)

Residential rental building Any building that contains one or more residential rental units.

Residential rental unit Any apartment, room, dwelling unit, house, condominium unit, or portion thereof that is used, offered, or made available for use and for which there is rent or a lease. This definition includes one and two-family dwellings, multiple and multi-family dwellings, apartment units, and flats. This definition does not include hotels and motels as defined by the Township Zoning Ordinance and licensed and inspected by the State of Michigan. Nor does this definition apply to owner-occupied single family homes where the owner, through a vacation home exchange program, or an occasional seasonal rental, vacates the home entirely and permits an exchange or seasonal rental family to occupy the premises on a short-term stay.

Tenant An individual person that is a party to a lease with or for an owner, that allows the tenant to use and occupy property.

To secure As used in this ordinance, "to secure" shall mean to board up all windows and doors in accordance with the Property Maintenance Code adopted in Article V of this Chapter, thereby making the premises inaccessible by anyone other than the owner or Township inspection personnel.

(Ord. of 7-12-2010)

Sec. 4-243. Registration required.

The owner of a residential rental building shall register that building and each residential rental unit contained within that building with the Township Building Official and shall designate a responsible local agent as provided in Section 4-244 for each residential rental unit to be responsible for providing access to such premises for inspections under this Article. A "certification" shall not be issued unless an applicant complies with the registration provisions of this ordinance.

(Ord. of 7-12-2010)

Sec. 4-244. Responsible local agent.

The responsible local agent shall be an individual person who, subject to the rights of occupants, can and shall provide access to the residential rental unit for a Township inspection upon 24 hours verbal, written, or email notice. The responsible local agent may also be designated by the owner as legally responsible for operating and maintaining such premises. The owner may act as the responsible local agent if the owner can and does provide access within the time allowed. All official notices of the Township shall be issued to any designated responsible local agent, and if that agent has been designated by the owner as responsible for operating and maintaining the premises, any notice so issued shall be deemed to have been issued upon the owner or owners of record.

(Ord. of 7-12-2010)

Sec. 4-245. Period for registration of residential rental buildings.

Residential rental buildings required to be registered pursuant to this Article shall comply with the following provisions:

(a) All newly constructed residential rental buildings shall be registered prior to the issuance of the certificate of occupancy by the Township;

(b) A residential rental building which is sold, transferred, or conveyed shall be re-registered by the new owner within 30 days of the date of the deed, land contract, or other instrument of conveyance;

(c) All existing non-rental dwellings which are converted to residential rental buildings shall be registered, inspected, and certified prior to the date on which the property is first occupied for rental purposes.

(Ord. of 7-12-2010)

Sec. 4-246. Registration forms and fee.

(a) Applications for registration shall be made in such form and in accordance with such instructions as may be provided by the Building Official and shall include at least the following information:

(*CHAPTER 4, ARTICLE IX, SECTION 4-246* cont.)

(1) The name, address, telephone number and any email address of the applicant.
(2) The names, addresses, telephone numbers, and any email addresses of all owners of the residential rental building.
(3) The name, local address, telephone number, and any email address of the responsible local agent.
(4) The number of residential rental buildings at each site, the number of residential rental units in each residential rental building, and the address and number of occupants in each residential rental unit.
(5) If the owner is not serving as the responsible local agent, an authorization appointing a responsible local agent signed by both the owner and the responsible local agent that indicates if the agent is legally responsible for operating and maintaining the premises.

(b) A registration fee for each residential rental unit within a residential rental building shall be paid at the time of registration. No post office boxes will be accepted as a legal address for a person for purposes of notices under this Article unless a home address for that person is also provided. Upon registration, the Building Official shall inform applicants of certification requirements. The fee for each registration shall be as established by resolution of the Township Board, as amended. The owner shall be responsible for notifying the Township of any change of address of either the owner or the responsible local agent.

(Ord. of 7-12-2010)

Sec. 4-247. Registration term and renewal.

Registration shall be made prior to the use or occupancy of all or any part of a building or structure as a residential rental building or residential rental unit except as otherwise provided by this Article. The term of the registration shall be valid as long as ownership remains unchanged.

(Ord. of 7-12-2010)

Sec. 4-248. Transfer of ownership.

It shall be unlawful for the owner of any residential rental building or residential rental unit who has received a notice of violation of any code or ordinance of the Township (including notices that the number of residential rental units exceeds that permitted by the Township Zoning Ordinance) to transfer, convey, lease or sell (including by land contract) an ownership and/or other interest in the building or unit in any way to another, unless such owner shall have first furnished to the grantee, lessee, vendee, or transferee a copy of any notice of violation and shall have furnished to the Building Official a signed and notarized statement from the grantee, vendee, lessee, or transferee acknowledging the receipt of such notice of violation and acknowledging legal responsibility for correction of the violation.

(Ord. of 7-12-2010)

Sec. 4-249. Certification required.

(a) No person shall lease, rent or cause to be occupied a residential rental building or residential rental unit unless there is a valid certification issued by the Township in the name of the owner and issued for the specific residential rental building and each residential rental dwelling unit. The certificate shall be issued after an inspection by the Building Official which may include building, mechanical, property maintenance, electrical, plumbing, and fire safety inspections (in instances where the Fire Chief has jurisdiction) to determine that each rental building and rental dwelling unit complies with the housing and building codes. Such inspections shall commence after the effective date of this ordinance and shall continue until all residential rental buildings and all residential rental units in the Township have been inspected. A certification may be issued for the following maximum period: Existing one and two-family dwelling units –four (4) year certificate; Existing multi-family dwelling (3 or more dwelling units) -three (3) year certificate.

(*CHAPTER 4, ARTICLE IX, SECTION 4-249* cont.)

(b) The Township will issue a certification valid for those years if the Building Official determines during the inspection that:
(1) Any deficiencies discovered during previous inspections of the rental unit have been corrected; and
(2) There are no major violations of the inspection guidelines for rental dwellings (major violations are those violations which create a risk to the health, safety or welfare of occupants).
However, a residential rental unit located in a multi-family residential rental building will receive certification only if all other occupied residential rental units within the residential rental building have a valid certification or are also entitled to receive a certification.

(c) If a residential rental unit does not satisfy the criteria set forth in subsection (b), the Township will not issue a certification.

(d) Notwithstanding the language in subsection (c), the Building Official shall have the discretion to waive compliance with the criteria set forth in subsection (b) upon determining:
(1) A waiver of such criteria will not endanger the health, safety or welfare of occupants; and
(2) The owner of the rental unit has demonstrated a history of compliance with the Township's inspection guidelines for residential rental buildings and units.
(Ord. of 7-12-2010)

Sec. 4-250. Applicability to existing residential rental buildings.

(a) This ordinance applies to all residential rental buildings and residential rental dwelling units within the Township existing on the effective date of this ordinance and to those subsequently constructed or created. For residential rental buildings and residential rental dwelling units existing on the effective date of this ordinance which have been registered in accordance with the provisions of this ordinance, the prohibitions against leasing, renting and occupying contained in Section 4-248 and Section 4-249 shall be inapplicable to such dwellings or units until 60 days after the Township makes its initial inspections of such buildings or dwellings units. This will permit the owner time to make necessary repairs and obtain a certification while maintaining occupancy of the rental unit; provided, however, that if the defects which must be corrected pose an imminent threat to the health, safety and welfare of the occupants, the Building Official shall commence procedures to vacate the dwelling and Section 4-249 prohibiting occupancy shall be immediately applicable.

(b) Any residential rental building which is a new construction or renovation which required a comprehensive inspection comparable to an inspection under Section 4-249(a), and which is issued a certificate of occupancy pursuant to an inspection after the effective date of this ordinance will also be issued a certification simultaneous with the certificate of occupancy and an inspection fee pursuant to Section 4-252 shall not then be required. Residential rental buildings which are new constructions shall comply with registration requirement pursuant to Section 4-245. Newly constructed single and two-family residential rental buildings may be issued a certification valid for six (6) years. Newly constructed multi-family dwelling units may be issued a certificate valid for three (3) years
(Ord. of 7-12-2010)

Sec. 4-251. Periodic Inspections.

(a) The Building Official shall inspect residential rental buildings and residential rental units on a periodic basis pursuant to this Article or under any of the following circumstances:
(1) Upon receipt of a complaint from an owner or occupant that the premises are in violation of this Article.
(2) Upon receipt of a report or a referral from the Police Chief, other public agencies or departments, or any individual indicating that the premises are in violation of this Article and which is based on the personal knowledge of the person making the report.
(3) If an exterior survey of the premises gives the Building Official probable cause to believe that the premises are in violation of this Article.

(*CHAPTER 4, ARTICLE IX, SECTION 4-251 cont.*)

(4) Upon receipt of information by the Building Official that a rental unit is not registered with the Township as required by this Article.

(5) As required for issuance or renewal of certification.

(b) In order to provide for the scheduling of inspections, the owner or local agent of registered residential rental buildings is sent a reminder notice regarding the need to schedule an inspection for the renewal of the certification. Owners of newly registered units must call to schedule their own inspections. If the owner or agent does not respond to the reminder notice, the following will take place:

(1) The Building Official shall notify the owner or local agent of a residential rental building of the date and time such building is to be inspected which shall be at least 14 days after the date of the notice. Such notice maybe personally delivered or maybe sent by first-class mail.

(2) The notice shall require the owner or local agent to either:

(i) Appear at the date and time scheduled for the inspection; or

(ii) Object in writing within ten days of the mailing of the aforementioned notice and:

a. Schedule an alternative date for the appointment within thirty (30) days from the date identified in the initial notice; or

b. Direct the Building Official to contact the tenant of the residential rental unit directly to schedule the inspection and provide all tenant names, the address and telephone numbers.

(3) If an owner, local agent or occupant subsequently learns he or she will not be present for a scheduled appointment, the individual must provide the Building Official with at least 24 hours advance notice and must re-schedule an inspection date within 30 days from the scheduled appointment. Unless a right to deny access exists and has been exercised by a tenant under Section 4-251(c), failure to appear for a scheduled appointment without providing the aforementioned notice shall be a violation of this paragraph and a civil infraction. Failure to appear for a scheduled second inspection date shall be a violation of this paragraph and a civil infraction.

(c) The tenant of a single family dwelling residential rental unit or the tenants of residential rental units in a two-family dwelling may deny access for a rental inspection by completing and submitting an "Access Denied" form to the Building Official within ten (10) days of the notice described in subsection (b)(3). The Access Denied form shall be provided by the Building Official and shall describe the purpose of the requested inspection and contain a statement that by signing and submitting it the tenant assumes all risks of injury and damage from conditions that may not comply with the housing and building codes. If that is done, the residential rental unit shall not be inspected without the tenant's subsequent consent or pursuant to an administrative search warrant. If no such consent or administrative search warrant is obtained the following procedures shall apply and be followed:

(1) The Certification will be pulled and the unit will be placed in an inactive file with a recheck scheduled for one year's time.

(2) In the event that the unit becomes vacant, it is the property owner's responsibility to schedule an inspection and to obtain certification prior to allowing occupancy.

(3) Failure of the owner to arrange for an inspection once the unit becomes vacant is a violation punishable as a civil infraction.

(4) An owner allowing occupancy of a unit without a valid certification after a vacancy is a violation and punishable as a separate civil infraction.

(5) Multi-family buildings (3 or more dwelling units) must be inspected every three (3) years and receive a valid certification.

(d) During the inspection, the Building Official shall note any violations of the housing and building codes and give written notice of any such violations to the owner or local agent and tenant. The owner or local agent shall correct all violations within the time set forth in the notice. A reasonable time for correcting violations shall be determined by the Building Official in light of the nature of the violations and all relevant circumstances, but shall not exceed 60 days. Upon written request of the person responsible for correcting violations, the Building Official may extend the time for correcting violations if the Building Official deems

(*CHAPTER 4, ARTICLE IX, SECTION 4-251 cont.*)

such action appropriate under all relevant circumstances, but not to exceed an additional 60 days.
(Ord. of 7-12-2010)

Sec. 4-252. Fees.

(a) The annual operating fees for periodic inspection of each residential rental building and residential rental dwelling unit and any other fees provided by this ordinance shall be as adopted and/or amended by resolution of the Township Board. The annual operating fee shall cover periodic inspection for the issuance or renewal of a certification, except that such fee shall not cover an inspection made pursuant to a final notice of violation issued under Section 4-254(b).

(b) If the Building Official determines that a complaint was filed without a factual basis, and an inspection is made on the basis of said complaint the fee for such inspection may be charged to the complainant.

(c) An administrative late fee of ten (10%) percent of the unpaid balance shall be paid to the Township by the person obligated to pay an annual operating fee under subsection (a) if such fee is not paid within 60 days from the billing date. After 90 days from the date of billing those fees shall become a lien on the real property and shall be reported to the Assessing Official who shall place the fees on the real estate tax rolls of the property on which the building is located to be collected in the same manner as provided for property tax liens under the general property tax act, MCL 211.1 – MCL 211.157..

(d) The rental inspection program as provided for in this Article shall be operated by the Township on a "break even" basis. This means the fees charged shall be set at a rate to produce sufficient revenue to cover the actual, direct cost of administering the program. In the event the fees as set forth herein or as hereafter amended exceed the actual, direct cost of administering the program, the Township Board, by resolution, shall reduce the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program. If at any time the fees being collected are insufficient to cover the cost of the program, the Township Board, by resolution, shall increase the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program.

(Ord. of 7-12-2010)

Sec. 4-253. Issuance or renewal of certification.

(a) At least 30 but no more than 60 days before the expiration date on the certification issued for a residential rental property, the owner or local agent for the property shall apply to the Township for the scheduling of an inspection for the issuance of a new certification for that residential rental property.

(b) Upon receipt of a timely request for an inspection for the purpose of the issuance or renewal of a certification, the Township shall inspect the premises before the certification expires or is initially issued. Upon failure of the Township to conduct an inspection prior to occupancy or expiration of the certification the owner may rent the property until the Township has conducted an inspection, and the owner will not be deemed in violation of this Article during that time. If, however, the Township's failure to inspect is due to the owner's, local agent's or tenant's action, failure to act, or refusal to permit an inspection after reasonable notice of the intent to inspect, the owner shall not rent the property.

(Ord. of 7-12-2010)

Sec. 4-254. Notices and orders.

(a) Notice of violation. Whenever the Building Official determines that there has been a violation of any provisions of this ordinance, he shall give notice of such alleged violation and orders for correction of violation as hereafter provided except this Section shall not apply in any way to the prosecution of violations of Section 4-251 or violations of the registration

(*CHAPTER 4, ARTICLE IX, SECTION 4-254* cont.)

requirements set forth in the ordinance as such may be prosecuted without notice. Such notice shall:

(1) Be in writing;
(2) Include a statement of the conditions that constitute violations of this Article;
(3) State the date of the inspection, the name of the official who conducted the inspection, the address of the dwelling, and the date set for re-inspection;
(4) Specify a time limit for the performance of any act it requires.
(5) Notify the owner, responsible local agent, and tenant of his right to appeal from the notice or order to the construction board of appeals;
(6) Be served upon the owner, responsible local agent, and the tenant by (i) personal delivery, or (ii) first class mail to last known address. Notice given the responsible local agent is deemed as notice given to the owner if the responsible local agent has been designated as legally responsible for operation and maintenance.

(b) Final notice of violation. Upon observing the continued existence of a violation of this ordinance as stated in the notice of violation the Building Official shall send a final notice of violation and order to vacate to the owner, responsible local agent, and tenant. Such notice shall be sent by certified and first class mail to the last known addresses and shall:

(1) Specify the date of the inspection;
(2) Specify the address where the violation was found;
(3) Include the name, telephone number and signature of the official who conducted the inspection;
(4) Include a description of each violation observed by the Building Official;
(5) State that each violation is a separate punishable offense;
(6) Order the premises to be vacated within a time to be set by the Building Official, the length of which shall be determined by the extent of the danger to the occupants but in no case shall it exceed 30 days, or alternatively:
  (i) Order correction of all violations within a time period not to exceed 30 days;
  (ii) State that a re-inspection will be made to determine whether all violations have been corrected by the specified date. A re-inspection fee as adopted by resolution by the Township Board will be required to be paid prior to a re-inspection; and the owner or local agent shall be responsible for contacting the Building Official for scheduling the re-inspection within 10 days of date on the notice.
  (iii) State that failure to comply with the notice will result in prosecution; or
  (iv) Employ any other additional or optional corrective or enforcement measure as provided for under this Code or by law.
  (v) Each re-inspection, as needed, will require an additional re-inspection fee to be paid prior to a re-inspection.

(c) Posting final notice of violation. Upon issuing a final notice of violation for a residential rental building or residential rental unit, or its accessory building, the Township shall affix a copy of same on the residential rental building or unit, and deliver to or leave a copy of the notice in a conspicuous place at an entrance door for, the occupants, if any.

(d) Nuisance per se. Notwithstanding any provision in this Article to the contrary, any residential rental building or unit that is found to be in such condition as to preclude habitation or threaten the health, safety or welfare of the occupants or community shall be considered a nuisance per se, and be subject to abatement in a manner provided in this Code, state statute and/or other applicable law.

(Ord. of 7-12-2010)

Sec. 4-255. Inspection guidelines.

The Building Official shall prepare a list of inspection guidelines and minimum standards to be used in inspections relating to the enforcement of this Article, which after adoption by resolution of the Township Board shall be considered as incorporated by reference and effective for use in the administration and enforcement of this Article. The adoption of said inspection guidelines and minimum standards shall not be construed to relieve the owner from compliance with any other

(*CHAPTER 4, ARTICLE IX, SECTION 4-255 cont.*)

requirements of this Code, including, but not limited to, housing, electrical, building, plumbing, mechanical, fire codes and zoning requirements as necessary due to renovations requiring permits.

(Ord. of 7-12-2010)

Sec. 4-256. Appeal process.

(a) If the owner disagrees with a decision, determination, notice, or order of the Building Official as to either the existence of an alleged violation or the period of time that will be reasonably required for the owner to correct the alleged violations as set forth in the notice of violation and order to repair, the owner may appeal to the construction board of appeals provided for in Article III of this Chapter 4, who is hereby designated to hear such appeals. An occupant of a dwelling shall have standing to appeal any notice or order to vacate the dwelling.

(b) Any owner or occupant requesting such appeal shall file a written request therefore with the Building Official within ten (10) days after the date of the notice of violation or within the time for taking any action indicated on a notice or order, whichever time is shorter, and on any form that may be designated and provided by the Building Official.

(c) As soon as practicable, the construction board of appeals shall fix a time, date and place for a hearing, and upon completion of the hearing, which may be adjourned from time to time, shall by a majority vote affirm, reverse, or modify the Building Official's decision, determination, notice, or order. The decision of the construction board of appeals shall be binding upon the owner and the Township.

(Ord. of 7-12-2010)

Sec. 4-257. Revocation of certification.

In the event the owner does not correct a violation of any provision of this ordinance, the Building Official shall revoke any existing certification and may bring an action to seek the enforcement of this ordinance by abatement, mandatory injunction to cause correction of a violation, or enjoinment of the violation to prevent an act or violation, or the vacation of the premises by all occupants and its discontinuance as a residential rental building, or such other action as provided for under this ordinance. Any building not in compliance with this ordinance is deemed a nuisance per se.

(Ord. of 7-12-2010)

Sec. 4-258. Violations; Civil infraction.

(a) Violation of any provision of this Article by an owner, tenant, or responsible local agent is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(b) More than one violation of the provisions of this Article may be charged in a single complaint or appearance ticket provided that each violation relates to the same residential rental building or unit.

(Ord. of 7-12-2010)

Sec. 4-259. Vacating and securing buildings.

The Building Official may declare a residential rental building or residential rental unit to be unsafe, dangerous, and unfit for human occupancy or entry, and may prohibit such occupancy or entry by determinations, notices, orders, and actions pursuant to the Property Maintenance Code adopted in Article V of this Chapter 7.:

(Ord. of 7-12-2010)

Sec. 4-260. Occupancy prohibited.

No person shall occupy or permit or allow another person to occupy any residential rental building or residential rental unit which the Building Official ordered to be vacated as provided in Section 4-259.

(Ord. of 7-12-2010)

(*CHAPTER 4, ARTICLE IX cont.*)

Secs. 4-261 to 4-264 Repealed.

Sec. 4-265. Reliance on certification.

Issuance of a certification shall not constitute a guarantee or warranty of the habitability or complete compliance of the building or structure to code requirements and the occupant of any residential rental building or residential rental unit shall not rely on any certificate as such a guaranty or warranty. The certification shall contain a notice to this effect. The Township shall not assume any liability to any person by reason of the inspections required by this ordinance or issuance of a certification.

(Ord. of 7-12-2010)

Sec. 4-266. Authority of Building Official.

(a) This Article shall not impair or diminish the authority of the Building Official or duly authorized representative to employ any alternative action or corrective measure provided for under any other applicable provision in this Code.

(b) This Article shall not be construed so as to limit the application and enforcement of the Township Zoning Ordinance or other codes adopted by the Township which address the maintenance of properties, residential dwellings, or the health, safety, and welfare of occupants residing in residential dwellings, where applicable.

(Ord. of 7-12-2010)

Sec. 4-267. Severability.

Should any part, section, clause, or paragraph of this Article be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Article as a whole or part thereof other than the part declared to be void.

(Ord. of 7-12-2010)

Secs. 4-268--4-300. Reserved.

CHAPTER 5 CABLE TELEVISION/VIDEO SERVICE

**Editor's note:* *An ordinance of October 14, 1998 amended the Code to replace the phrase "cable communications" with the phrase "cable television."*

Art. I. In General, §§ 5-001--5-030 ..... Pages 5-1 through 5-9
Art. III. Cable and video service Franchises, §§ 5-031 ..... Page 5-9

ARTICLE I IN GENERAL*

**Editor's note:* *An ordinance of October 14, 1998, amended the Code by, in effect, repealing former art. I, §§ 5-001--5-021, and adding a new art. I, §§ 5-001--5-019, to read as herein set out. Former art. I pertained to similar subject matter, and derived from Comp. Ords. of 1986, §§ 22.355--22.445(a).*

Sec. 5-001. Short title.

This chapter shall be known as the "Charter Township of Waterford Cable Television/Video Service Ordinance" and may be cited as such.

(Ord. of 10-14-1998)

Sec. 5-002. Purpose.

The purpose of this chapter is to provide fair regulation of cable television and video service in the Township in the interest of the public; to promote and encourage adequate, economical and efficient cable/video service to the residents of the Township; to promote and encourage harmony between cable operators and video service providers and their subscribers and to provide for the furnishing of cable and video service to the residents of the Township without unjust discrimination, undue preferences or advantages.

(Ord. of 10-14-1998)

Sec. 5-003. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following words, when used in this chapter, shall have the following meanings, unless otherwise clearly apparent from the context:

Act means the Uniform Video Services Local Franchise Act, Public Act No. 480 of 2006, MCL 484.3301 – MCL 484.3315, as amended.

Cable operator, as defined in the Act and 47 USC 522(5),means a person or group of persons who own a significant interest in, or control or are responsible for the management and operation of, a cable system for the purpose of providing cable service to members of the public located in the Township.

Cable service, as defined in the Act and 47 USC 522(6),means:

(1) The one-way transmission to subscribers of (i) video programming, or (ii) other programming service; and

(2) Subscriber interaction or use, if any, which is required for the selection of such video programming or other programming service.

(*CHAPTER 5, ARTICLE I, SECTION 5-003 cont.*)

Cable system, as defined in the Act and 47 USC 522(7), means a facility, consisting of a set of closed transmission paths and associated signal generation reception, and control equipment that is designed to provide cable service, which includes video programming and which is provided to multiple subscribers within the Township.

Provider means a cable operator or a provider of video service.

Video service, as defined in the Act, means video programming, cable services, internet protocol television or open video system provided through facilities located at least in part in public rights-of-way.

(Ord. of 10-14-1998)

Sec. 5-004. Franchise required.

(a) Construction of system. No person shall construct, install, maintain or operate a cable system in the Township nor shall any person provide cable service or video service, or acquire ownership or control of a cable company in the Township without such person having first obtained a franchise therefor from the Township in the form of a franchise agreement between the Township and the franchisee, which franchise agreement shall be in the form required by the Act subject to the Township's reserved right to request, and if allowed by law, require, terms and conditions different than the form required by the Act and consistent with the specifications of this chapter.

(b) Use of streets. No person shall use, occupy or traverse the streets, alleys, lanes, avenues, boulevards, sidewalks, bridges, viaducts, rights-of-way or any other public place or public way in the Township or any extensions or additions whether on, above, or under the surface of the ground, for the purposes of installing, construction, maintaining or operating a cable system or facilities therefor or for the purpose of furnishing cable service or video service without such person having first obtained a franchise therefor from the Township in accordance with subsection (a) above.

(Ord. of 10-14-1998)

Sec. 5-005. Initial franchise application; contents; fees; issuance; transfer.

(a) Application information; fee. Except as otherwise provided in the Act, the application for an initial franchise to install, construct, maintain or operate a cable system in the Township or to furnish cable service or video service, shall be made in writing to the Board in such form as may be prescribed. It shall include a description and map of the territory within the Township in which the cable system is to be installed, constructed, maintained or operated or cable service or video service is to be provided. It shall be accompanied by a showing of the applicant's legal, financial, technical and other qualifications to be a franchisee, it shall contain:

(1) In establishing legal qualifications, a certified copy of the partnership agreement, articles of association, organization, or incorporation, as the case may be, and a certified copy of its authorization to do business in the state.

(2) In establishing financial qualifications, a copy of applicant's current balance sheet as of a date not more than sixty (60) days prior to the date of the application shall be furnished; if a loan or other credit arrangement is to be consummated to finance the establishment and operation of the proposed facilities, full particulars shall be disclosed, including, the identity of the creditor.

(3) In establishing technical qualifications, a statement of the arrangements to ensure the rendition of good service, including the type and kind of facilities to be employed, the technical standards to be followed, the maintenance and repair facilities to be used, the number and description of technical personnel, including copies of any of the above contracts, agreements or arrangements relating to any of the above.

(4) A statement as to the location of the antenna site or sites and the location and purposes of any places of business in the Township.

(*CHAPTER 5, ARTICLE I, SECTION 5-005 cont.*)

(5) A statement as to any affiliated business entities or organizations engaged in providing cable service or video service, or interlocking directorships or ownerships held by any owners, Officers or directors of applicant with any other business engaged in providing cable service.

(6) A detailed statement as to the arrangements and timetable by which applicant proposes to construct its cable facilities and system or video service facilities, including detailed descriptions of portions of the Township to be served by the system within six (6) months, one (1) year, eighteen (18) months, two (2) years, thirty (30) months and three (3) years after the date of the awarding of the franchise.

(7) The applicant shall furnish information as to the programming services and public services which it proposes to provide:

a. The off-air signals to be carried initially;

b. The number of channels offered and the potential for diversified services to local government, education institutions, community groups, householders and local commercial interests;

c. Projected development of customer and community services, indicating priorities in development, and estimated time schedules therefor.

(8) Cost estimates of development, installation, and maintenance of system, which itemizes the cost of acquisition of the system where approval of a transfer of the franchise has been requested.

(9) Revenue forecasts for the next five (5) years of service.

(10) A proposed schedule of rates for installation charges, monthly service fees and relocation charges.

(11) Such other information as the Township may request.

The application shall be accompanied by a five thousand dollar ($5,000.00) nonrefundable fee.

(b) Additional information. Upon the filing of such an application and the payment of the fee as prescribed, the Board shall consider the application and may request such additional information as it may deem necessary to establish the legal, financial, technical and other qualifications of the applicant to provide a cable service or video service in the Township.

(c) Public inspection; hearing. If the Board determines that the applicant possesses the necessary qualifications, legal, financial, technical and otherwise, to reasonably assure applicant's ability to satisfactorily install, construct, maintain or operate a cable system or to furnish a cable service or video service to the public in the Township, the Board may issue applicant a nonexclusive franchise therefor in the Township, provided, that except for franchises applied for under the Act, no franchise shall be issued until:

(1) The franchise application has been on file and available for public inspection in the office of the Township Clerk for at least thirty (30) days.

(2) The Board has held a public hearing on such application after due notice of the time and place of such hearing has been given the public.

(d) Considerations in granting franchise. In determining whether such a franchise shall be issued, the Board shall take into consideration, among other things, the technical qualifications of the applicant; the financial responsibility of the applicant; the ability of applicant to perform efficiently the service for which the franchise is requested, including the prior experience, if any, of the applicant in providing cable systems or furnishing cable service or video service; the proposed rate schedule; the nature and scope of the applicant's proposed system; and the timetables for development of applicant's proposed system.

(e) Renewal of franchise. Subject to Section 626 of the Cable Act (47 U.S.C. 546), the Township reserves the right to grant or deny renewal of a cable system franchise.

(Ord. of 10-14-1998)

Sec. 5-006. Franchise nonexclusive; term.

Any franchise issued pursuant to this chapter shall be a nonexclusive franchise for a term of years, not to exceed fifteen (15) years, as the Board may approve.

(Ord. of 10-14-1998)

(*CHAPTER 5, ARTICLE I, cont.*)

Sec. 5-007. Franchise; fees; reporting; records.

(a) Franchise fee. During the term of any franchise granted pursuant to this chapter, the person granted such franchise shall pay to the Township, for the use of its streets, public places, and other facilities, as well as the maintenance, improvements, and supervision thereof, and for the regulation activities required by virtue of the franchise, an annual franchise fee in an amount equal to five (5%) percent of the annual gross revenue derived from the operation of the cable system to provide cable service in the Township, or in the case of a video service provider, five (5%) percent of gross revenue as defined in the Act. Except and as otherwise provided in the Act, the Township shall be furnished a franchise fee statement for the entire year prepared by a certified public accountant. All statements shall reflect the total amount of revenues and the above charges, deductions and computations for the period covered by the statement.

(b) Payment of franchise fee. Such franchise fee shall be paid as provided in the franchise, or such other date required by law, at the office of the Treasurer of the Township during its regular business hours. If the Township Treasurer's office is closed on the date payment is due, then payment may be made during its regular business hours on the next following day on which the office is open for business.

(Ord. of 10-14-1998)

Sec. 5-008. Construction of facilities; right to use streets; restrictions; disposal; duties.

(a) Right to use streets. A franchise granted pursuant to this chapter shall confer upon the grantee the nonexclusive right to erect, install, construct, reconstruct, replace, remove, repair, maintain and operate in or upon, under, above and across the streets, avenues, highways, sidewalks, bridges and other public ways, easements, and rights-of-way, as existing as of the date of the grant of such franchise and all subsequent extensions and additions in and belonging to the Township, all necessary towers, poles, wires, cables, coaxial cables, transformers, amplifiers, underground conduits, manholes and other television, and/or radio conductors, equipment and fixtures for the installation, construction, maintenance and operation of a cable system (including audio, video and radio signals) or the furnishing of a cable service.

(b) Description of proposed facilities; prior approval required. Prior to the erection or installation of any towers, poles, guys, anchors, underground conduits, manholes or fixtures for use in connection with the installation, construction, maintenance or operation of a cable system or to provide video services under a franchise granted pursuant to this chapter, the grantee of a franchise desiring to erect or install such facilities shall first submit to the Township engineer for review and approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if requested or required, together with a map indicating the proposed location of such facilities. No erection or installation of any tower, pole, guy, anchor, underground conduit, manhole, or fixture shall be commenced by any person until approval has been received from the Township engineer accompanied by the payment of plan review and inspection fees established by resolution of the Township Board of Trustees.

(c) Underground facilities. In areas or portions of the Township where transmission or distribution facilities of public utilities providing telephone service and electric service are underground or may be placed underground when installed, any person granted a franchise pursuant to this chapter shall likewise install, construct, maintain and operate its transmission and distribution facilities in like manner underground to the maximum extent feasible and permitted by existing technology and conditions subject to the approval of the Township engineer as provided in subsection (b).

(*CHAPTER 5, ARTICLE I, SECTION 5-008 cont.*)

(d) Construction standards. All construction, installation, maintenance and operation of any cable television system or video service facilities shall be in compliance with the provisions of the National Electrical Safety Code as prepared by the American National Standards Institute, the National Electrical Code of the National Fire Protection Association, the Bell Telephone System's Code of Pole Line Construction, any standards issued by the Federal Communications Commission or other federal or state regulatory agencies in relation thereto, and applicable regulations of public utilities operating in the Township shall be so designed, constructed, installed, maintained and operated as not to endanger or interfere with the safety of persons or property in the Township.

(e) Street openings. Any opening or obstruction in, disturbance of or damage to the streets, alleys, public rights-of-way or public places by any person in the exercise of any right granted pursuant to this chapter shall be properly guarded by adequate barriers, lights, signal and warnings as to prevent damage to any person or vehicle using such streets, alleys, public rights-of-way or public places and shall be properly and promptly repaired, all in a manner specified and approved by the Township engineer, at such person's expense.

(f) Disconnecting, relocating wires, property. Any person owning or maintaining a cable system or video service facilities in or on the streets, alleys, public rights-of-way or public places in the Township shall, at its expense and without reimbursement from the Township, upon request of the Township, protect, support, temporarily disconnect, relocate or remove from the street, alley, public right-of-way or public place, any property of such person when required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, tracks, the construction or the change of the transmission or distribution facilities of any telephone or electric public utility or other public improvements. Any such person shall also, at the request of any private party holding an appropriate permit issued by the Township, temporarily raise or lower its cable television or video service transmission or distribution wires or cables to permit the moving of any building or other structure, provided that the actual expense of such temporary raising or lowering shall be paid in full by the party requesting the same.

(g) Failure to perform required work. If any person shall fail to commence or complete any work required by this Code to be done in any street, alley, public right-of-way or public places as designated by the Township engineer, the cost shall be paid within thirty (30) days of the receipt of an itemized statement of such cost.

(Ord. of 10-14-1998)

Sec. 5-009. Standard of service.

(a) Signal capability. Every provider franchised under this chapter shall maintain bi-direction signal capability for digital, audio and video signal transmission on all elements of the system. The extent to which the reverse capability is available to subscriber use shall be specified in the franchise agreement.

(b) Public, education and government access channels. Every provider franchised under this chapter shall maintain and make available without charge such public access channels, education access channels, and local government access channels as may be required by the Township. As a minimum, this shall consist of one (1) channel for public access, one (1) channel for education access and one (a) channel for local government access.

(Ord. of 10-14-1998)

(*CHAPTER 5, ARTICLE I, cont.*)

Sec. 5-010. Rates; discrimination; filing schedules; rate regulation.

(a) Rate discrimination prohibited. No provider shall make any unjust or unreasonable discrimination in rates, charges, classifications, promotions, practices, regulations, facilities or services for or in connection with like services, nor subject any person to any prejudice or disadvantage in any respect whatsoever. This shall not be deemed to prohibit the establishment of a graded scale of charges and classification of rates to which any subscriber coming within such classification shall be entitled.

(b) Providers shall file a complete schedule of subscriber service rates and charges with the Township Clerk and before the effective date of any change in a rate or charge, shall file an amended schedule of rates and charges identifying the change(s).

(c) The Township reserves the right to regulate provider rates and charges if ever allowed to do so by applicable federal and state laws.

(Ord. of 10-14-1998)

Sec. 5-011. Public emergencies.

Every provider within the Township shall make its cable services and video services available, to the Township, the county, the state, the United States of America, and/or emergency operations agencies for the prompt and simultaneous communication to subscribers and the public within the Township of any information resulting from or required by war, threat of war, natural catastrophe, riot or insurrection, or other declared public emergency.

(Ord. of 10-14-1998)

Sec. 5-012. Indemnity

Every provider shall maintain insurance and indemnify the Township as set forth in the franchise agreement.

(Ord. of 10-14-1998)

Sec. 5-013. Termination; revocation or surrender of franchise.

(a) Failure to commence construction. Any initial franchise granted pursuant to this chapter shall be subject to revocation one (1) year after its effective date in the event the person granted such franchise has not commenced construction of a cable system within such period.

(b) Failure to provide service. If any person granted an initial franchise pursuant to this chapter shall fail to provide cable service or video service within and throughout the franchise areas as required under the terms of its franchise agreement, such franchise shall, on the anniversary of the effective date of such franchise next following the twelve-month period during which cable service has not been extended as required under the terms of the franchise agreement, be deemed revoked without the necessity of Board action, unless prior to such date such person shall have applied to the Board and the Board shall have for good cause shown, granted an extension of the construction or service periods set forth in the franchise agreement.

(c) Receivership, trusteeship; sale of company. Any franchise granted pursuant to this chapter shall be terminated and canceled without further proceedings one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of a provider, whether in receivership, reorganization, bankruptcy or other action or proceedings unless such receivership or trusteeship shall have been vacated prior to the expiration of such period. A receiver or trustee may apply for a transfer or assignment of such franchise, within sixty (60) days of the appointment of such receiver or trustee, if duly approved by the court having jurisdiction in the premises, and provided further in the case of a foreclosure or other judicial sale of the plant, property or facilities of a provider, with or without the appointment of a receiver or trustee, including or excluding the franchise granted under this chapter, such franchise ad granted will be terminated and canceled without further proceedings upon thirty (30) days' written notice of termination served upon the cable television company and the

(*CHAPTER 5, ARTICLE I, SECTION 5-013 cont.*)

purchaser thereof, unless within such thirty-day period, the purchaser shall apply to the Township for a transfer or assignment to it of the same.

(d) Surrender of franchise; removal of facilities. Any person granted a franchise pursuant to this chapter may surrender it by written notice of intent to surrender its franchise filed with the Township Clerk not less than sixty (60) days prior to the surrender date. On the surrender date specified in such notice, all rights, privileges and authority under such franchise shall terminate. Such person shall have a period of six (6) months thereafter to remove its towers, poles, wires, cables, fixtures or other facilities from the streets, alleys, public rights-of-way or public places. At the expiration of such six-month period, any property not removed by such persons shall become the property of the Township to do with as it may choose. Any cost to the Township in removing such property from the streets, alleys, public rights-of-way or public places shall be claimed against such person under any performance bond required by the franchise.

(Ord. of 10-14-1998)

Sec. 5-014. Commencement of construction.

Any person granted a franchise pursuant to this chapter shall commence and complete construction or installation of its cable system or video service facilities as set forth in the franchise agreement.

(Comp. Ords. 1986, § 22.410; Ord. of 10-14-1998)

Sec. 5-015. Hearing and determination of complaints; procedure; local office.

(a) Complaints by a subscriber that a provider is not complying with the provider's franchise shall be filed with the Township Clerk's office and referred to the Cable Television Commission for review and recommendation as provided in Section 5-019.

(b) Hearing. If the Cable Television Commission's review and hearing of a subscriber complaint against a provider does not result in compliance with the franchise, the complaint shall be scheduled for hearing before the Township Board, with the Township Clerk to give the complainant and provider at least twenty (20) days' written notice of the time and place of the hearing and matters alleged in the complaint. After the hearing and considering the complainant's and provider's positions, the Board shall have the power to make such orders as in its judgment based upon the record of the hearing and findings made, appear to be just, reasonable, lawful and related to franchise compliance.

(c) Business office. Every person granted a franchise pursuant to this chapter shall have a business office located in or within a reasonable distance of the Township and suitably staffed for the purpose, among others, of receiving and investigating complaints, dealing with its subscribers, receiving payment for service, returns or delivery of equipment, and otherwise conducting business. If the office is not in the Township, the provider shall provide a system for equipment returns or deliveries by mail or courier at no cost to subscribers.

(Comp. Ords. 1986, § 22.415; Ord. of 10-14-1998)

Sec. 5-016. Priority of use.

Any right or privilege granted to any person under this chapter to use or occupy any street, alley, public right-of-way or public place shall be subordinate to any prior lawful occupancy of such property. Nothing in this chapter shall be construed as limiting in any way the Township in the lawful exercise of the police power, and the grant of a franchise to any person as provided in this chapter shall confer no right, privilege or exemption not specifically presented.

(Ord. of 10-14-1998)

Sec. 5-017. Surrender of other franchises.

By the application for and acceptance of a franchise pursuant to this chapter, a cable television company agrees that upon subsequent additions of areas to the Township, either by annexation, consolidation or otherwise, any and all franchises and/or licenses held by it to provide a cable

(*CHAPTER 5, ARTICLE I, SECTION 5-017 cont.*)

service or to install, construct, maintain or operate a cable television system in such areas shall be surrendered and any rights or privileges in streets, alleys, public rights-of-way or public places to install, construct, maintain or operate a cable system or to furnish a cable service in such areas as may subsequently be added to the Township by annexation, consolidation or otherwise, shall thereafter be subject to and authorized by this chapter.

(Ord. of 10-14-1998)

Sec. 5-018. Rights of Township.

Any franchise granted under this chapter is made subject to all applicable provisions of law relating to the Township and ordinances thereof, and specifically subject to the rights and powers of the Township and limitations upon the provider holding such franchise as are set forth in the statutes of the state, including those pertaining to charter townships, which are herein incorporated by reference, and such provider shall abide by and be bound by such rights, powers and limitations. Unless otherwise provided by law, any franchise granted under this chapter constitutes and shall be considered as a public utility franchise and a provider shall be deemed to be a public utility.

(Ord. of 10-14-1998)

Sec. 5-019. Cable television Commission.

(a) Commission to be established. The Township Board shall establish a Commission to be known as the "Waterford Township Cable Television Commission." The Township Board shall solicit from the public and from franchisees names of persons interested in serving on the Commission, but is not limited to names thereby submitted.

(b) Members. The Commission shall consist of seven (7) residents of the Township appointed by the Township Supervisor subject to approval by the Township Board. Each member shall serve a term of three (3) years; provided, however, that appointments to the first Commission shall be for such terms as follows: Three (3) members for a term of three (3) years; two (2) members for a term of two (2) years; and two (2) members for a term of one (1) years. Any vacancy in the office shall be filled by the Township Board for the remainder of the term. No employee or person with ownership interest in a cable television or video service franchise granted pursuant to this chapter shall be eligible for membership on the Commission. Members of the Commission may be compensated at a rate to be determined by the Township Board. Such rate of compensation, if any, shall be established and may be revised, from time to time, by resolution of the Township Board.

(c) Functions. The Commission, in addition to the functions and responsibilities that the Board may delegate to it from time to time by resolution, shall have the following functions.

(1) Advise the Board on matters which might constitute grounds for revocation of a franchise under this chapter.

(2) Recommend to the Board, after hearing, resolutions of disputes between franchisees, between franchisee(s) and subscribers, between franchisee(s) and access users and between access users.

(3) Recommend to the Board general policy relating to access channels with a view to maximizing the diversity of programs and services to subscribers.

(4) Review and report to the Board concerning records and reports which a franchisee is required to submit under this chapter.

(5) To prepare and submit to the Supervisor a proposed budget of revenues and expenditures for the ensuing fiscal year which shall commence on January 1 of each year and end on December 31. The budget shall be totally funded by moneys received from the cable and video service franchise fees only. Such budgeted funds shall be kept by or under the control of the Township Treasurer and the Township Clerk shall draw checks on such account only when a majority of the members of the Commission have authorized such an expenditure. The Commission shall also prepare an annual report to the Township Board including an accounting of budgeted fees received and distributed by the Commission.

(*CHAPTER 5, ARTICLE I, SECTION 5-019 cont.*)

(7) Conduct evaluations of cable and video service systems at least every five (5) years and make recommendations to the Township Board regarding amendments to this chapter or to the franchise agreement.

(8) Encourage the use of access channels by institutions, groups and individuals within the Township. The Commission shall also prepare a report of the type and amount of use of access channels.

(Ord. of 10-14-1998)

Sec. 5-020. Confidential information.

(a) If this chapter, a franchise, any rules or regulations adopted by the Township, or any Township authorized request for information requires the production of proprietary information, the provider shall produce the information. However, at the time the allegedly proprietary information is submitted, a provider may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as confidential and the facts that support those reasons. The request for confidentiality will be granted if the information is confidential as provided in Section 11 of the Act, or if the Township determines that the preponderance of the evidence shows that nondisclosure is consistent with the provisions of the Federal Freedom of Information Act, 5 USC Section 552. The Township shall place in a public file for inspection any determination that information is confidential and not subject to public disclosure. If a provider requests confidentiality and the request is denied the provider may appeal the denial to the Township Board within five (5) working days of the denial by filing a written appeal with the Township Clerk. Release of the information will be stayed pending the Township Board's review and decision.

(b) A Township determination that information is confidential and not subject to public disclosure is subject to disclosure being required in response to or as a result of Freedom of Information Act requests and the Township shall have no liability to a provider for such public disclosure of information initially determined to be confidential by the Township.

Sec. 5-021. Failure to comply; remedies.

The Township may pursue any and all legal and equitable remedies against a provider (including, without limitation, all remedies provided under a franchise or consent agreement with the Township) for failure to comply with the franchise, Act, Federal Cable Act, FCC rules, this chapter, or any orders or determinations of the Township pursuant to this chapter. Subject to applicable law, any such failure to comply shall also be sufficient grounds for revocation or denial of renewal of a franchise.

Secs. 5-022--5-030. Reserved.

ARTICLE III CABLE AND VIDEO SERVICE FRANCHISES

Sec. 5-031. Grant of franchises.

Cable system and Uniform Video Services Local Franchises approved by the Township are on file with the Township Clerk's office.

CHAPTER 6 EMERGENCY PREPAREDNESS

Sec. 6-001. Short title.

This chapter shall be known and may be cited as the "Emergency Preparedness Ordinance."

(Ord. of 2-9-1987, § 1.00)

Sec. 6-002. Purpose; intent.

The purpose and intent of this chapter is to establish an organization that will:

(a) Ensure the complete and efficient utilization of all Township resources during periods of emergency and disaster.
(b) Define the duties and responsibilities of the emergency services coordinator and other personnel.
(c) Authorize the use of the material resources and manpower of the Township in emergency operations.
(d) Serve to prevent, minimize and relieve damage to persons and property resulting from any form of disaster.

(Comp. Ords. 1986, § 40.020)

Sec. 6-003. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, 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:

Coordinator means a person appointed to coordinate emergency planning and services within the Township or as prescribed in this chapter. In the absence of an appointed person, "coordinator" shall mean the Township Supervisor.

Disaster means an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, snow, ice or wind storm, wave action, oil spills, water contamination requiring emergency action to avert danger or damage, utility failure, hazardous peacetime radiological incident, major transportation accident, epidemic, air contamination, blight, drought, infestation, explosion, riot or hostile military or paramilitary action. Riots and other civil disorders are not within the meaning of this term unless they directly result from and are an aggravating element of the disaster.

District coordinator means the State police district emergency services coordinator or his authorized representative.

Emergency operations plan means the emergency operations plan for the Township which has been prepared under Section 6-011 to coordinate disaster response and recovery within the Township.

Emergency services has a broad meaning to include preparations for, and relief from, the effects of natural and manmade disasters as defined herein, and to include civil defense.

Emergency services forces means all disaster relief forces; all agencies of the Township government, private and volunteer personnel, public officers and employees; and all other persons or groups of persons having duties or responsibilities under this chapter or pursuant to a lawful order or directive authorized by this chapter.

Emergency services volunteer means any person duly registered and appointed by the coordinator and assigned to participate in the emergency services activity.

(*CHAPTER 6, SECTION 6-003* cont.)

Emergency situation means any situation confronting a community requiring emergency actions of a lesser nature than a disaster to include, but not limited to, civil disturbances, labor strikes, visits by national or international dignitaries, and build-up activities prior to an actual disaster.

State of disaster means a declaration by executive order or proclamation by the governor under the provisions of Act 390, Public Acts of 1976 (MCL 30.401 et seq.), which activates the disaster response and recovery aspects of state, local and inter jurisdictional disaster emergency plans and authorizes the deployment and use of any forces to which the plan or plans apply.

State of emergency means a declaration by the Township Supervisor pursuant to this chapter which activates the disaster response and recovery aspects of the Township's emergency operations plan and authorizes the deployment and use of any forces to which the plan applies.

(Comp. Ords. 1986, § 40.030)

State law references: Similar provisions, MCL 30.402.

Sec. 6-004. Organization for emergency services.

The Township Supervisor, with the approval of the Township Board, is hereby authorized and directed to create an organization to prepare for community disasters utilizing to the fullest extent existing agencies within the Township. The Township Supervisor shall be the director of the emergency services forces of the Township and shall be responsible for their organization, administration and operation, working through the coordinator.

(Comp. Ords. 1986, § 40.040)

Sec. 6-005. Office of emergency services created; coordinator.

The organization for providing emergency services shall consist of the following:

(a) An office of emergency services established within the fire department of the Township. The office of emergency services shall be directed by the Fire Chief who will be known as the coordinator, office of emergency services. Such assistants and other employees as are deemed necessary for the proper functioning of the organization will be employed as determined by the Board.

(b) The employees equipment and facilities of all Township departments, boards, institutions and Commissions suitable for, or adaptable to emergency services activities may be designated as part of the total emergency services forces. Such designations shall be by the Township Supervisor with the approval of the Township Board.

(c) All officers and employees of departments, Commissions, boards, institutions and other agencies of the Township government designated by the Township Supervisor, with the approval of the Township Board, as emergency services forces shall cooperate with the emergency services coordinator in the formulation of the emergency operations plan, and they shall assist the coordinator in all matters pursuant to the provisions of this chapter.

(Comp. Ords. 1986, § 40.041)

Sec. 6-006. Assistant coordinators.

Assistant coordinators shall be designated to work with the coordinator on emergency planning matters. Assistant coordinators shall be selected and shall serve as follows:

(a) There shall be one (1) such assistant coordinator appointed from each Township department as designated by the department head, with the approval of the Township Supervisor as part of the emergency services forces.

(b) Assistant coordinators shall assume the duties of the coordinator whenever he is unavailable during disasters or emergency situations in the order of designation by the Township Supervisor, acting upon the recommendation of the coordinator.

(Comp. Ords. 1986, § 40.042)

(*CHAPTER 6, cont.*)

Sec. 6-007. Township officers; powers and duties.

(a) The Township Supervisor may exercise the emergency power and authority as specified herein. Whenever a situation requires, or is likely to require, that the Township Supervisor invoke such power and authority, he shall, as soon as reasonably expedient, convene the Township Board to perform its legislative and administrative duties as the situation demands and shall report to that body relative to emergency activities. Nothing in this chapter shall be construed as abridging or curtailing the powers of the Township Board unless specifically provided herein.

(b) This chapter will not relieve any elected officials or Township departments of the normal responsibilities or authority given by general law or local ordinance, nor will it affect the work of the American Red Cross or other volunteer agencies organized for relief in a natural disaster.

(Comp. Ords. 1986, § 40.050)

Sec. 6-008. Conditions for state of emergency.

Under the following circumstances, the Township Supervisor may declare a state of emergency exists in the Township and may assemble and utilize the emergency services forces in accordance with the emergency operations plan, and he may prescribe the manner and conditions of the use of such emergency services forces:

(a) Whenever, on the basis of information received from authoritative sources, he feels that a large-scale disaster or emergency situation in the Township or State is imminent.

(b) During any period of disaster in the Township or State and thereafter as long as he shall deem it necessary.

(c) Whenever the Township Supervisor deems that any condition in the Township is beyond the control of local public or private agencies or has attained or threatens to attain the proportions of a major disaster, he may request the governor to declare a state of disaster exists therein by instructing the coordinator to contact the district coordinator in accordance with Section 14, Act 390, Public Acts of 1976.

(Comp. Ords. 1986, § 40.051)

Sec. 6-009. Township Supervisor and Township Board powers.

(a) The Township Supervisor, with the approval of the Township Board, is hereby empowered and has the authority:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for disaster purposes.

(2) To provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster.

(3) To assign and make equipment available for duty, the employees, property or equipment of the Township relating to firefighting; engineering; rescue; health, medical, and related services; police; transportation; construction; and similar items or service for disaster relief purposes within or without the physical limits of the Township.

(4) In the event of a foreign attack upon this State, to waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution with or without compensation of supplies, materials and facilities, and the appropriation and expenditure of public funds.

(b) The Township Supervisor, with the approval of the Township Board, shall establish procedures for the succession of government during emergencies where officials are unavailable for exercising the powers and discharging the duties of their respective offices.

(c) The Township Supervisor, with the approval of the Township Board, may make regulations permitting the coordinator to assemble and utilize the emergency services forces and provide disaster relief aid as prescribed in Section 6-008 and this section.

(*CHAPTER 6, SECTION 6-009* cont.)

(d) When obtaining formal approvals would result in delay of relief activity, the Township Supervisor may, until the Township Board convenes, waive procedures and formalities otherwise required pertaining to the performance of public works, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase and distribution of supplies, materials and facilities and expenditure of existing funds. The Township Board is also empowered to waive any such procedures and formalities.

(Comp. Ords. 1986, § 40.052)

Sec. 6-010. Township participation in County plan.

(a) The Township, being a community in excess of ten thousand (10,000) persons, declares its participation in an emergency operations plan as established in the County under the Emergency Preparedness Act, Act 390 of Public Act of 1976 (MCL 30.401 et seq.), as amended.

(b) All other provisions of this chapter shall be construed and interpreted to give full effect to the participation of the Township in the County plan. Any provision herein which is deemed to be inconsistent or in conflict with this participation shall, to the extent of this inconsistency, be disregarded.

(Comp. Ords. 1986, § 40.053; Ord. of 3-9-1989)

Sec. 6-011. Coordinator's powers and duties.

(a) The emergency services coordinator shall be responsible for the administration, planning, coordination and operation of all emergency preparedness activities in the Township. He shall maintain liaison with County, State and federal authorities, and the authorities of adjacent and nearby political subdivisions so as to insure the most effective emergency operations.

(b) The duties of the office shall include, but not be limited to, the following:

(1) Development of the Township's emergency operations plan, and any other appropriate disaster plans, for the immediate use of all of the facilities, equipment, manpower and other resources of the Township for the purpose of minimizing or preventing damage to persons or property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and general welfare.

(2) Coordinating the recruitment and training of volunteer personnel and agencies to augment the personnel and facilities of the Township for emergency purposes.

(3) Through public information programs, educating the population as to actions necessary and required for the protection of persons and property in case of a disaster.

(4) Conducting practice alerts and exercises to insure the efficient operation of the Township's emergency organization and to familiarize residents of the Township with emergency regulations, procedures and operations.

(5) Coordinating the activity of all other public and private agencies engaged in any emergency or disaster relief programs.

(6) Negotiating with the owners or persons in control of buildings or other property for the use of such buildings or property for emergency or disaster relief purposes, and designating suitable buildings as public shelters.

(7) Establishing and maintaining administrative control over a local radiological defense program, to include emergency preparations for both peacetime radiation incidents and international wartime disasters.

(8) Coordinating Township emergency preparedness activities with those at the County level and adjacent Townships.

(Comp. Ords. 1986, § 40.060)

Sec. 6-012. Volunteers; appointments; records.

(a) Each department, Commission, board or other agency of Township government may at any time appoint or authorize the appointment of volunteer citizens to augment the personnel of such Township department, Commission, board or agency in time of emergency. Such individuals shall be enrolled as emergency services volunteers and shall be subject to the rules and regulations set forth by the respective department, Commission, board or agency head for such volunteers.

(*CHAPTER 6, SECTION 6-012* cont.)

(b) The coordinator may enlist volunteer citizens to form the personnel of any emergency service for which the Township has no counterpart, or to temporarily augment personnel of the Township engaged in emergency activities. The coordinator shall maintain formal records of all such volunteers for workman's compensation purposes.

(Comp. Ords. 1986, § 40.070)

Sec. 6-013. Township employee rights.

Township employees assigned to duty as a party of the emergency services forces pursuant to the provisions of this chapter shall retain all of the rights, privileges and immunities of Township employees, and shall receive the compensation incident to their employment.

(Comp. Ords. 1986, § 40.080)

State law references: *Local coordinator, MCL 30.411(1)(b).*

Sec. 6-014. Immunity from liability.

(a) This chapter is an exercise by the Township of its governmental functions for the protection of the public health, safety and general welfare. As such, neither the Township nor agents and representatives of the Township, nor any volunteer, individual, receiver, firm, partnership, corporation, association, nor trustee, nor any of the agents thereof acting in good faith carrying out, complying with or attempting to comply with this chapter shall be liable for any damage sustained to persons or property as a result of such activity.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the Township the right to inspect, designate and use the whole or any part of such real estate or premises for the purpose of sheltering persons during a disaster or during an authorized practice disaster exercise, shall not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for loss of, or damage to, the property of such person. A person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes stated in this section shall be legally obligated to make known to the licensee any hidden dangers or safety hazards which are known to the owner or occupant of the real estate or premises which might possibly result in the death or injury or loss of property to a person using the real estate or premises.

(Comp. Ords. 1986, § 40.090)

Sec. 6-015. Conflicting ordinances, orders, rules and regulations suspended.

At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all other existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent therewith.

(Comp. Ords. 1986, § 40.100)

Sec. 6-016. Prohibitions; Misdemeanor.

It shall be unlawful for any person willfully to obstruct, hinder or delay any emergency services forces in the enforcement or accomplishment of any rule or regulation issued pursuant to this chapter, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this chapter. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or other means of identification as a member of the emergency services forces of the Township unless authority to do so has been granted to such person by proper officials. Violations of the provisions of this chapter is a misdemeanor punishable as provided in Section 1-010 of this Code.

(Comp. Ords. 1986, § 40.110)

CHAPTER 7 FIRE PREVENTION AND PROTECTION

Art. I. In General, §§ 7-001--7-025 ..... Page 7-1
Art. II. Fire Prevention Code, §§ 7-026--7-031 ..... Pages 7-1 through 7-8

ARTICLE I IN GENERAL

Secs. 7-001--7-025. Reserved.

ARTICLE II FIRE PREVENTION CODE

Sec. 7-026. Short title.

This article shall be known and cited as the "Fire Prevention Code Ordinance." It shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such title and reference to the number hereof.

(Comp. Ords. 1986, § 18.171)

Sec. 7-027. Purpose.

The purpose of this article is declared:

(a) To establish regulations consistent with nationally recognized standards for the safeguarding of life and property, to a reasonable degree, from the hazards of fire and explosion arising from the storage, handling, and use of hazardous substances, materials, and devices.

(b) To establish regulations preventing conditions hazardous to life or property in the use or occupancy of buildings or premises.

(c) To adopt by reference, the 2009 Edition of the International Fire Code (IFC) and pertinent appendices to the Code.

(d) To repeal the existing fire prevention code ordinance, and other ordinances inconsistent therewith.

(Comp. Ords. 1986, § 18.172; Ord. of 3-23-1987, § 1.00; Ord. of 7-8-2002)

Sec. 7-028. Adopted.

The 2009 International Fire Code (IFC), as published by the International Code Council, including the IFC appendices B, C, D, I, and J addressing Fire Flow Requirements for Buildings, Fire Hydrant Locations and Distribution, Fire Apparatus Access Roads, Fire Protection System – Unsafe Conditions, and Emergency Responder Radio Coverage, are hereby adopted by reference as the Fire Code and an ordinance of the Township, with the amendments and additions in Sections 7-029 and 7-030 and the Charter Township of Waterford inserted as the Name of Jurisdiction in Section 101.1 of the Fire Code. Copies of the Fire Code shall be kept at the offices of the Fire Chief and Township Clerk and be made available for inspection by the general public at all times those offices are open. Complete or partial copies of the Fire Code are available for distribution to the public upon request and payment to the Township of its labor and material copying costs and/or costs to obtain the copy of or copying rights for requested material from the International Code Council if required by law.

(Comp. Ords. 1986, § 18.173; Ord. of 3-23-1987, § 1.00; Ord. of 4-22-1996; Ord. of 6-1-1999; Ord. of 7-8-2002)

(*CHAPTER 7, ARTICLE II cont.*)

Sec. 7-029. Amendments to the Fire Code.

The following sections of the 2009 Edition of the International Fire Code are amended to read, or by the addition of text, as follows:

108 Board of Appeals. **Amended to read:**

The Township construction board of appeals provided for in Chapter 4 of the Township Code of Ordinances shall serve as the Board of Appeals for purposes of this Fire Code

109.3 Violation penalties. **Amended to read:**

A. Except as otherwise provided in subsection B, persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Chief or Building Official, or of a permit or certificate used under provisions of this code, shall be responsible for a civil infraction punishable as provided in Section 1-010(b) of the Township Code of Ordinances.

B. Violations of Sections 3301.1 through 3308.11 of this Fire Code, are punishable as a misdemeanor as provided in Section. 1-010(a) of the Township Code of Ordinances.

110.1. General. **Amended to add the following**:

The following dangerous or hazardous conditions or materials are within the scope of this section:

1. Hazardous conditions likely to cause or contribute to the spread of fire in or on said premises or structure or endanger the occupants thereof;
2. Conditions that substantially interfere with the efficiency or operation of any fire protection equipment and system;
3. Obstructions to or on fire escapes, stairs, passageways, doors, or windows, that are likely to interfere with the egress of occupants, or the operation of the fire department in case of a fire;
4. Accumulations of dust or waste material in air-conditioning or ventilating systems, or grease in kitchen or other exhaust ducts;
5. Accumulations of grease in kitchen cooling equipment, or oil, grease, or dirt upon, under, or around any mechanical equipment;
6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material;
7. Hazardous conditions arising from defective or improperly utilized or installed electrical wiring, equipment, or appliances;
8. Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, explosive, or otherwise hazardous materials;
9. Dangerous or unlawful amounts of flammable, combustible, explosive, or otherwise hazardous materials; and
10. All equipment, materials, processes, or operations that are in violation of the provisions and intent of this code.

111.4 Failure to Comply. **Amended to read:**

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 responsible for a civil infraction punishable as provided in Section 1-100(b) of the Township Code of Ordinances.

(*CHAPTER 7, ARTICLE II, SECTION 7-029 cont.*)

304.3.3 Capacity exceeding 1.5 cubic yards. **Amended to add the following**:

When available space does not permit at least fifteen (15) feet from combustible structures or openings, the Fire Chief may allow a lesser distance provided the dumpster is equipped with locking metal lids. The placement of a dumpster shall at no time interfere with egress from a building, or access by fire-fighting equipment.

901.7.4 Preplanned impairment programs. **Amended to add a new paragraph 9:**

In the event that a preplanned impairment requires an extended period of time to complete any such repairs, provisions for a 'fire watch' shall be implemented by the impairment coordinator during the full-extended time period of the impairment.

902.1 Definitions. **Amended to add the following definition**:

Certified. A firm or individual approved or licensed by the State Fire Marshal to install and maintain fire alarm and/or fire suppression systems or equipment, pursuant to Act 144 of the Public Acts of 1982. Upon request by the Fire Chief, firms or individuals shall present evidence of certification.

903.3.5.1.1 Limited area sprinkler systems. **Amended to add a new paragraph 3:**

3. A double check valve assembly shall be installed between the sprinkler system supply main and the domestic water system piping, to prevent any backflow from the sprinkler piping to the domestic water supply.

906.1 Where required (Fire extinguishers). **Amended to add a new paragraph 7:**

7. In hotels, dormitories, lodging houses, and apartment buildings, at least one (1) fire extinguisher shall be provided on each floor at, or near, the stairway landing, and in the corridor at each elevator or bank of elevators, or near the exit doors from the corridor.

907.2.11.1.2 Groups R-2, R-3, R-4 and I-1 (Smoke alarms). **Amended to add a new paragraph 4**:

4. Smoke detectors shall be installed in corridors, hallways, and all commons areas (including basement storage and laundry areas) of occupancies in Use Groups R-2 and R-3. Said smoke detectors are to be hard-wired and interconnected.

2206.1 General. **Amended to read:**

Storage of flammable and combustible liquids shall be in accordance with Chapter 34, Section 2206, and the rules promulgated by the Michigan State Fire Safety Board.

3301.1 Scope. **Amended to add the following**:

The display, sale, storage, possession, transportation, distribution, ignition, discharge, and use of fireworks in the Township shall be prohibited, except as allowed by and in compliance with the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, as amended, MCL 28.451 – MCL 28.471, referred to in this section as the "Act", and the provisions of this code.

3404.2.9.6.1, 3406.2.4.4, 3506.2 and 3804.2 **are each amended to delete the following language.:**

(see Section 3 of Sample Ordinance for Adoption of the International Fire Code on page v).

(*CHAPTER 7, ARTICLE II, SECTION 7-029 cont.*)

***3801. Scope*. Amended to read:**

Storage handling and transportation of LP-gas and the installation of LP-gas equipment pertinent to systems for such uses shall comply with this chapter and NFPA 58. Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58 and the Liquefied Petroleum Gas Rules, as promulgated by the State Fire Safety Board.

Sec. 7-030. Additions to Fire Code.

The following sections are added to the 2009 Edition of the International Fire Code:

103.5 Fees for Services; Board Resolution. The Fire Chief shall develop, as needed, a schedule of fees to be assessed for services in various functions of review and inspections such as, but not limited to, assignment of addresses, fireworks displays, environmental review, fire detection, alarm and other system review, testing and inspections, sprinkler systems and the like. Upon submission of the recommended schedule of fees for services to the Township Board, the Board shall, by resolution, adopt, and amend from time to time, the schedule of fees for Fire Department services.

104.2.1 Fire Chief approval. Prior to issuance of any permit, the Building Official shall consult with the Fire Chief on all plans and specifications except those for single family dwellings. If the Fire Chief finds that the plans conform to all requirements for fire safety, the plans shall then be returned to the Building Official as approved.

104.2.2 Fire Chief approval. No Certificate of Use and Occupancy shall be issued for any alteration, renovation, or remodel of any existing building, or construction of any new building, except for all single family dwellings, prior to the inspection and approval of the Fire Chief.

104.10.2. Investigation specifics. Whenever a fire, explosion, or other hazardous condition is of a suspicious nature or which involves the loss of life, or serious injury, or causes destruction or damage to property, such an occurrence shall require an investigation, to be initiated immediately, and where suspicious in nature, the Fire Chief shall take charge of the physical evidence; and, in order to preserve any physical evidence relating to the cause or origin of such fire or explosion.

104.10.3 Fire records. The Fire Chief shall keep a record of all fires and all facts concerning the same, including investigation findings, statistics and information as to the cause, origin, and the extent of such fires, and the damage caused thereby.

107.6.1 Overcrowding. A person shall not permit overcrowding or admittance of any person beyond the approved occupant load. The Fire Chief, upon finding overcrowded conditions or obstruction in aisles, passageways, or other means of egress, or upon finding any condition which constitutes a hazard to life and safety, shall cause the occupancy, performance, presentation, spectacle, or entertainment to be stopped until such a condition or obstruction is corrected. The addition of any further occupants shall be prohibited until the approved occupant load is reestablished. In the interest of safety to the occupants involved in overcrowding, the Fire Chief may also order the immediate evacuation of the building until safe conditions may be established.

(*CHAPTER 7, ARTICLE II, SECTION 7-030* cont.)

109.3.2 Re-Inspection Fees. It shall be the right of the Fire Chief to assess fees for all fire code violations that have not been corrected by the time of the second re-inspection by the Fire Chief. The Fire Chief shall collect the fees by all means available under the law and the Code of Ordinances.

110.1.1.1. Special equipment. Special Fire protection equipment shall be installed when adequate fire protection is not being provided, or hazardous or dangerous conditions exist. The special fire protection equipment shall be installed in accordance with the requirements of this code, and the building code listed in Chapter 45.

110.2.1 Unlawful continuance. Any person who refuses to leave, interferes with the evacuation of other occupants, or continues any operation after having been given an evacuation order, except such work as that person is directed to perform in order to remove a violation or unsafe condition, shall be deemed to be in violation of the code and responsible for a civil infraction.

307.1.2. Permitted open burning. Section 307.1.1 does not prohibit bonfires and recreational fires by permit or the use of portable outdoor fireplaces, that shall be subject to and in compliance with this section 307, and any Fire Chief established rules or orders that prohibit fires as hazardous due to atmospheric conditions or local circumstances under Section 307.1.1.

315.2.5. Approval required. A person shall not store in any building or upon any premises in excess of two thousand five hundred (2,500) cubic feet (70M) gross volume of combustible empty packing cases, boxes, barrels or similar containers, or rubber tires, baled cotton, rubber, cork, or other similarly combustible material without having obtained approval from the Fire Chief.

315.2.6. Inside tire storage. Inside tire storage shall be arranged so as not to obstruct egress from the building, and with aisles between areas of storage a minimum of ten (10) feet wide, so as to subdivide the storage into units, with no horizontal dimension of more than twenty-five (25) feet wide, and a maximum height of twenty (20) feet. Any inside tire storage shall also comply with applicable sections of Chapter 25.

315.3.3. Outside storage. The outside storage of tires, combustible, or flammable material shall not be more than twenty (20) feet in height, and with no horizontal dimension of more than twenty-five (25) feet in any direction. Storage shall not be within twenty (20) feet of the perimeter of the property or within sixty (60) feet of any building or structure. There shall be a minimum separation of twenty (20) feet between all storage piles. This open space shall, at all times, be free of rubbish, equipment, and other materials. Storage shall be accessible to fire-fighting equipment on all sides.

315.3.3.1. Residual cleanup following a fire. If any dangerous or hazardous waste is generated or stored on the site of an outside tire storage area, as a result of a fire in such area, or due to any other occurrences, such wastes shall be disposed of and cleaned up in accordance with all applicable federal, state and local waste disposal regulations. No further tire storage may occur until the appropriate agency has certified that proper removal and disposal has taken place.

(*CHAPTER 7, ARTICLE II, SECTION 7-030* cont.)

503.4.1. Authority to remove obstructions. If any vehicle, trailer or other object is so located within a fire lane at the time the fire department is responding to an alarm (which necessitates use of such fire lane), any member of the Township police department, or fire department, may move or cause same to be removed, by any means necessary and reasonable under the circumstances.

506.1.2. Where required. A Knox box (key box) is required on all buildings, new or existing, equipped with an automatic fire suppression system, in order to allow immediate entry, at any hour of the day, for life-safety or fire-fighting purposes as required by the Fire Chief.

507.5.1.1. Location. When a building is equipped with an automatic fire suppression system, there shall be a fire hydrant located at least fifty (50) feet, but no more than one hundred (100) feet from the fire department connection on the building.

901.2.1.1. Review fees. When, at the discretion of the Fire Chief, plans and specifications are reviewed by an outside consultant, the person or firm submitting the plans and specifications shall be responsible for the total consulting fees or charges. In addition to the fees, a 10% administrative charge for processing will be added. The Building Official shall select the consultant. Consulting fees or charges shall be submitted with the plans and specifications, in full, and prior to review.

901.2.1.2. Certification required. Any installation, testing, repair, or maintenance of fire alarm or suppression systems required by this code or the building code, shall be performed by a certified fire alarm or suppression system firm.

901.2.1.3. System approval. Acceptance approval by the Fire Chief shall be withheld until a certificate of installation is received and accepted by the Fire Chief.

901.4.1.1. Licenses and certifications. All fire protection systems shall be installed by a contractor/installer/technician licensed or certified for the particular type of system. Such licenses and/or certifications shall include:

A. Consumer & Industry Services, Fire Safety Division, State of Michigan - Mechanical Contractor's License, through the Department of Labor.
B. Certification from the company/manufacturer whose equipment the installer/technician is authorized to install and/or service.

901.4.1.2. License requirement. Only those companies that meet the requirements for certification and licensing will be recognized and permitted to install or service fire protection systems, either fixed, portable, and/or handheld within the Township of Waterford.

903.2.8.1. Basement storage areas. All basement storage areas in buildings of Use Group R-1, R-2 and M, whether new construction or existing, shall be sprinklered, according to the standards referenced in Chapter 45 of the Code. In the event that individual storage areas are not afforded or provided for Use Group R-2, and/or storage occupies the open and common areas of the basement, the entire basement shall be sprinklered.

(*CHAPTER 7, ARTICLE II, SECTION 7-030* cont.)

903.3.6.1. Hose threads. All hose thread connections for 1 1/2" or 1 3/4" hose is National Standard. All hose thread connections for 2 1/2" hose is Detroit Standard. All Fire Department connections (Siamese connections) are 2 1/2" Detroit Standard threading.

903.3.7.1. Location. For any building or structure required to be equipped with a fire department connection, the connection shall be located within one hundred (100) feet of a fire hydrant, and within fifty (50) feet of a minimum eighteen (18) foot wide paved driveway or street.

903.3.7.2. Audible/visual alarms. Combination audible/visual alarms shall be installed at all Fire Department connections at the location determined by the Fire Chief, and inside the building at or near the system riser.

904.11.7. Regulations. The commercial cooking systems and operations regulations in NFPA Standard 96, and the Building and Mechanical Codes administered and enforced by the Township Building Official shall apply and be complied with for such systems and operations.

904.11.8 Audible/visual alarms. All commercial kitchen installations shall be equipped with an audible/visual alarm, which initiates upon release of the chemical suppression system. The alarm shall be located near the exhaust hood for the system. Multiple hood systems may require additional alarms as required by the Fire Chief.

906.3.5. Required size. Fire extinguishers in all Light and Ordinary Hazard occupancies shall be a minimum size of 3A-40BC (5 pound), and Extra Hazard occupancies shall be a minimum size of 4A-60BC (10 pound), at the direction of the Fire Chief. Said extinguishers shall be tested by an approved, certified company on an annual basis.

907.1.4. U.L. listed fire alarm panels. An Underwriter's Listed fire alarm panel shall be required for any location with smoke detectors, rate-of-rise heat detectors, sprinkler systems, hood suppression systems, flow alarms, and tamper alarms. Such panel shall be located at the direction of the Fire Chief. The fire alarm panel shall indicate by zone, in clear language, the location of any and all devices, and shall be accessible without special knowledge or code, with the capability of being silenced by the Fire Department.

912.2.2.3. Utilities. Gas meters, propane tanks, overhead electrical services, and transformers shall not be located on the same side of a building or structure as a fire department connection, unless a clear distance of one hundred fifty (150) feet can be maintained between the utilities and the fire department connection.

2204.2.6 Service station public address system. An Underwriter's Laboratory listed and approved public address system shall be installed at each self-service station, providing the capability of two-way communication between the fuel dispensing area and the station attendant. The public address system shall be maintained in an operational and functioning condition at all times.

2204.2.7. Combustibles. No combustibles shall be displayed within twenty (20) feet of a fuel dispensing area at self-service stations. This shall include tires, motor oil, and any other combustible items, or items packaged in combustible containers.

(*CHAPTER 7, ARTICLE II, SECTION 7-030 cont.*)

2206.2.7 Listing. Any and all Aboveground storage tanks (ASTs) and/or Underground storage tanks (USTs), are required to be used in accordance with their respective listing only. The use of an underground storage tank as an aboveground storage receptacle, or an aboveground storage tank for underground use is prohibited unless specifically allowed per the UL listing for that tank. All such tanks currently in use, in violation of this section, shall be rendered out of service, emptied of any contents, purged when necessary, and removed from the premises.

2508.1.1. Fire protection. Outside storage of tires shall not be located more than three hundred (300) feet from an operating fire hydrant. Portable fire-fighting appliances shall be within fifteen (15) feet of any mechanism which operates to produce shavings or rubber dust in all outside tire storage areas. Smoking is prohibited within fifty (50) feet of a mechanism which is operating to produce shavings or rubber dust in outside tire storage areas.

3301.2.2.1. Permit required. Except to the extent it is not required by the Act, a permit shall be obtained from the Fire Chief for the display, retail sale, or discharge of fireworks in the Township.

3301.2.2.2. Permit issuance. Applications/requests for fireworks(display) permits shall be made in writing at least 60 days in advance of the date of the intended display of fireworks. The display of fireworks shall be lawful under the terms and conditions approved with the permit, and for that purpose only. A permit granted hereunder is not assignable or transferable, nor shall any such permit be extended beyond the dates set out therein. Any violation of the conditions of the permit or this code shall result in the immediate revocation of said permit.

Sec. 7-031. State Fire Prevention Code; Severability.

Any provision of this Article or the adopted Fire Code, as amended, that is determined by the State Fire Marshall or a court of competent jurisdiction to be inconsistent with the State Fire Prevention Code, Public Act No. 207 of 1941, as amended, MCL 29.1 – MCL 29.33, or rules promulgated under that Act, shall not be enforced, shall be considered as repealed to the extent of the inconsistency. Such a provision shall be severable, with such a determination not affecting the enforceability of the remaining provisions of this Article and the adopted Fire Code, as amended.

(Ord. of 4-22-1996; Ord. of 6-1-1999; Ord. of 7-8-2002; Ord. of 4-28-2003)

CHAPTER 8 ENVIRONMENTAL PROTECTION

Art. I. In General, §§ 8-001--8-040 ..... Pages 8-1 through 8-2
Art. II. Flood Damage Prevention and Control, §§ 8-041--8-110 ..... Pages 8-2 through 8-9
Div. 1. Generally, §§ 8-041--8-070 ..... Pages 8-2 through 8-6
Div. 2. Administration, §§ 8-071--8-110 ..... Pages 8-7 through 8-9
Art. III. Lowland Filling §§ 8-111--8-170 ..... Pages 8-9 through 8-12
Div. 1. Generally, §§ 8-111--8-130 ..... Pages 8-9 through 8-10
Div. 2. Permit, §§ 8-131--8-170 ..... Pages 8-10 through 8-12
Art. IV. Wetlands Preservation §§ 8-171--8-230 ..... Pages 8-12 through 8-21
Div. 1. Generally, §§ 8-171--8-200 ..... Pages 8-13 through 8-16
Div. 2. Permit, §§ 8-201--8-230 ..... Pages 8-16 through 8-21
Art. V. Wellhead Protection §§ 8-231--8-370 ..... Pages 8-22 through 8-33
Div. 1. Generally, §§ 8-231--8-240 ..... Pages 8-22 through 8-23
Div. 2. Definitions, §§ 8-241--8-250 ..... Pages 8-23 through 8-25
Div. 3. Establishment and Identification of Wellhead Protection Areas, §§ 8-251--8-260 Pages 8-25 through 8-26
Div. 4. Use Regulations in Wellhead Protection Areas, §§ 8-261--8-270 ..... Pages 8-26 through 8-28
Div. 5. Regulated Substances, §§ 8-271--8-290 ..... Pages 8-28 through 8-29
Div. 6. Facility Closures, §§ 8-291--8-310 ..... Pages 8-29 through 8-29
Div. 7. Spill Control Plans, §§ 8-311--8-320 ..... Pages 8-30 through 8-30
Div. 8. Site Plan Review Standards, §§ 8-321--8-340 ..... Pages 8-30 through 8-32
Div. 9. Violations, Penalties, and Administrative Remedies, §§ 8-341--8-370 Pages 8-32 through 8-33
Art. VI. Stormwater Management §§ 8-371--8-420 ..... Pages 8-33 through 8-38
Div. 1. Generally, §§ 8-371--8-390 ..... Pages 8-33 through 8-36
Div. 2. Administration, §§ 8-391--8-420 ..... Pages 8-36 through 8-38
Art. VII. Woodlands Management §§ 8-421--8-470 ..... Pages 8-38 through 8-42
Div. 1. Generally, §§ 8-421--8-440 ..... Pages 8-38 through 8-40
Div. 2. Permit, §§ 8-441--8-470 ..... Pages 8-40 through 8-42

ARTICLE I IN GENERAL

Sec. 8-001. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Chapter:

Aquatic Vegetation means plants and plant life forms which naturally occur in, at, near or predominantly near water.

Contaminated Site A site which has been identified by the U.S. Environmental Protection Agency, the S.E.A., and/or County or local land development agency as a former industrial or waste disposal site, where the presence of toxic chemicals and/or gas pose an unreasonable risk of injury to health, property, and/or the environment.

Deposit means to fill, place, grade or dump.

Erosion. The mobilization of soil as a result of loss of vegetative cover, scouring by runoff, or associated with slope instability.

(*CHAPTER 8, ARTICLE I, SECTION 8-001* cont.)

High Water Mark, Ordinary. Ordinary high-water mark means the line between upland and inland lake bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is markedly distinct from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has the level established by law, it means the high established level. Where water returns to its natural level as a result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

Fill Material means soil, sand, gravel, clay, or any other inorganic substance.

Mean Sea Level means the average height of the sea for all stages of the tide. Mean sea level is commonly referred to as USGS or NGVD elevation.

Natural Feature. A natural feature shall mean water resources such as inland lakes and streams, watercourses, and wetlands. This definition may include upland areas representing distinctive geological, ecological or natural landscapes that the Township Board has declared by resolution to be a natural feature.

Operation means the making of additions or deposits, performing any construction or excavation activity, removing, improving and/or developing land in any manner, or any combination thereof and includes engaging in any use, construction or activity to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, grubbing or drilling operations.

Owner means any person who has dominion over, control of, title to and/or any other proprietary interest in designated wetland and/or watercourse areas, or title to a natural feature or man-made structure impacting a wetland, watercourse, or inland lake or stream property.

Remove means and includes to dig, dredge, suck, pump, bulldoze, dragline, blast, or any other activity which causes soil disruption.

Riparian Owner means a person who has riparian rights.

Riparian Rights means those rights which are associated with the ownership of the bank or shore of an inland lake or stream.

Runoff. Water from rain or snow melt that flows over the ground surface and returns to the nearest water resource via the path of least resistance.

Shoreline. A zoning lot line or portion of a zoning lot which abuts the ordinary high water mark of an inland lake.

Upland means the land area adjoining a wetland, lake, stream or watercourse, above the ordinary high-water mark.

Secs. 8-002--8-040. Reserved.

ARTICLE II FLOOD DAMAGE PREVENTION AND CONTROL

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the sections of the Waterford Township Floodplain Management Ordinance from Article I of this Chapter, formerly §§ 8-001 – 8-040, to Division 1 of this Article and the sections of this ordinance from Article II of this Chapter, formerly §§ 8-041 – 8-065, to Division 2 of this Article.*

Division 1. Generally

Sec. 8-041. Short title.

This Article shall be known and cited as the "Waterford Township Floodplain Management Ordinance."

(Comp. Ords. 1986, § 26.405)

(*CHAPTER 8, ARTICLE II, DIVISION 1 cont.*)

Sec. 8-042. Statutory authorization.

This Article is adopted to secure the public health, welfare, and safety under the combined authority of Public Act 359 of 1947 (MCL 42.1 et seq), (Charter Township Act), as amended, Public Act 451 of 1994 (Natural Resources and Environmental Protection Act),(MCL 324.33705), the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended.

(Comp. Ords. 1986, § 26.410)

Sec. 8-043. Legislative determinations.

(a) The special flood hazard areas of the Township are subject to periodic inundation which could result in potential loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which would adversely affect the public health, safety and general welfare.

(b) These potential flood losses are caused by the cumulative effect of obstructions in floodways causing increases in flood heights and velocities, and by the occupancy in special flood hazard areas by uses vulnerable to flood or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damages.

(c) The preservation and maintenance of the flood hazard areas of the Township in an undisturbed and natural condition provides for the protection of the Township watercourses, inland lakes and streams, and wetlands by minimizing the threat of existing and future pollution.

(Comp. Ords. 1986, § 26.411)

Sec. 8-044. Statement of purpose and objectives.

(a) It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas by provisions designed to:

(1) Restrict or prohibit uses which threaten the health, safety and property due to water, erosion or pollution or by flood heights or velocities.

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.

(4) Control filling, grading, dredging and other land development which may increase pollution, erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(b) The objectives of this Article are:

(1) To protect human life and health.

(2) To minimize expenditure of public money for costly flood control projects.

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) To minimize prolonged business interruptions.

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.

(6) To help maintain a stable tax base by providing for the sound use and land development of flood-prone areas in such a manner as to minimize future flood blight areas.

(7) To provide a means whereby potential home buyers are notified that property is in a flood area.

(8) To minimize disturbance to the floodplains which would result in damage from erosion, turbidity or siltation, a loss of fish or other beneficial aquatic organisms, a loss of wildlife and vegetation from the destruction of their habitat.

(Comp. Ords. 1986, § 26.412)

(*CHAPTER 8, ARTICLE II, DIVISION 1 cont.*)

Sec. 8-045. Definitions.

In addition to those definitions contained in Sections 1-002 and 8-001, the following definitions shall apply to this Article:

Appeal means a request for a review of or variance from the Township Engineer's or Building Official's interpretation of any provision of this Article.

Applicant means the owner, agent or legal representative of a zoning lot for which and by whom an application for land development in a special flood hazard area is made.

Base Flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

FEMA The Federal Emergency Management Agency.

Flood or Flooding means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  (1) The overflow of inland or tidal waters,
  (2) The unusual and rapid accumulation of runoff of surface waters from any source.
  (3) mudflows, and

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.

Flood Insurance Rate Map (FIRM) The official map of a community on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) A FIS is a compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. When a flood study is completed for the NFIP, the information and maps are assembled into an FIS. The FIS report contains detailed flood elevation data in flood profiles and data tables.

Floodplain. means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means those construction standards identified in the "Flood-Proofing Regulations," publication #EP-1165-2-314, U.S. Army Corp of Engineers publication.

Floodway means the floodplain that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

New Construction means buildings and/or structures for which land development commenced on or after February 17, 1983.

National Flood Insurance Program (NFIP) The program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

Special Flood Hazard Area (SFHA) An area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-

(*CHAPTER 8, ARTICLE II, DIVISION 1, SECTION 8-045 cont.*)

30, V1-V30, VE, or V. For the purpose of determining Community Rating System premium discounts, all AR and A99 zones are treated as non-SFHAs.

Substantially Improved means, for a structure built prior to February 17, 1983, any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(Comp. Ords. 1986, § 26.415; Ord. of 9-11-06)

Sec. 8-046. Prohibition on alteration of buildings, structures, or land without compliance with Article.

It is prohibited and a violation of this Article for any building, structure, or land located within areas designated herein as special flood hazard areas to be extended, converted or structurally altered without full compliance with the terms of this Article and other applicable laws or ordinances.

(Comp. Ords. 1986, § 26.420)

Sec. 8-047. Designation of special flood hazard areas.

The special flood hazard areas identified by the Federal Insurance Administration through a scientific and engineering report entitled "Flood Insurance Study Oakland County, Michigan and All Jurisdictions," dated September 29, 2006, with accompanying flood insurance rate map panels

26125C0329F	26125C0343F	26125C0364F
26125C0333F	26125C0344F	26125C0477F
26125C0334F	26125C0353F	26125C0481F
26125C0337F	26125C0354F	26125C0482F
26125C0339F	26125C0361F	26125C0501F
26125C0341F	26125C0362F	26125C0502F
26125C0342F	26125C0363F	

and flood boundary and floodway maps and any revision thereto are hereby adopted by reference and declared to be a part of this Article. Copies of such map shall be maintained on file with the Building Official.

(Comp. Ords. 1986, § 26.421; Ord. of 9-11-06)

Sec. 8-048. Designation of additional floodplains.

Floodplains additional to those areas described in the FIS may exist in the Township. The location of these areas shall be designated by the Township Engineer by utilizing the technical data contained in the FIS.

Sec. 8-049. Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will probably occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Township or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

(*CHAPTER 8, ARTICLE II, DIVISION 1 cont.*)

(Comp. Ords. 1986, § 26.425)

Sec. 8-050. Actions requiring permit.

Without first having obtained a permit approval from Township Engineer, Building Official, or Township Board, it shall be unlawful for any person, owner or occupant to:

(a) Locate any operation, obstruction, building, or structure within the floodway.
(b) Allow any operation, obstruction, building, or structure to remain within the floodway.
(c) Locate any operation, obstruction, building, or structure on lands in a floodplain
(d) Make alterations of any obstruction, building, or structure within these floodways or floodplains whether such obstruction, building, or structure is located in the floodway or floodplain before or after February 17, 1983. Maintenance of an obstruction, building, or structure shall not be construed to be an alteration.
(e) To locate any public or private institution or place of assembly on lands in a floodplain.
(f) Dredge, fill or land balance bottomlands, floodplains or floodways.
(g) Enlarge, diminish or alter an inland lake or stream or a naturally occurring watercourse.
(h) Construct, extend, enlarge, or connect any conduit, pipe, culvert or open or closed drainage facility erected for the purpose of carrying storm water runoff from any residential site of two (2) or more single-family or multiple residences, commercial sites, parking areas, paved or unpaved private or public streets, or any other land use permitting discharge of silt, sediment, organic or inorganic substances, chemicals, fertilizers, flammable liquids or any substance producing turbidity, except through an interceptor, retention or settling basin, filter, or treatment facility designed to control and eliminate the pollutant before discharge to any lake, pond, stream or watercourse.

(Comp. Ords. 1986, § 26.430)

Sec. 8-051. Actions not requiring permit.

The following uses are allowed in those areas designated in Sections 8-048 and 8-049 without a permit, subject to any required Township Engineer determinations being first obtained in writing:

(a) Conservation of natural habitats, soil, vegetation, water, fish and wildlife.
(b) Outdoor recreation including play and sporting areas; field trails for nature study, hiking and horseback riding, swimming, skin diving, boating, trapping, hunting (as permitted by local ordinance) and fishing where otherwise legally permitted and regulated.
(c) Grazing, farming, gardening and harvesting of crops, and forestry and nursery practices where otherwise legally permitted and regulated.
(d) Dams and other water control devices, and temporary alteration or diversion of water or circulation for emergency maintenance or aquaculture purposes, if in compliance with state statutes.
(e) Public and/or privately owned boat launching and landing facilities, and fishing docks which have obtained the necessary state permits.
(f) Public and/or private rafts and diving platforms, slides, swings and other water recreation devices.
(g) Municipal or utility use such as waterworks, sewer lines, pumping stations, transmission lines, parks and recreation facilities, when involving any alteration of existing natural conditions of special flood hazard areas.
(h) Driveways, streets, culverts and bridges where alternative means of access are proven to be impractical by the Township Engineer.
(i) Other uses, which after review by the Township Engineer, are determined to be in keeping with the intent of this Article.

(Comp. Ords. 1986, § 26.435)

Sec. 8-052. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this Article and another provision of this Code conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Comp. Ords. 1986, § 26.475)

Secs. 8-053--8-070. Reserved.

(*CHAPTER 8, ARTICLE II, cont.*)

Division 2. Administration*

Sec. 8-071. Administration and review procedures; Township Engineer.

The Township Engineer, working in conjunction with the Building Official, is hereby appointed to administer and implement the provisions of this Article and approve permits for proposed actions that do not require any other Township permit or approval. Accordingly he shall review all operations affecting the special flood hazard areas of the Township as well as any application for an operation in the special flood hazard areas received by the Township Engineer under any of the other provisions of this Article, and any such application received by:

(a) The Zoning Official for a new subdivision of property under the provisions of the Waterford Code of Ordinances, Subdivision and Land Management Regulations.
(b) The Building Official under the provisions of the state construction code comprised of the Michigan Residential Code and the Michigan Building Code and its Appendices, specifically Appendix G, adopted pursuant to the Stille-Derossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, MCL 125.1501, et. seq. (construction code act).
(c) The Zoning Official under the provisions of the Waterford Township Zoning Ordinance.
(d) The Township Clerk under the provisions of Public Act 451 of 1994. (Natural Resources and Environmental Protection Act) (MCL 324.33705).

(Comp. Ords. 1986, § 26.450; Ord. of 9-11-06)

Sec. 8-072. Data supplied by applicant.

As requested by either the Township Engineer or the Building Official, an applicant or permit holder shall furnish the following information and data:

(a) Duplicate sets of engineering plans drawn to suitable scale, showing the nature, location, dimensions and the existing and proposed elevations based on mean sea level of the area in question, as well as all existing or proposed buildings, structures, drainage facilities, and the locations of the foregoing.
(b) Any other additional information which may be reasonably necessary to determine compliance with the provisions of this Article.
(c) Elevation in relation to mean sea level of the lowest floor (including basement) of all buildings and structures.
(d) Elevation in relation to mean sea level, to which any nonresidential building or structure has been flood-proofed.
(e) Certificate from a registered professional engineer or architect that the nonresidential flood-proofed building or structure has been flood-proofed.
(f) Flood impact analysis/evaluation.

(Comp. Ords. 1986, § 26.455)

Sec. 8-073. Duties and responsibilities of Township Engineer.

The Township Engineer, upon receipt of an application for any of the operations referenced in Section 8-071 shall:

(a) Review the information and present his findings to the Zoning Official prior to approval of any preliminary plat.
(b) Review the information presented to him by the Building Official prior to the issuance of any building permit, and report to the Building Official his findings.
(c) Review the information contained in the application for a lowland filling permit and report this finding to the applicant and the Township Board in connection with an appeal.
(d) Review the information contained in the rezoning, zoning board of appeals, special approval, or site plan application and report to the Zoning Official.
(e) Review the information contained in any state-mandated floodplain control application and report to the S.E.A.
(f) Advise applicant that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits, or a letter of no authority, be provided and maintained on file with the applicant's file.

(*CHAPTER 8, ARTICLE II, DIVISION 2, SECTION 8-073* cont.)

(g) Notify adjacent communities and the S.E.A. prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA. Require that maintenance is provided within the altered or relocated portions of such watercourse so that the flood carrying capacity is not diminished.

(h) If no other permit or approval is required, approve, with or without conditions, a permit for the proposed action or deny the permit giving the reasons for denial to the applicant in writing.

(Comp. Ords. 1986, § 26.460)

Sec. 8-074. Duties and responsibilities of Building Official.

When the Building Official is notified by the Township Engineer that an applicant has applied for any operation in areas identified in Sections 8-048 and 8-049 that requires a construction code building permit he shall evaluate documents submitted as required by Section 8-072 for the following purposes and actions:

(a) Verify through acceptance of applicant's engineering certificate, the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings and structures and retain as an official record of the Building Official.

(b) Verify through acceptance of applicant's engineering certificate, the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings and structures have been flood-proofed and retain as a Building Official record.

(c) When flood-proofing is utilized for a particular nonresidential building or structure, obtain certification from a registered professional engineer or architect.

(d) Where applicant seeks to substitute construction standards required and referenced by this Article, the applicant may file with the construction board of appeals for relief.

(e) All records pertaining to the construction, alteration or flood-proofing of buildings or structures in the special flood hazard area shall be maintained in the office of the Building Official and shall be open for public inspection.

(f) Check building plan for compliance with this Article.

(g) If applicant meets all the requirements, issue a permit. If not, he shall inform applicant that the permit must be denied until the problem is corrected.

(h) Make a final inspection when the project is completed. If project has been completed according to approved plans, he shall issue a certificate of occupancy.

(Comp. Ords. 1986, § 26.461)

Sec. 8-075. Performance bond.

The Township Engineer, Building Official or the Township Board may require, as a condition to the granting of any approval under this Article, that the applicant provide a bond in the form of cash, letter of credit, or other security acceptable to the Township in an amount that does not exceed the reasonable cost of guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit is issued.

(Comp. Ords. 1986, § 26.465)

Sec. 8-076. Variance and appeal power of Township Board.

(a) The Township Board shall have full power and authority to vary the application of the provisions of this Article. The Township Board shall hear appeals from any requirement, decision or determination made by an authorized Township official acting in the enforcement or administration of this Article. In passing upon such matters, the Township Board shall consider:

(1) All technical elevations, relevant factors, and standards specified in other sections of this Article.

(2) Danger to life, health or property by water which may be backed up or diverted by such obstruction.

(3) Danger that the obstruction will be swept downstream to the injury of others.

(4) Danger of water pollution resulting from floods.

(5) Availability of alternate locations.

(6) Construction or alternation of the obstruction in such a manner as to lessen the danger.

(7) Permanence of the obstruction.

(*CHAPTER 8, ARTICLE II, DIVISION 2, SECTION 8-076 cont.*)

(8) Anticipated land development in the foreseeable future of the area which may be affected by the obstruction including maintaining the stability of the tax base by preventing improper land development of floodprone areas.

(9) Other factors as are in harmony with the purpose of this Article.

(b) Variances may be granted for the reconstruction, rehabilitation or restoration of buildings and structures listed on the National Register of Historic Places or the state register of historic places without regard to the criteria set forth in this Section.

(Comp. Ords. 1986, § 26.470)

Sec. 8-077. Violations; Civil Infraction.

Violation of this Article is a civil infraction, punishable as provided in Section 1-010(b).

Secs. 8-078--8-110. Reserved.

ARTICLE III. LOWLAND FILLING

***Editor's note:** The 2014 ordinance recodification amended the Code repealing the flood hazard reduction standards formerly contained in §§ 8-066 – 8-068 in this Article, transferring the Waterford Township Lowland Filling Regulatory Ordinance from Article III of Chapter 13, formerly §§ 13-081 – 13-130, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Division 1. Generally

Sec. 8-111. Title.

This Article shall be known and cited as the "Waterford Township Lowland Filling Regulatory Ordinance."

(Comp. Ords. 1986, § 21.051)

Sec. 8-112. Purpose.

The purpose of this Article is to promote the public health, safety and general welfare of the residents of the Township and preserve the natural resources and to prevent the creation of nuisances and hazards to the health, safety and general welfare by the regulation of the depositing and dumping of fill materials, waste materials, and other materials on land located within the Township. The Township shall issue permits for such activities, provide for fees, and prescribe the rules and regulations and conditions for the issuance of such permits, and to provide for the bonds to ensure satisfactory performance of the terms of this Article.

(Comp. Ords. 1986, § 21.052)

Sec. 8-113. Unlicensed refuse dumping prohibited.

No person shall dispose of any waste materials, as defined in Section 9-053 of this Code, at any place within the Township unless in a state licensed sanitary landfill in accordance with Public Act No. 451 of 1994, as amended (MCL 324.11512 et seq).

(Comp. Ords. 1986, § 21.053)

Sec. 8-114. Enforcing official; violations; appearance ticket; Civil Infraction.

(a) The Township Engineer is hereby designated as the official responsible for the implementation and enforcement of the provisions of this Article.

(b) The Township Engineer may issue a complaint in the form of a court citation directed to any person when there exists reasonable cause to believe a violation of the provisions of this Article has been committed.

(*CHAPTER 8, ARTICLE III, DIVISION 1 , SECTION 8-114 cont.*)

(c) Any violation of this Article is deemed to be nuisance per se and shall be enforceable through the bringing of appropriate action for injunctive relief in any court having jurisdiction.

(d) In the event a violation of this Article has adversely affected any neighboring property, then, as a part of the injunctive relief authorized herein, the court, in its discretion, may authorize the Township to enter onto the property upon which the violation has occurred and take any and all action deemed necessary by the Township to correct such violation. All costs of such correction incurred by the Township shall be paid by the property owner and the Township shall have a lien against the land for such expense to be enforced in the manner provided for enforcement of tax liens under the general property tax law or as otherwise provided in Chapter 1..

(Comp. Ords. 1986, § 21.072; Ord. of 12-8-86, § 1.00)

Sec. 8-115. Violations and sanctions.

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b).

(Ord. of 7-8-02)

Secs. 8-116--8-130. Reserved.

Division 2. Permit*

Sec. 8-131. Required.

It shall be unlawful for any person to move or deposit fill materials or other materials on land located within the Township without having first obtained a permit for such moving and/or deposition from the Township except as otherwise provided by law.

(Comp. Ords. 1986, § 21.054)

Sec. 8-132. Activities exempt from requirement.

(a) No permit required under this Division shall be required for the moving of the fill materials described in Section 8-131 upon a zoning lot one-half acre or less in area where grade will not be changed by more than one (1) foot and/or drainage will not be changed to the detriment of adjacent properties.

(b) No permit shall be required for sites where the moving, grading or leveling of such fill materials is carried on for the land development :

(1) Which has received site plan approval in accordance with the Waterford Township Zoning Ordinance, or

(2) Which has an approved grading plan for a platted subdivision which has received final approval of the preliminary plat in accordance with Waterford Code of Ordinances, Subdivision and Land Management Regulations, and

(3) Which has a building permit issued by the Building Official.

(c) No permit shall be required for sites where the moving, grading or leveling of such fill materials by a property owner solely upon his own property which either:

(1) Does not change the natural drainage to the detriment of adjacent properties.

(2) Does not disrupt or fill any portion of a wetland area.

(d) No permit shall be required for the application of topsoil or other similar fill material when used for purposes of lawn maintenance or gardening; provided, however, that such lawn maintenance or gardening does not violate the requirements of subsection (a) of this Section.

(e) No permit shall be required for public street construction. However, any pit, hole, or excavation opened and used by a street agency solely for the purpose of a particular project or contract of street construction and not located on the street right-of-way shall obtain a permit in accordance with this Division.

(Comp. Ords. 1986, §§ 21.055--21.058)

(*CHAPTER 8, ARTICLE III, DIVISION 2 cont.*)

Sec. 8-133. Application; required information.

The application for a permit shall be filed with the Township Engineer on the form authorized by the Township Engineer for such a permit, signed by the property owner of record and all parties having a legal interest in the property, the original of which shall be sworn to before some person lawfully authorized to administer oaths, and shall set forth the following information and shall be accompanied by the following data:

(a) A full identification of the applicant and all persons to be directly or indirectly interested in the permit, if granted.
(b) The residence and business address of the applicant, including all members of any firm or partnership, or all officers of any corporation applying.
(c) A complete legal description of the zoning lot.
(d) A complete description of the location of the property on which the work is proposed to be done
(e) The exact nature of the proposed filling and the type of fill material to be deposited and an estimate of the approximate number of cubic yards to be deposited.
(f) The proposed route which the applicant proposes to use over the public streets and over private property in transporting such fill material. A copy of the haul permit, if required by the street agency, shall be furnished to the Township Engineer.
(g) Binding dates of commencement of filling and termination of filling.
(h) Other information required by the Township Engineer as dictated by the features of the zoning lot in question and the public health, safety and welfare of the Township.

(Comp. Ords. 1986, § 21.059)

Sec. 8-134. Permit application fees and bonds.

(a) The Township Board may establish by resolution a schedule of fees intended to cover the costs of processing a fill permit application, including application processing, field inspections, engineering review services, appeals hearings, permit processing, and permit compliance monitoring. The Township Board may also establish in the schedule of fees authorization for the Township Engineer to require cost recovery from an applicant of all costs associated with production of documentation where required to comply with federal, state or County regulations, or if other consultant fees are required to be expended in reviewing the application.
(b) With the filing of an application, the applicant shall submit a deposit for the total fees for all processing and service costs estimated by the Township Engineer as necessary for processing the application.
(c) The Township Engineer may require, as a condition of the permit, that a bond in the form of cash, letter of credit or other security acceptable to the Township be posted by the applicant, which bond shall not exceed the reasonable costs guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit is issued.

Sec. 8-135. Processing of permit application.

Upon receipt of an application for a permit required by this Division, the Township Engineer shall conduct an investigation of the facts set forth in the application and shall approve or deny the permit, basing the decision upon the following criteria:

(a) The current zoning and planned future land use of the zoning lot.
(b) The overall effects of the proposal upon the entire zoning lot and surrounding zoning lots.
(c) The effects, if any, upon the natural surface water accumulation and retention on the zoning lot and surrounding zoning lots.
(d) The character of the applicant with regard to honesty, integrity and financial responsibility.
(e) The preservation of necessary natural resources.
(f) The potential for the creation of a nuisance.
(g) The private property rights of abutting property owners.

(*CHAPTER 8, ARTICLE III, DIVISION 2, cont.*)

Sec. 8-136. Conditions for approved permits.

All persons to whom any permit is issued under this Division shall comply with the following:

(a) Within thirty (30) days following filling or dumping, the zoning lot must be graded in such a manner as to prevent the collection of water, to provide proper drainage and to leave the ground surface reasonably level or smooth, free of all rock, stone, cement, or heavy aggregate, and fit for the growing of turf and other land uses permitted in the district.

(b) No fill material shall be dumped on the spillways or floodplains of any natural or artificial streams or watercourses, or any area between the upper and lower banks of such streams or watercourses, or any bottom land of an inland lake or stream, except on the approval of the S.E.A. in accordance with Public Act No. 451 of 1994, as amended.

(c) Types of fill materials to be deposited shall be regulated through conditions specified in the permit.

(d) Upon completion of filling operations, the site shall be graded as described in subsection (1) of this Section and seeded, in accordance with the seeding type and volume standards established by the Township Engineer.

(e) Any streets used for purpose of ingress and egress to said filling site which are located within five hundred (500) feet of any occupied residence shall be kept dust free by surfacing in accordance with the surfacing standards established by the Township Engineer.

(f) No permit shall be issued until a soil erosion and sedimentation control permit has been obtained by the applicant. If the County Water Resources Official determines that a permit is not required for a particular operation then this requirement will not apply.

(g) Additional requirements and conditions established as is deemed necessary in the interest of the public health, safety and preservation of natural resources, as well as the general welfare of the citizens of the Township.

Sec. 8-137. Revocation and suspension.

The Township Engineer may revoke or suspend a permit issued under this Division for failure to comply with any of the provisions of Section 8-136.

(Comp. Ords. 1986, § 21.071)

Sec. 8-138. Appeals.

An applicant may appeal decisions made under this Article to the Township Board by filing a written appeal with the Township not more than ten (10) days after the decision. The written appeal shall fully and particularly set forth the nature and grounds upon which the appeal is based. The Township Board, shall, within thirty (30) days after the filing of such notice of appeal, hold a hearing on the appeal. Upon hearing the appeal, Township Board shall either uphold or overturn the decision that is the basis for the appeal.

Secs. 8-139--8-170. Reserved.

ARTICLE IV. WETLANDS*

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the Waterford Township Wetlands Ordinance from Article V of Chapter 13, formerly §§ 13-186 – 13-224, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

(*CHAPTER 8, ARTICLE IV, cont.*)

Division 1. Generally

Sec. 8-171. Title.

This Article shall be known and cited as the "Waterford Township Wetlands Ordinance."

Sec. 8-172. Findings.

It is recognized by the Township Board that wetlands conservation is a matter of Township concern inasmuch as a loss of a wetland, and particularly in accumulation with other losses of wetlands, will deprive the people of the Township or others of flood and/or stormwater control, wildlife habitat, protection of groundwater resources and provision of valuable watersheds and recharging groundwater supplies, pollution treatment, erosion control and sources of nutrients. It is further recognized by the Township Board that rapid growth, the spread of land development, and increasing demands upon natural resources, have resulted in the shrinkage of the critically necessary domain of wetlands and have had the effect of encroaching on, despoiling, polluting or eliminating many wetlands, and other natural resources, and the public trust therein, and that preservation of the remaining wetlands in an undisturbed and natural condition shall be and is necessary to maintain important physical, aesthetic, recreational and economic assets for existing and future residents of the Township and of this State.

(Ord. No. 155, § 1.1, 12-10-90; Ord. of 6-13-94, § 1.1)

Sec. 8-173. Intent and purpose.

It is the purpose and intent of this Article, in view of the findings specified in Section 8-172, to promote and maintain a harmonious and compatible land use balance within the Township and to obviate the nuisance condition which would arise with the indiscriminate land development of existing wetlands areas; to provide for the protection, preservation, proper maintenance and use of Township wetlands in order to minimize disturbance of and to them; to prevent damage caused by erosion, scarification, sedimentation, turbidity and/or siltation; to provide for the protection of soils capable of providing necessary filtration for the maintenance of aquifer stability; to protect against loss of wildlife, fish or other beneficial aquatic organisms, or vegetation, and also against the destruction of natural habitat; to minimize the phenomenon of environmental deterioration; to secure safety from the dangers of flood and pollution, to prevent loss of life, property damage and other losses and risks associated with flood conditions; to protect individual and community riparian rights; to preserve the location, character and extent of natural drainage courses; and to provide for the enforcement of this Article and coordination of the enforcement of appropriate local, County and state ordinances or statutes and corresponding agencies.

(Ord. No. 155, § 1.2, 12-10-90; Ord. of 6-13-94, § 1.2)

Sec. 8-174. Validity and necessity.

The Township Board declares that this Article is essential to the health, safety, economic and general welfare of the people of the Township, and to the furtherance of the policy set forth in Article 4, Section 52 of the Constitution of the State of Michigan and Public Act 451 of 1994 (Natural Resources and Environmental Protection Act),(MCL 324.30301 - 30323)

(Ord. No. 155, § 1.3, 12-10-90; Ord. of 6-13-94, § 1.3)

Sec. 8-175. Construction and application.

(a) Ambiguities, if any, shall be construed liberally in favor of the protection and preservation of natural resources:

(b) It is an intent of this Article to promote flood protection, however, this Article cannot be relied upon for determining where floods may occur.

(Ord. No. 155, § 1.4, 12-10-90; Ord. of 6-13-94, § 1.4)

(*CHAPTER 8, ARTICLE IV, DIVISION 1 cont.*)

Sec. 8-176. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 8-001, the following words and phrases, when used in this Article, shall have the meanings respectively ascribed to them:

Act means the Wetland Protection regulations in Part 303 of the Natural Resources and Environmental Protection Act, MCL 324.30301 – 30323, as amended.

Board or Wetlands Board means the Township Planning Commission.

Contiguous means a permanent surface water connection or other direct physical contact with an inland lake or stream or watercourse.

Seasonal means a condition or event which occurs annually during a specific time of the year as a result of reoccurring weather conditions characteristic to such time of the year.

Soils:

(1) Poorly drained soils are those general organic soils from which water is removed so slowly that the soil remains wet for a large part of the time. The water table is commonly at or near the surface during a considerable part of the year. Poorly drained conditions are due to a high-water table, to a slower permeable layer within the soil profile, to seepage, or to some combination of these conditions.

(2) Very poorly drained soils are those soils from which water is removed from the soil so slowly that the water table remains at or on the surface a greater part of the time. Soils of this drainage class usually occupy larger or depressed sites and are frequently ponded.

Structure means any assembly or materials above or below the surface of the land or water, including but not limited to, houses, buildings, plants, bulkheads, piers, docks, rafts, landings, dams, sheds or waterway obstructions.

Temporary means a time period as specified in the use permit, or if unspecified, shall mean an uninterrupted time period less than nine (9) months in duration.

Wetlands has the same meaning as defined in Section1-002 and the Act.

(Ord. No. 155, §§ 2.1, 2.2, 12-10-90; Ord. of 6-13-94, §§ 2.1, 2.2)

Sec. 8-177. Wetlands to be regulated.

Unless excluded from regulation under subsection (e), the following wetlands described in subsection (a) - (d) shall be regulated by this Article:

(a) Wetlands contiguous to an inland lake or stream.

(b) Wetlands two (2) or more acres in size contiguous to a watercourse.

(c) Wetlands two (2) or more acres in size that are not contiguous to a watercourse or an inland lake or stream.

(d) Wetlands less than two (2) acres in size, the protection of which is essential to the preservation of the natural resource of the State from pollution, impairment, or destruction, if the owner of the property has been notified in writing by the Township of such essentiality determination, which shall be based on one or more of the following criteria regarding the wetland:

(1) Possesses a seasonal or intermittent direct surface water connection to an inland lake or stream essential to natural resource preservation or to stormwater management, or

(2) Is partially or entirely located within five hundred (500) feet of the ordinary high water mark of an inland lake or pond or a river or stream possessing a surface or groundwater connection to such water resources and is essential to natural resource preservation or to stormwater management, or

(3) Is one of two (2) or more areas of wetland separated only by barriers, such as dikes, streets, berms, or other similar features and is essential to natural resource preservation or to stormwater management.

(*CHAPTER 8, ARTICLE IV, DIVISION 1, SECTION 8-177 cont.*)

(e) The following are excluded from regulation under this Article as required by Sections 30305 and 30307 of the Act, MCL 324.30305 and 324.30307:
(1) Activity in a wetland that since before October 1, 1980, has been effectively drained for farming as part of an ongoing farming operation as provided in MCL 324.30305(3).
(2) Wetlands incidentally created as a result of activities specified in MCL 324.30305(4).
(3) An area that becomes contiguous to a water body created as a result of commercial excavation for sand, gravel, or mineral mining until it is no longer used for such excavation and is used for another purpose unrelated to that excavation as provided in MCL 324.30305(5).

Sec. 8-178. Concurrent jurisdiction.

(a) The Township shall have jurisdiction for the regulation of wetlands under this Article concurrent with the jurisdiction of the S.E.A.
(b) Issuance of a permit under this Article shall not relieve a property owner from obtaining a permit from the S.E.A. and/or from the Army Corps of Engineers or other agency, if required.
(c) Issuance of a permit by the S.E.A. and/or Army Corps of Engineers shall not relieve a property owner from obtaining a permit under this Article if a permit is required by the terms of this Article, and all permit requirements under this Article shall be met.

(Ord. No. 155, §§ 5.1--5.3, 12-10-90; Ord. of 6-13-94, §§ 5.1--5.3)

Sec. 8-179. Violations; Civil Infraction.

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b).

(Ord. No. 155, §§ 6.1, 6.3, 12-10-90; Ord. of 6-13-94, §§ 9.1--9.3; Ord. of 7-8-02)

Sec. 8-180. Wetland mapping.

(a) By Resolution the Township Board has adopted, and from time to time may amend, a generalized wetland map, showing an inventory of wetlands within the municipality.
(b) The wetland map shall not create any legally enforceable presumptions regarding whether property that is or is not included on the inventory map is or is not in fact a wetland.

(Ord. of 6-13-94, §§ 7.1--7.3)

Sec. 8-181. Investigation and initial wetland determination.

(a) This Section is intended to apply in those cases in which a project or activity has been commenced, and the Township receives notice or otherwise learns that activities may be occurring in regulated wetlands without a permit.
(b) In those cases where the Township learns that activities may be occurring in a regulated wetland without a permit, the Township Engineer will conduct a preliminary investigation including site examination, and prepare an initial determination and report, in their reasonable discretion, whether there may be an activity occurring which requires a permit or whether there exists a violation of law or ordinance.
(c) In a case in which the Township Engineer makes a determination that there may be a violation of this Article, upon notice from the Township, the property owner and all persons actively engaged in activities in the wetlands which may be a violation, shall stop all such activities immediately, in which case the property owner, or the property owner's agent, shall make an election to either:
(1) Apply for a permit under this Article; or
(2) Request an official determination by the Township on whether a permit shall be required.
(d) In the event a property owner, or the property owner's agent, requests an official determination as provided in (c)(2) above, an escrow in an amount required by Section 8-204 shall be established with the Township to cover the costs of such wetland determination.
(e) If a notice to cease activities has been issued by the Township in accordance with this Section, such activities shall not continue and shall not again commence until such time as a

(*CHAPTER 8, ARTICLE IV, DIVISION 1, SECTION 8-181 cont.*)

permit has been issued under this Article, or a determination has been made that a permit is not required.

(Ord. of 6-13-94, §§ 8.1--8.5)

Secs. 8-182--8-200. Reserved.

Division 2. Permit*

Sec. 8-201. Actions requiring permits.

It shall be unlawful for any owner to allow, or any person to do or assist in any of the following in a wetland regulated by this Article unless and until a written permit is obtained from the Township pursuant to this Division:

(a) Conduct operations not exempted in Section 8-202.

(b) Construct, extend, enlarge or connect any conduit, pipe, culvert, or open a closed drainage facility erected for the purpose of carrying stormwater runoff from any residential site of two (2) or more single-family residences or from a multiple residence, commercial site, industrial site, parking area, unimproved private or public street, or any other land use permitting discharge of silt, sediment, organic or inorganic materials, chemicals, fertilizers, flammable liquids or any substance producing turbidity, except through an interceptor, retention or settling, filter or treatment facility designed to control and eliminate the pollutant before discharged to any wetland, provided the design of such facility must first be approved by the Township or the S.E.A.

(c) Construct, enlarge, extend or connect any private or public sewage or waste treatment plant discharge to any wetland except in accordance with the latest requirements of and permit by the County, State and/or the United States, to the extent that such entities have jurisdiction.

(d) Drain, or cause to be drained, any water from a wetland.

(e) Deposit or permit the placing of fill material in a wetland.

(f) Dredge, remove, or permit the removal of soil or materials from a wetland.

(g) Construct, operate, or maintain any use or development in a wetland.

Sec. 8-202. Actions not requiring permit.

(a) Activities that are authorized by a permit under Public Act 451 of 1994 (Natural Resources and Environmental Protection Act), Part 301 (MCL 324.30101 – 30113), or a discharge that is authorized by a discharge permit under Section 3112 or 3113 (MCL 324.3112 – 3113) do not require a wetlands permit under this Article.

(b) The following uses shall be allowed in a wetland without a permit subject to other applicable laws and ordinances, the owner's regulation, and any restrictions or requirements in Section 30305 of the Act, MCL 324.30305, for these exemptions:

(1) Fishing, trapping or hunting.

(2) Swimming or boating.

(3) Hiking.

(4) Grazing of animals including fencing and post placement as allowed by the Act.

(5) Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices, subject to the restrictions in the Act. Wetland altered under this subsection shall not be used for a purpose other than a purpose described in this subsection without a permit issued in accordance with this Article.

(6) Maintenance or operation of serviceable structures in existence on the effective date of the first Waterford Township Wetland Ordinance or constructed pursuant to that Ordinance.

(7) Construction or maintenance of farm or stock ponds.

(8) Maintenance of an agricultural drain or drain legally established and constructed pursuant to the Drain Code of 1956, MCL 280.1 to 280.630, as amended, as defined and subject to requirements in the Act.

(*CHAPTER 8, ARTICLE IV, DIVISION 2, SECTION 8-202* cont.)

(9) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
(10) Maintenance of public streets, highways, or roads that meets all of the requirements in the Act.
(11) Maintenance or repair of utility lines and associated support structures as defined and subject to the requirements of the Act.
(12) Installation of utility lines having a diameter of six (6) inches or less using directional drilling or boring, or knifing-in, and placement of poles with a support structure less than one (1) cubic yard in size, as defined and subject to the requirements in the Act.
(13) Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on the effective date of the first Waterford Township Wetland Ordinance or constructed pursuant to that Ordinance.
(14) Placement of biological residuals from activities, including cutting of woody vegetation or the in-place grinding of tree stumps, performed within a wetland if all the biological residuals originate within that wetland.
(15) Leveling of sand, removal of vegetation, grooming of soil, or removal of debris, in the area of unconsolidated material predominately composed of sand, rock, or pebbles, located between the ordinary high-water mark and the water's edge.
(16) Mowing of vegetation between the ordinary high water mark and the water's edge.
(17) Uses that do not require a permit under the Act, as amended.

Sec. 8-203. Permit application.

(a) Application for a township wetland permit shall be made on a form acceptable to the Township Engineer and submitted to and processed by the Township Engineer in accordance with the review and approval procedures established under this Division.
(b) Upon receipt, the Township Engineer shall forward a copy of each application to the S.E.A.
(c) The Township Engineer, with the assistance of those Township officials and wetland consultants in those cases when requested by the Township Engineer, shall review the application pursuant to the procedures established by this Article.
(d) The application shall be modified, approved or denied within ninety (90) days after receipt, in accordance with the provisions of this Article.
(e) The applicant for a wetland permit approval required in conjunction with site plan review or subdivision approval shall, at the time of submission, elect to have the application processed under either subsection (1) or (2) below:
  (1) The wetland permit application shall be reviewed immediately, either prior to or concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant, with the understanding that the land use review may not be completed at the time the decision is rendered on the wetland application. Election of this alternative may require a re-opening of the wetland application if the land use approval is inconsistent with the wetland approval; or
  (2) The wetland permit application shall be reviewed and acted upon concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant, and the ninety-day review period limitation specified in the Act ,MCL 324.33705, as amended, shall thereby be extended accordingly.
(f) The denial of a permit shall be accompanied by a written reason for denial. The failure to supply complete information with a permit application may be reason for denial of a permit.

Sec. 8-204. Permit application fees and escrows.

(a) The Township Board may establish by resolution a schedule of fees and escrows intended to cover the costs of processing a wetlands permit application, including application processing, field inspections, wetland consulting services, appeals hearings before the wetlands board, permit processing, and permit compliance monitoring. The Township Board may also establish in the schedule of fees authorization for the Township Engineer to require cost

(*CHAPTER 8, ARTICLE IV, DIVISION 2, SECTION 8-204 cont.*)

recovery from an applicant of all costs associated with production of an environmental statement, environmental assessment, or an environmental impact study where required to comply with federal, state or County regulations, or if other consultant fees are required to be expended in reviewing the application.

(b) With the filing of an application, the applicant shall submit a deposit for the total fees for all processing and service costs estimated by the Township Engineer as necessary for processing the application.

(c) All amounts of fee deficiency shall be paid, and all amounts of fee overage shall be returned, prior to or concurrent with final action on the application, with a fee deficiency being a permitted reason to find an application to be incomplete and deny a permit.

Sec. 8-205. Hiring of wetland consultant.

The Township Engineer is authorized to engage the services of a wetlands consultant to provide scientific expertise and analysis during permit application processing and compliance monitoring for those cases where the Township Engineer has determined such scientific documentation is required to achieve the objectives of this Article.

Sec. 8-206. Permit application review procedure for wetlands contiguous to inland lakes and streams.

Following receipt of an application for a permit for a proposed activity or operation in a wetland contiguous to an inland lake or stream, the Township Engineer shall review the application in accordance with the following procedure:

(a) A notice of the application containing a copy of the permit application or a summary of the proposed activity or operation, along with a specification that comments regarding the proposed activity or operation will be received by the Township Engineer for a period of fifteen (15) days following the date of the notice, shall be transmitted to all members of the Township Board and sent by first-class mail to the following:
   (1) To the owners of zoning lots abutting the zoning lot(s) upon which proposed project is to be undertaken, based upon the ownership records on file at the Township
   (2) To a lake board established for the inland lake to which the subject wetland is contiguous.
   (3) To adjoining governmental entities if the wetland at issue or the inland lake or stream, or watercourse, to which the subject wetland is contiguous extends into such entities.

(b) At the end of the fifteen-day period, the Township Engineer shall review the application in accordance with the standards and criteria set forth in Section 8-208, taking into consideration all comments received pursuant to the notice sent as provided above.

(c) If the proposed activity or operation is found to conform to the standards and criteria of Section 8-208, and with all of the requirements of this Article, the Township Engineer shall issue a permit in conformance with Section 8-211 with or without specified conditions.

(d) If the application fails to meet such standards, criteria and requirements, the Township Engineer shall deny the permit.

(e) A permit issued under this Section shall not be effective for fifteen (15) days from the date of issuance.

(f) Upon issuance of the permit, a notice of issuance shall, concurrent with the issuance of the permit, be transmitted by first-class mail to any person or entity who has filed comments in response to the notice sent in accordance with this Section.

Sec. 8-207. Permit application review procedure for wetlands contiguous to watercourses and noncontiguous wetlands two (2) acres or more in area.

Following receipt of an application for a permit for a proposed activity or operation in a wetland contiguous to a watercourse or a noncontiguous wetland greater than two (2) acres in area, the Township Engineer shall review the application in accordance with the following procedure:

(a) A notice of the application containing a copy of the permit application or a summary of the proposed activity or operation and a specification that comments regarding the proposed activity or operation will be received by the Township Engineer for a period of fifteen (15) days following the date of the

(*CHAPTER 8, ARTICLE IV, DIVISION 2, SECTION 8-207 cont.*)

notice shall be transmitted to all members of the Township Board and sent by first-class mail to the owners of zoning lots abutting the zoning lot(s) upon which proposed project is to be undertaken, based upon the Township tax and assessing records.

(b) At the end of the fifteen-day period, the Township Engineer shall review the application in accordance with the standards and criteria set forth in Section 8-208, taking into consideration all comments received pursuant to the notice sent as provided above.

(c) If the proposed activity or operation is found to conform to the standards and criteria of Section 8-208, and with all of the requirements of this Article, the Township Engineer shall issue a permit in conformance with Section 8-211 with or without specified conditions.

(d) If the application fails to meet such standards, criteria and requirements, the Township Engineer shall deny the permit.

(e) A permit issued under this Section shall not be effective for fifteen (15) days from the date of issuance.

(f) The following general criteria shall be addressed by the applicant and be applied in undertaking the balancing test described in Section 8-208(2):

(1) The relative extent of the public and private need for the proposed activity.
(2) The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
(3) The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the wetland provides.
(4) The probable impact of the proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
(5) The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
(6) The size and quality of the wetland being considered.
(7) The amount and quality of remaining wetland in the area.
(8) Proximity to any waterway.
(9) Economic value, both public and private, of the proposed land change to the general area.
(10) The necessity for the proposed project.

Sec. 8-208. Permit review standards and criteria for wetlands contiguous to inland lakes and streams, wetlands contiguous to watercourses, and noncontiguous wetlands two (2) acres or more in area.

In arriving at a determination with respect to the issuance of a permit under this Division, the Township Engineer shall take into consideration at least the following standards and criteria:

(a) A permit shall be issued only if the proposed project or activity is clearly in the public interest, and is otherwise lawful in all respects.

(b) In determining whether the activity is in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of natural resources from pollution, impairment and/or destruction. If, as a result of such a balancing, there remains a debatable question whether the proposed project and/or activity is clearly in the public interest, a permit shall not be issued.

(c) A permit shall not be issued unless it is determined that:

(1) The information supplied by the applicant is found to be complete and true;
(2) An unreasonable disruption of aquatic resources will not result;
(3) The proposed activity is primarily dependent upon being located in the wetland; and
(4) A feasible and prudent alternative does not exist.

(d) The manner in which the activity is proposed to be undertaken will result in the minimum negative impact upon the wetland and attendant natural resources under all of the circumstances.

Sec. 8-209. Permit application review procedure, standards, and criteria for noncontiguous wetlands less than two acres in area.

(a) Review procedure. Following receipt of an application for a permit for a proposed activity or operation in a noncontiguous wetland less than two acres in area, the Township Engineer

(*CHAPTER 8, ARTICLE IV, DIVISION 2, SECTION 8-209 cont.*)

shall approve a permit unless he determines and documents that the wetland is essential to the preservation of the natural resources of the Township. It shall not be the burden of the

property owner to prove that the wetland is not essential to the preservation of the natural resources of the Township.

(b) All noncontiguous wetland areas of less than two (2) acres which appear on the wetlands inventory map, or which are otherwise identified during a field inspection by the Township, shall be analyzed for the purpose of determining whether such areas are essential to the preservation of the natural resources of the Township. If there is to be a denial of a permit to dredge, fill, construct, or otherwise undertake an operation, in a noncontiguous wetland area of less than two (2) acres, then, on the basis of data gathered by or on behalf of the Township, findings shall be made in writing and given to the applicant stating the basis for the determination that such wetland is essential to preservation of the natural resources of the Township. In order to make such a determination, there shall be a finding that one (1) or more of the following exist within such wetland:

(1) The site supports state or federal endangered or threatened plants, fish, or wildlife appearing on a list specified in Public Act 451 of 1994, the Natural Resources and Environmental Protection Act,(MCL 324.36505.
(2) The site represents what is identified as a locally rare or unique ecosystem.
(3) The site supports plants or animals of an identified local importance.
(4) The site provides groundwater recharge documented by a public agency.
(5) The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland.
(6) The site provides wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
(7) The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
(8) The site provides pollution treatment by serving as a biological and chemical oxidation basin.
(9) The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
(10) The site provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.

(c) In connection with the determination whether the wetland is essential to the preservation of the natural resources of the Township, the property owner may make an election and response under subparagraph (1) or (2) below, relative to each noncontiguous wetland area less than two (2) acres:

(1) In lieu of having the Township Engineer proceed with the analysis and determination, the property owner may acknowledge that one or more of the criteria in subparagraphs (b)(1) through (10) above, exist on the wetland in question, including a specification of the one (1) or more criteria which do exist; or
(2) An election to have the Township Engineer proceed with the analysis on whether each of the criterion in paragraphs (b)(1) through (10) exist or do not exist in the wetland in question, including specific reasons for the conclusion in respect to each criterion.

Sec. 8-210. Appeals.

An applicant may request a hearing before the Wetlands Board to appeal the permit application decision of the Township Engineer within 14 days of the date of the written notification of the permit decision.

(a) Such request for appeal shall be in the form of a written request, accompanied by the appeals hearing fee established by the Township Board. The written request for appeal shall be submitted to the Township Engineer.
(b) Upon receipt of a request for an appeal, the Township Engineer shall forward the request to the Zoning Official, who shall schedule a Wetlands Board hearing for the next regularly scheduled meeting date of

(*CHAPTER 8, ARTICLE IV, DIVISION 2, SECTION 8-210 cont.*)

the Planning Commission, or subject to Planning Commission availability, for a special meeting if requested and paid for by the applicant, and notify the Township Engineer of the date scheduled.

(c) The Township Engineer shall send notice of the time, date and place of the hearing to all Township Board members and to all parties originally notified about the permit application.

(d) The Wetlands Board may establish a policy requiring that notice of appeals hearings be published. If the Wetlands Board establishes such a policy, the Township Engineer shall arrange for publication of appeals hearing notices in the manner specified by the Wetlands Board.

(e) At the scheduled hearing, the Wetlands Board shall provide an opportunity for the applicant, or the applicant's representative, to make their appeal of the permit decision, and also provide an opportunity for interested persons to address the appeal. The hearing may be adjourned from time to time, as deemed necessary by the Wetlands Board to obtain additional information before making a final appeals decision. If it appears that impairments, pollution and/or destruction of a wetland or other natural resource may result and that technical expertise is required, the Wetlands Board, before making its final appeals decision, may require the applicant to submit an environmental statement, environmental assessment, or environmental impact study for review and report by the Township Engineer.

(f) Within a reasonable time following the completion of its consideration, the Wetlands Board shall make a written determination on the appeal, which may include issuance of a permit in conformance with Section 8-211, with or without specified conditions, or denial of the permit.

Sec. 8-211. Permit contents.

The permit issued under this Division shall contain at least the following:

(a) The name, address and telephone number of the person to whom the permit has been issued.

(b) The name, address and telephone number of the owner of the property on which the activity or operation shall occur.

(c) A statement of all conditions imposed in connection with the issuance of the permit.

(d) Any required time period for commencement of one (1) or more operations.

(e) The date by which any construction, removal, deposit or operation must be completed; i.e., the expiration date of the permit.

(f) The amount of any cash bond or irrevocable letter of credit and the institution issuing such irrevocable letter of credit as determined necessary by the Township Engineer or Wetlands Board, as the case may be, to ensure compliance with the permit as issued.

(g) The following statement:
"All operations permitted or approved by this permit shall be conducted in such a manner as will cause the least possible damage and encroachment or interference with natural resources and natural processes within wetlands."

(h) The legal description of the zoning lot to which the permit pertains.

(i) All soil erosion permit requirements shall be met prior to any operation.

(j) Any and all necessary temporary drainage measures, as approved, shall be undertaken to ensure that no temporary or permanent blockages of drainage result.

Sec. 8-212. Posting of permit.

Upon issuance of a permit and prior to the undertaking of any onsite work the persons to whom the permit has been issued shall post a copy of the permit on the property in a conspicuous place which is accessible for inspection and reading by the public.

Sec. 8-213. Permit denials and property revaluations.

If a permit for a proposed wetland use is finally denied by the Wetlands Board, the owner may request a revaluation of the affected property for assessment purposes to determine its fair market value under the restriction against the wetland use for which the permit was requested.

Secs. 8-213--8-230. Reserved.

(*CHAPTER 8, cont.*)

ARTICLE V WELLHEAD PROTECTION

Division 1. Generally

Sec. 8-231. Title.

This Article shall be known and cited as the "Waterford Township Wellhead Protection Ordinance."

Sec. 8-232. Purpose.

(a) The purpose of the Waterford Charter Township Wellhead Protection Ordinance (WHPO) is to safeguard the health, safety, and welfare of persons served by the Township's Public Water Supply System (TPWSS) by achieving the Township's Master Plan goal to protect designated groundwater supplies from contamination resulting from the improper storage, handling, use, production, or discharge of Regulated Substances within areas surrounding existing and proposed municipal drinking water wells and wellfields.

(b) Appropriate land-use regulations will be imposed specifically to the One (1) Year Time-of-Travel (TOT) Capture Zone, the Five (5) Year TOT Capture Zone, and the Ten (10) Year TOT Capture Zone associated with each of the Township's drinking water wells and wellfields. In addition, the use of Best Management Practices (BMPs) will be encouraged within these Wellhead Protection Areas to minimize the risk of spills, leaks, and other discharges into groundwater supplies.

(c) It is the intent of this WHPO to minimize public and private losses due to contamination of the public water supply. In addition, it is desired to minimize regulations on land use for those activities that are not a threat to the TPWSS, avoid expenditure of public money for costly pollution remediation projects, and minimize business interruptions while protecting the groundwater and providing a safe potable water supply now and for future generations.

Sec. 8-233. Compliance with existing federal, state, and local regulations.

Facility Operators subject to regulation under this WHPO must comply fully with all existing applicable federal, state, and local regulations in addition to any of the requirements established in this WHPO.

Sec. 8-234. Authority and applicability.

(a) This WHPO is enacted pursuant to the powers granted by laws of the State of Michigan including the statutory authority granted in Public Act 33 of 2008, the Michigan Planning Enabling Act (as amended**)** and other relevant laws of the State. This WHPO applies to all land uses and activities in the Township and within the boundaries of the areas delineated on the Wellhead Protection Areas Map adopted as provided in this WHPO.

(b) It shall be the responsibility of any person owning real property and/or owning or operating a business within the limits of the Township to make a determination of the applicability of this WHPO as it pertains to property and/or business under his ownership or operation, and his failure to do so shall not excuse any violations of this WHPO.

(c) Nothing contained in this WHPO shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this WHPO. Nothing contained in this WHPO shall be construed so as to interfere with the duties and powers of the Township or its agents.

(d) Should any part or provision of this WHPO be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the WHPO as a whole or any part thereof other than the part held to be invalid.

(*CHAPTER 8, ARTICLE V, DIVISION 1 cont.*)

Secs. 8-235--8-240. Reserved.

Division 2. Definitions

Sec. 8-241. Definitions

In addition to those rules of construction and definitions contained in Sections 1-002 and 8-001, the following terms or words shall apply to this Article:

Best Management Practices (BMP) A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the environment. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills, and leaks.

CERCLA The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., Pub. L. 96-510, December 11, 1980), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499, October 17, 1986; 100 Stat. 1613). All references to CERCLA within this regulation are meant to indicate CERCLA, as amended by SARA.

Containment

Primary Containment. The first level of containment, i.e., the inside portion of a container or storage device which comes into immediate contact on its inner surface with a Regulated Substance.

Secondary Containment. Containment external to and separate from primary containment designed to contain a release from a primary containment unit. Secondary containment may include, but is not limited to, double walls, dikes, vaults, or impervious liners (both natural and synthetic).

Determination of Compliance A written review by the Public Works Official, in the form established by the Public Works Official, where required by the Waterford Township Zoning Ordinance to determine and ensure that certain land uses are in compliance with regulations established by this WHPO.

Dry Well A type of drainage well used for the underground disposal of storm water runoff from paved areas, which include parking lots, streets, highways, residential subdivisions, and building rooftops; agricultural areas; and industrial areas.

Facility A zoning lot upon which a Facility Operator conducts activities involving Regulated Substances, Processes, and Storage Tanks. The term Facility includes all principal and accessory uses conducted on a zoning lot.

Facility Operator. The person in possession and/or control of a Facility. The term also includes contractors or site managers at construction sites who are responsible for the general management of Regulated Substances located on site.

Non-Conforming Facility Or Non-Conforming Storage Unit. Any existing Facility or Regulated Substance Storage Unit that, as of the effective date of this WHPO, would otherwise be prohibited within a designated wellhead protection area.

Permanent A period of more than ninety (90) consecutive days.

Pesticide Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest as defined in Section 2(t) of the Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 100-64, 100-464, to 100-526 and 100-532); as well as any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term shall include all fungicides, insecticides, herbicides, nematicides, or other substances used for the control of pests.

Restricted Use Pesticide. Any pesticide or pesticide use classified by the U.S. Environmental Protection Agency for use exclusively by a certified applicator or by an individual working under the direct supervision of a certified applicator.

(*CHAPTER 8, ARTICLE V, DIVISION 2, SECTION 8-241 cont.*)

Process The incorporation of a Regulated Substance into a product. Includes making mixtures, repackaging, or using a Regulated Substance as a feedstock, raw material, or starting material for making another chemical.

RCRA The Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580; 42 U.S.C. 6901 et seq.), as amended.

Regulated Substances Those chemicals and mixtures of chemicals which are potential health hazards if some were to migrate into the drinking water, as identified in the Regulated Substances List established and maintained in accordance with Section 8-271

Regulated Substance Storage Area An area on a zoning lot where Regulated Substances are stored. A Regulated Substance Storage Area can include single or multiple Regulated Substance Storage Units.

Regulated Substance Storage Unit Any underground storage tank, aboveground storage tank, drum, carboy, or other container used for the storage of one or more Regulated Substance(s), including silo, bag, tank wagon, box, glass, cylinder, tote bin, and truck body, rail car, or tanker when used for the permanent or temporary storage of Regulated Substances.

Release The spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Regulated Substances upon or into any land or water. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, or landfill. The term "release" when used and applied in this WHPO does not include the following:

(1) Disposal, in accordance with all applicable legal requirements and in accordance with the requirements of RCRA regulations, of hazardous wastes in a Facility that has received and maintained all necessary legal approvals for that purpose;

(2) Disposal or release of any substance in compliance with applicable legal requirements, including without limitation, the terms and provisions of a valid municipal, state, or federal permit if such permits are required by applicable environmental laws;

(3) Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;

(4) Disposal, in accordance with all legal requirements, of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by state or County health departments;

(5) Any discharge of a petroleum substance in a quantity less than twenty-five (25) gallons unless such petroleum discharge enters a dry well, storm sewer, or surface water body;

(6) Any discharge of hazardous materials listed in SARA Title III or CERCLA when the discharge is less than twenty-five (25) pounds within a twenty-four (24) hour period in the one (1) and five (5) year time-of-travel zone, or less than one hundred (100) pounds within a twenty-four (24) hour period in the ten (10) year time-of-travel zone;

(7) The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. as used in routine agricultural operations and applied under best management practices as indicated by soil tests, the Michigan State University Cooperative Extension Service, the Soil and Water Conservation District, and label directions approved by the United States Environmental Protection Agency or the S.E.A.

Storage Tank

Aboveground Storage Tank (AST). Any non-portable container and supporting structure, excluding all pipes connected thereto, which is used to store an accumulation of Regulated Substances and in which more than ninety (90) percent of the final volume of the storage container is at or above the final ground elevation.

Underground Storage Tank (UST). One or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of unregulated or Regulated Substances the volume of which, including the volume of the underground pipes connected thereto, is ten (10) percent or more beneath the surface of the ground. For the purposes of this WHPO, the term does not include:

(1) Pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, 82. Stat, 720, 49 U.S.C.A. 2001, as amended;

(*CHAPTER 8, ARTICLE V, DIVISION 2, SECTION 8-241 cont.*)

(2) Surface impoundments, pits, ponds, or lagoons;
(3) Storm or waste water collection systems;
(4) Flow-through process tanks;
(5) Septic tanks;
(6) Storage tanks located in underground areas when the tanks are located on or above the surface of the floor and the integrity of the tank is periodically visually evaluated;
(7) Liquid traps or associated gathering lines directly related to oil or gas production or gathering operations.

Temporary A period of ninety (90) consecutive days or less. Regulated Substances and the individual storage units containing such substances that are used on site as part of regular business operations are not to be considered temporary storage.

Time of Travel Capture Zone (TOT) The travel time for water to flow through an aquifer and reach a wellhead from a particular point under the conditions specified by the S.E.A. For the purposes of this WHPO, the following definitions shall apply in defining the scope and extent of Time-of-Travel Capture Zones:

One (1) Year Time-of-Travel (TOT) Capture Zone The area of land around the well or wellfield from which groundwater could be drawn for use in a public water supply in a one (1) year time period.

Five (5) Year Time-of-Travel (TOT) Capture Zone The area of land located outside the one (1) year TOT zone but within the boundaries of the ten (10) year TOT zone from which groundwater could be drawn in a five (5) year time period.

Ten (10) Year Time-of-Travel (TOT) Capture Zone The area of land located outside the one (1) and five (5) year TOT zones but within the boundaries of the ten (10) year TOT zone from which groundwater could be drawn in a ten (10) year time period.

Township Public Water Supply System (TPWSS) A public utility owned and operated by the Charter Township of Waterford that provides potable water to its customers.

Wellhead Protection For purposes of this WHPO, the following definitions apply:

Wellhead An individual well for supplying water.

Wellhead Protection Area (WHPA) The surface and subsurface areas supplying water to wells or wellfields through which contaminants are likely to move and reach such wells or wellfields. The WHPA includes the one (1), five (5), and ten (10) year time-of-travel capture zones.

Wellhead Protection Overlay Zone One or more areas as outlined on an overlay zoning map as determined to be the wellhead capture zone(s) by computation and in consideration of natural surface runoff boundaries.

WHPO This Charter Township of Waterford Wellhead Protection Ordinance.

Secs. 8-242--8-250. Reserved.

Division 3. Establishment and Identification of Wellhead Protection Areas

Sec. 8-251. Establishment of wellhead protection areas.

In order to provide effective and consistent protection of the public water supply, certain geographic areas served by the TPWSS are hereby delineated based on geology, local soil conditions, and proximity to TPWSS wellheads as wellhead protection zones. Boundaries for each WHPA shall be developed, maintained, and identified by the Public Works Official on an official township document entitled "Wellhead Protection Areas Map" which shall be considered to be part of this WHPO as if the maps were fully described herein, upon approval in accordance with Section 8-253. The Wellhead Protection Areas Map shall be maintained and provided for public information and official use in the format and dissemination methods established by the Public Works Official in accordance with Section 8-253. Where delineation of capture zones cross

municipal borders, identification of such zones in other municipalities shall in no way be construed as conveying enforcement powers over such non-Township areas; this WHPO is only applicable within the jurisdiction of the Township.

Sec. 8-252. Wellhead protection area zones.

The Public Works Official shall determine and identify one-year, five-year, and ten-year TOT capture zones around each TPWSS wellhead. The boundaries of all TOT capture zones so identified by the Public Works Official shall be established on a Wellhead Protection Areas Map in accordance with Section 8-253. Where a TOT capture zone contour, which delineates the boundary between two capture zones of varying scope and extent, passes through a property, the entire property shall be considered to be in the more restrictive TOT zone (the one-year TOT is more restrictive than the five-year TOT).

Sec. 8-253. Wellhead protection areas map.

The Public Works Official shall submit a Wellhead Protection Areas Map identifying the boundaries of all TOT capture zones to the Township Board for consideration and approval by resolution. Upon adoption by the Township Board, the Public Works Official shall have the authority to interpret the Wellhead Protection Areas Map and determine where the boundaries of the different zones fall, if in dispute. The interpretation of the map boundaries by the Public Works Official may be appealed to the Township Board pursuant to Section 8-346. The Township Board shall consider and by resolution may approve any changes to the Wellhead Protection Areas Map as proposed by the Public Works Official.

Secs. 8-254--8-260. Reserved.

Division 4. Use Regulations in Wellhead Protection Areas

Sec. 8-261. Prohibited facilities and land uses.

(a) The insurance of a healthy and safe water supply that is the primary purpose of this WHPO establishes a responsibility to recognize the different levels of potential risk associated with the location of certain facilities and land uses within the proximity of a TPWSS well and/or wellfield. As a result of this responsibility, the following facilities and land uses are prohibited within all one-year, five-year, and ten-year TOT capture zones:
   (1) Land uses requiring licensing by the Township in accordance with Waterford Code of Ordinances, Distressed Vehicle, Junk, Salvage, and Dismantling Yards.
   (2) Commercial sanitary/solid waste landfills.
   (3) Use of a Regulated Substance exceeding fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights.
   (4) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression.
   (5) The disposal of shingles, asphalt, and/or lead-based or lead containing materials in an unlicensed landfill.
   (6) Use of fly ash or other ash material as fill material. This prohibition does not apply where fly ash is used as a component in cement, concrete, or cinder block.
   (7) Installation of underground storage tanks (USTs), except as permitted by the Township in accordance with the procedures established in the current Zoning Ordinance and other pertinent Ordinances.
   (8) Installation of water wells for the purpose of drinking water, irrigation, or any other purpose other than the monitoring and/or sampling of monitoring or test wells in association with S.E.A. recognized groundwater contamination studies or approved by the Township, when public water is reasonably available.
   (9) Any land use that fails to receive a Determination of Compliance from the Public Works Official where such a Determination of Compliance is required by the current Zoning Ordinance.

(b) Additionally, the following land use is prohibited in the ten-year TOT capture zone:

(*CHAPTER 8, ARTICLE V, DIVISION 4, SECTION 8-261 cont.*)

(1) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars where storage, handling, or use of a Regulated Substance exceeds one thousand (1,000) gallons aggregate for liquid materials or eight thousand (8,000) pounds aggregate for dry weights.

(c) The list of facilities and land uses prohibited by this WHPO is not exhaustive and represents the state of present knowledge and most common description of said facilities and land uses. As it becomes apparent to the Public Works Official that other classes of facilities or land uses also present a health and safety danger to the TPWSS, the prohibited facilities and land uses listing in this section of this WHPO may be expanded after a joint analysis of a facility or land use class is prepared by the Public Works Official and Zoning Official, reviewed and recommended by the Planning Commission, and approved as an amendment of this WHPO by the Township Board.

Sec. 8-262. Impact of changing technologies upon prohibited facilities and land uses.

As evidence becomes available to the Public Works Official of industry-wide adoption of new technologies used in the operation and conduct of identified facility and land use classes where there are changes to non-risk materials or methods, facility and land use classes may be removed by the Township Board from the prohibited listing in Section 8-261. In such instances, the Public Works Official and the Zoning Official, after conferring with an expert geologist and other qualified professionals and preparing a written analysis, may propose to the Township Board that a facility or land use be deleted when it is demonstrated convincingly that the facility or land use no longer poses a pollution hazard.

Sec. 8-263. Determination of compliance for facilities within wellhead protection areas.

(a) In those zoning districts identified in the Waterford Township Zoning Ordinance where land use classes are listed requiring review by the Public Works Official, all requests received by the Zoning Official to establish or expand such a land use on a zoning lot shall be forwarded to the Public Works Official for a Determination of Compliance. A Determination of Compliance shall be prepared and issued by the Public Works Official to ensure that a requested land use is in compliance with the requirements of this WHPO. When the Public Works Official determines that a land use request for a zoning lot governed by this Section does not comply with the regulations of this WHPO as it would establish a prohibited facility or land use, the Zoning Official and Planning Commission shall not grant permission to establish such a land use on the specified zoning lot.

(b) In order to accomplish this duty in a fair and consistent manner, the Public Works Official shall prepare and, after consultation with the Township Engineer and the Zoning Official, adopt a set of standards for evaluation and issuance of Determinations of Compliance. The Public Works Official may incorporate into this set of standards a list of exempted activities allowed by land use classes requiring a Determination of Compliance, provided that such exemptions do not violate the prohibitions established in Section 8-261.

Sec. 8-264. Existing non-conforming facilities and land uses.

(a) Any facility or land use existing as of the effective adoption date of, or amendment to, this WHPO that is considered a prohibited facility or land use is permitted to continue operation as a non-conforming facility or land use provided it remains otherwise lawful and remains in compliance with the regulations and limitations established for nonconformities by the current Zoning Ordinance.

(b) An existing facility made non-conforming solely by application of this WHPO shall be treated as non-conforming only as to those uses prohibited by this WHPO. Existing uses not prohibited or otherwise regulated by this WHPO remain conforming such that they may be expanded or otherwise altered without violation of this WHPO.

(c) In the event such non-conforming use shall pose a direct hazard to the wellhead, the Township may require that a Spill Control Plan be prepared, in accordance with Sections

(*CHAPTER 8, ARTICLE V, DIVISION 4, SECTION 8-264* cont.)

8-311 – 8-314 of this WHPO and may take any further action permitted by law to abate the hazard.

Secs. 8-265--8-270. Reserved.

Division 5. Regulated Substances

Sec. 8-271. Regulated substances.

The Township Board shall establish by resolution a Regulated Substances List, upon the advice and recommendation of the Public Works Official, that shall identify those substances that no person shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle", on public or private property within the Township's WHPA, except as provided by law, statute, ordinance, rule or regulation. This Regulated Substances List shall be applied to and enforced upon all Facilities governed by this WHPO. The Regulated Substances List shall be available for review at the office of the Public Works Official, and all other locations identified by the Public Works Official. The Regulated Substances List may be altered or amended at any time by resolution of the Township Board upon the advice and recommendation of the Public Works Official.

Sec. 8- 272. Regulated substance release notification.

Notwithstanding other requirements of law, as soon as any person responsible for a facility, or responsible for emergency response for a facility, has information of a release, or suspected release, of pollutants, said person shall take all reasonable and necessary steps to discover, contain, and cleanup such release, including, if necessary, contacting emergency response agencies. Said person shall also notify the Public Works Official of the release by an established standard mode of communication no later than 5:00 p.m. of the day following the release. A written record of the release notification, in the form and information content established by the Public Works Official, is mandatory and shall be prepared by the facility operator within three (3) business days of the release and transmitted to the Public Works Official. The owner or operator shall retain a copy of the written notice for at least three years. Such notification in no way alleviates other federal, state, or local reporting obligations imposed by law.

Sec. 8-273. Regulated substance release report.

Within ten (10) days of a release, the responsible party shall submit a Regulated Substance Release Report to the Public Works Official, in the form and information content established by the Public Works Official. The Regulated Substance Release Report shall provide any additional detail on the nature and management of the release, including control and corrective actions taken to prevent a recurrence of the release, fate of the released material, and, where applicable, the name of the contractor responsible for removal of released substances. The Public Works Official shall use the Regulated Substance Release Report to determine if and where any additional investigative work needs to be completed to assess the potential pollution impact of the release.

Sec. 8-274. Remediation of regulated substance releases.

Upon discovery of a release, the facility operator or other responsible party must take appropriate reasonable actions to mitigate the potential impact of the release on groundwater and remediate the release. Remediation must be conducted in a timely manner and in accordance with applicable laws. Wastes and materials generated or used during remediation of a Regulated Substance release must be handled and disposed of in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported by the Facility Operator to the Public Works Official.

(*CHAPTER 8, ARTICLE V, DIVISION 5 cont.*)

Sec. 8-275. Liability.

The Township is authorized to order the cleanup or abatement, or take such other actions as may be necessary to cause cleanup or abatement, of any regulated substance release to soils, surface water, and/or groundwater within a Wellhead Protection Area which may present a threat to groundwater quality or violate Michigan's water quality standards. The entity or person responsible for the release shall be liable for any reasonable expense, loss, or damages attributable to the release incurred by the Township in response to such an incident, in addition to any fines imposed under Michigan and Federal law, and this WHPO.

Sec. 8-276. Discharges.

Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the Wellhead Protection Area, if such spill, leak or discharge escapes or has potential to escape containment or contacts a pervious ground surface and is not immediately and completely remediated, shall give immediate notice to the Public Works Official. The notification shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration, volume, and the control of corrective action taken. Such notification shall in no way alleviate other local, state and federal reporting obligations as required by law.

Secs. 8-277--8-290. Reserved.

Division 6. Facility Closures

Sec. 8-291. Applicability.

This Division applies to any non-residential Facility subject to regulation under this WHPO that becomes unoccupied or where operations are permanently discontinued for a period greater than one (1) year any time after the effective date of this WHPO. Facility Operators subject to compliance with any federal, state, or local facility closure program addressing the storage or handling of Regulated Substances at a closing facility are exempt from the requirements of this Division except for compliance with Section 8-293.

Sec. 8-292. Removal of all regulated substances.

Except in the case of seasonal discontinuation of operation, the Facility Operator must remove from the property all Regulated Substances not used exclusively for the provision of heating, cooling, and lighting, no later than one (1) year after the date the property initially became unoccupied or operation was permanently discontinued.

Sec. 8-293. Closure notice.

Any Facility Operator permanently discontinuing operation of a Facility subject to regulation under this WHPO must submit notice to the Public Works Official. This notice shall include the date on which operations will or have ceased; the current operator's new phone number and address; and the fate of the Regulated Substances stored or otherwise used on the site. Any Facility Operator required to submit closure notification under any federal, state or local closure program may copy the Public Works Official on that notification in lieu of submitting a Closure Notice.

Sec. 8-294. Facility security.

Immediately upon initiation of permanent closure of a facility, the Facility Operator must take reasonable steps to secure all Regulated Substance storage units or Regulated Substance storage areas against vandalism. Maintenance of all security measures implemented is required until all Regulated Substances are removed from the site.

Secs. 8-295--8-310. Reserved.

(*CHAPTER 8, ARTICLE V cont.*)

Division 7. Spill Control Plans

Sec. 8-311. Applicability.

Permanent storage or use of Regulated Substances subject to regulation under this WHPO at new and existing facilities in a storage unit where a release from the storage unit would reach a pervious soil surface, dry well, storm sewer, or surface water body requires the development of a Spill Control Plan in accordance with the requirements, content, and form established by the Public Works Official. A Facility Operator is exempt from this requirement if the storage unit or storage/usage area is secondarily contained to the approval of the Public Works Official.

Sec. 8-312. Plan implementation.

Facility Operators required to develop a Spill Control Plan (SCP) shall complete the plan no later than one hundred eighty (180) calendar days from notification by the Public Works Official. The SCP does not require the signature of a professional engineer. The SCP must be stored on site and made available on request to the Fire Chief or other inspection authority. The Public Works Official may accept any SCP developed in compliance with other federal, state, or local regulatory programs when it contains all information required by the Public Works Official. Any deficient information must be amended into the existing SCP to be considered compliant with this Section of this WHPO. Where applicable, one (1) copy of the SCP must be kept in the Facility's repository box (lock box).

Sec. 8-313. Employee training.

A Facility Operator required to prepare a SCP shall train all employees annually on the release procedures outlined in the SCP. The Facility Operator shall maintain a log of employee training and make the log available to the Public Works Official upon request. Copies of the SCP must be readily available for employee use in work areas in or near Regulated Substance storage areas.

Sec. 8-314. Plan amendments.

A Facility Operator shall review and amend the SCP as necessary every two (2) years and when any of the following occur:

(a) There is a change in ownership or management at the Facility;

(b) An out-of-service AST system lacking secondary containment is returned to service; and/or

(c) Changes, structural or otherwise, are made at the Facility that will affect the anticipated flow direction of any release from the storage area or unit.

Secs. 8-315--8-320. Reserved.

Division 8. Site Plan Review Standards

Sec. 8-321. Applicability.

In addition to the site plan submission and review requirements established by the Township in the current Zoning Ordinance, projects within a WHPA are subject to the additional requirements outlined in the following subsections.

Sec. 8-322. Required site information.

An applicant for land development, redevelopment, and/or change of use of a zoning lot regulated by this WHPO shall include a written listing of the types and quantities of Regulated Substances which will be used or stored on-site at the facility in quantities greater than one hundred (100) kilograms per month (equal to about twenty-five [25] gallons per month) if necessary to ensure compliance with the provisions of this or other township ordinances. The applicant shall provide on the final site plan the location of all existing and proposed above and below ground service

(*CHAPTER 8, ARTICLE V, DIVISION 8, SECTION 8-322 cont.*)

facilities and structures, delineation of areas on the site which are known or suspected to be contaminated, soil characteristics of the zoning lot, and/or the location of existing inland lakes and streams, wetlands, and watercourses. The applicant shall also submit to the Public Works Official all forms, checklists, and reports adopted by the Public Works Official as requirements for compliance with this WHPO Section.

Sec. 8-323. Groundwater protection review standards.

An applicant for land development, redevelopment, and/or change of use of a zoning lot regulated by this WHPO shall ensure that the project and related improvements are designed to protect the natural environment, including water resources, and to ensure the absence of an impairment, pollution, and/or destruction of the air, water, natural resources and the public trust therein by incorporating the following elements into the final site plan to the satisfaction and approval of the Public Works Official and Township Engineer:

(a) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface water or groundwater, on-site or off-site, and shall not result in a loss of the use of property by any third party.

(b) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.

(c) Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.

(d) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

Sec. 8-324. Above-ground regulated substance storage review standards.

An applicant for land development, redevelopment, and/or change of use of a zoning lot where the regulations of this WHPO are applicable shall incorporate the following elements into the final site plan to the satisfaction and approval of the Public Works Official, Township Engineer, and Fire Chief:

(a) Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.

(b) Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.

(c) Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or natural water bodies.

(d) Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and utilized, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater, or soils.

Sec. 8-325. Underground regulated substance storage review standards.

An applicant for land development, redevelopment, and/or change of use of a zoning lot where the regulations of this WHPO are applicable shall incorporate the following elements into the final site plan to the satisfaction and approval of the Public Works Official, Township Engineer, and Fire Chief:

(a) Existing underground storage tanks shall be registered with the authorized state agency in accordance with requirements of the U.S. Environmental Protection Agency and the State Police Fire Marshal Division.

(b) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the State Police Fire Marshal Division. Leak detection, corrosion

protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review of government officials.

(c) Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirement of the State Police Fire Marshal Division, and the MDEQ.

Sec. 8-326. Contaminated sites review standards.

An applicant for land development, redevelopment, and/or change of use of a zoning lot where the regulations of this WHPO are applicable shall incorporate the following elements into the final site plan to the satisfaction and approval of the Public Works Official, Township Engineer, and Fire Chief:

(a) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.

(b) Land development shall not be allowed on or near contaminated areas of a site unless information from the MDEQ is available indicating that cleanup will proceed in a timely fashion and that such land development is authorized.

Secs. 8-327--8-340. Reserved.

Division 9. Violations, Penalties, and Administrative Remedies

Sec. 8-341. Violations.

(a) Any condition caused or permitted to exist in violation of any of the provisions of this WHPO is a threat to public health, safety, and welfare, and is declared and deemed a nuisance per se, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Township.

(b) Any Facility Operator or property owner who knowingly submits false or inaccurate information to the Township, or who violates, disobeys, omits, neglects, or refuses to comply with any provision of this WHPO is considered in violation of this WHPO and subject to penalty as set forth herein.

Sec. 8-342. Penalties.

The first violation of this WHPO is a civil infraction, punishable as provided in Section 1-010(b). A second or subsequent violation of this WHPO by a person may be punishable as a civil infraction as provided in Section 1-010(b), or as a misdemeanor as provided in Section 1-010(a).

Sec. 8-343. Administrative remedies.

(a) The Public Works Official, upon discovery of violation of any provision of this WHPO, may pursue with reasonable notice any legally available administrative remedies or enforcement actions including, but not limited to, the following:

(1) Ordering cessation of any use or activity that may create hazards or have deleterious effects on the water supply or facilities;
(2) Discontinuing utility service to any Facility operating in violation of this WHPO;
(3) Ordering remedial actions;
(4) Requiring pollution control and abatement; and
(5) Requiring development of compliance schedules to implement corrective action.

(b) When considering the exercise of any of the above powers or actions, the Township Board may take into consideration any evidence presented by the entity regarding cost effectiveness and the economic impact imposed by the requirements or actions.

(*CHAPTER 8, ARTICLE V, DIVISION 9 cont.*)

Sec. 8-344. Liability.

The Township is authorized to order the cleanup or abatement, or take such other actions as may be necessary to cause cleanup or abatement, of any hazardous material release to soils, surface water, and/or groundwater in or near a WHPA which may present a threat to groundwater quality or violate Michigan's water quality standards. The entity or person responsible for the release shall be liable for any reasonable expense, loss, or damages attributable to the release incurred by the Township in response to such an incident, in addition to any fines imposed under Michigan and Federal law, and this WHPO.

Sec. 8-345. Cost of abatement of the violation.

Within 90 days after abatement of the violation, the owner of the property will be notified of any cost of abatement, including administrative costs, which the Township seeks from said owner as reimbursement. The property owner may file a written protest objecting to the amount sought within thirty (30) days. If the amount due is not paid within thirty (30) days of the final decision of the Township or the expiration of the time in which to file an appeal, the Township may cause the charges to become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Sec. 8-346. Appeals.

Any person aggrieved by any order issued by the Public Works Official or other official under the provisions of this WHPO may appeal such decision to the Township Board by filing a written notice of appeal with the Township Clerk and the Public Works Official within 14 days of the date of the order.

Secs. 8-347--8-370. Reserved.

ARTICLE VI STORMWATER MANAGEMENT

Division 1. Generally

Sec. 8-371. Short title.

This Article shall be known and cited as the "Waterford Township Stormwater Management Ordinance"

Sec. 8-372. Purposes.

The purpose of this Article is declared to be:

(a) To protect public health, safety and welfare by requiring stormwater best management practices whenever new, expanded or modified developments are proposed.
(b) To assure that stormwater runoff from development is controlled so that the water quality in inland lakes and streams, watercourses, wetlands, groundwater recharged by stormwater, and habitat situated in areas impacted by stormwater are protected, and that siltation and pollution are minimized.
(c) To provide for cost-effective and functionally-effective stormwater management, and to reduce the need for future remedial projects.
(d) To prevent soil erosion and sedimentation.
(e) To ensure that the natural functions and quality of wetlands for stormwater filtering and detention throughout the Township are protected to the maximum extent feasible.
(f) To recognize private responsibility to incorporate stormwater best management practices and systems into the early stages of site planning and design.
(g) To ensure that all stormwater conveyance and detention facilities will be properly maintained.
(h) To promote the avoidance of degradation of water resources by reducing and/or avoiding impacts on the hydrology of stormwater runoff.

(*CHAPTER 8, ARTICLE VI, DIVISION 1, SECTION 8-372 cont.*)

(i) To establish regulations to prevent harmful effects of changes in the quantity and quality of surface water discharge into the Township's water resources.
(j) To achieve compliance with state and federal law and regulations relating to water quality.

Sec. 8-373. Definition of terms.

In addition to those rules of construction and definitions contained in Sections 1-002 and 8-001, the following definitions shall apply to this Article:

The following terms, phrases, words and derivatives shall have the meaning defined below:

Accelerated Soil Erosion The increased movement of soils that occurs as a result of the impact of development upon the flow of stormwater.

Appeal means a request for a review of or variance from the Township Engineer's decision based upon, or interpretation of, any provision of this Article.

Best Management Practice (BMP) structural and nonstructural stormwater management control measures taken to mitigate changes to both quantity and quality of run-off caused through changes to land use. BMP's are designed to reduce volume, peak flows, and/or treat non-point source pollution through evapotranspiration, infiltration, detention, retention, filtration, or biological and chemical actions.

Catchment Area An area in which there is a common receiving body of water into which stormwater ultimately flows, otherwise known as a drainage area.

Conveyance Facility A storm drain, as defined in this Article.

Detention A method of *detaining* a certain volume of stormwater runoff generated from a development area, based on a given design storm event, for a limited period of time and releasing it at a controlled rate, thereby, providing protection to the downstream drainage system.

Development Any change in land or vegetative cover that will or may alter stormwater discharge or impact. This term shall not include customary lawn maintenance or gardening.

Discharge Any addition or introduction of any pollutant, stormwater, or any other substance into the stormwater system or into ground water.

Disturbed Area An area of land subjected to development.

Drainage System All facilities, measures, areas, and structures which serve to convey, catch, hold, filter, store, and/or receive stormwater, either on a temporary or permanent basis.

Earth Change A human-made change in the natural cover or topography of land, including but not limited to cut and fill activities, which may result in or contribute to soil erosion or sedimentation of watercourses or wetlands.

French Drain A below-ground drain consisting of a trench filled with gravel to permit movement of water through the gravel and into the ground. Perforated pipe may be used to enhance the efficiency of the system.

Grading Plan As defined in the Waterford Township Zoning Ordinance.

Infiltration The percolation of water into the ground, expressed in inches per hour.

Infiltration Facility A structure or designated area which allows runoff to seep gradually into the ground, e.g., French drains, seepage pits, infiltration trenches, dry well, or perforated pipe.

Maintenance Agreement A binding agreement that sets forth the terms, measures and conditions for the maintenance of stormwater systems and facilities.

Non-Erosive Velocity Stormwater flow that does not cause accelerated soil erosion.

Offsite Facility All or part of a drainage system that is located partially or completely off the development site which it serves.

Peak Rate of Discharge The maximum rate of stormwater flow at a particular location following a storm event, as measured at a given point and time in cubic feet per second (CFS).

(*CHAPTER 8, ARTICLE VI, DIVISION 1, SECTION 8-373* cont.)

Receiving Body of Water Any watercourse or wetland into which stormwaters are directed, either naturally or artificially.

Retention A method of *retaining* a certain volume of stormwater runoff generated from a development area based on a given design storm event for an indefinite period of time, thereby, providing protection to downstream areas.

Runoff That part of precipitation which flows over the land.

Sediment Mineral or organic particulate matter that has been removed from its site of origin by the processes of soil erosion, is in suspension in water, or is being transported.

Soil Erosion The wearing away of land by the action of wind, water, gravity or a combination thereof.

Soil Erosion Control Measures A structure, facility, barrier, berm, process, vegetative cover, basin, and/or other installations designed to control accelerated soil erosion. Temporary measures are installed to control soil erosion during construction or until soils in the contributing drainage area are stabilized. Permanent measures remain after the project is completed.

Storage Facility A basin, structure, or area, either natural or human made, which is capable of holding stormwater for the purpose of controlling or eliminating discharge from the site.

Stormwater Discharge The volume of water passing a given point at a given time expressed in cubic feet per second. Also referred to as the rate of flow.

Storm Drain A conduit, pipe, swale, natural channel or manmade structure which serves to transport stormwater runoff. Storm drains may be either enclosed or open.

Stormwater Management Plan Drawings and written information prepared in accordance with the Township Engineering Standards by a registered engineer or registered surveyor which describe and detail the means and methodology in which accelerated soil erosion and/or stormwater flows are proposed to be controlled through BMPs and stormwater management systems, both during and after construction, having as its purpose to ensure that the objectives of this Article are met.

Stormwater Management System Entire stormwater conveyance and storage facilities and all appurtenances thereto.

Swale Defined contour of land with gradual slopes that transports and directs the flow of stormwater.

Watershed A geographical area of land in which stormwater drains from a higher elevation to a common low-lying water course; is generally comprised of smaller catchment areas as together they are linked hydraulically to the common low-lying water course.

Sec. 8-374. Applicability.

(a) The following types of developments shall require a Stormwater Management Plan to be submitted along with the Grading Plan to be reviewed and approved by the Township Engineer during the applicable plan review process as required by the Waterford Township Zoning Ordinance or Chapter 15, Subdivision and Land Management Regulations, of this Code:

(1) All land development proposals requiring major site plan review in accordance with the Waterford Township Zoning Ordinance.
(2) Subdivision plat proposals.
(3) Any land division which results in the creation of a public or private street.
(4) Any development activity not listed above where the Township Engineer has determined that a Stormwater Management Plan is necessary to ensure that stormwater is contained on the zoning lot to be developed and ensures the health, safety, and general welfare of adjoining property owners.

(*CHAPTER 8, ARTICLE VI, DIVISION 1, SECTION 8-374 cont.*)

(b) No development requiring a Stormwater Management Plan or preparation for such a development on a site shall occur unless and until the Stormwater Management Plan is approved by the Township Engineer.

Sec. 8-375. Exempt activities.

Notwithstanding the requirements of Section 8-374, a Stormwater Management Plan shall not be required for the following:

(a) Activities protected by rights accorded to citizens by the Right to Farm Act.
(b) Routine landscaping and/or gardening.
(c) Development on one single family zoning lot where the Township Engineer determines that, due to the size of the site, scope of the development activity, or due to other circumstances, the quantity, quality and/or rate of stormwater leaving the site will not be significantly altered.
(d) Developments that have received final site plan approval prior to the effective date of this Article. In the case of a phased development in which one or more phases have been constructed prior to the effective date of this Article, then this Article shall apply to those phases for which detention or retention facilities have not been constructed and approved.

Sec. 8-376. Fees.

The Township Board shall establish by resolution a schedule of fees and escrow requirements intended to cover the costs of processing and approving a Stormwater Management Plan, and plan implementation compliance monitoring. Fees and escrow account payments shall be sufficient to cover administrative and technical review costs anticipated to be incurred by the Township including the costs of on-site inspections.

Sec. 8-377. Responsibilities of applicant not limited to this Article.

(a) Compliance with the requirements of this Article does not relieve an applicant from the responsibility to obtain required permits and approvals from the Township, County agencies, and S.E.A. for activities including but not limited to soil erosion, drainage, and wetlands.
(b) Compliance with the requirements of this Article does not relieve an applicant from the responsibility to comply with other applicable township ordinances and regulations.

Sec. 8-378. Violations; Civil Infraction.

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b).

Secs. 8-379--8-390. Reserved.

Division 2. Administration

Sec. 8-391. Contents of stormwater management plan.

(a) The Stormwater Management Plan shall be drawn to the scale and on the plan sheet size required for Grading Plans as defined in the Waterford Township Zoning Ordinance.
(b) The Stormwater Management Plan shall contain the information required on a Grading Plan as well as all information specified in the Township Engineering Standards.
(c) When development of a zoning lot is proposed to be accomplished in two or more phases, the Stormwater Management Plan shall be prepared and submitted for the total project. Moreover, it shall be demonstrated that a sufficient "stand alone" plan for stormwater management shall exist upon the completion of each phase, i.e., assuming that future phases shall never be developed.

Sec. 8-392. Plan submission.

(a) Stormwater Management Plans shall be submitted, along with the required fees and escrow payment, to the Township Engineer for review and approval before submittal of construction plans and in accordance with the review schedule established by the Township Engineer.

(*CHAPTER 8, ARTICLE VI, DIVISION 2, SECTION 8-392 cont.*)

(b) The Township Engineer may establish a Stormwater Management Plan review process that is integrated and concurrent with major site plan review and subdivision plat review procedures to provide for a streamlined review process.

Sec. 8-393. Standards for stormwater management plan approval.

A Stormwater Management Plan shall be designed to prevent flooding and soil erosion and protect water quality. The particular facilities and measures shown on the plan shall provide:

(a) Stormwater management conveyance, storage and infiltration measures and facilities designed to prevent flood hazards and water pollution related to stormwater runoff, to prevent accelerated soil erosion from the proposed development, and to conform to the Township Engineering Standards.
(b) Preservation of natural topography and natural site drainage to the maximum extent feasible.
(c) Unless otherwise approved, stormwater runoff conveyed through swales and vegetated buffer strips so as to decrease runoff velocity, allowance for natural infiltration, allowance for suspended sediment particles to settle, and removal of pollutants.
(d) Runoff rates from detention basins conforming to the requirements specified in the Township Engineering Standards.
(e) Inland lakes and streams and watercourses shall not be deepened, widened, dredged, cleared of vegetation, straightened, stabilized or otherwise altered without applicable permits or approvals from the Township, relevant County agencies and the S.E.A.
(f) Drainage systems designed to protect public health and safety and to facilitate efficient and effective maintenance.
(g) Promotion of on-site retention and detention through the design of site contours, yards, paved areas, street roadways, driveways, landscaping, and infiltration measures (including but not limited to native landscaping, French drain, or leaching basin.)
(h) No alterations of stormwater runoff to adjacent and downstream properties that result in off-site impacts such as flooding, accelerated soil erosion, or damage to natural features.
(i) Wetlands will be protected from damaging modification and adverse changes in runoff quality and quantity associated with land developments, as well as from direct discharge of untreated stormwater. Documentation shall also provide that all runoff from the development will be pre-treated to remove sediment and other pollutants prior to discharge to a wetland and that such treatment facilities shall be constructed and operational before site grading begins.
(j) Site drainage patterns will not be altered in any way that will modify existing water levels in protected wetlands without proof that all applicable permits from the S.E.A. and the Township have been obtained.

Sec. 8-394. Stormwater storage and infiltration facilities.

Stormwater storage and/or infiltration facilities required pursuant to this Article shall comply with the Township Engineering Standards.

Sec. 8-395. Off-site stormwater management.

(a) The Township Engineer may approve Stormwater Management Plans for off-site stormwater management systems provided that they are governed by permanent cross-access easements and maintenance agreements, whose language and provisions are reviewed and approved by the Township Attorney, that ensure:
    (1) easements are placed on all properties from which stormwater is directed and all properties to which stormwater is directed to be collected;
    (2) access for inspections;
    (3) access to stormwater management facilities for maintenance purposes; and
    (4) preservation of primary and secondary drainageways which are needed to serve stormwater management needs of other properties.
(b) Easements shall be recorded with the Oakland County Register of Deeds according to Oakland County requirements as a condition of stormwater management plan approval and prior to the issuance of any temporary or final certificates of occupancy for any portion of the development associated with the shared off-site stormwater management system.

(*CHAPTER 8, ARTICLE VI, DIVISION 2, SECTION 8-395 cont.*)

(c) The purpose of the maintenance agreement is to provide the means and assurance that maintenance of stormwater management and facilities shall be undertaken. The maintenance agreement shall include a plan for routine, emergency and long term maintenance and repair by the property owners who are party to the maintenance agreement.

(d) The maintenance agreement shall be binding on all subsequent owners of the properties identified as part of the subject stormwater management system, and shall be recorded with the Oakland County Register of Deeds according to Oakland County requirements as a condition of stormwater management plan approval and prior to the issuance of any temporary or final certificates of occupancy for any portion of the development associated with the shared off-site stormwater management system.

Sec. 8-396. Performance guarantees.

When required by the Township Engineer, the applicant shall post an acceptable form of an irrevocable letter of credit, cash escrow, certified check, or other Township approved performance security to assure completion of a stormwater management system. Required performance guarantees shall be provided to the Township after Stormwater Management Plan approval but prior to the initiation of any earth change.

Sec. 8-397. Variance and appeal power of Township Board.

The Township Board shall have full power and authority to vary the application of the provisions of this Article. The Township Board shall hear appeals from any requirement, decision or determination made by the Township Engineer in the enforcement and administration of this Article. In passing upon such matters, the Township Board shall consider:

(a) All technical factors and standards specified in this Article.
(b) Danger to life, health or property by improperly managed stormwater.
(c) Special conditions and circumstances which are unique to a zoning lot and which are not generally applicable to other zoning lots.
(d) Other factors as are in keeping with the purpose of this Article.

Secs. 8-398--8-420. Reserved.

ARTICLE VII WOODLANDS MANAGEMENT

Division 1. Generally

Sec. 8-421. Short title.

This Article shall be known and cited as the "Waterford Township Woodlands Management Ordinance"

Sec. 8-422. Purpose.

(a) The unregulated and unnecessary removal of protected trees is a threat to the public health, safety, and general welfare of the citizens of Waterford Township through the elimination of important physical, aesthetic, recreational and economic assets for both present and future generations. Specifically, it is found that:

(1) Protected trees provide for public safety through the prevention of erosion, siltation, and flooding in woodland areas;
(2) Protected trees aid in the protection of public health through the absorption of air pollutants and contamination, including the reduction of excessive noise and mental and physical damage related to noise pollution;
(3) Protected trees provide a significant aspect of the character of the Township; and
(4) Protected tree growth serves as an essential component of the general welfare by maintaining natural beauty, recreation and irreplaceable natural heritage.

(*CHAPTER 8, ARTICLE VII, DIVISION I, SECTION 8-422 cont.*)

(b) The purposes of this Article are as follows, to be applied throughout the Township:

(1) To provide for the protection, preservation, proper maintenance and use of protected trees through effective management of woodlands in order to minimize disturbance to them and to prevent damage from erosion and siltation, a loss of wildlife and vegetation, and/or from the destruction of the natural habitat;

(2) To assist in the sustainability of protected trees in woodlands to ensure their crucial role in contributing their economic support of community property values when allowed to remain in place, and for their natural beauty, character, and geological, ecological, or historical significance.

(3) To provide for the paramount public concern for these natural resources in the interest of health, safety and general welfare of the residents of this Township, in keeping with Article IV, Section 52 of the Michigan Constitution of 1963, and the intent of Public Act 451 of 1994, the Natural Resources and Environmental Protection Act.

Sec. 8-423. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 8-001, the following definitions shall apply to this Article:

Affected Tract A zoning lot that is vacant with no buildings or structures.

Diameter Breast Height (D.B.H.) A tree's diameter in inches measured by diameter tape at four and one-half (4 ½) feet above the ground. On multi-stem trees, the largest diameter stem shall be measured.

Drip Line An imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Protected Tree Any tree having a diameter breast height (d.b.h.) of six (6) inches or greater and belonging to a genus and species identified in a Protected Tree List established by the Township Board as provided in Section 8-424 as a tree to be regulated.

Removal The direct or indirect act of removing or causing the removal of a tree by digging up, cutting down, or other activities that damage and cause the eventual death of a tree.

Transplant The relocation of a tree from one place to another on the same zoning lot.

Tree Any self-supporting, woody plant of a species which normally grows to an overall height of fifteen (15) feet or more.

Undeveloped A zoning lot which is unimproved by virtue of building(s), structure(s), or other improvement(s).

Woodlands Areas, groves, or stands of protected trees covering an area greater than one acre; or without regard to minimum area, containing more than ten individual genus and species of protected tree.

Sec. 8-424. Protected tree list.

The Township Board shall establish by resolution a Protected Tree List, upon the advice and recommendation of the Township Engineer, which shall identify the genus and species of each tree to be regulated by this Article. The Township Engineer may consult registered foresters and landscape architects while assembling the list. This Protected Tree List shall be applied to and enforced upon all properties within the Township. The Protected Tree List shall be available for review at the office of the Township Engineer and Township Clerk, and all other locations identified by the Township Engineer. The Protected Tree List may be altered or amended at any time by resolution of the Township Board upon the advice and recommendation of the Township Engineer.

Sec. 8-425. Actions requiring a woodlands management permit.

Subject to the exceptions enumerated in Section 8-426 below, no person shall remove, cause to be removed, or destroy any protected tree on an affected tract without first obtaining a woodlands management permit.

(*CHAPTER 8, ARTICLE VII, DIVISION I cont.*)

Sec. 8-426. Actions not requiring a woodlands management permit.

The following activities, unless otherwise prohibited by statute or other ordinance provision, shall not require a woodlands management permit:

(a) Tree removal and transplant activities on zoning lots or parcels that are not an affected tract.
(b) Protected tree removal activities protected by rights accorded to citizens by the Right to Farm Act.
(c) Protected tree removal activities necessary by an emergency, such as tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease, or other disaster, in order to prevent injury or damage to persons or property or restore order.
(d) Protected tree removal performed by, or on behalf of, governmental entities or agencies.
(e) Repair or maintenance work performed by public utilities necessitating the trimming or cutting of protected trees.
(f) Removal or trimming of dead, diseased or damaged protected trees, where the damage resulted from an accident or non-human cause.

Sec. 8-427. Fees.

The Township Board shall establish by resolution a schedule of fees and escrow requirements intended to cover the costs of processing and approving a woodlands management permit, and permit compliance monitoring. Fees and escrow account payments shall be sufficient to cover administrative and technical review costs anticipated to be incurred by the Township including the costs of on-site inspections.

Secs. 8-428--8-440. Reserved.

Division 2. Permit

Sec. 8-441. Application for woodlands management permit.

(a) Applications for woodlands management permits shall be submitted, along with the required fees and escrow, to the Township Engineer for review and approval before removing protected trees in accordance with the review schedule established by the Township Engineer.
(b) The Township Engineer may establish a woodlands management permit review process that is integrated and concurrent with major site plan review procedures to provide for a streamlined review process.

Sec. 8-442. Woodlands management plan.

The Township Engineer may require an applicant to submit:

(a) A woodlands management plan that includes documentation of the means and process by which cut protected trees shall be removed from the property without damaging remaining protected trees.
(b) A tree survey in accordance with standards established by the Township Engineer; and/or
(c) A tree survey prepared by a State of Michigan registered forester as part of a permit application when the scope of the woodlands management activity shall be for the purpose of reducing the density of woodlands so as to promote and maintain the health and viability of the remaining protected trees.

Sec. 8-443. Hiring of woodlands consultant.

The Township Engineer is authorized to engage the services of a registered forester as a woodlands consultant to provide scientific expertise and analysis during permit application processing and compliance monitoring for those cases where the Township Engineer has determined such scientific documentation is required to achieve the objectives of this Article.

Sec. 8-444. Standards for woodlands management permit approval.

The following standards shall govern approval of a woodlands management permit:

(a) Removal of protected trees shall be limited to instances where:
    (1) Removal is necessary for the construction of a building, structure, or other site improvement, and the permit applicant has shown there is no feasible and prudent location alternative on site for improvement; or

(*CHAPTER 8, ARTICLE VII, DIVISION 2, SECTION 8-444 cont.*)

(2) The density of protected trees is proposed to be reduced to preserve the health and viability of the protected trees in accordance with an approved woodlands management plan.

(b) Protected tree preservation and conservation shall be of paramount concern and importance, provided, that an application shall not be denied solely because of the presence of individual protected trees scattered throughout an affected tract.

(c) Preservation and conservation of protected trees shall have priority over land development when there are feasible and prudent location alternatives on site for proposed buildings, structures or other site improvements.

(d) Diversity of protected tree species shall be maintained where essential to preserving protected trees.

(e) Where the proposed activity consists of land clearing, it shall be limited to areas to be improved for street roadways, sidewalks, drainage and utilities and areas necessary for the construction of buildings, structures or other site improvements as shown on an approved site plan or subdivision plat.

(f) The proposed activity shall comply with all applicable statutes and ordinances.

Sec. 8-445. Protected tree replacement.

In order to achieve the objectives of this Article and as a condition of approval of a woodlands management permit, the Township Engineer may require that protected trees removed under the permit shall be relocated or replaced with comparable protected trees in accordance with protected tree replacement requirements recommended by the Township Engineer and established by resolution of the Township Board.

Sec. 8-446. Performance guarantees.

(a) When required by the Township Engineer, the applicant shall post an acceptable form of an irrevocable letter of credit, cash escrow, certified check, or other Township approved performance security. The performance guarantee shall be an amount determined by the Township Engineer required to complete all woodlands management activities as specified in the permit, together with reasonable administrative expenses. Required performance guarantees shall be provided to the Township after approval of the woodlands management permit but prior to the initiation of any of the activities governed by the permit.

(b) After all woodlands management activities are completed in compliance with the woodlands management permit, the letter of credit or other securities shall be released.

Sec. 8-447. Woodlands management permit.

Whenever an application for a woodlands management permit is granted, the Township Engineer shall:

(a) Attach to the permit any reasonable conditions established as necessary to ensure the purpose of this Article will be fulfilled.

(b) Fix a reasonable time for permitted activities to be undertaken and completed. Permitted activities that are not completed before the permit deadline will be cause for the permit to become null and void and will require new application.

(c) Identify on the permit any performance guarantee requirement in accordance with Section 8-446.

Sec. 8-448. Protected tree conservation during construction.

(a) During construction, no person shall:

(1) Conduct any activity within the drip line of any protected tree designated to remain, including, but not limited to, placing solvents, building material, construction equipment or soil deposits within the drip line.

(2) Attach any device to any remaining protected tree except for the protection of a tree in accordance with forestry procedures.

(b) Street right-of-way and utility easements may be cordoned by placing stakes a minimum of fifty (50) feet apart and tying ribbon, plastic tape, rope, etc. from stake to stake along the outside perimeters of areas authorized under the permit to be cleared.

(c) Large property areas separate from the construction or land clearing area onto which no equipment will venture may also be cordoned off as described in subsection (b) above.

(*CHAPTER 8, ARTICLE VII, DIVISION 2, SECTION 8-448 cont.*)

(d) Protective barriers shall be required and maintained in accordance with permit conditions established by the Township Engineer.

Sec. 8-449. Display of permit; stop work, certificate of occupancy.

(a) The woodlands management permit shall be conspicuously and continuously displayed on-site during the active timeframe of the permit.

(b) The permit grantee shall allow the Township Engineer to enter and inspect the premises at any reasonable time, and failure to allow inspection shall constitute a violation of this Section.

(c) The Building Official may issue a stop work order or withhold issuance of a certificate of occupancy, permits or inspections if this Article is being violated and/or until the provisions of this Article, including any conditions attached to a woodlands management permit, have been fully met.

Sec. 8-450. Variance and appeal power of Township Board.

The Township Board shall have full power and authority to vary the application of the provisions of this Article. The Township Board shall hear appeals from any requirement, decision or determination made by the Township Engineer in the enforcement and administration of this Article. In passing upon such matters, the Township Board shall consider:

(a) All technical factors and standards specified in this Article.

(b) Danger to life, health or property by improperly managed protected trees.

(c) Special conditions and circumstances which are unique to a zoning lot and which are not generally applicable to other zoning lots.

(d) Other factors as are in keeping with the purpose of this Article.

Sec. 8-451. Violations; Civil Infraction.

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b).

Secs. 8-452--8-470. Reserved.

CHAPTER 9 HEALTH AND SANITATION

Art. I. In General, §§ 9-001--9-025 ..... Page 9-1
Art. II. Abandoned Airtight Containers, §§ 9-026--9-050 ..... Pages 9-1 and 9-2
Art. III. Waste Materials Control, §§ 9-051--9-130 ..... Pages 9-2 through 9-7
Div. 1. Generally, §§ 9-051--9-070 ..... Pages 9-2 through 9-4
Div. 2. Solid Waste, §§ 9-071--9-100 ..... Pages 9-4 through 9-6
Div. 3. Liquid Waste, §§ 9-101--9-110 ..... Pages 9-6 through 9-6
Div. 4. Distressed and Junk Vehicles, §§ 9-111--9-130 ..... Pages 9-6 through 9-7
Art. IV. Rodent and Pest Control, §§ 9-131--9-170 ..... Pages 9-7 through 9-9
Div. 1. Generally, §§ 9-131--9-140 ..... Pages 9-7 through 9-7
Div. 2. Rodent Control, §§ 9-141--9-150 ..... Pages 9-7 through 9-8
Div. 3. Insect Control, §§ 9-151--9-170 ..... Pages 9-8 through 9-9
Art. V. Vegetation Control, §§ 9-171--9-240 ..... Pages 9-9 through 9-12
Div. 1. Generally, §§ 9-171--9-180 ..... Pages 9-9 through 9-9
Div. 2. Noxious Weeds, §§ 9-181--9-200 ..... Pages 9-10 through 9-11
Div. 3. Control of Trees, Shrubs, and Plants in Public Ways, §§ 9-221--9-250 .. Pages 9-11 through 9-12

ARTICLE I IN GENERAL

Secs. 9-001--9-025. Reserved.

ARTICLE II ABANDONED AIRTIGHT CONTAINERS

Sec. 9-026. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, 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:

Abandoned Means leaving outside of any building in a place accessible to a person.

Airtight Container Means any abandoned, unattended or discarded icebox, refrigerator, deep freeze or other device with an airtight door of a kind and size sufficient to permit the entrapment and suffocation of a person.

Accessible means available to a person whether such person is upon the land of another as a matter of right or as a trespasser.

Children or Child mean any person(s) under the age of twelve (12) years.

Owner means any person who possesses all or a portion of the fee title to any zoning lot, or any tenant who occupies any buildings upon such zoning lot under the provisions of any lease, regardless of the duration of such lease.

(Comp. Ords. 1986, § 20.621)

Sec. 9-027. Removal of lids required.

Any individual who knowingly abandons any airtight container as defined in this Article without first physically removing the lid or cover thereof so as to remove the airtight locking condition, shall be guilty of a violation of this Article.

(Comp. Ords. 1986, § 20.622)

State law references: *Similar provisions, MCL 750.493d).*

(*CHAPTER 9, ARTICLE II, SECTION 9-028 cont.*)

Sec. 9-028. Responsibility of landowner.

Any owner of land who knowingly abandons any airtight container without first physically removing the lid or cover thereof so as to remove the airtight locking condition, shall be guilty of a violation of this Article.

(Comp. Ords. 1986, § 20.623)

Sec. 9-029. Storage.

Any individual desiring to keep or maintain any airtight container who does not desire to physically remove the lid or cover thereof, shall at all times keep such containers in a building to which all entrances are securely locked and to which the means of ingress and egress thereto shall be prohibited to children.

(Comp. Ords. 1986, § 20.626)

Sec. 9-030. Violations; Misdemeanor.

Violation of this Article is a misdemeanor punishable as provided in Section 1-010(a).

Secs. 9-031--9-050. Reserved.

ARTICLE III WASTE MATERIALS CONTROL*

**Editor's note:* *The 2014 ordinance recodification amended the Code transferring the weed control provisions from this Article, formerly §§ 9-051—9-064, to Article V of this Chapter and expanding upon the existing litter control provisions to incorporate a broader scope of waste materials controls that are pertaining to similar subject matter and derived from the same historical ordinance sources.*

Division 1. Generally

Sec. 9-051. Title.

This article shall be known and cited as the "Waste Materials Control Ordinance," and it shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such title and reference to the number hereof.

(Comp. Ords. 1986, § 35.051)

Sec. 9-052. Purpose.

The intent and purpose of this article is declared as follows:

(a) To establish ordinance provisions that supplement the Waterford Code of Ordinances, Existing Structure Code through specific requirements intended to prevent the storage or accumulation of waste materials, upon any private or public property or water resources within the Township, that are a cause of blight and deterioration in neighborhoods and in the spread of vermin and disease, and, therefore, is contrary to the public peace, health, safety and general welfare of the community.

(b) To provide for methods of enforcement and penalties for the violations of such provisions.

(Comp. Ords. 1986, § 35.052)

Sec. 9-053. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, 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:

Litter Any accumulation of waste materials in the open areas of a zoning lot.

Litter Receptacle A container designed and used for the deposit of garbage and trash items by pedestrians.

Private Property The exterior locations of zoning lots owned by persons, including but not limited to: yards, grounds, driveways, parking areas, and areas not contained within a building.

(*CHAPTER 9, ARTICLE III, DIVISION 1, SECTION 9-053* cont.)

Public Property The exterior locations of publicly-owned land, including but not limited to: public rights-of-way, catch basins, and public parking lots.

Recyclable Materials Generally accepted recyclable paper, glass, plastic, and metal waste materials generated by the daily uses on a zoning lot.

Recycling Bin A container used to temporarily store generally accepted recyclable paper, glass, plastic, and metal waste materials generated by the daily uses on a zoning lot until a waste hauler removes the recyclable waste material on its regularly scheduled rounds.

Waste Hauler A private company specializing in the removal, separation, and transport of the various classes of waste materials to locations licensed by the State of Michigan for permanent storage and containment of each class of waste material.

Waste Materials Materials that are unused, unproductive, not utilized for the purpose for which it was produced, left over, superfluous, and/or rejected as useless or worthless, and shall include these specific categories:

Construction Waste Materials including but not limited to lumber, brick, drywall, pipe, wire, and hardware that are leftover scraps from a construction project.

Debris Any accumulation of broken or detached matter, including but not limited to fragments of stone, brick, cement and plaster.

Garbage Putrescent solid and semi-solid animal, fish, fowl, or vegetable matter resulting from the production, handling, preparation, cooking, service, or consumption of food or food materials for human consumption, spoiled food, dead animals, animal manure, and fowl manures.

Junk Any reclaimable material from motor vehicles, machinery, equipment, household appliances or contrivances, or waste material which cannot be used for the purpose for which the product was originally manufactured.

Liquid Waste Any waste oils, septic tank pumpings, industrial wastes and other similar materials.

Medical Waste That portion of potentially-infectious biomedical waste that is generated from the operation of medical programs, offices or facilities.

Refuse Any putrescent or non-putrescent solid waste, except human excreta, but including garbage, rubbish, ashes, street cleaning, dead animals, offal and solid agricultural, contaminated or processed soil, commercial, industrial, hazardous and institutional wastes and construction waste.

Rubbish Means any non-putrescible solid waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing, and office, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals, or any similar or related combinations thereof.

Trash Any non-putrescent manufactured product, including but not limited to furniture and appliances, that is broken, unusable, and/or not utilized for the purpose for which it was produced.

Wastewater Liquid waste discharged from any use source, or from associated treatment facilities, except greywater, specifically such water used in the cleaning of clothing or dishes.

Yard Waste Non-composted organic material resulting from yard and landscape maintenance, including but not limited to grass clippings, twigs, branches, and mulch.

Waste Material Container A lidded bin used to temporarily store garbage, refuse, rubbish, and trash generated by the daily uses on a zoning lot until a waste hauler removes the waste material on its regularly scheduled rounds. Waste material containers are designed and intended to eliminate the safety hazard of attracting animals to open containers and accumulations of waste materials as a food source, to reduce the health risks created by the accumulation of waste material through its decomposition and its attractiveness for harboring rodents, and to provide for the general welfare by removal of the unsightly conditions created by accumulated waste material. The terms “trash can”, “rubbish can”, “garbage can”, and “lidded dumpster”, and similar such terms shall all be considered synonymous with waste material container in the context of this Article.

(*CHAPTER 9, ARTICLE III, DIVISION 1* cont.)

(Comp. Ords. 1986, § 35.053; Ord. of 8-10-1987, § 1.00)

Sec. 9-054. Enforcing agencies.

(a) The Building Official is authorized to enforce the sections of this Article involving the maintenance and condition of buildings and structures as provided in the General Provisions Buildings and Building Regulations in this Code.

(b) The Zoning Official is authorized to enforce the sections of this Article involving the exterior maintenance and condition of the exterior areas of zoning lots as provided in the General Provisions of this Code.

Secs. 9-055--9-070. Reserved.

Division 2. Solid Waste

Sec. 9-071. Toxic, poisonous, highly combustible, and medical waste materials.

(a) No person shall deposit in any waste material container or recycling bin any toxic, poisonous, or highly explosive liquid, gas or solid materials, including but not limited to gasoline, kerosene, fuel oil, ammunition or explosives.

(b) No person shall deposit in any waste material container or recycling bin any battery, cell phone, computer component, or other electronic item where prohibited by federal or state law.

(c) No person shall store, deposit, throw, or place for waste material collection any medical waste except in accordance with an approved "medical waste management plan" as required of such person pursuant to the Medical Waste Regulatory Act, Public Act No. 18 of 1990 (MCL 333.13801 et seq.).

Sec. 9-072. Littering of public lands or waters prohibited.

No person shall knowingly cause, allow or permit the dumping, depositing, placing, throwing or leaving of litter on any public property or water resources other than within waste material containers or property lawfully designated and set aside for such purpose.

Sec. 9-073. Duty to maintain a litter free environment on private property.

Every person who owns, possesses, controls, supervises or occupies private property in the Township shall be responsible for maintaining such premises free of litter.

Sec. 9-074. Duty to prevent handbills and newspapers from becoming litter.

(a) *Duties of persons publishing and/or distributing handbills.* It shall be the duty of every person publishing and distributing commercial handbills, leaflets, flyers or any other advertising and information material to take whatever measures that may be necessary to keep such materials from littering public or private property.

(b) *Duties of persons publishing and/or distributing newspapers.* It shall be the duty of every person publishing and distributing newspapers to take whatever measures that may be necessary to keep such materials from littering public or private property, including refraining from the placing or depositing of free newspapers or advertising materials on the open areas or driveways of zoning lots.

Sec. 9-075. Litter control at construction sites.

At any construction site, building under construction and area adjacent thereto, construction waste and debris shall be placed within the confines of a roll-off disposal container, as defined in the Waterford Township Zoning Ordinance, and maintained so as to prevent the blowing or scattering of such waste and debris by the wind. The transfer of construction waste and debris from one construction site to another is specifically prohibited.

(*CHAPTER 9, ARTICLE III, DIVISION 2 cont.*)

Sec. 9-076. Litter receptacles, policy and use.

It is the legislative policy to encourage all persons charged with the maintenance of zoning lots open to the general public to provide litter receptacles for the deposit of waste materials. Persons depositing waste materials in such receptacles shall do so in such a manner as to prevent littering by the careful depositing of waste materials therein. Litter receptacles shall be emptied and cleaned at intervals frequent enough so as to prevent development of a food source for animals and to prevent an overflow of items that will cause litter, or create a nuisance.

Sec. 9-077. Duty to remove vehicle debris.

All persons responsible for, or engaged in the removal of wrecked vehicles and debris from any public or private street roadway, shall collect and remove all glass and other injurious debris from such street roadway and associated right-of-way.

Sec. 9-078. Storing of waste materials on private properties prior to waste hauler removal.

(a) On residential premises, all waste material shall be stored in rodent-proof metal or hardened plastic waste material containers. Waste material containers containing waste materials shall be covered tightly at all times to prevent the harboring of rodents and the scattering of debris. Placement of waste material containers and recycling bins beyond the front building line of any principal residential building shall be restricted to the time period beginning twelve (12) hours prior to the morning of the regularly scheduled rounds of the waste hauler engaged to remove such waste materials and recycling materials through twelve (12) hours following such regularly scheduled rounds.

(b) On non-residential premises, all waste material stored outside of the building must be stored in waste material containers that are emptied by a waste hauler at intervals frequent enough so as to prevent development of a food source for animals as well as prevent an overflow of items that will cause litter. The waste material containers shall be kept in rear or side yards at all times, unless another location has been approved in accordance with the Waterford Township Zoning Ordinance. Waste material containers containing waste materials shall be covered tightly at all times to prevent the harboring of rodents and the scattering of debris.

Sec. 9-079. Responsibility for timely waste materials and recyclable materials removal.

Every person who owns, possesses, controls, supervises or occupies private property in the Township shall be responsible for ensuring that all waste materials and recyclable materials from such private property, including from within buildings and structures, are collected and stored in accordance with Section 9-078. Such persons are also responsible for engaging the services of a waste hauler to remove the collected waste materials and recyclable materials each week in accordance with the schedule and rules established by the waste hauler hired to provide such removal services.

Sec. 9-080. Removal by the Township.

At any private property where the failure to comply with the requirements of Section 9-079 results in the outdoor collection and storage of garbage for more than one (1) week and the owner, occupant, or lessee fails to engage the services of a waste hauler to remove such garbage within seven (7) days of the date of written notification by the Township, the Zoning Official is hereby authorized and empowered to engage the services of a waste hauler to remove and dispose of all garbage from the exterior of the premises in order to eliminate the hazard to public health, safety, and welfare. The Zoning Official is further authorized to add to such costs a ten percent administrative charge to cover the expense of administering the garbage removal. Such notification to the owner, occupant, or lessee shall further inform the owner that any such garbage removal and administrative costs shall be the responsibility of the owner and the Township shall place a lien

(*CHAPTER 9, ARTICLE III, DIVISION 2, SECTION 9-080* cont.)

against the land for such expense to be enforced in the manner provided for enforcement of tax liens under the general property tax law.

Sec. 9-081. Violations and sanctions.

Violation of this Division is a municipal civil infraction punishable as provided in Section 1-010(b).

Secs. 9-082--9-100. Reserved.

Division 3. Liquid Waste

Sec. 9-101. Wastewater dumping prohibited.

(a) No person shall discharge any wastewater upon any public or private property or upon or into water resources within the Township.

(b) No person shall drain any internal fluids, which are defined as all substances required to make a vehicle operable and mobile, including but not limited to: gasoline, oil, transmission fluid, anti-freeze fluid, and windshield washer solvent, from vehicles upon the ground, or into any storm or sanitary sewer inlets, or upon any paved area.

Sec. 9-102. Violations; Civil Infraction.

Violation of this Division is a civil infraction punishable as provided in Section 1-010(b).

Secs. 9-103--9-110. Reserved.

Division 4. Distressed and Junk Vehicles

***Editor's note:** The 2014 ordinance recodification amended the Code repealing the Waterford Township Abandoned, Junked and Distressed Vehicle Ordinance in Article III of Chapter 10, formerly §§ 10-066 – 10-090, and adopting the provisions under this Division for similar subject matter pertaining to distressed and junk vehicles and derived from the same historical ordinance sources.*

Sec. 9-111. Purpose.

The intent and purpose of this Division is declared as follows:

(a) To establish ordinance provisions that supplement the Waterford Code of Ordinances, Existing Structure Code through specific requirements intended to eliminate exterior storage of distressed, junk, salvage, and scrap vehicles, on public and private property within the Township, that are a cause of blight and deterioration in neighborhoods and in creating harborage of vermin, and, therefore, is contrary to the public peace, health, safety and general welfare of the community.

(b) To provide for methods of enforcement and penalties for the violations of such provisions.

Sec. 9-112. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Distressed Vehicle As defined in the Michigan Vehicle Code, Public Act 300 of 1949, as amended.

Good Repair Means the vehicle is operable and equipped to be legally driven on the roadways under the State of Michigan Public Act 300 of 1949, Michigan Vehicle Code, as amended.

Junk Vehicle Means any form of vehicle that is inoperable or not in good repair due to missing or visibly damaged parts and which has been stored on a zoning lot or parcel in either of those conditions for 45 or more days, and a vehicle that is infested by insects or rodents, used for the storage of waste material as defined in Section 9-053, being stored for scrap, salvage,

(*CHAPTER 9, ARTICLE III, DIVISION 4, SECTION 9-112* cont.)

automotive recycling, and/or parts stripping, or unlicensed and stored outside of a fully enclosed building on a zoning lot or parcel for more than six (6) consecutive months.

Salvage Vehicle As defined in the Michigan Vehicle Code, Public Act 300 of 1949, as amended.

Scrap Vehicle As defined in the Michigan Vehicle Code, Public Act 300 of 1949, as amended.

Sec. 9-113. Prohibition; keeping of distressed, junked, salvage, and scrap vehicles.

It shall be unlawful and a violation of this Division for any person to store, or permit the storage or accumulation of one (1) or more distressed, junk, salvage, or scrap vehicles on any private property within the Township, except within a completely enclosed building or upon the premises of a properly zoned, licensed, and approved establishment in accordance with the Distressed Vehicle, Junk, Salvage, and Dismantling Yards regulations in Chapter 10 of this Code.

Sec. 9-114. Violations; Civil Infraction.

Violation of this Division is a civil infraction punishable as provided in Section 1-010(b).

Secs. 9-115--9-130. Reserved.

ARTICLE IV RODENT AND PEST CONTROL

Division 1. Generally

Sec. 9-131. Short title.

This division shall be known and cited as the "Rodent and Pest Control Ordinance."

(Comp. Ords. 1986, § 35.001)

Sec. 9-132. Purpose.

The intent and purpose of this chapter is declared as follows:

(a) To establish ordinance provisions that supplement the Property Maintenance Code and other regulations in this Code through specific requirements intended to prevent rodent harborage and insect infestations in buildings within the Township.

(b) To provide for methods of enforcement and penalties for the violations of such provisions.

(Comp. Ords. 1986, § 35.002)

Secs. 9-133--9-140. Reserved.

Division 2. Rodent Control

Sec. 9-141. Duty to keep premises rodent free.

Owners and occupants of zoning lots and parcels shall comply with the waste materials storage and removal regulations in Article III of this Chapter and take all other actions necessary to prevent such premises from being a home or harborage for rodents.

Sec. 9-142. Exterior storage of materials prone to rodent harborage.

(a) Where the Zoning Ordinance allows for exterior storage, all building material, lumber, boxes, barrels, fabricated goods and similar items which may afford rodent harborage shall be stored or stacked upon rodent proof paved areas or shall be elevated at least twelve (12) inches above the ground and so separated into storage units as to minimize the possibility of rodent harborage and to facilitate inspection and extermination.

(b) Storage of firewood for use on a residential zoning lot upon which the firewood is stored is permitted in accordance with the following requirements:

(1) Storage of firewood is prohibited on vacant zoning lots.

(2) Firewood storage shall be elevated at least twelve (12) inches above the ground.

(3) Firewood storage is limited to an area not to exceed five (5) feet in height, fifteen (15) feet in length, and two (2) feet in depth.

(*CHAPTER 9, ARTICLE IV, DIVISION 2, SECTION 9-142 cont.*)

(4) Firewood must be stacked in a regular, orderly arrangement that is stable and reasonably resistant to collapse.
(5) Storage of firewood is prohibited in the front yard as defined in the Zoning Ordinance.
(6) Firewood storage areas shall be located no closer than five (5) feet to any side and rear lot lines.
(7) Firewood storage areas shall be screened from adjoining properties in accordance with the requirements of the Zoning Ordinance, unless such firewood storage areas are more than two hundred (200) ft. from any habitable building on any adjoining zoning lot.

Sec. 9-143. Composting on residential properties.

All composting done on residential properties within the Township shall be done in accordance with the following standards and conditions:

(a) All compost piles/bins shall be maintained so as to prevent the attraction or harborage of rodents by composting only yard waste and household compostables placed within, and it shall be violation of this Division to deposit garbage or refuse in compost piles/bins.
(b) All compost piles/bins shall be maintained so as to prevent anaerobic conditions which lead to unpleasant odors.
(c) All composting shall be done in accordance with any process that has been determined in writing to be an acceptable composting process by either the Oakland County Cooperative Extension Service or the Michigan Department of Natural Resources.
(d) Compost piles/bins are prohibited in the front yard as defined in the Waterford Township Zoning Ordinance.
(e) Compost piles/bins shall be located no closer than five (5) feet to any side and rear lot lines.
(f) Compost piles/bins shall be screened from adjoining properties in accordance with the requirements of the Waterford Township Zoning Ordinance, unless such compost piles/bins are more than two hundred (200) ft. from any habitable building on any adjoining zoning lot.

Sec. 9-144. Violations; Civil Infraction.

Violation of this Division is a civil infraction punishable as provided in Section 1-010(b).

Secs. 9-145--9-150. Reserved.

Division 3. Insect Control

Sec. 9-151. Purpose.

The intent and purpose of this Division is to establish ordinance provisions that supplement the Property Maintenance Code and other regulations in this Code through specific requirements intended to eliminate infestation of disease-carrying insects in buildings on public and private property within the Township in order to provide for public health, safety, and general welfare of the community.

Sec. 9-152. Insect Screens.

During the period from April 15th to November 1st, every door, window and other outside opening used or required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging/hinged screen door shall have a self-closing device in good working condition.

Sec. 9-153. Violations; Civil Infraction.

Violation of this Division is a civil infraction punishable as provided in Section 1-010(b).

Secs. 9-154--9-170. Reserved.

(*CHAPTER 9, cont.*)

ARTICLE V VEGETATION CONTROL

**Editor's note: The 2014 ordinance recodification amended the Code transferring the weed control provisions from Article III of this Chapter, formerly §§ 9-051—9-064, and inserting such provisions into Divisions 1 and 2 of this Article. Such provisions are pertaining to similar subject matter and derived from the same historical ordinance sources.*

Division 1. Generally

Sec. 9-171. Title.

This Article shall be known and cited as the "Vegetation Control Ordinance," and it shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such title and reference to the number hereof.

Sec. 9-172. Purpose.

The intent and purpose of this Article is declared as follows:

(a) To define and prohibit the dangerous and nuisance growth of vegetation within the Township.
(b) To provide methods of enforcement and violations for the provisions hereof.

Sec. 9-173. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, 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:

Mechanical cutting means the use of any sharp cutting instrument, float sickle-bar type mower; dragger with pipe and appurtenances; raking with any type of rake; and the dredging of organic matter from the bottom of any waterway.

Noxious Weeds Include, but not limited to, Canada thistle (Circium arvense), dodders (any species of Cuscuta), mustards (Charlock, black mustard, Indian mustard, and species of Brassica or Sinapis), wild carrot, (Daucus carota), Bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), ragweed (Ambrosia artemisiifolia and Ambrosia elatior), poison ivy (rhus toxicondendron), poison sumac (toxicondendren vernix), oxeye daisies (Chrysanthemum leucanthemum) and goldenrod (Solidago canadensis), or any other plant that is recognized by the Township Board as a threat to health, safety, or the public welfare shall be regarded as a noxious weed.

Seed-bearing means exceeding a height of ten (10) inches.

Subdivided Land Means all platted subdivisions and approved condominium developments in the Township.

Turf Grass means grass commonly used in regularly-cut lawns or play areas, such as, but not limited to bermudagrass, fescue, St. Augustine, zoysia, and ryegrass blends.

Uncontrolled Growth A height greater than ten (10) inches.

Weeds And Grasses Include, but not limited to, turf grasses and upland vegetation that, because of its height and density is prone to harborage of rodents. Weeds and grasses does not include shrubs, bushes, trees, cultivated flowers and gardens including but not limited to wildflowers, and wetland vegetation.

(Comp. Ords. 1986, § 21.001)

Secs. 9-174--9-180. Reserved.

(*CHAPTER 9, ARTICLE V cont.*)

Division 2. Noxious Weeds

Sec. 9-181. Purpose.

The intent and purpose of this Division is declared as follows:

(a) To establish ordinance provisions that provide for controlling and eradicating certain noxious weeds in accordance with Public Act 359 of 1941, as amended, Noxious Weeds.

(b) To establish ordinance provisions that supplement the Property Maintenance Code and other regulations in this Code through specific requirements intended to eliminate weeds and prevent the nuisance conditions created by uncontrolled growth of weeds and grasses within the Township.

(c) To provide for methods of enforcement and penalties for the violations of such provisions.

Sec. 9-182. Duty to control weeds and grasses.

(a) It shall be unlawful for the owner, agent or occupant of lands to permit the growth of noxious weeds of any height upon any property in the Township.

(b) It shall be unlawful for an owner, occupant, or agent with rights or responsibilities for maintenance of a zoning lot or parcel to permit the uncontrolled growth of weeds and grasses when such uncontrolled growth occurs on any of the following lands:

(1) Subdivided land on which buildings have been erected on at least sixty (60) percent of the zoning lots within the boundaries of the subdivided land.

(2) Zoning lots along improved streets in common usage, to a depth of one hundred sixty five (165) feet or the depth of the zoning lot, whichever is the lesser.

Sec. 9-183. Exempt areas.

The following types of areas are exempt from the provisions of this Division:

(a) All areas containing agricultural crops cultivated for harvesting.

(b) All areas planted with vegetation designed to prevent erosion of steep slopes.

(c) All areas identified by the S.E.A. or Township to be wetlands.

(d) All stormwater management areas maintained as natural areas.

Sec. 9-184. Notice to eradicate.

During the month of March of each calendar year, the Township shall publish a notice in a newspaper of general circulation within the Township stating the duty of every property owner in the Township to destroy all noxious weeds on their property before they reach a seed-bearing stage and to prevent their re-growth throughout the growing season. The notice shall state the methods of treatment and eradication of noxious weeds, the method to prevent noxious weeds from perpetuating themselves and to prevent such noxious weeds from becoming a detriment to the public health. The notice shall also state the duty of every property owner in the Township to prevent the uncontrolled growth of weeds and grasses on properties meeting the criteria of Section 9-182(b) between May 15 and October 15 of each calendar year. The notice shall further include all the provisions described in Section 9-185.

Sec. 9-185. Action by Township upon failure to comply.

(a) In the event a property owner has failed to eliminate the growth and prevent the re-growth of noxious weeds, the Township shall be empowered to enter upon the property to cut and eliminate the re-growth of noxious weeds as many times as is necessary during the growing season of each calendar year to protect the public health, safety and welfare.

(b) In the event a property owner has failed to prevent the uncontrolled growth of weeds and grasses, the Township shall mail a warning notice that if the owner fails to eliminate the uncontrolled growth within seven (7) calendar days of the date of such notice, the Township shall be empowered to enter upon the property to cut and eliminate the uncontrolled growth.

(c) All costs incurred by the Township under subsections (a) and (b) above, including such administrative fee established in accordance with Sec. 9-186 shall be paid by the property

(*CHAPTER 9, ARTICLE V, DIVISION 2, SECTION 9-185 cont.*)

owner and the Township shall have a lien against the land for such expense which may be enforced in the manner provided by law for enforcement of tax liens or construction liens as provided in Chapter 1 of this Code.

Sec. 9-186. Administrative fee.

The Township Board may establish by resolution an administrative fee to recover the costs of all administrative actions associated with the Township's efforts to eliminate noxious weeds and the uncontrolled growth of weeds and grasses under Section 9-185.

Sec. 9-187. Enforcing agency.

The Zoning Official is authorized to enforce this Division as provided in the General Provisions of this Code, and for purposes of Public Act 359 of 1941, as amended, shall be considered as the commissioner of noxious weeds.

Sec. 9-188. Hiring of vegetation cutting contractor.

Upon the approval of the Township Board, the Zoning Official is authorized to engage the services of a vegetation cutting contractor to act as the Township's agent in the elimination of noxious weeds and uncontrolled growth of weeds and grasses under Sec. 9-185.

Sec. 9-189. Violations ; Civil Infraction.

Violation of this Division is a civil infraction punishable as provided in Section 1-010(b).

Secs. 9-190--9-220. Reserved.

Division 3. Control of Trees, Shrubs, and Plants in Public Ways

Sec. 9-221. Purpose.

The intent and purpose of this Division is declared as follows:

(a) To establish ordinance provisions to protect the health, safety and general welfare of the public from hazards created through the overgrowth of trees, shrubs, and plants into public ways within the Township. For the purpose of this Division, public ways shall mean nonmotorized pathways and streets in the Township.

(b) To provide for methods of enforcement and penalties for the violations of such provisions.

Sec. 9-222. Duty to remove overhanging or encroaching vegetation.

It shall be unlawful for the owner, occupant, or agent with rights or responsibility for maintenance of a zoning lot or parcel to permit the growth of a tree, shrub, or plant located on their property such that it interferes with the free passage of persons or motor vehicles by overhanging into or encroaching upon public ways.

Sec. 9-223. Action by Township upon failure to comply.

If Section 9-222 is not being complied with, the Township shall mail a warning notice to all responsible persons (owner and occupant and agent if known) that if the uncontrolled growth is not eliminated within fifteen (15) calendar days of the date of such notice, the Township shall issue a citation and seek sanctions in accordance with Section 9-228 in order to eliminate such condition.

Sec. 9-224. Hiring of contractors.

The Zoning Official is authorized to engage the services of a certified arborist, tree contractor, or landscape contractor to act as the Township's agent in the elimination of the conditions specified in Section 9-223.

Sec. 9-225. Emergency removal.

When a tree, shrub or plant, constitutes an immediate hazard to the health, safety and welfare of the public along public ways, and where the delay of notification would serve to further endanger the public, the

(*CHAPTER 9, ARTICLE V, DIVISION 3, SECTION 9-225 cont.*)

Township may enter upon such zoning lot without notification to the owner and perform the work required. Such events include, but are not limited to storm damage where a tree is endangering a public way.

Sec. 9-226. Administrative fee.

The Township Board may establish by resolution an administrative fee to recover the costs of all administrative actions associated with the Township's efforts to eliminate the conditions specified in Section 9-225.

Sec. 9-227. Enforcing agency.

The Zoning Official is authorized to enforce this Division as provided in the General Provisions of this Code.

Sec. 9-228. Violations ; Civil Infraction.

Violation of this Division is a civil infraction punishable as provided in Section 1-010(b).

Secs. 9-229--9-250. Reserved.

CHAPTER 10 BUSINESS REGULATIONS, LICENSING AND REGISTRATION*

Art. I. In General, §§ 10-001--10-025 ..... Pages 10-1
Art. II. Business Registration, §§ 10-026--10-050 ..... Pages 10-1 through 10-3
Art. III. Business Licensing, §§ 10-051--10-400 ..... Pages 10-3 through 10-27
Div. 1. Generally, §§ 10-051--10-070 ..... Pages 10-3 through 10-4
Div. 2. License Application and Review, §§ 10-071--10-120 ..... Pages 10-5 through 10-8
Div. 3. Guidelines for License Revocation, §§ 10-121--10-140 ..... Pages 10-8 through 10-10
Div. 4. Distressed Vehicle, Junk, Salvage, and Dismantling Yard Licensing, §§ 10-141--10-160 Pages 10-10 through 10-12
Div. 5. Massage Establishment Licensing, §§ 10-161--10-200 ..... Pages 10-12 through 10-16
Div. 6. Pawnbroker Licensing, §§ 10-201--10-210 ..... Pages 10-16 through 10-17
Div. 7. Carnival Licensing, §§ 10-211--10-220 ..... Pages 10-17 through 10-18
Div. 8. Teen Club Establishment Licensing, §§ 10-221--10-230 ..... Pages 10-18 through 10-19
Div. 9. Transient Merchant Licensing, §§ 10-231--10-250 ..... Pages 10-19 through 10-24
Div. 10. Secondhand Dealers and Junk Dealers Licensing, §§ 10-251--10-400 Pages 10-24 through 10-27
Art. IV. Liquor Control, §§ 10-401--10-430 ..... Pages 10-27 through 10-36
Art. V. Precious Metals and Gem Dealers, §§ 10-431--10-450 ..... Pages 10-36 through 10-37
Art. VI. Alarm Systems, §§ 10-451--10-480 ..... Pages 10-37 through 10-40
Art. VII. Peddlers, Solicitors and Canvassers, §§ 10-481--10-500 ..... Pages 10-41 through 10-52
Div. 1. Generally, §§ 10-481 - 10-489 ..... Pages 10-41 through 10-42
Div. 2. General Regulations for Canvassers, Solicitors and Peddlers, §§ 10-490--10-489 Pages 10-43 through 10-43
Div. 3. Solicitor Regulations, §§ 10-510--10-529 ..... Pages 10-44 through 10-47
Div. 4. Peddler Regulations, §§ 10-530--10-536 ..... Pages 10-48 through 10-50

ARTICLE I. IN GENERAL

***Editor's note:** The 2014 ordinance recodification amended the Code revising the Police Chief review standards formerly located in Article I of this Chapter, formerly § 10-001; and transferring the revised review standards to Article III, Division 2 of this Chapter, § 10-074. Such standards pertain to similar subject matter and are derived from the same historical ordinance sources.*

Secs. 10-001--10-025. Reserved.

ARTICLE II. BUSINESS REGISTRATION

***Editor's note:** The 2014 ordinance recodification amended the Code revising the investigation of license standards formerly located in Article II, Division 1 of this Chapter, formerly § 10-026; and transferring the revised review standards to Article III, Division 2 of this Chapter, §§ 10-071 – 10-120. Additionally, the Code was amended by, in effect, transferring the guidelines for license revocation formerly located in Article II, Division 2 of this Chapter, formerly §§ 10-036 – 10-065; and transferring the guidelines to Article III, Division 3 of this Chapter, §§ 10-121 – 10-140. Such standards pertain to similar subject matter and are derived from the same historical ordinance sources.*
Finally, the Code was amended by adopting the Waterford Township Business Registration Ordinance as the new Article II for this Chapter.

(*CHAPTER 10, ARTICLE II, cont.*)

Sec. 10-026. Short title.

This Article shall be known and cited as the "Business Registration Ordinance".

Sec. 10-027. Purpose.

The purpose of this Ordinance is to promote the general health, safety, and welfare of Waterford citizens by identifying business locations and operations within the Township to enhance the efficient delivery of police and fire protection; ensure compliance with building and fire safety codes; provide better efficiency and economy in furnishing public utility services within the Township; and to promote compliance with all land use ordinances.

Sec. 10-028. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Article:

Business means any form of profit or non-profit establishment, as defined in the Waterford Township Zoning Ordinance, owned or operated by any person within the Township.

Hazardous Materials has the same meaning as in the Fire Prevention Code adopted under Chapter 7 of this Code, which are chemicals or substances (*gas, liquid or solid*) which are physical hazards or health hazards as identified by the Fire Chief, and include materials such as solvents, paints, gasoline, adhesives, and lubricants, that are capable of creating harm as a fire hazard, or to people, the environment, or property.

Sec. 10-029. Registration requirements.

(a) No person shall, directly or indirectly, commence, engage in, or continue any business as a proprietor, owner, part owner or manager without registering and continuing to maintain such registration with the Township in the form and manner prescribed in this Article.

(b) The granting of a business registration shall not exempt such business from the necessity of securing a township license for those businesses requiring a license by the Township.

(c) The issuance of a business or other license by the state or other governmental agency shall not exempt such business from the necessity of registering the business with the Township in accordance with this Article.

(d) Registration of a business shall not exempt such business from compliance with all applicable requirements of this Code.

(e) Registration shall not be transferable from one business to another.

Sec. 10-030. Registration agent.

The Township Clerk, in consultation with the Fire Chief, is hereby appointed to implement and administer the provisions of this Article.

Sec. 10-031. Registration fee.

The fee for registration of a business at a single location shall be established by resolution of the Township Board. The registration fee shall cover the processing of a business's initial registration, annual verification, and any registration changes reported by a business.

Sec. 10-032. Registration application.

Prior to the initiation of business operations, each business shall register by submitting the following information to the Township Clerk in the form and manner prescribed by the Township Clerk and the Fire Chief:

(a) The legal name and form of the business entity (sole proprietor, partnership, corporation, limited liability company or other) and any assumed name under which business will be conducted.

(b) The full names, business and residence addresses, business phone numbers, and emergency contact information of the owners, proprietors, officers, partners, managers, or members as applicable to the

(*CHAPTER 10, ARTICLE II, SECTION 10-032 cont.*)

form of business entity, and other persons involved in the on-site supervision, management, or control of the business.

(c) The address and phone/email contact of the business being registered;
(d) The nature and character of the business.
(e) List by name and quantity all hazardous materials which are expected to be used, stored, or generated on-site.
(f) Provide a description of the fire-suppression system that will be used to protect the business.

Sec. 10-033. Registration issuance.

No registration shall be issued until the required registration fee is paid and all required information is submitted. Written proof of registration for each business address will be issued by the Township Clerk to and in the legal name of the owner or operator of the business.

Sec. 10-034. Registration changes to be reported by businesses.

It shall be the duty of every registered business to report any changes in the information furnished with the current registration within five (5) business days of such change occurring.

Sec. 10-035. Registration record-keeping and data maintenance.

The Township Clerk shall maintain a database of all registered businesses, keep it current with all updated information provided by businesses, ensure that all required information is readily available for the use of other Township officials, and make the information described in Section 10-032(a) and (c) through (f) available to the public in the form and manner prescribed by the Township Clerk.

Sec. 10-036. Violations and sanctions; Civil Infraction.

Violation of a registration, verification, or update requirement, or providing false information in such a submittal to the Township under this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Secs. 10-037--10-050. Reserved.

ARTICLE III. BUSINESS LICENSING

***Editor's note:** The 2014 ordinance recodification amended the Code repealing the Waterford Township Abandoned, Junked and Distressed Vehicle Ordinance in Article III of Chapter 10, formerly §§ 10-066 – 10-090, adopting regulations pertaining to distressed and junk vehicles in Article III, Division 4 of Chapter 9, §§ 9-111 – 9-130 and adopting regulations pertaining to abandoned vehicles in Article IX of Chapter 16,§§ 16-321 – 16-330.*

Additionally, the Code was amended by adopting a revised business licensing ordinance. This Article is now structured such that the general licensing requirements are contained in the first three Divisions and the remaining Divisions contain the regulations for each of the business types that the Township has identified as requiring licensing.

Division 1. Generally

Sec. 10-051. Short title.

This Article shall be known and cited as the “Business Licensing Ordinance”.

Sec. 10-052. Purpose.

The purpose of this Ordinance is to promote the general health, safety, and welfare of Waterford citizens by defining and regulating certain businesses through licensing by the Township.

(*CHAPTER 10, ARTICLE III, DIVISION 1, cont.*)

Sec. 10-053. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Article:

Good Moral Character means the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner.

Regulated Business means any business or use identified in a Division of this Article as requiring a license from the Township.

Sec. 10-054. License required.

It is prohibited and a violation of this Article for any person to conduct or maintain a regulated business without being properly licensed under the provisions of this Article.

Sec. 10-055. Annual administrative processing and licensing fees.

A schedule of administrative processing and licensing fees required for all license applications under this Article shall be established by resolution of the Township Board.

Sec. 10-056. Term of license.

The term of a license issued under this Article shall be for one (1) year, unless otherwise stated in this Article. A schedule of licensing application deadlines and license start and end dates for all license applications under this Article shall be established by resolution of the Township Board.

Sec. 10-057. Licenses not transferrable or assignable; Change in license information.

(a) Any license issued under this Article shall not be assigned or transferred by the licensee, nor shall the place of business be changed from the location originally licensed.

(b) Within five (5) business days of a change in information upon which a license was issued the licensee shall provide written notice to the Township Clerk of such change.

Sec. 10-058. Township Clerk license decisions report.

The Township Clerk shall submit a quarterly report to the Township Board identifying all regulated businesses and their property locations for which the Township Clerk issued or denied licenses. For denial decisions, the Township Clerk shall identify the reasons for making each denial. The Township Board shall establish by resolution the frequency at which the Township Clerk shall report license decisions to the Township Board.

Sec. 10-059. Violations and sanctions.

(a) Operation of a regulated business without a valid license is a misdemeanor punishable as provided in Section 1-010(a) of this Code.

(b) Unless otherwise specified, violation of any term, rule, regulation or condition imposed by the provisions of this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Secs. 10-060--10-070. Reserved.

(*CHAPTER 10, ARTICLE III cont.*)

Division 2. License Application and Review

***Editor's note:** The 2014 ordinance recodification amended the Code revising the Police Chief review standards formerly located in Article I of this Chapter, formerly § 10-001; and transferring the revised review standards to this Division,§ 10-074. Additionally, the Code was amended by, in effect, revising the investigation of license standards formerly located in Article II, Division 1 of this Chapter, formerly § 10-026; and transferring the revised review standards to Article III, Division 2 of this Chapter,§§ 10-071 – 10-120. Such standards pertain to similar subject matter and are derived from the same historical ordinance sources.*

Sec. 10-071. Application requirements.

Application for a license under this Article shall be made in the form and manner prescribed by the Township Clerk and accompanied by such fees as established in accordance with Section 10-055. At minimum, the license application shall provide the following information:

(a) The legal name and address of the owner of the zoning lot upon which the licensed business is to be conducted, and if an individual, his or her age and residence address;

(b) The zoning district and legal property description of the zoning lot upon which the regulated business is to be conducted;

(c) The legal and any assumed name, address, and telephone number of the regulated business entity for which the license is sought.

(d) The full names, addresses, telephone numbers, dates of birth, copies of motor vehicle operator's licenses, and types of legal interest in the regulated business of:
  (1) all owners, partners, and stockholders meeting the criteria of Section 10-072, and
  (2) managers.

(e) The criminal record, if any, of
  (1) all owners, partners, and stockholders meeting the criteria of Section 10-072,and
  (2) managers,
  giving the date, place and nature of all felonies and misdemeanors, including violations of local ordinances, with the exception of traffic offenses.

(f) Where licensing is required by the State of Michigan, the date and number of the license issued by the State of Michigan.

(g) Written verification that all property taxes and assessments are current and not delinquent for all properties upon which the regulated business are proposed to be conducted upon to be covered by the requested license.

(h) All additional information required by the Division applicable to the regulated business to be licensed.

(i) Any other information deemed necessary by the Township Clerk for the proper enforcement of this Article.

(j) Authorization for the Township of Waterford, its agents and employees to seek information and conduct an investigation to verify the statements set forth in the application. The Township may request additional information and identification for the reasonable pursuit of such investigation.

(k) The application shall be subscribed and sworn to by the applicant.

Sec. 10-072. Corporation, partnership, LLC and business information requirements.

(a) If the applicant is a corporation , the name, residence address and telephone number of each of the officers and directors of said corporation and except for publicly held corporations, of each stockholder owning more than ten percent (10%) of the stock of the corporation that is or will be involved in the regulated business, the address and phone number of the corporation office, the name, address and phone number of the official contact person for the Township in connection with the application and the name and address of the resident agent in Michigan. The applicant shall also provide documentation confirming that the corporation is in good standing and authorized to do business in the State of Michigan.

(b) If the applicant is a partnership, limited liability company (LLC), or other form of business entity, the names, residence addresses and telephone numbers of: (i) each partner having ten

(*CHAPTER 10, ARTICLE III, DIVISION 2, SECTION 10-072* cont.)

percent (10%) of an ownership interest and that will be involved in the management and/or operation of the regulated business, (ii) each LLC manager and member, (iii) each person with an ownership interest or that will be involved in the management and/or operation of the regulated business and for other business entities, (iv) an official contact person for the Township in connection with the application, and (v)a resident agent in Michigan.

Sec. 10-073. Review of license application information.

(a) The Township Clerk shall, upon receipt of an application for a license or license renewal required by this Article, forward a copy of the application to the Police Chief and Zoning Official, who shall review the application and submit reports to the Township Clerk within 30 days in accordance with Sections 10-074 and 10-075.

(b) The Township Clerk shall request status reports from the Township Treasurer and Water and Sewer Department to confirm that the property identified as the regulated business location is current in its property tax, special assessment, water and sewer bill, and other payment obligations to the Township.

(c) Where the license application involves utilization of a building or structure for the regulated business, the Township Clerk shall also forward a copy of the application to the Fire Chief and Building Official who shall review the application and submit reports to the Township Clerk on the building's or structure's status of compliance with this Code, including all Buildings and Building Regulations and the Fire Prevention Code.

Sec. 10-074. License application review standards – Police Chief.

Upon receipt of an application for a license or license renewal under this Article where criminal investigation history is necessary as part of the license review process, the Police Chief shall order a criminal history for each owner, partner, stockholder, manager, member or employee of the proposed licensee designated in the Township Clerk's transmittal of the application, to determine whether each is of good moral character based upon the following criteria:

(a) Criminal History. All of the applicant's convictions in the preceding ten (10) years, other than traffic violations, the reasons therefore and the demeanor of the applicant subsequent to his/her release.

(b) License and Permit History. The license and permit history of the applicant; whether such applicant is operating or has previously operated in this Township or in another municipality under a license or permit, and whether such license or permit has ever been revoked or suspended, the reasons therefore, and the actions and compliance of the applicant subsequent to and related to such action.

(c) Other Information. The Police Chief may consider any other information and documentation that he, in the exercise of professional judgment, considers relevant to making a determination as to whether the applicant is of good moral character.

(d) Additional verifiable information leading to an articulable question of the applicant's moral character.

***State law references**: Similar provisions, MCL 338.41 et seq.*

Sec. 10-075. License application review standards – Zoning Official.

(a) Upon receipt of an application for a license under this Article, the Zoning Official shall verify that the subject zoning lot possesses the appropriate zoning for the regulated business and possesses a site plan approved for the regulated business. If there is proper zoning and an approved site plan for the subject zoning lot, the Zoning Official shall complete the analysis and report to the Township Clerk within thirty (30) days of being provided with the application.

(b) When the subject zoning lot does not possess the appropriate zoning for the regulated business, the Zoning Official shall omit the site plan verification step and transmit the zoning noncompliance information to the Township Clerk along with a recommendation for denial of the license request.

(c) When the subject zoning lot possesses the appropriate zoning but not a site plan approved for the regulated business, the Zoning Official shall notify the applicant to submit all fees and documentation for the applicable plan review process in accordance with the Waterford

(*CHAPTER 10, ARTICLE III, DIVISION 2, SECTION 10-075* cont.)

Township Zoning Ordinance within 30 days or such later date as may be designated. Upon approval of a plan for the regulated business, the Zoning Official shall report to the Township Clerk that the subject zoning lot possesses the appropriate zoning and an approved site plan for the regulated business. If an applicant fails to timely submit the fees and documents for, or is unable to obtain an approved plan through the applicable plan review process, the Zoning Official shall report to the Township Clerk that the subject zoning lot possesses the appropriate zoning but no approved site plan for the regulated business along with a recommendation for denial of the license request or a tabling of the request until the required site plan receives all necessary approvals.

(d) The Zoning Official shall identify municipal civil infraction violations incurred by an applicant during the previous calendar year.

Sec. 10-076. License application review standards – license renewals.

(a) For applications submitted to renew a license, the application shall both verify the information required by Sec. 10-071 that remains unchanged and provide all changes in the required information.

(b) The Township Clerk shall request compliance status reports from the Police Chief, Zoning Official, Building Official, and Fire Chief to confirm that the licensee complied with the provisions of this Article and all other applicable ordinance requirements during the previous licensing period.

(c) The Zoning Official shall not require additional plan documents from the applicant when the zoning and the site plan used as the basis for the prior year's license approval are unchanged from the previous license application review. However, when there is a deviation or expansion of the use that reflects a substantial change as determined by the Zoning Official, a new or amended site plan shall be submitted by the applicant and approved by the Township in accordance with the requirements of the Waterford Township Zoning Ordinance prior to approval of a license renewal.

(d) The Township Clerk shall request status reports from the Township Treasurer and Water and Sewer Department to confirm that the licensee is not delinquent in paying the property taxes, special assessments, water and sewer bills, and other payment obligations to the Township for the subject property.

Sec. 10-077. Variance from minimum requirements.

A variance from minimum licensing requirements in any division of this Article may be granted by the Township Board as a condition of a license if it determines that literal enforcement would result in unnecessary hardship to the licensee, and that the granting of the variance would not be injurious to surrounding properties or otherwise detrimental to the public welfare. In granting any variance, the Township Board may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Article, and may be the basis of license revocation.

Sec. 10-078. License issuance.

Upon confirmation of the Township Clerk that all application fees are paid and the application contents and subsequent Township official review of such contents confirm that the issuance of such license would not be detrimental to the health, safety and welfare of the citizens of the Township and fully comply with this Code, the Township Clerk is hereby authorized to approve and issue the requested license.

Sec. 10-079. License denial; conditional license.

(a) If the applicant fails to provide all of the information required by Sec. 10-071, is found to have falsified information on the application, has delinquent payment obligations to the Township, or a Township officials' report required by this Article establishes that issuance of

(*CHAPTER 10, ARTICLE III, DIVISION 2, SECTION 10-079* cont.)

a license will result in noncompliance with the requirements and conditions of this Article or unsatisfactory conditions endangering public health, safety and welfare, the Township Clerk shall deny the license request. The Township Clerk shall notify the applicant in writing of the denial decision and the reasons for such denial.

(b) An applicant may appeal a denial decision by submitting a written request for an appeal. All appeals of license denial decisions shall be heard by the Township Board. The Township Board is vested with the authority to uphold or reverse the decision of the Township Clerk and shall have full authority to attach conditions and/or restrictions to any license granted under this Section where such conditions and/or restrictions bear a rational relationship to the reasons for the Township Clerk's license denial or the preservation of the public health, safety and welfare.

Sec. 10-080. License revocation or suspension.

(a) At any time during the term of a license that a licensee is documented by a Township official to have been notified of a violation of the terms and conditions of the license, any applicable requirement of this Code, or of state law regulating such regulated business, the documentation shall be forwarded to the Township Clerk. If the violation is correctable, the Township Clerk may issue a written notice to the licensee requiring correction within a specified time. If the Township Clerk does not issue such a correction notice, or such a notice is issued but not complied with, the Township Clerk shall schedule a license revocation/suspension hearing for a regularly scheduled meeting of the Township Board, in accordance with Division 3 of this Article.

(b) The Township Board is vested with the authority to revoke, suspend or place on probationary status any license granted under this Article at any time during the term of the license in accordance with the guidelines for license revocation or suspension established in Division 3 of this Article.

Secs. 10-081--10-120. Reserved.

Division 3. Guidelines for License Revocation or Suspension

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the guidelines for license revocation formerly located in Article II, Division 2 of this Chapter, formerly §§ 10-036 – 10-065, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec.10-121. Purpose and Application.

The purpose of this Division is to establish guidelines and procedures that shall be applicable and be utilized in actions and proceedings to revoke, suspend, or take other actions regarding licenses issued by the Township under this Chapter and other provisions of this Code where a procedure is not provided for.

(Ord. No. 156, § 2.00, 12-10-1990)

Sec. 10-122. Notice of grounds for revocation or suspension.

(a) If a license issued by the Township shall become subject to revocation, suspension, or other action which would limit the rights of the licensee, the licensee shall be provided with written notice served by personal service, certified mail or other service which provides actual notice of a hearing before the Township Board, with a statement of the reasons and grounds for a revocation, suspension, or other action regarding the license.

(b) The written statement of the reasons and grounds shall contain a statement of factual allegations with sufficient clarity to apprise the licensee of the full nature of transactions or

(*CHAPTER 10, ARTICLE III, DIVISION 3, SECTION 10-122 cont.*)

occurrences relied upon, and shall make reference to all provisions of the license and any statute, ordinance or regulation which are alleged to have been violated.

(c) This notice shall be served upon the licensee no later than seven (7) days prior to the date set for hearing.

(d) The notice shall also advise the licensee of the following rights to be afforded the licensee before and at the hearing:

(1) To the assistance of their own counsel.

(2) To present questions to be asked of witnesses by the Township Supervisor or acting chairperson at the hearing.

(3) To request and receive before the hearing, copies of all non-confidential reports, files, and documents upon which the grounds for the license action are based.

(4) To produce witnesses and exhibits on their own behalf.

(Ord. No. 156, § 4.00, 12-10-1990)

Sec. 10-123. Hearing on license action; requirements.

(a) A hearing shall be conducted before the Township Board, shall be open to the public, unless a closed session is requested by the licensee and allowed by a specific provision of the Open Meetings Act, and shall be chaired by the Township Supervisor, or in the Supervisor's absence, by the acting chairperson for that meeting.

(b) The hearing will not be conducted as a trial and compliance with the rules of evidence applicable in court proceedings is not required. However, a licensee shall have the right to object to documentary evidence or testimony for reasons recognized by the rules of evidence and in general, to scrutinize evidence submitted against the licensee to insure that a fair and impartial hearing is being conducted.

(c) At the hearing, the licensee shall have the right to the presence of witnesses upon whose testimony the licensee action is based and to submit questions to the Township Supervisor or acting chairperson for those witnesses to answer.

(d) In addition, the licensee shall be afforded the right to produce witnesses offering testimony on the reasons and grounds for the revocation, fitness and character, and other relevant matters.

(e) The licensee shall be afforded the right to the assistance of their own counsel at the hearing.

(f) During the hearing the Township shall have the burden of going forward with the evidence, and the burden of proving the reasons and grounds for the license revocation, suspension or other action, the standard of which shall be by a preponderance of the evidence.

(Ord. No. 156, § 5.00, 12-10-1990)

Sec. 10-124. Determination of action against licensee.

After the hearing, which may be adjourned by the Township Board to a later date for further proceedings or submissions, the Township Board shall determine whether the revocation, suspension, or other license action specified in the notice of the hearing or authorized in this Code should be taken, and if so, shall do so by adoption of a Resolution that states the action and reasons for it.

Sec. 10-125. Power to limit use of testimony by licensee.

In the event that there are criminal charges arising out of the same transaction or occurrences which give rise to the statement of grounds for revocation, suspension, or other action against a license , that shall not be grounds for an automatic stay of the license action proceedings. However, at the request of the licensee, the Township Board may, in its discretion, adjourn the license action proceedings, or with the written approval of the prosecuting attorney for the criminal charges, agree that testimony given by the licensee or its employees and agents, may be given with the assurance that it will not be used in the pending criminal proceeding against that witness.

(Ord. No. 156, § 7.00, 12-10-1990)

(*CHAPTER 10, ARTICLE III, DIVISION 3 cont.*)

Sec. 10-126. Minutes and transcript of meeting.

(a) Unless the Township Board decides otherwise before commencing a hearing, the minutes of the Township Board meeting at which the hearing is held shall serve as the official hearing record and shall summarize the testimony of witnesses, identify the documents presented or considered, summarize objections or positions presented by the licensee, and include all Township Board decisions and reasons for those decisions.

(b) The licensee may secure a verbatim transcript of a hearing at its expense.

(Ord. No. 156, § 8.00, 12-10-1990)

Secs. 10-127--10-140. Reserved.

Division 4. Distressed Vehicle, Junk, Salvage, and Dismantling Yard Licensing

---

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the Waterford Township Distressed Vehicle, Junk and Dismantling Yard Ordinance from Article IV of this Chapter, formerly §§ 10-091 – 10-140, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-141. Short title.

This Division shall be known and cited as the "Distressed Vehicle, Junk, Salvage, and Dismantling Yard Licensing Ordinance."

(Comp. Ords. 1986, § 20.731)

Sec. 10-142. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of junk storage, distressed vehicle storage, salvage, dismantling, and automotive recycler yards in accordance with Public Act 12 of 1929 (MCL 445.451 et seq.) in order to achieve the purpose of this Article.

(Comp. Ords. 1986, § 20.732)

Sec. 10-143. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following definitions shall apply to this Division:

(a) The following terms as used in this Division shall be as defined in the Waterford Township Zoning Ordinance:
- (1) "**Township Engineering Standards"**
- (2) Under **"Vehicle Dealer Establishments":**
  - (i) "**Automotive Recycler Establishment"**
  - (ii) "**Distressed Vehicle Transporter Establishment"**
  - (iii) "**Foreign Salvage Vehicle Dealer Establishment"**
  - (iv) "**Used Vehicle Parts Dealer Establishment"**
  - (v) **"Vehicle Salvage Pool Establishment"**
  - (vi) **"Vehicle Scrap Metal Processor Establishment"**.

(b) The following terms as used in this Division shall be as defined in Chapter 9 of this Code, Health and Sanitation: **"Distressed Vehicle"**, "**Junk Vehicle"**, "**Salvage Vehicle"**, and "**Scrap Vehicle"**.

(c) For the purpose of this Division, the following terms shall be defined as follows:

Distressed Vehicle Storage Yard means any zoning lot or parcel of land upon which distressed vehicles are kept or stored.

(*CHAPTER 10, ARTICLE III, DIVISION 4, SECTION 10-143* cont.)

Junk means used, discarded, old, scrap, or worn-out material that is not being used for the purpose for which it was designed and intended or which individually does not have a fair market value or worth.

Junk Compression Yards means any portion of a junk storage and dismantling yard which is devoted to the compressing, crushing or shredding, by machines designed for that purpose, of junk vehicles and other junk items.

Junk Storage and/or Dismantling Yard means any zoning lot or parcel of land upon which used, discarded or worn-out material is stored or kept outside of an enclosed structure for purpose of resale and/or dismantling. Also included within this definition is any zoning lot or parcel of land upon which one (1) or more junk or distressed vehicles are kept or stored for a cumulative period of fifteen (15) days or more outside of an enclosed structure.

(Comp. Ords. 1986, §§ 20.735--20.742)

Sec. 10-144. License required.

No person shall manage, operate or maintain an automotive recycler establishment, distressed vehicle transporter establishment, distressed vehicle storage yard, foreign salvage vehicle dealer establishment, junk storage and/or dismantling yard, used vehicle parts dealer establishment, vehicle salvage pool establishment, or vehicle scrap metal processor establishment within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

Sec. 10-145. Burning prohibited.

It is prohibited and a violation of this Division to burn or incinerate any junk or vehicle, or parts thereof, within the confines of the Township without the authorization and written approval of the Fire Chief.

(Comp. Ords. 1986, § 20.746)

Sec. 10-146. Public safety record-keeping and inspection.

(a) A licensee under this Division hereby grants to any member of any public safety agency in the state the right to inspect its books, records and manner of operation of the licensed establishment to see that it is being operated in accordance with the terms and conditions of this Division and all applicable statutes.

(b) A licensee under this Division shall retain all articles and vehicles purchased or otherwise acquired for a period of at least seven (7) days before disposing of or dismantling any such acquired item.

(c) A licensee under this Division shall keep a separate set of books as a result of its licensed operation, and shall set forth the vehicle identification number for each vehicle that is purchased or otherwise acquired, including also the make, model, year, body style and serial number of the motor thereof, and the name and address of the person from whom such vehicle is acquired.

(Comp. Ords. 1986, §§ 20.752 and 20-755)

Sec. 10-147. Minimum licensing requirements.

The following conditions are required of all licensees under this Division:

(a) The zoning lot or parcel of land upon which a regulated business under this Division is requested to be licensed shall be located within a zoning district allowing such regulated business and possess the minimum requirements and applicable approvals in accordance with the Waterford Township Zoning Ordinance before the Township Clerk issues a license in accordance with this Article.

(b) A licensee under this Division shall completely enclose all storage areas of the licensed regulated business by erecting and maintaining an eight-foot high solid obscuring fence or wall in conformance with the requirements of the Waterford Township Zoning Ordinance. Distressed, disabled and/or junk

(*CHAPTER 10, ARTICLE III, DIVISION 4, SECTION 10-147* cont.)

vehicles and all other materials in the storage area shall not be stacked higher than the height of the required fence or wall.

(c) When required by the Township Engineer and Public Works Official in accordance with the Wellhead Protection provisions in this Code, all licensees shall install and continuously maintain a stormwater runoff treatment facility that is in conformance with the Township Engineering Standards.

(d) No regulated business premise licensed under this Division shall be located within two hundred fifty (250) feet of any property zoned residential pursuant to the Waterford Township Zoning Ordinance.

(Comp. Ords. 1986, § 20.755)

Secs. 10-148--10-160. Reserved.

Division 5. Massage Establishment Licensing*

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the Massage Regulation Ordinance from Article VII of this Chapter, formerly §§ 10-261 – 10-305, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources,.*

***State law references:** Regulation of massage establishments, MCL 339.1701 et seq.*

Sec. 10-161. Short title.

This Division shall be known and cited as the "Massage Establishment Licensing Ordinance."

(Ord. No. 151, § 1, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-162. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of massage parlors, massage schools, and similar businesses in order to achieve the purpose of this Article.

Sec. 10-163. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Massage means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to ensure or restore the health and well-being of the client and includes complementary methods such as the external application of water, heat, cold, lubrication, salt scrubs, body wraps or other topical preparations, and electromechanical devices that mimic or enhance the actions possible by the hands. Massage does not include medical diagnosis, practice of physical therapy, high-velocity, low-amplitude thrust to a joint, electrical stimulation, application of ultrasound or prescription of medicines.

Massage Establishment means any Turkish bath parlor, steam bath, sauna bath, magnetic healing institute, and any room, building, or place where massage is performed.

Massage School means an accredited or licensed institution of higher education that meets the minimum standards and curriculum for the education and training of massage therapists as established by promulgated rules of the Michigan board of massage therapy.

***Massagist** or massage therapist* means any person who administers massage to another person for any form of consideration.

Student means any person who, under the guidance of an instructor in a massage school, is being trained or instructed in the theory, method or practice of massage.

(Ord. No. 151, § 2(1)--(3), (5), (6), 8-28-1989; Ord. of 11-13-1995, § 1)

(*CHAPTER 10, ARTICLE III, DIVISION 4 cont.*)

Sec. 10-164. License required.

No person shall manage, operate, maintain, or allow on owned property, a massage establishment or massage school within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

Sec. 10-165. Massage therapist license requirement.

No person shall perform or practice massage for compensation unless that person has a valid massage therapist license under Part 179A of the Public Health Code, MCL 333.17951 – 333.17969, as amended. .

(Ord. No. 151, § 3, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-166. Owner's, operator's and manager's duty as to employees' licenses.

No licensee or owner, operator, or manager of a massage establishment or massage school shall employ or allow a person to perform or practice massage that does not have a valid massage therapist license under Part 179A of the Public Health Code, MCL 333.17951 – 333.17969, as amended.

(Ord. No. 151, § 4, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-167. Additional application requirements.

In accordance with Sec. 10-072(7), the following items shall be submitted as part of the application:

(a) The two (2) previous addresses immediately prior to the present address of the applicant and dates of residence, and all addresses for no less than the past five (5) years.
(b) A description of the service(s) to be provided.
(c) Individual applicant's height, weight, sex, color of eyes, color of hair, date of birth, location of birth and social security number and any alias used in the past five (5) years.
(d) One (1) portrait photograph of at least two (2) inches by two (2) inches, a criminal history authorization, and a complete set of the applicant's fingerprints which shall be taken by the Police Chief.
(e) Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of the application, including the name and the address of the employers.
(f) A certificate from a medical or osteopathic doctor stating that the applicant has, within thirty (30) days immediately prior thereto, been examined and found to be free of any contagious or communicable disease.
(g) The history of an applicant in the operation of a massage establishment or similar business or occupation, including, but not limited to, whether or not such person, in previously operating in this or another municipality or State under license, has had such license revoked or suspended and whether there have been any criminal convictions or determination of civil responsibility or liability for any code violations in connection with such operation, and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
(h) Such other identification and information necessary to discover the truth of the matters required to be set forth in the application.
(i) In an application for a license to conduct a massage establishment, the number of employees and names and qualifications of all persons who are intended to give massages in the proposed parlor.

(Ord. No. 151, §§ 5, 6, 8-28-1989; Ord. of 11-13-1995, § 1)

(*CHAPTER 10, ARTICLE III, DIVISION 5, cont.*)

Sec. 10-168. Investigation fee.

An application to obtain a license under this Division shall be accompanied by an investigation fee in an amount established by resolution of the Township Board, no part of which shall be refundable. This investigation fee shall be in addition to other license fees established by the Township Board for regulated businesses licensed under this Division and shall be in an amount to cover the cost of the Police Chief review and for the Building Official and Fire Chief to conduct a thorough inspection of the premises to ensure compliance with all pertinent provisions of this Division and all Township and state laws, ordinances, codes and regulations.

Sec. 10-169. Facilities pre-requisite to issuance of license.

No license shall be issued unless the Township's reviews and inspections confirm compliance with each of the following minimum requirements:

(a) A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a massage establishment or massage school; provided, that all such signs shall comply with the sign requirements of the Township.

(b) Minimum lighting shall be provided in accordance with the Buildings and Building Regulations in this Code.

(c) Minimum ventilation shall be provided in accordance with the Buildings and Building Regulations in this Code.

(d) Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.

(e) Hot and cold running water shall be provided at all times.

(f) Closed cabinets shall be provided, which cabinets shall be utilized for the storage of clean linen.

(g) Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one (1) tub or shower, one (1) dressing room containing a separate locker with lock for each patron to be served, as well as a minimum of one (1) toilet and one (1) wash basin, shall be provided by every massage establishment; provided, however, that, if male and female patrons are to be served simultaneously at the establishment, separate bathing, massage room, or rooms, dressing and toilet facilities shall be provided for male and female patrons.

(h) All walls, ceiling, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the establishment must be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day of operation. Bathtubs and/or showers shall be thoroughly cleaned and sterilized after each use.

(i) Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted.

(j) A minimum of one (1) separate wash basin shall be provided for use by employees. The basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practicable to the area devoted to the performing of massage. In addition, there shall be provided at each wash basin sanitary towels placed in permanently installed dispensers.

(k) No massage shall be performed in a private room which is completely closed to the view of other persons, however, reasonable measures may be used to offer privacy to patrons such as partitions, stalls, curtains, or similar measures.

(Ord. No. 151, § 8, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-170. Display of license.

All licensees under this Division shall display the license in a conspicuous place so that it may be readily seen by persons entering the licensed premises.

(Ord. No. 151, § 13, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-171. Inspections.

(a) Every massage establishment and massage school shall be open for inspection by duly authorized representatives of any Township official concerned with the licensing or regulation of such establishment or school during operating hours for the purpose of

(*CHAPTER 10, ARTICLE III, DIVISION 5, SECTION 10-171* cont.)

enforcing any of the provisions of a license, this Division, or other ordinances or regulations of the Township.

(b) It shall be unlawful for any person to refuse entry to a Township representative for the purpose of making an inspection provided for in this Section.

(Ord. No. 151, § 9, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-172. Expansion of licensed building.

Any plans or proposals for an extension of the building or other place of business of the massage establishment shall require submittal and review of a new license application and fees in accordance with Division 2 of this Article.

Sec. 10-173. Unlawful activities.

(a) It shall be unlawful for any person to practice or perform massage, or give or administer any bath, or to give or administer any of the other things mentioned in this Division for illegal purposes, or for monetary gain or profit, to have any contact with a person's breast, genital area or buttocks in a manner intended to arouse, appeal to or gratify a person's lust, passions or sexual desire. Any violation of this provision at a licensed massage establishment or massage school shall be deemed grounds for revocation of the license.

(b) It shall be grounds for the revocation of a license for the operation of a massage establishment or massage school if, within any five (5) year period, an aggregate of two (2) or more criminal convictions or civil infraction findings of responsibility, involving activities specified below occurring on the premises are entered against a licensed massage establishment or massage school and/or any of its owners, operators, managers, massagists, students or employees with regard to acts performed on the licensed premises. In such event, a revocation hearing shall be held pursuant to Division 3 of this Article. It shall be presumed from the fact of such two (2) criminal convictions or civil infraction findings of responsibility that the massage establishment or massage school is being operated for an unlawful purpose in violation of this Division and that just cause for the revocation of the license exists. For purposes of this subsection, the terms "criminal conviction" and "civil infraction finding of responsibility" shall include violations of subsection (a), above, or commission of the crimes of soliciting, accosting, prostitution, indecent exposure, indecent or obscene conduct, or gross indecency under either state or local laws, the term "convictions" shall include a plea of guilty or no contest (nolo contendere) or a finding of guilt by a magistrate, judge or jury to any of the aforementioned criminal offenses, and the term "finding of responsibility" shall include pleas of responsible or findings of responsible by a magistrate or judge.

(c) At a hearing at which a presumption is established pursuant to subsection (b), above, such presumption may be overcome with clear and convincing evidence showing the absence of any of the elements establishing that presumption, or the absence of a reasonable relationship between the facts giving rise to the presumption and the presumed fact.

(Ord. No. 151, § 14, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-174. Wearing apparel.

Uniforms or garments covering the torso shall be worn by massagists or employees while attending patrons. Such uniforms or garments shall properly cover the massagists' genital areas, breasts and buttocks, and shall not be tight or revealing of those areas so as to arouse the patrons. Such uniforms or garments shall be washable material and shall be kept in a clean condition. The sleeves of the uniform or garment shall not reach below the elbow.

(Ord. No. 151, § 17, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-175. Patronage of massage business by minors.

No person shall practice or perform massage on a person under the age of seventeen (17) years upon a licensed premises, except upon written order by a licensed medical doctor, doctor of

(*CHAPTER 10, ARTICLE III, DIVISION 5, SECTION 10-175* cont.)

osteopathic medicine, or physical therapist, such order being dated and in the possession of the massagist giving the massage or treatment. If the person under the age of seventeen (17) years is accompanied by a parent or legal guardian during the massage or treatment, this provision shall not apply.

(Ord. No. 151, § 18, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-176. Operation under other than licensed name prohibited.

No person licensed under this Division shall operate under any name or conduct his business under any designation not specified in the license.

(Ord. No. 151, § 19, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-177. Advertising.

No massage establishment, massage school, or massage therapist shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.

(Ord. No. 151, § 20, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-178. Hours of operation.

No massage establishment or massage school shall be open to the public for business between the hours of 12:00 midnight and 10:00 a.m.

(Ord. No. 151, § 21, 8-28-1989; Ord. of 11-13-1995, § 1)

Sec. 10-179. Exemptions.

This Article shall not apply to:

(a) Medical doctors, doctors of osteopathic medicine, doctors of chiropractic medicine, psychologists, clinical social workers, and family counselors, who are licensed to practice their respective professions in the State, or who are permitted to practice temporarily under the auspices of an associate or establishment duly licensed in the State.

(b) Occupational therapists and physical therapists who are licensed as such by the State of Michigan and who perform massages, as defined herein, for specified physical or mental illnesses, ailments or conditions.

(c) Nurses who are registered under the laws of this State and who administer a massage in the normal course of nursing duties.

(d) A trainer of any bona-fide organized athletic team who administers a massage in the normal course of training duties.

(e) Barbers and beauticians who are duly licensed under the laws of this State and who administers a massage in the normal course of their duties.

(f) Any duly regulated business in which the above-described persons only and exclusively practice their respective professions.

(g) Lawful businesses that are in compliance with all Township and other applicable laws, specifically including the Township Zoning Ordinance, where massage by a licensed massage therapist is an accessory, ancillary, and subordinate use to the principal use engaged in by that business.

(Ord. No. 151, § 25, 8-28-1989; Ord. of 11-13-1995, § 1; Ord. of 7-8-2002)

Secs. 10-180--10-200. Reserved.

Division 6. Pawnbroker Licensing

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the Pawnbrokers Ordinance from Article IX of this Chapter, formerly §§ 10-331 – 10-360, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources,.*

(*CHAPTER 10, ARTICLE III, DIVISION 6 cont.*)

Sec. 10-201. Short title.

This Division shall be known and may be cited as the "Pawnbroker Licensing Ordinance."

(Comp. Ords. 1986, § 20.871)

Sec. 10-202. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of pawnbrokers in accordance with Public Act 273 of 1917 (CL 446.201 et seq.), as amended in order to achieve the purpose of this Article.

(Comp. Ords. 1986, § 20.872)

Sec. 10-203. State law adopted.

The Township hereby adopts by reference, Act No. 273 of the Public Acts of 1917, as amended, being MCL 446.201 through 446.219 referred to in this Division as the "Act".

(Comp. Ords. 1986, § 20.873)

Sec. 10-204. License required.

No person shall manage, operate or maintain a pawnbroker within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

Sec. 10-205. License issuance and compliance.

As provided in MCL 446.202, pawnbroker licenses are issued by the Township Supervisor for a term of one (1) year from date of issuance, are not transferable, and require payment of an annual license fee and the posting of a $3,000.00 bond before issuance. Conditions of every license are full and complete compliance with all provisions of the Act, and unless the licensee does not have an email address or access to email, that the reporting of transactions to the Police Chief also be by electronic record within 48 hours of the transaction.

Sec. 10-206. Violations and license revocation.

Violation of a license provision corresponding to a provision of the Act by the licensee, or a clerk, agent, servant, or employee of the licensee is a misdemeanor, with sanctions as set forth in Section 1-010(a) of this Code except that the maximum fine is $100.00, and if imprisonment is imposed, it shall be for not less than 10 days. Violation of a license provision not corresponding to a provision of the Act by the licensee or a clerk, agent, servant, or employee of the licensee is a civil infraction, punishable as provided in Section 1-010(b) of this Code. Upon a misdemeanor conviction described in this Section, the Township Supervisor shall revoke the license. Upon a finding of responsibility for a civil infraction under this Section, the Township may revoke the license as provided in Division 3 of this Article.

Secs. 10-207--10-210. Reserved.

Division 7. Carnival Licensing*

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the carnival licensing requirements from Article VI, Division 2 of this Chapter, formerly §§ 10-186 – 10-205, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

(*CHAPTER 10, ARTICLE III, DIVISION 7 cont.*)

Sec. 10-211. Short title.

This Division shall be known and cited as the "Carnival Licensing Ordinance."

(Comp. Ords. 1986, § 20.661)

Sec. 10-212. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of carnivals and amusement parks in order to achieve the purpose of this Article.

(Comp. Ords. 1986, §§ 20.662--20.664)

Sec. 10-213. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Division:

Amusement Park means any zoning lot or parcel of land used in whole or in part for a period of two (2) weeks or more as a site for one (1) or more concessions.

Carnival means any zoning lot or parcel of land used in whole or in part for a period of less than two (2) weeks as a site for one (1) or more concessions.

Concession means:

(a) A mechanical device designed to give an amusement ride;
(b) A game of skill in which a reward for ability is offered;
(c) A game of chance in which a prize or reward is offered;
(d) A theatrical exhibition or public show; or
(e) A place where any specialized type of service is offered to the public for a fee.

Plot Plan is as defined under **"Plan"** in the Waterford Township Zoning Ordinance.

(Comp. Ords. 1986, § 20.601(A)--(C))

Sec. 10-214. License required.

No person shall manage, operate or maintain an amusement park or carnival within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

(Comp. Ords. 1986, § 20.602)

Sec. 10-215. Additional application requirements.

In accordance with Sec. 10-072(7), the following items shall be submitted as part of the application:

(a) A written statement, signed by the owner of the zoning lot or parcel of land, granting permission to the applicant to conduct the regulated business.
(b) A plot plan containing the following information:
  (1) a description, number, and location of each concession,
  (2) the type and location of available sanitary facilities that will be provided for use by customers,
  (3) the location of all buildings and structures within five hundred (500) feet of the perimeter of the zoning lot or parcel of land to be used by the regulated business, and
  (4) plans and specifications for all electrical sources, installations and uses, if any.
(c) Copies of safety inspection certificates for the current year, issued by the State, for each mechanical device designed to give an amusement ride which is proposed to be utilized.

Secs. 10-216--10-220. Reserved.

Division 8. Teen Club Establishment Licensing

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the pool and dance hall requirements from Article VI, Division 4 of this Chapter, formerly §§ 10-231 – 10-260, revising the requirements to apply specifically to teen dance club establishments, and locating these revised requirements, derived from the same historical ordinance sources, to this Division.*

(*CHAPTER 10, ARTICLE III, DIVISION 8 cont.*)

Sec. 10-221. Short title.

This Division shall be known as the "Teen Club Establishment Licensing Ordinance."

Sec. 10-222. Purpose.

The purpose of this Division is declared to be to define and provide for the licensing and regulation of teen clubs in order to achieve the purpose of this Article.

Sec. 10-223. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following definitions shall apply to this Division:

Teen Club is a place, premises or establishment where entertainment, music and/or dancing are available to persons between the ages of 16 and 20 years of age, inclusive.

Sec. 10-224. License required.

No person shall manage, operate or maintain a Teen Club within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business.

Sec. 10-225. Premises security.

All licensees under this Division shall be responsible for assuring that all activities on the licensed premises, including outdoor and parking areas, are in compliance with all Township ordinances, and consistent with that responsibility, shall disclose in the license application, and upon license issuance comply with, a plan that describes the number, type (uniformed or plainclothes), hours, and duties of security personnel that will be provided for that purpose and for notifying and requesting assistance from the Township police department. Licensees shall be responsible for reimbursing the Township for the cost of such police department assistance.

(Comp. Ords. 1986, § 20.638)

Sec. 10-226. Exempt organizations.

Nothing in this Division as to the making of application for a license and the payment of a license fee shall be construed to apply to any public school, fraternal lodge, or religious or non-profit organization that lawfully exists exclusively for fraternal, religious or charitable purposes, in conducting a special event possessing the characteristics of a teen club in a room or auditorium occupied by and under the control of such organization.

(Comp. Ords. 1986, § 20.642)

Secs. 10-227--10-230. Reserved.

Division 9. Transient Merchant Licensing*

***Editor's note:** A The 2014 ordinance recodification amended the Code transferring the Transient Merchants Regulatory Ordinance from Article XI of this Chapter, formerly §§ 10-386 – 10-399, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-231. Short title.

This Division shall be known and cited as the "Transient Merchant Licensing Ordinance."

(Ord. of 2-8-1999)

Sec. 10-232. Purpose.

The purpose of this article is declared to be:

(a) To define and regulate persons doing business in the Township as transient merchants.

(*CHAPTER 10, ARTICLE III, DIVISION 9, SECTION 10-232* cont.)

(b) To ensure that citizens of the Township are protected by Public Act No. 51 of 1925 (MCL 445.371, et seq.), requiring transient merchants to be licensed and bonded through the County Treasurer.
(c) To establish a Township permit procedure for transient merchants.
(d) To promote and encourage stable, responsible businesses who will enrich the Township's ambiance and be assets to public security.
(e) To ensure that persons engaged in transient merchant sales shall not conduct a commercial, for profit business for which a permanent premises, approved following submission and approval of a site plan, would normally be required in the Township.
(f) To provide an information record with regard to the persons and entities who will be engaged in transient merchant sales activities in the interest of avoiding irresponsible and/or fraudulent sales activities in the Township.
(g) To serve and protect the health, safety and welfare of the general public.
(h) To provide penalties for violations hereof.

(Ord. of 2-8-99)

Sec. 10-233. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 10-053, the following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Charitable Group and Non-profit Group means a group, entity, association, organization or individual which is, or is part of, a bona fide religious, charitable, benevolent, educational, philanthropic, humane, patriotic, veterans support, youth, fraternal, social, civic, conservation, recreational, or other non-profit entity engaging in activity of a type that is not required by applicable Michigan law to pay real property taxes on property due to its non-profit status. Persons do not qualify as a charitable or non-profit group under this Division unless all proceeds from sales in the Township are received by the bona fide charitable or non-profit group.

Goods, Services, Wares or Merchandise means, without limitation, fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, seafood, plants, flowers, appliances, wearing apparel, jewelry, ornaments, artwork, cosmetics and beauty aids, health products, medicines, household needs or furnishings, toys, games, food of any kind, whether or not for immediate consumption, confections or drinks, or any other goods, wares or merchandise of any kind or services of any kind.

Plot Plan is as defined in the Waterford Township Zoning Ordinance.

Sales or ***Retail Sales*** means one (1) or more retail transactions in which goods, services, wares or merchandise are offered, sold, and/or delivered to the public, in person, in exchange for the payment or delivery or promise to pay or deliver money, other property, or consideration of any kind.

Transient Merchant means any person who has or is engaged temporarily in the retail sale of goods, services, wares or merchandise to the general public in the Township, or any person who, by the nature of their business operation, does not demonstrate that their business operation is intended to, or likely will, be permanent and definite. Any of the following shall constitute prima facie evidence that a person is a transient merchant:

(a) Sales in a location, or from a building or structure, for which a certificate of occupancy has not been issued;
(b) Sales for a period of less than six (6) consecutive months;
(c) Hiring, leasing, renting, using, or occupying any building, structure, stationary motor vehicle, tent, lot or other zoning lot or parcel of land for a period of less than six (6) consecutive months for the purpose of engaging in sales; or
(d) Engaging in sales from, or out of, a tent or stationary motor vehicle.
(e) Sales from an exterior area of a business premises where such goods, services, wares, or merchandise are not related to the general operation of the business premises.

(Ord. of 2-8-1999)

(*CHAPTER 10, ARTICLE III, DIVISION 9 cont.*)

Sec. 10-234. License required.

No person shall act as a transient merchant within the Township unless a license is issued by the Township in accordance with this Article permitting operation of such a regulated business. A separate license shall be obtained for each sales location of a transient merchant.

Sec. 10-235. Term of license.

The term of a license issued for a regulated business under this Division shall be for a period of up to ninety (90) calendar days from the date of issuance. The Township Clerk may grant an extension of the license period for up to an additional ninety (90) calendar days for licensees that the Township Clerk has determined are historically licensees in good standing through compliance in the current and prior years of licensing.

Sec. 10-236. Additional application requirements.

In accordance with Sec. 10-071(8), the following items shall be submitted as part of the application:

(a) A valid sales tax license for the applicant's business issued by the State.

(b) A notarized authorization signed by all owners of the subject zoning lot or parcel of land allowing for transient merchant sales activity on their property for the time frame requested by the applicant.

(c) A list of all zoning lots and places of business in the last twelve (12) months, whether or not licensed as a transient merchant, at which the applicant engaged in any retail sale of goods, services, wares or merchandise, including the location and duration of such business, whether as an employee or owner thereof.

(d) A statement describing all of the following: the nature, character and quality of the goods, services, wares and merchandise to be sold or offered for sale by the applicant, the hours of operation, and the number of consecutive days the applicant will remain at the fixed location conducting transient merchant sales.

(e) A description of the method (i.e. use of waste disposal company, daily removal by the applicant) the applicant will provide for keeping the site clear of litter, debris, and waste materials and for proper and legitimate disposal of such waste.

(f) A description of the means that the applicant will provide for sanitary restroom facilities for customers, either on-site or within a business establishment on an adjoining zoning lot. An applicant identifying use of restroom facilities within a business establishment on an adjoining zoning lot shall attach a notarized statement signed by the owner(s) of such business establishment authorizing use of their restroom facilities by customers of a transient merchant.

(g) For new transient merchant license requests and for license renewals that propose changes to a plot plan approved for the previous year's license approval, a plot plan graphically depicting the location of all merchandise, structures, buildings, temporary office, temporary sign, customer parking, and number of parking spaces in compliance with and all applicable requirements of the Waterford Township Zoning Ordinance. For license renewals proposing to operate the regulated business in accordance with the plot plan approved in accordance with the Waterford Township Zoning Ordinance as the basis for a previously issued license, the previously approved plot plan may be used.

(h) A copy of the license from the County Treasurer required by MCL 445.373.

Sec. 10-237. Regulations and prohibitions.

(a) No transient merchant or anyone on his or her behalf, shall shout, make any outcry, engage in any disturbing antics, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public place of the Township or upon any private premises in the Township where sound of sufficient volume is emitted or produced there from capable of being plainly heard upon the streets, avenues, alleys or parks or other public places, for the purpose of attracting attention to any goods, services, wares or merchandise which the subject transient merchant or proposes to sell.

(b) Transient merchant sales activities shall not be conducted outside of the areas identified on the plan approved for such activities in accordance with the requirements for transient merchant license reviews in the Waterford Township Zoning Ordinance.

(*CHAPTER 10, ARTICLE III, DIVISION 9, SECTION 10-237* cont.)

(c) Use of structures, vehicles, and signs for a transient merchant operation shall conform to the requirements of the Waterford Township Zoning Ordinance.

(d) Transient merchant sales shall only be conducted between the hours of 8:00 a.m. and 9:00 p.m., or during more restrictive hours identified in a transient merchant license.

(e) Following the issuance of a transient merchant license, during the term of the license there shall be no alterations in the scope, location, or timeframe of the licensed activity.

(f) Licensees shall at all times display the valid township license obtained under this Division and their valid state sales tax license in a place open and visible to the general public, and shall produce them on demand of any police officer.

(g) Each person engaged in transient merchant sales shall have valid state picture identification on his or her person, and shall display such identification upon request of a police officer.

(h) Licensees shall at all times keep the premises and adjacent zoning lots clean and free of litter and waste materials generated from the operation of their business.

(i) At the cessation of transient merchant sales, the licensee shall remove from the property and properly dispose of all materials, structures, displays, and waste materials used in connection with or resulting from the transient merchant's activities at that location. The cessation of transient merchant sales for a period of forty-eight (48) hours or more is presumed to constitute a termination of transient merchant sales for purposes of this subsection.

(Ord. of 2-8-1999)

Sec. 10-238. Exemptions.

(a) License fees for licenses issued under this Division to charitable or non-profit groups may be waived provided that the licensed activity lasts not longer than four (4) days.

(b) A transient merchant who is an honorably discharged member of the armed forces of the United States and who served at least one hundred eighty (180) days of active duty service in the armed forces or has a service connected disability as a result of that service shall be partially exempt from this Article to the limited extent that such person shall not be required to apply for, obtain, or pay a fee for a license, if such person meets all of the following standards, provided, however, such person shall in all other respects comply with all other requirements and regulations set forth in this section and Section 10-237:

(1) All of the proceeds from the sales are to be used for the direct personal benefit or gain of that former member of the armed forces;

(2) That former member of the armed forces possesses at the time of engaging in sales a valid veteran’s license in his or her name, issued by a County Clerk in the State of Michigan pursuant to Public Act No. 359 of 1921 (MCL 35.441, et seq.);

(3) That former member of the armed forces, while engaged in the sale of his or her goods, conspicuously displays a sign at the place of sale stating the name of the veteran to which the County veteran’s license has been issued, the peddler's license number, and the statement "The profit from the sale of this product is for my personal benefit," all in not less than 18-point bold-faced type;

(4) At the time of sale of the goods by that former member of the Armed Forces, a written statement of not less than 12-point bold-faced type shall be printed on or attached to the goods, in substantially the following form: "The profit from the sale of this product is for my personal benefit";

(5) The goods being sold are goods owned by that former member of the armed forces; and

(6) That former member of the armed forces is personally present at and personally engaged in each sale.

(c) If a person is validly and legally engaged in one or more of the following activities and such activities are in full compliance with all applicable Chapters and provisions of this Code, the term "transient merchant" shall not be construed to include:

(1) Any person conducting a garage sale or yard sale in the customary manner on private residential property which is owned or occupied by the person conducting the garage or yard sale;

(*CHAPTER 10, ARTICLE III, DIVISION 9, SECTION 10-238* cont.)

(2) Any individual under the age of twelve (12) years old operating a refreshment stand on or adjacent to property owned or occupied by his or her parents or guardian;
(3) Any person operating a roadside stand for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the same property, which stand is in all other respects in compliance with the zoning ordinance;
(4) A proprietor of a permanent retail sales business conducting a sidewalk sale in the customary manner on the same property as the proprietor's conforming permanent retail sales business, at which the proprietor displays and offers for sale the goods, wares and/or merchandise of such permanent retail sales business on the property;
(5) A person lawfully permitted to sell goods, wares or merchandise on the premises of any established Township or County market;
(6) A person operating a stand at any carnival that has been properly licensed under this Code, during the carnival's permitted hours of operation;
(7) A person selling at and during an art fair or festival or similar event at the invitation of the event's sponsor, if all of the following conditions are met: (a) The sponsor of the event is a governmental entity, charitable group or non-profit group; (b) The person provides the sponsor with a copy of the person's valid sales tax license; (c) The sponsor provides a list of the events vendors to the Township Clerk; and (d) The event is lawful and has received all required state, County and local permits, licenses and approvals; or
(8) Any person lawfully engaging in the indoor sale of goods, services, wares or merchandise inside a shopping center or mall with the permission of the owner of the premises.

(Ord. of 2-8-1999)

Sec. 10-239. Enforcing agency entry; impoundment and sale of goods.

(a) The Police Chief may enter any premises for which a license is issued pursuant to this Article, or any premises at which transient merchant sales activities occur, at any time during business hours for the purpose of ascertaining the manner in which such business is conducted and to investigate complaints.
(b) If the Police Chief has probable cause to believe that a person is engaging in business as a transient merchant without having first obtained a license in the manner provided for in this Article, upon charging the unlicensed transient merchant with a misdemeanor violation as provided in Section 10-240, the Police Chief may impound and take into custody all of the unlicensed transient merchant's goods, wares and merchandise until the violation has been adjudicated by a court of proper jurisdiction. The Township shall be entitled to receive payment from an unlicensed transient merchant convicted of that violation of an impoundment fee and storage charges in amounts established by resolution of the Township Board.
(c) The unlicensed transient merchant may obtain his or her impounded goods, wares, and merchandise at any time prior to adjudication of the violation by paying, either in cash or by security bond, one thousand dollars ($1,000.00) or an amount equal to the total value of the impounded property determined as of the time such items are impounded, whichever amount is greater. Any such cash or bond security shall be held by the court or Township and be available to be applied to fines, court assessed costs, and any Township impoundment fee and storage charges not included in the court assessed costs.
(d) If the unlicensed transient merchant is convicted for the misdemeanor violation described in this Section and does not pay the fines and costs assessed by the court within seven (7) days of the date of conviction, the impounded goods, wares, and merchandise shall be sold by or on behalf of the Police Chief at a public sale to the highest bidder, notice of which shall be published in a newspaper of general circulation in the County at least five (5) days before the sale. The notice shall describe the property and shall state the time and place of public sale at which the impounded property may be purchased by the highest bidder.
(e) If the unlicensed transient merchant is convicted for the misdemeanor violation described in this Section and pays the fines and costs assessed by the court within seven (7) days of the

(*CHAPTER 10, ARTICLE III, DIVISION 9, SECTION 10-239* cont.)

date of conviction or prior to the public sale described in subsection (d), any impounded goods, wares, or merchandise that remain in the custody of the Police Chief shall be released to the unlicensed transient merchant upon payment to the Township of any impoundment fee and storage charges that were not included in the costs assessed by the court.

(f) If an unlicensed transient merchant described in subsection (e) fails to pay any outstanding impoundment fee and storage charges to the Township within thirty (30) days of the date of conviction, the impounded goods, wares, and merchandise shall be sold by or on behalf of the Police Chief in the same manner as described in subsection (d).

(g) A public sale by or on behalf of the Police Chief under this Section shall be conducted in accordance with any procedures or requirements established in this Code or by Township Board or Supervisor directives, resolutions, approvals, or other actions. The proceeds of a public sale shall be distributed or paid in the following order of priority:
(a) Unpaid court fines and costs which shall be deposited with the court.
(b) The costs incurred in providing notice of and conducting the sale.
(c) Any outstanding Township impoundment fee and storage charges.
(d) To the unlicensed transient merchant of any remaining amounts.

(h) To the extent any goods impounded under this Section consist of perishable items (for example and without limitation, food items or plant materials), such items may be returned to the merchant without the cash or security bond described in subsection (c) if the misdemeanor violation is not expected to be adjudicated before the goods spoil, die, or will no longer be usable or fit for human consumption. However, any such perishable goods that do spoil, die, or become unusable or unfit for human consumption before such return, shall not be returned and shall be immediately disposed of by the Police Chief, who shall have no liability or responsibility for the value or return of such items. In all events, the Police Chief shall have no liability or obligation whatsoever to preserve, or take any measures to preserve, perishable items lawfully impounded under this Section.

(Ord. of 2-8-1999)

Sec. 10-240. Violations; Civil Infraction and Misdemeanor.

(a) Except as provided in subsection (b), violation of any section in this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(b) Engaging in business as a transient merchant without having first obtained a license in the manner provided for in this Article is a misdemeanor violation, punishable as provided in Section 1-010(a) of this Code, with court costs to include Township impoundment fees and storage charges.

(c) In addition to, but separate from, the penalties under subsections (a) and (b) and an impoundment and sale provided for in Section 10-239, any violation of this Division is presumed and hereby declared to be a nuisance per se, and the Township may commence an appropriate civil action in any court of competent jurisdiction for an injunctive order abating or enjoining the violation, and for any other appropriate relief.

(Ord. of 2-8-1999; Ord. of 7-8-2002)

Secs. 10-241--10-250. Reserved.

Division 10. Secondhand Dealers and Junk Dealers Licensing

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the Secondhand Dealers and Junk Dealers Ordinance from Article XIV of this Chapter, formerly §§ 10-437 – 10-446, to this Division and pertaining to similar subject matter and derived from the same historical ordinance sources.*

(*CHAPTER 10, ARTICLE III, DIVISION 10 cont.*)

Sec. 10-251. Title.

This Division shall be known and cited as the "Secondhand Dealers and Junk Dealers Licensing Ordinance."

(Ord. of 6-28-10)

Sec. 10-252. Authority.

This Ordinance is enacted under Sec. 17 of the Charter Township Act, MCL 42.17, authorizing charter townships to regulate the conduct of business within the Township with like powers granted by the legislature to cities.

(Ord. of 6-28-10)

Sec. 10-253. Purpose.

There exist a growing retail-style of businesses in the Township for the purchase, and sale, of secondhand goods and miscellaneous electronics, computers, appliances and household or junk items. The purpose of this Ordinance is to require the licensing, regulation and reporting to the Police Chief, of the buying and selling activity of such items in order to deter and prevent the sale or transfer of stolen property or contraband.

This Ordinance is similar in provision and scope to the state law "Secondhand Dealers and Junk Dealers" found at Act 350 of the Public Acts of 1917.

(Ord. of 6-28-10)

Sec. 10-254. Definitions.

Secondhand Dealer or ***Junk Dealer*** means any person that conducts or engages in a principal business of purchasing, selling, exchanging, storing, or receiving, for consideration, secondhand articles of any kind, including but not limited to radios, televisions, computers and monitors, cameras, e-readers, DVD players/recorders, stereos, speakers, telephones, tablets, electrical appliances, game systems, and electronic devices of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures. Secondhand dealer or junk dealer does not include a scrap processor or an automotive recycler as those terms are defined in MCL 445.403, or a junkyard that deals principally in industrial scrap and is licensed by the Township. A secondhand dealer or junk dealer may be referred to in this Division as a dealer.

Internet drop-off store means an internet drop-off store as defined in MCL 445.403,ion that meets the conditions for exemption from licensing under Act 350 of 1917, as amended, as set forth in MCL 445.401(3), as amended.

(Ord. of 6-28-10)

Sec. 10-255. Secondhand or junk dealer; license required; internet drop-off store exempt from licensure; articles of nonferrous metals; compliance required.

(a) No person shall act as a secondhand dealer or junk dealer within the Township unless a license is issued by the Township in accordance with this Article permitting the operation of such a regulated business. The selling of similar new products at retail does not exempt such business from licensing if the operation falls within the definition of a "secondhand dealer" or "junk dealer" in Section 10-254.

(b) This Section does not require licensure of an internet drop-off store as defined in Section 10-254.

(c) This Section shall not apply to organizations and non-profit entities which meet the following criteria:

(1) the organization is tax-exempt and donations to the organization are tax-deductible under an IRS ruling or determination.

(2) All the goods and secondhand items donated to the organization are without payment to the donor by the organization.

(*CHAPTER 10, ARTICLE III, DIVISION 10, SECTION 10-255* cont.)

(d) This Section shall not apply to consignment shops, thrift shops and used book shops resale establishments, as defined by the Waterford Township Zoning Ordinance, as amended, unless such establishments otherwise become a "secondhand dealer" as defined herein.

(e) This Section shall not apply to yard sales, garage sales and the like occurring intermittently within residential zone districts.

(f) This Section shall not be construed to conflict with, or diminish the effect of the regulation of the sale of nonferrous metals by state law or other Township Ordinance.

(Ord. of 6-28-10)

Sec. 10-256. Secondhand or junk dealer; license, issuance; terms; transferability; fee; inspection.

(a) No person shall manage, operate or maintain a secondhand dealer or junk dealer business within the Township unless a license has been issued by the Township in accordance with this Article permitting operation of such a regulated business.

(b) The license shall designate the location of the regulated business, which shall only be conducted at that location. Licenses are not transferable to another location or person.

(Ord. of 6-28-10)

Sec. 10-257. Secondhand or junk dealer; sign; prerequisites; record; inspection.

(a) A dealer shall post in a conspicuous place in or upon its place of business a sign having its name and occupation.

(b) A dealer shall report all transactions to the Police Chief by electronic record within 48 hours and shall make and maintain a separate book or other written or electronic record, numbered consecutively, and open to inspection by a member of the Waterford Police Department and other police agencies with jurisdiction over the operation, in which shall be written or entered in the English language at the time of the purchase or exchange of any article, a description of the article, and all of the following:

(1) The name, description, fingerprint, operator's or chauffeur's license or state identification number, registration plate number, and address of the person from whom the article was purchased and received. The secondhand dealer or junk dealer shall make a copy of the operator's license, chauffeur's license, or state identification card as part of the book or record.

(2) The day and hour the purchase or exchange was made.

(3) The location from which the item was obtained.

(4) Payment for an item shall be made only by check or by an electronic payment system. The record shall indicate the method of payment.

(Ord. of 6-28-10)

Sec. 10-258. Secondhand or junk dealer; articles purchased or exchanged; retention; tagging; record; requirements; exceptions.

(a) The articles purchased or exchanged shall be retained by the dealer for at least 15 days before disposing of them, in an accessible place in the building where the articles are purchased and received. A tag shall be attached to the articles in some visible and convenient place, with the number written thereupon, to correspond with the entry number in the book or other record.

(b) In addition to reporting transactions as required by Section 10-257(b), the dealer shall prepare and deliver on Monday of each week to the Police Chief, before 12 noon, a legible and correct paper or electronic copy, in the English language, from the book or other written or electronic record, containing a description of each article purchased or received during the preceding week, the hour and day when the purchase was made, the description of the person from whom it was purchased, and a copy of the documentation required under section 10-257 regarding the person from whom it was purchased. The statement shall be verified in a manner acceptable to the Police Chief.

(*CHAPTER 10, ARTICLE III, DIVISION 10, SECTION 10-258* cont.)

(c) This section does not apply to old rags, waste paper, and household goods not listed in the definition of Secondhand Dealer or Junk Dealer in Section 10-254, and does not require the purchaser to retain articles purchased from individuals, firms, or corporations having a fixed place of business after those articles shall have been reported to the Police Chief.

(Ord. of 6-28-10)

Sec. 10-259. Secondhand or junk dealer; unlawful purchases.

No person shall purchase or receive by sale, barter or exchange or otherwise, any article mentioned in this Division from any person between the hours of 9 p.m. and 7 a.m., nor from any person who is at the time under the age of 18 years, or is visibly intoxicated or under the influence of controlled substances, or combination thereof, or any person who, upon interrogation, appears to have come into possession and/or ownership illegally or unlawfully.

(Ord. of 6-28-10)

Sec. 10-260. Violations; Misdemeanor; Remedies.

(a) Violation of this Division is a misdemeanor punishable as provided in Section 1-010(a) of this Code.

(b) The license of a person that is found guilty of violating this Division shall be considered to be revoked upon entry of the conviction by the court and without the need for any notice, hearing, or Township Board decision under Division 3 of this Chapter, and such person shall not be entitled to apply for or receive issuance of a new license for, or be permitted to carry on the business of being a secondhand dealer or junk dealer within the Township for a period of one (1) year after the date of the conviction.

(c) The remedies under this Division are independent and cumulative. The use of one remedy by the Township does not bar the use of other lawful remedies for a violation of this Division.

(Ord. of 6-28-10)

Secs. 10-261--10-400. Reserved.

ARTICLE IV. LIQUOR CONTROL

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the Waterford Township Distressed Vehicle, Junk and Dismantling Yard Ordinance from this Article, formerly §§ 10-091 – 10-140, to Article III, Division 4 of this Chapter, §§ 10-141 – 10-160; further, transferring the Waterford Township Liquor Control Ordinance from Article XIII of this Chapter, formerly §§ 10-421 – 10-436, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-401. Title.

This Article shall be known and cited as the "Waterford Township Liquor Control Ordinance."

(Ord. of 1-26-2004)

Sec. 10-402. Purpose.

The purpose of this Article is to allow the Township to establish and administer a policy for:

(a) The issuance or retention of available new licenses; transfers of existing licenses into the Township; renewals of existing licenses; relocations or expansions of existing licensed establishments; and revocations of licenses to sell beer, wine or spirits.

(b) The general intent of this Article is to provide an orderly procedure and standards to protect and promote the public health, safety and welfare of the Township.

(c) It is the further intent of this Article to coordinate the public health, safety and welfare standards of this Article with other public policies and objectives of the Township Board.

(Ord. of 1-26-2004)

(*CHAPTER 10, ARTICLE IV cont.*)

Sec. 10-403. Licensing policy.

Applications for licenses or permits, transfers of ownership of existing licenses, transfers into the Township of new licenses, and relocations or expansions of existing licensed establishments for the consumption of alcohol on the premises shall be acted upon in the sole discretion of the Township Board, subject to and in accordance with this Article and applicable law. Unless required by the Michigan Liquor Control Code of 1998, Public Act No. 58 of 1998, as amended, MCL 436.1101 – MCL 436.2303, or otherwise directed by Township Board resolution, applications and notices regarding licenses and transfers of licenses for the sale of alcohol for consumption off the premises (SDM – beer/wine; SDD – liquor) do not require Township Board approval but shall be administratively reviewed by the Police Chief, Fire Chief, Township Treasurer, Building Official, and Zoning Official as provided in Section 10-405(b), under the following procedure. Any Township Official that receives a written notice regarding an application for issuance or transfer of an off-premises license shall immediately forward it to the Township Officials identified in this Section, who within 30 days of receiving the notice, shall each perform and provide the results or status of their reviews in writing to the Township Clerk, who shall promptly notify the state Liquor Control Commission and licensee or proposed licensee of any objections to the license request that are identified in the reviews and of any reviews that are pending.

(Ord. of 1-26-2004)

Sec. 10-404. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002, 10-028, and 10-053, the following definitions shall apply to this Division:

Applicant shall mean and include all persons and entities proposed to be owners of the license and/or of the licensed premises and all persons and entities proposed to be involved in the finance of the license and/or licensed premises. In the case of a partnership, "applicant" shall include all partners in the partnership. In the case of a corporation other than a corporation with publicly traded stock, "applicant" shall include all shareholders. In the case of a limited liability company, "applicant" shall include all members.

Preliminary Plan shall be as defined in the Waterford Township Zoning Ordinance.

Similar Establishments shall include licensed establishments with, among other reasonable variables, one (1) or more of the following common characteristics: square footage; type of food service, if any; type and frequency of entertainment, if any; target clientele (for a substantial, rather than mere occasional chance portion of business), e.g., local clientele, County-wide clientele, broader than County-wide, business persons, families, conventioneers; connection with other establishment, e.g., hotel, banquet facility, recreational facility, convention center, and the like.

Site Plan of Record shall mean the Final Site Plan, as defined by the Waterford Township Zoning Ordinance, for the property which is the subject matter of the application approved by the Township and on file with the Zoning Official.

(Ord. of 1-26-2004)

Sec. 10-405. Application for on-premises consumption new licenses and license transfers.

(a) Application. An applicant for a new license, or the transfer of an existing license for the sale of beer, wine, and/or spirits for consumption on the premises must submit an application to the Township Clerk, which shall include at least the information described in subsection (1). Before submitting an application for a new license, the potential applicant shall notify the Township Clerk of the intended application to determine and comply with any pre-application requirements established by resolution of the Township Board for the Township Clerk to be authorized to accept and process a new license application.

(1) Identification of the applicant(s); if the applicant is a(n):

(*CHAPTER 10, ARTICLE IV, SECTION 10-405* cont.)

(i) Individual: name, age, and addresses of applicant for the last two (2) years.
(ii) Partnership: The names and addresses of the partnership and each general partner.
(iii) Corporation: The name and address of the corporation, the object for which the corporation was organized, and names and addresses of the officers, directors and resident agent. If a majority interest in stock of the corporation is owned by one (1) entity, person or a nominee of such person, the name and address of such entity or person must be provided.
(iv) Limited liability company (LLC): The name and address of the LLC, object for which the company was organized, and names and addresses of managers, members and resident agent.
(v) For other business entities, its name, address, and form of organization, and the names, titles and addresses of each person with an ownership interest or who will be involved in the management or operation of the premises proposed for licensing.

(2) The citizenship of the applicant, his or her place of birth and, if a naturalized citizen, the time and place of his or her naturalization.
(3) The location of the establishment, zoning classification, legal description and preliminary plan which show the relationship of the proposed or existing building to the surrounding property and uses and which shows proposed parking facilities and lighting. A photograph or architect's drawing must be submitted with the preliminary plan.
(4) The type of business to be operated under the license, including the seating capacity.
(5) The length of time the applicant has been in the business of that character, or, in the case of a corporation, the date when its charter was issued.
(6) A statement as to the applicant's experience in owning, managing, operating and/or financing the type of business or other related business, including, without limitation, previous business references.
(7) A statement whether the applicant has made application for a similar or other license on the premises other than that described in this application, and the date and disposition of such application.
(8) A statement whether the applicant has ever been convicted of any felony, and/or convicted of operating a vehicle under the influence of liquor, operating a vehicle with an unlawful blood alcohol level, operating a vehicle while visibly impaired, or selling or furnishing alcoholic liquor to a person under twenty-one (21) years of age, under any state statute or any local ordinance, and/or has ever been disqualified to receive a license because of any item contained in this Article or the laws of the State. For purposes of this response, the applicant must provide personal references, and, if any of the responses requires an affirmative response, the applicant must describe each affirmative response, including dates, descriptions and jurisdictions/locations.
(9) A statement under oath that the applicant will not violate any of the laws of the State, or of the United States or any ordinances of the Township in the conduct of its business if the license is granted.
(10) A statement providing evidence that the applicant is financially able to meet the obligations and business undertakings for which the license is to be issued.
(11) In the case of an application for a transfer of a class C liquor license within three (3) years of its original issue date, the proposed license transferor and proposed license transferee shall submit along with the application, a copy of the executed and binding contract for the buy/sell of the license and/or business for review.
(12) The application shall be accompanied by building plans showing the entire structure and premises and, in particular, the specific areas where the license is to be utilized. The plan shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.

(b) Review of application by Township departments. Each applicant for a new license, a transfer of ownership or location of a license, or an applicant seeking to relocate or alter the size of the building or service location of an existing licensed premises, shall make the request in accordance with the following procedures:

(1) Upon receipt of a fully completed application, as specified above, proof of payment of fees, and other information as may be requested by the Township, the Township Clerk shall forward the

(*CHAPTER 10, ARTICLE IV, SECTION 10-405* cont.)

application to the following, who within thirty (30) days of receiving the application, shall each perform and provide the results of their reviews in writing to the Township Clerk:

(i) Police Chief;
(ii) Fire Chief;
(iii) Township Treasurer;
(iv) Building Official;
(v) Zoning Official; and
(vi) Other departments designated by the Township Supervisor.

(2) The Police Chief shall examine the application and provide a written recommendation to the Township Clerk for its approval or disapproval with respect to the character of the applicant or principals and with respect to ingress and egress of the premises as they pertain to vehicular and pedestrian safety.

(3) The Fire Chief shall examine the application and provide a written recommendation to the Township Clerk with respect to the use of the building involved as it relates to compliance with the applicable fire safety ordinances, regulations and statutes.

(4) The Township Treasurer shall check on and disclose the tax status of the property which is the subject of the proposed license.

(5) The Building Official shall examine the application and provide a written recommendation to the Township Clerk with respect to the use of the building involved as it relates to compliance with all existing building code requirements.

(6) The Zoning Official shall review the preliminary plan or site plan of record presented with the application for compliance with all applicable ordinance requirements, and shall make a recommendation to the Township Clerk regarding zoning and planning considerations.

(7) The Zoning Official shall review each application and determine if the following minimal location requirements have been met:

(i) The zoning district in which the use is proposed shall be only a local business district, a community business district, a general business district, or office district;
(ii) Ingress and egress to the parking lot of the building housing the place of business shall be from a major thoroughfare having a planned right of way of one hundred twenty (120) feet or greater;

(8) The Zoning Official shall prepare a memorandum to be forwarded to the Township Clerk that contains one of the following conclusions:

(i) The above location requirements are met.
(ii) One (1) or more of the above location requirements have not been met.

(c) Reservation of authority, standards, and procedure. No applicant for a new license has the right to its issuance and the Township Board has no obligation to accept, review, and consider any application for approval of any population based license that may be available for issuance in the Township. The Township Board reserves the right to exercise its reasonable discretion to determine the appropriate licensee for each new license, taking into consideration the standards of this Article and the policies of the Township. The Township Board's discretion includes the right to determine the timing of the processing of the application for a new license and/or the right to take any reasonable action regarding the application, including the right to not process the application for a new license and the right to not act upon the application. The Township Board may maintain a list of all applicants for new licenses for subsequent review at such time as it determines that issuance of a new license is in the best interests of the Township and the protection and promotion of the public health, safety and welfare of it citizens. The Township Board may use the following standards in the determination of an application for a new liquor license:

(1) The applicant's experience and reputation, including general business experience, general business reputation, management experience in the alcohol liquor business, and the applicant's good moral character.

(2) Financial responsibility of the applicant, including the applicant's ability to build and operate the proposed facility on which the license is to be located, and the applicant's ability to pay public and private debts.

(*CHAPTER 10, ARTICLE IV, SECTION 10-405* cont.)

(3) The recommendations of the Police Chief, Fire Chief, Township Treasurer, Building Official, and Zoning Official.

(4) Compliance of the facility with applicable building, plumbing, electrical, mechanical and fire prevention codes, state laws, and this and other Township ordinances.

(5) The public need for the issuance of the liquor license for the establishment at the location proposed, which shall include the following factors:

(i) The total number of licenses for similar establishments and/or operations in the Township;

(ii) The proximity of the establishment to other licensed liquor establishments, and the type of such establishments (including whether they are similar establishments);

(iii) The total square footage of similarly situated licensed liquor establishments within the area;

(iv) The concentration and capacity of similar establishments;

(v) The number of on-premises establishments located within the area;

(vi) Whether the proposed location is in an area characterized as: developed, redeveloping or undeveloped;

(vii) The impact of the establishment on policing requirements;

(viii) Overall benefits of the proposed establishment to the Township;

(ix) Overall detriments of the proposed establishment to the Township; and

(x) Any other factors that may affect the health, safety, and welfare or the best interests of the community.

(6) The effects that the establishment would have upon the surrounding neighborhood and other business establishments.

(7) The expenditure of public funds that would be required or in the public interest for public improvements and services to accommodate the establishment.

(8) The effect of the establishment on vehicular movement, parking availability and pedestrian movement.

(9) The business experience of the applicant.

(10) The business history, if applicable.

(11) Past history of violations determined by the Liquor Control Commission.

(12) The truthfulness of the information supplied by the applicant.

(13) The amount of proposed investment in the establishment.

(14) The character of the establishment to be licensed. In conjunction with other ordinances, policies and actions of the Township with the view of promoting the character of the community, the following attributes associated with an application for a new class C license shall be deemed to be favorable in terms of the impact upon the welfare, service, land development and stability of the Township:

(i) Hotels or motels with one hundred fifty (150) or more rooms and a full service restaurant;

(ii) Assembly or convention centers;

(iii) Food service facilities to be part of or immediately proximate to, an office, service and/or commercial center complex under the guidelines established for each zoning district;

(iv) In an effort to maximize service to people throughout the community, facilities of eight thousand (8,000) square feet or larger in size that will accommodate large groups of people with seating for more than six hundred (600) and banquet rooms and that serve, as exhibition halls for convention purposes, all with the view of maximizing service to the people throughout the Township;

(v) Hotels or lodging facilities, which also have restaurants, meeting rooms and banquet facilities;

(vi) A "supper club" type of operation in which high quality food service is the main source of income with the ability to provide open public dining and serve small groups in separate meeting rooms;

(vii) Food service operations that have capacities exceeding two hundred (200) in any arrangement (meeting rooms, open dining, etc.) with a menu offering entrees that are prepared on the premises;

(viii) The percentage of floor area of the establishment devoted to dining versus the bar area;

(ix) The consistency with the goals and terms of the Township's master plan, as amended;

(*CHAPTER 10, ARTICLE IV, SECTION 10-405* cont.)

(x) The Township Board may deem any other criteria as necessary in the best interest of the Township.

(d) Multiple applicants for a new license. If the Township Board decides to issue a new available license for which there is more than one (1) applicant, it has the reasonable discretion to determine which applicant best meets the factors and criteria set forth above.

(e) Restrictions on licenses. There shall be a rebuttable presumption that a license shall not be issued to:

(1) A person whose license has previously been revoked for cause.

(2) A person, who, at the time of application or renewal of any license issued, would not be eligible for such license upon a first application.

(3) A co-partnership, unless all the members of the co-partnership shall qualify to obtain a license.

(4) A corporation, if any officer, manager or director, or a stock owner or stockholder's owning in the aggregate more than five (5) percent of the stock of the corporation, would not be eligible to receive a license 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 or a controlled substance.

(7) Any law enforcing public official or any member of the Township Board, and any person who is interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.

(8) A person who does not own or lease the premises for the full period for which the license is issued, or to a person, corporation, or co-partnership that does not have sufficient financial assets to carry on or maintain the business.

(9) For a premises where there is a violation of applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations, or any other applicable Township ordinance.

(10) An applicant who has not demonstrated a public need for the issuance of the liquor license for the establishment at the proposed location.

(11) A premises the Township Board determines does not or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control or where a nuisance does or will exist.

(12) A premises where the Township Board, in its discretion, determines that the location is inappropriate considering the desirability of establishing a location in a developed commercial area, in preference to an isolated, undeveloped area; the objections of adjacent residents and property owners; traffic safety, accessibility to the premises from abutting streets; capability of abutting streets to accommodate the commercial activity; distance from public or private schools for minors; proximity to inconsistent zoning classifications and/or land uses; and accessibility from major and minor arterial streets.

(f) Recommendation by Township Board.

(1) The Township Board shall review the application and the recommendations of the Township officials within a reasonable time of receipt of such recommendation(s) using the criteria set forth above. The Township Board shall do one (1) of the following:

(i) Recommend to the state Liquor Control Commission approval of the applicant for the issuance of a liquor license.

(ii) Recommend to the state Liquor Control Commission denial of the applicant for the issuance of a liquor license. If this action is taken, the Township Board shall provide the reasons for the recommendation of denial to the applicant.

(iii) Postpone action on the application pending receipt of further information as required by the Township Board to make an informed decision.

(2) The decision of the Township Board to recommend approval of the applicant for the issuance of a liquor license does not relieve the applicant from completing all land development review requirements in accordance with Township ordinances, paying all required fees, and receiving all necessary planning, building and engineering approvals prior to receiving permits and a certificate of occupancy.

(Ord. of 1-26-2004)

(*CHAPTER 10, ARTICLE IV cont.*)

Sec. 10-406. Existing licenses.

The criteria set forth in Section 10-405 shall not apply to licenses previously issued and in force within the Township, but shall be applicable to any applications for the transfer of an existing license from one (1) location to another within the Township, or for a transfer of ownership of an existing license.

(Ord. of 1-26-2004)

Sec. 10-407. Transfer of licenses and relocation or expansion of existing licensed establishments.

(a) Transfer of ownership of license.

(1) As a condition to approving a transfer, the Township Board shall take into consideration the criteria stated above for the issuance of new licenses.

(2) No transfer of ownership of an existing license shall be approved unless the applicant has demonstrated financial responsibility including proof that all outstanding bills or debts owing to the Township are paid. This proof shall be submitted to the Township Clerk prior to the application being placed on the Township Board agenda.

(b) Ordinance or code violations. For all ownership and locations transfers, all ordinance or code violations must be corrected or a cash escrow deposit established by the licensee with the Building Official in an amount established by resolution of the Township Board to guarantee that the violations are corrected within a time set by the Building Official or Zoning Official, and incorporated into an agreement to be completed by the applicant, in a form approved by the Township Attorney in order to ensure that the deposit may be used by the Township in a timely manner in the event of a default by the applicant, including an authorization and hold harmless for the Township and its agents to enter upon the premises to cure the violations and/or to take other actions specified in the agreement. In all events, construction code violations shall be cured prior to occupancy.

(Ord. of 1-26-2004)

Sec. 10-408. Profiteering by class C liquor license holders.

(a) The Township Board has determined that profiteering by class C liquor license holders is contrary to the best interests of the Township. Accordingly, in order to prevent profiteering, to the full extent authorized by law the Township Board shall not approve the transfer of a class C liquor license within three (3) years of the date of the original issuance of the license. An agreement between the applicant and the Township, following recommendation by the Township Attorney shall be prepared and agreed upon to give effect to this provision prior to final action being taken by the Township Board on an application. The Township Board may, but is not required to, excuse the above anti-profiteering limitation for any of the following reasons:

(1) If the license holder is a natural person, he or she dies or becomes incapacitated.

(2) If the license holder is a corporation, the majority shareholder dies or becomes incapacitated, or the corporation dissolves for reasons other than to transfer the license.

(3) If the license holder is a business entity and not a natural person, the entity dissolves for reasons other than to transfer the license.

(4) The license holder and the proposed license transferee establish that the transfer of the class C liquor license shall not result in profiteering.

(5) The application of this anti-profiteering limitation will subject the applicant to financial hardship due to no fault of the applicant, such as a change in the business climate, illness or death, labor or supply problems, and/or other factors outside the applicant's control.

(b) The agreement shall provide that, unless excused by the Board as provided above, in the event a license is placed into escrow with the Liquor Control Commission within three (3) years from the date of issuance, the Township Board may approve the issuance of the license

(*CHAPTER 10, ARTICLE IV, SECTION 10-408* cont.)

to a new applicant without payment to the licensee from whom the license had been placed into escrow, and that the licensee waives any property interest in such license upon placement of the license into escrow within such three (3) year period; provided, however, prior to the approval of such issuance to a new applicant, the person or entity from whom the license had been placed into escrow shall be afforded written notice and an opportunity to be heard, and all objections raised at the hearing shall be resolved (at the commission or in the circuit court if necessary) prior to issuance to a new applicant.

(Ord. of 1-26-2004)

Sec. 10-409. Objections to renewal and requests for revocation.

(a) Procedure. Before filing an objection to renewal or filing a request for revocation of a license with the state Liquor Control Commission, the Township Board shall serve the license holder with notice of a public hearing, by certified mail, not less than ten (10) days prior to the hearing, which shall contain the following information:

(1) Notice of the 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 at the hearing.

(b) Recommendation of renewal or revocation. The Township Board may recommend non-renewal or revocation of a license upon its determination by a preponderance of the evidence presented at the public hearing that either of the following exists:

(1) Violation of any of the criteria or restrictions on the license set forth in this Article.
(2) Maintenance of a nuisance upon the premises. A "nuisance" is defined as follows:
  (i) Selling or furnishing alcoholic liquor, on at least three (3) separate occasions in a single calendar year, to a person who is less than twenty-one (21) years of age, provided that the sale and furnishing does not involve the use of falsified or fraudulent identification by the person who is less than twenty-one (21) years of age;
  (ii) If the premises is used for the unlawful manufacturing, bartering, using or furnishing of any controlled substance as defined by the laws of the State (there shall be a rebuttable presumption that the licensee had knowledge of such activity);
  (iii) If the premises is used for the purpose of lewdness, prostitution or illegal gambling (there shall be a rebuttable presumption that the licensee had knowledge of such activity);
  (iv) Acts or conduct which, by competent, material or substantial evidence, the Township Board declares to be a nuisance, provided that such nuisance is subject to injunction and/or abatement as provided by state law;
  (v) Material violations of building, electrical, mechanical, plumbing, zoning, health, fire, or other regulatory codes;
  (vi) Material violations of the site plan of record;
  (vii) Material failures to maintain the grounds and exterior of the licensed premises, including litter, debris or refuse blowing or being deposited upon adjoining properties;
  (viii) Patron conduct that violates the law and/or disturbs the peace, order and tranquility of the neighborhood on three (3) occasions;
  (ix) Entertainment on the premises or activity in connection with the premises, which, following notice to cease and desist, by its nature causes, creates or contributes to disorder, disobedience to rules, ordinances or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises;
  (x) Failure by the licensee to permit the reasonable inspection of the licensed premises by the Township's agents or employees in connection with the enforcement of this Article.

(Ord. of 1-26-2004)

(*CHAPTER 10, ARTICLE IV, SECTION 10-410 cont.*)

Sec. 10-410. Annual license and permit review.

(a) Township Board review. Each year the Township Board may undertake a review of any license or permit for the purpose of making a recommendation to the state Liquor Control Commission regarding the renewal of the license or permit; provided, the Township may make a recommendation or take action relative to renewal and/or revocation at any time, in accordance with the procedure and for the reasons specified in this Article.

(b) Investigation of licensed establishments. Each year, the Township Supervisor, or the Township Supervisor's designee(s), may investigate any existing on-premises licensed establishment. The investigation may include, but not be limited to the following:

(1) An inspection of the premises to determine whether the licensee complies with all applicable Township and/or state codes.

(2) An inspection of the premises to determine whether the licensee complies with the license itself, its site plan of record and business plan, as well as any conditions imposed by the Township or the state Liquor Control Commission or representations made by the licensee at the time of issuance or transfer of the license.

(3) An inspection to determine the general condition of the premises, both interior and exterior.

(4) An inspection of Township records to determine whether all taxes and other monies due the Township are timely paid.

(5) An inspection of police files or other sources of information to determine total calls for service at the premises and whether any activity in connection with the premises is in violation of the law, disturbs the public peace and tranquility, constitutes a nuisance, or contributes to the disruption of the normal activities of those persons living in the neighborhood of the licensed premises.

(6) A review of the operation of the licensed establishment to determine whether it is being operated in compliance with any and all representations made by the licensee to the Township Board, the Township Clerk and/or the Township liquor license review committee (if appointed).

(7) Other review and/or inspection found to be relevant under the circumstances.

(Ord. of 1-26-2004)

Sec. 10-411. Fees.

Each applicant requesting the approval of a new license, the transfer of ownership or location of an existing license or the approval of any permits related to the license shall pay to the Township Treasurer a nonrefundable application fee in the amount prescribed by resolution of the Township Board at the time the request or application is made.

(Ord. of 1-26-2004)

Sec. 10-412. License approval conditions.

Approval of a license shall not restrict or limit the Township Board's authority to object to renewal or request revocation of the approved license as provided in Section 10-409. Approval of a license shall be made with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six (6) months of the Township Board action on the license, or prior to the state Liquor Control Commission approving the license, whichever occurs first unless otherwise specified by the Township Board. Any inordinate delay in the completion of the remodeling or construction may result in the Township objecting to renewal or requesting revocation of the license.

(Ord. of 1-26-2004)

Sec. 10-413. Schedule for action or issuance; discretion of Township Board.

Nothing in this Article requires the Township Board to act upon or issue any license or in any way limits the discretion of the Township Board. The Township Board may by resolution establish a schedule for taking action upon or for the issuance of any licenses. The schedule shall be applied in a consistent and nondiscriminatory manner.

(Ord. of 1-26-2004)

(*CHAPTER 10, ARTICLE IV cont.*)

Sec. 10-414. Agreements with regard to use and/or dancing and entertainment.

As part of the review and action on a license application, the Township Board may require the preparation and execution of an agreement, following recommendation by the Township Attorney in order to confirm the type of use and/or dancing and entertainment permitted to be undertaken on the premises.

(Ord. of 1-26-2004)

Sec. 10-415. Sale of alcohol prohibited without license.

No person shall sell beer, wine, or spirits (liquor), or other alcoholic beverage for consumption on or off the premises where the sale occurs without a license issued by the state liquor control commission.

Sec. 10-416. Violations; Misdemeanor and Civil Infraction.

(a) Except as provided in subsection (b), a violation of this Article is a misdemeanor punishable as provided in Section 1-010(a) of this Code.

(b) In addition to any remedies provided for in an agreement provided for in this Article, a violation of a provision of such an agreement is a civil infraction, punishable as provided in Section 1-010(b) of this Code.

(Ord. of 1-26-2004)

Secs. 10-417--10-430. Reserved.

ARTICLE V. PRECIOUS METALS AND GEM DEALERS

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the Motor Carrier Safety Rules Ordinance from this Article, formerly §§ 10-306 – 10-330, to Article V of this Chapter and pertaining to similar subject matter and derived from the same historical ordinance sources. Further, the Code was amended by transferring the Precious Metals and Gem Dealers Ordinance from Article X of this Chapter, formerly §§ 10-361 – 10-385, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

Sec. 10-431. Short title.

This Article shall be known and may be cited as the "Precious Metal and Gem Dealer Ordinance."

(Comp. Ords. 1986, § 20.901)

Sec. 10-432. Purpose.

This Article shall regulate all precious metal and gem dealers located within the Township.

(Comp. Ords. 1986, § 20.902)

Sec. 10-433. State law adopted.

The Township hereby adopts by reference Act 95, Public Acts of 1981, as amended, being MCL 445.481 through 445.492, and referred to in this Article as the Act.

(Comp. Ords. 1986, § 20.903)

Sec. 10-434. Registration.

A dealer shall not conduct the business of buying or receiving precious items from the public within the Township without obtaining a valid certificate of registration from the Police Chief as provided in the Act.

(*CHAPTER 10, ARTICLE V cont.*)

Sec. 10-435. Fingerprints and thumbprints required.

All fingerprints and thumbprints required by this Article shall be taken by the police department, with the applicant responsible for payment of the administrative fee for that service as established by resolution of the Township Board.

(Comp. Ords. 1986, § 20.904)

Sec. 10-436. Applicants to inform police of locations of business.

A dealer shall disclose to the Township police department all locations within the Township within which such dealer intends to conduct business regulated by this Article.

(Comp. Ords. 1986, § 20.905)

Sec. 10-437. Compliance with Act.

A dealer and all agents and employees of the dealer shall comply with all requirements of the Act at all times.

Sec. 10-438. Violations; Misdemeanor.

Violation of this Article is a misdemeanor, punishable as provided in Section 1-010(a) of this Code, or as provided under and as a violation of the Act.

Secs. 10-439 - 10-450. Reserved.

ARTICLE VI. ALARM SYSTEMS*

_____

***Editor's note:** The 2014 ordinance recodification amended the Code repealing Division 1 of this Article, formerly §§ 10-176 – 10-185, and Division 3 of this Article, the Waterford Township Coin-Operated Amusement Center Ordinance, formerly §§ 10-206 – 10-230; transferring the carnival licensing requirements from Division 2 of this Article, formerly §§ 10-186 – 10-205, to Article III, Division 7 of this Chapter and pertaining to similar subject matter and derived from the same historical ordinance sources; and transferring the pool and dance hall requirements from Division 4 of this Article, formerly §§ 10-231 – 10-260, revising the requirements to apply specifically to teen dance club establishments, locating these revised requirements, derived from the same historical ordinance sources, to Article III, Division 8 of this Chapter.*

Finally, the Code was amended by transferring the Waterford Township Alarm System Control Ordinance from Article V of this Chapter, formerly §§ 10-141 – 10-175 to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.

_____

Sec. 10-451. Short title.

This Article shall be known and cited as the "Alarm System Control Ordinance."

(Comp. Ords. 1986, § 21.155)

Sec. 10-452. Purpose.

The purpose of this Article is declared as follows:

(a) To license and regulate alarm systems.
(b) To establish fees payable to the Township for responding to certain false alarms.
(c) To require certain permit holders to furnish the police department locating information.
(d) To establish a time limit on external alarm signals.
(e) To regulate the use of automatic dialers.
(f) To require separate alarm systems in certain multiple occupancy housing units.
(g) To provide for fines and penalties for the violations hereof.

(*CHAPTER 10, ARTICLE VI, SECTION 10-452 cont.*)

(h) To designate certain alarm users with repeated defective alarm systems as reduced priority users for purposes of police response.

(Comp. Ords. 1986, § 21.160)

Sec. 10-453. Definitions.

In addition to the rules of construction and definitions contained in Sections 1-002 and 10-028, the following definitions shall apply to this Article:

Alarm System means an assembly of equipment and devices, or a single device arranged to signal the presence of a hazard, or situation requiring urgent attention and to which public safety officers are expected to respond.

Alarm User means any person on whose premises an alarm system is maintained within the Township except for alarm systems on motor vehicles. If, however, an alarm system on a motor vehicle is connected with an alarm system at a premises, the person using such system is an alarm user. Also excluded from this definition and from the coverage of this Section are persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or other illegal act. If such a system, however, employs an audible signal emitting outside the premises, such system shall be within the definition of an alarm system and shall be subject to this Section.

Automatic Telephone Alarm System means a device, or combination thereof, that will, upon activation, either mechanically, electronically, or by other means initiate the automatic calling, dialing or connection to any telephone number assigned to any subscriber by a public phone company for the purpose of delivering a recorded message.

False Alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, negligence, or the intentional activation of the alarm system without reasonable and legitimate need by the owner or lessee of an alarm system or his employee or agent. "False alarm" shall not include an alarm caused by a hurricane, tornado, earthquake, downed telephone lines or other violent conditions beyond the control of the owner or lessee of an alarm system or of their employee or agent.

Subscriber means and includes, but is not limited to, any public service utility, fire department or police agency.

(Comp. Ords. 1986, § 21.165)

Sec. 10-454. Permits required; fees.

Notwithstanding the provisions herein, all persons owning and/or leasing or occupying premises upon which an alarm system has been installed and maintained shall obtain a permit from the Township Police Chief. Permit fees shall be established by resolution of the Township Board.

(Comp. Ords. 1986, § 21.170)

Sec. 10-455. Sale or installation of system; state license required.

(a) No person shall engage in the business of providing for the sale, installation, operation, and/or maintenance of a burglar or fire alarm system unless properly licensed by the State.

(b) All alarm systems installed after July 17, 1986, shall be required to have as a feature a battery to provide emergency power in the event electrical service to the alarm system is suspended or terminated for any reason.

(Comp. Ords. 1986, § 21.175)

Sec. 10-456. Automatic telephone alarm systems prohibited.

It is prohibited and a violation of this Code for any person to sell, install, operate, adjust, arrange for or contract to furnish an automatic telephone alarm system.

(Comp. Ords. 1986, § 21.180)

(*CHAPTER 10, ARTICLE VI cont.*)

Sec. 10-457. Audible alarms--Locating information required.

No person shall maintain an alarm system which, when activated, causes an audible and/or visible signal, which signal can be heard or seen outside the premises protected by such alarm system, and which signal is disturbing to the peace and quiet of the surrounding area, unless that person has first furnished the following to the Police Chief: the name, telephone number and address of the premises where the alarm system is located, and also the names and telephone numbers of at least three (3) other persons who can be reached at any time day or night and who, within a thirty-minute response time, can open the premises in which the alarm system is installed and deactivate the audible and/or visual signal.

(Comp. Ords. 1986, § 21.185)

Sec. 10-458. Same--Duration limited.

No person shall use, install, or direct to be installed any audio alarm system which emits a sound and/or visual signal for a period longer than fifteen (15) minutes from the time of the initial signaling of the device.

(Comp. Ords. 1986, § 21.186)

Sec. 10-459. Multiple units of occupancy within building; separate alarm system requirement.

Separate systems are required whenever a single building contains more than one (1) unit of occupancy and each unit has a separate entrance. If such occupant elects to install an alarm system, such person shall be required to have a separate alarm system for each such business located in such building. Whenever a multiple housing residential structure shall have separate entrances for each occupancy unit, and such occupant elects to have an alarm system, each separate entrance to the occupancy unit shall contain separate alarm systems.

(Comp. Ords. 1986, § 21.190)

Sec. 10-460. False alarms; fees; permit revocation procedure.

(a) Any person operating an alarm system experiencing more than two (2) false alarms within one (1) calendar year shall pay to the township false alarm fees in accordance with the fee schedule established by resolution of the Township Board to recover such costs associated with responding to a series of false alarms.

(b) Failure to comply with the provisions of this Article or failure to eliminate the occurrence of more than five (5) false alarms within one (1) calendar year may result in revocation of a permit.

(c) To revoke a permit, a written notice of revocation, stating the cause or causes there for, shall be delivered to the permittee personally, or sent by registered mail. Unless a written request for a waiver due to extenuating circumstances is filed with the Police Chief, or the Fire Chief in case of false fire alarms, within ten (10) days from the receipt of notice of the revocation, the permit shall be revoked and permittee shall immediately discontinue operation of the alarm system. The request for waiver shall include:

(1) Payment of all delinquent alarm fees, which may be waived and refunded in whole or in part, at the discretion of the Police Chief or the Fire Chief.
(2) Documentation of extenuating circumstances involved.
(3) Documentation of any repair service having been performed to remedy any malfunction.

Within ten (10) working days of the receipt of the waiver request, the Police Chief or the Fire Chief shall make a determination on the waiver request and shall notify the alarm user of the decision. In the event the alarm user is not satisfied with the decision rendered by the Police Chief or the Fire Chief, the identical written request for waiver may be filed within ten (10) working days with the office of the Township Supervisor. Within ten (10) working days of the receipt of the waiver request and documentation of extenuating circumstances, the

(*CHAPTER 10, ARTICLE VI, SECTION 10-460 cont.*)

Township Supervisor shall review the request, make a determination on the waiver, and shall notify the alarm user of the decision.

(d) The Police Chief and Fire Chief shall prepare guidelines for the handling of excessive false alarms and, upon approval by the Township Board, implement such procedures. Such guidelines shall include a provision that an alarm system experiencing more than nine (9) false alarms within a twelve-month period shall be deemed defective and unless further action that corrects the defective system is taken by the owner or lessee of the alarm service, the Police Chief and Fire Chief may respond to further alarms from that alarm system on reduced priority basis, or require corroborative evidence, to respond to any subsequent alarm generated.

(e) Any billing to an alarm user for a false alarm fee which remains unpaid for a period in excess of twenty (20) days shall be assessed a late charge of ten (10) percent and shall bear interest at the rate of one (1) percent per month until paid.

(f) All fees received under the provisions of this article shall be retained by the Police Chief or Fire Chief to be used in the administration and enforcement of this article.

(Comp. Ords. 1986, § 21.195; Ord. of 11-28-1994)

Sec. 10-461. Alarm use terminated upon permit revocation; reinstatement upon payment of fees.

A permittee whose permit has been revoked may reapply for reinstatement of such permit. Such reapplication shall be in the same form and manner as for an original permit application, except that such permittee must pay any false alarm fees due and owing plus any interest charge, plus a fifty-dollar reinstatement fee.

(Comp. Ords. 1986, § 21.196)

Sec. 10-462. Exceptions to false alarm provisions.

Alarm conditions caused by the following extenuating circumstances shall not constitute a false alarm and no false alarm fee shall be charged by the Township:

(a) Alarm conditions being activated by persons working on the alarm system with prior notification to the Police Chief or Fire Chief.

(b) Alarms which can be substantiated as being activated by disruption or disturbance by telephone utility company facilities or motor vehicle-utility pole accidents or by storm conditions.

(Comp. Ords. 1986, § 21.200)

Sec. 10-463. False alarm warning notice.

The Police Chief, or the Fire Chief in the case of fire alarms, shall mail a "false alarm" notice to the alarm user after two (2) false alarms have been experienced within one (1) calendar year, which notice shall indicate the fees, penalties and revocation procedures prescribed by this Article.

(Comp. Ords. 1986, § 21.205; Ord. of 11-28-1994)

Sec. 10-464. Violations and sanctions.

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Comp. Ords. 1986, § 21.220; Ord. of 7-8-2002)

Secs. 10-465 --10-480. Reserved.

(*CHAPTER 10 cont.*)

ARTICLE VII. PEDDLERS, SOLICITORS AND CANVASSERS

Division 1. General

Sec. 10-481. Purpose.

The purpose of this Article is to provide for and public health, safety and welfare through regulations that provide for public safety and help protect Township residents, businesses, and the general public from crime, fraud, and the undue annoyance and interference with privacy rights that can be caused by peddlers and solicitors, in a manner that does not unlawfully interfere with or burden the exercise of First Amendment and other constitutional rights. To those ends, this Article defines and provides different procedural requirements for soliciting and peddling, and general regulations applicable to all canvassers, solicitors, and peddlers, with the solicitor registration and peddler licensing regulations intended to (i) deter persons with criminal or fraudulent intent from posing as legitimate solicitors or peddlers, (ii) provide a minimal amount of basic information necessary to the Township's efficient and effective performance of governmental, law enforcement, and crime prevention functions, and (iii) provide Township residents with a right to know if persons coming upon their property are in compliance with those regulations and a basis for reporting persons that are not in compliance to the Township Police Department.

Sec. 10-482. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Article:

Canvass and canvassing means to enter upon private property, without any prior specific invitation or appointment, to inform, educate, advocate, petition, secure petition signatures, request or enlist support or opposition, or to convey any other message regarding religion, philosophy, ideology, politics, including parties, candidates, initiatives and issues, charitable organizations, or other cause or issue, by verbal, written, or other forms of communication, including the distribution of handbills, flyers, or other materials.

Canvasser means a person that engaged in canvassing in the Township without requesting or accepting the payment, delivery, donation, pledge, or commitment of money, credit, financial assistance, membership, property, goods, services, or other thing of value, and without selling or attempting to sell any property, ticket, emblem, publication, advertisement, subscription, membership, or other thing, whether of value or not.

Charitable purpose means a charitable, benevolent, educational, philanthropic, humane, patriotic, veterans support, religious, youth, fraternal, social, civic, conservation, recreational, or other non-profit objective of a charitable or religious organization, or political organization. Charitable purpose does not include political campaign fundraising or non-profit objectives of an individual.

Charitable, religious or political organization means a charitable, religious, political, benevolent, educational, philanthropic, humane, patriotic, fraternal, social, or civic organization that is recognized as non-profit and/or tax exempt under applicable State or Federal laws.

Fixed Stand shall mean any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered by state law, and is used for canvassing, soliciting or peddling.

Individual means a natural person.

Parent organization means a person, including a candidate for public office, or organization that a canvasser, solicitor, or peddler is employed by, contracts with, represents, volunteers for, or is otherwise acting on behalf of with respect to canvassing, soliciting, or peddling activities in

(*CHAPTER 10, ARTICLE VII, DIVISION 1 , SECTION 10-482* cont.)

the Township, which with respect to peddling, is the principal manufacturer or distributor of goods or principal provider of services being peddled.

Peddle and peddling means: (1) carrying, conveying or transporting goods, wares, merchandise, food, beverages, or other personal property or materials of any nature, that are offered for sale, sold, or delivered to one or more purchasers; and/or (2) taking or attempting to take orders for the sale of such items for future delivery, or for services to be furnished or performed in the future, regardless of whether advance payments on such orders are collected.

Peddler means any person engaged in peddling for profit in the Township by traveling by foot, motor vehicle or other conveyance from place to place, from house to house, or from street to street, or who does so from or at a stand, motor vehicle, or trailer. Any person who offers to take orders or tentative orders and, as a separate transaction, confirms the order or makes deliveries to purchasers as part of an transient merchant scheme or design to evade the provisions of this Article shall be deemed a peddler. The term "peddler" shall not include a person who conducts such activities at a social gathering within a home at the invitation of the owner or an occupant of the home.

Solicit and soliciting means a direct or indirect request by or on behalf of a charitable, religious, or ***political*** organization to any person in the Township for the payment, delivery, donation, pledge, or commitment of money, credit, financial assistance, membership, property, goods, services, or other thing of value, on the plea or representation what is requested will be used for charitable purposes of the charitable, religious or political organization, and includes sales and sales offers of any property, ticket, emblem, publication, advertisement, subscription, membership, or other thing, whether of value or not, on the pleas or representation that the proceeds of the sale will be used for charitable purposes of the charitable, religious, or political organization.

Solicitor means a person engaged in soliciting in the Township.

Street soliciting means soliciting for charitable purposes where solicitors are allowed to be within the travelled portion of a street and areas of the street abutting the traveled portion.

Sec. 10-483. Canvasser, solicitor and peddler requirements.

(a) A person shall not engage in soliciting without being registered or covered by a required registration and complying with the regulations as provided in Division 3.

(b) A person shall not engage in peddling without being licensed or covered by a license and complying with the regulations in Division 4.

(c) All canvassers, solicitors and peddlers shall comply with the general regulations in Division 2.

Sec. 10-484. Waivers, modifications and variances.

A person claiming that application of one or more provisions of this Article to canvassing, soliciting, or peddling activities that person desires to engage in violates a constitutional right, may request that the Township Board waive, modify or vary such provision by filing a written request and statement of that position and basis for it with the Township Clerk who shall place the request on the next Township Board Agenda that is at least five (5) days after receipt of the request.

Sec. 10-485. Violations and sanctions; Civil Infraction.

Unless otherwise specified, a violation of this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Secs. 10-486 - 10-489. Reserved.

(*CHAPTER 10, ARTICLE VII Cont.*)

Division 2. General Regulations for Canvassers, Solicitors and Peddlers

Sec. 10-490. Hours for Canvassing, Soliciting or Peddling.

No canvassing, soliciting, or peddling shall take place in the Township after 8:00 p.m. or the official time of sunset, whichever is earlier, or before 9:00 a.m., prevailing time.

Sec. 10-491. Posted Property; Access to Premises Restricted.

(a) No canvasser, peddler or solicitor shall enter into or upon any private property that has posted a "no peddling," "no canvassing," "no soliciting" or "no trespassing" sign, or similar notice, in accordance with subsection (c), below.

(b) No canvasser, peddler or solicitor shall engage in canvassing, peddling or soliciting in any residential subdivision, condominium, or other residential neighborhood or development that has a privately posted "no peddling," "no canvassing," "no soliciting" or "no trespassing" sign, or similar notice at each entrance to the subdivision, condominium or other neighborhood, in accordance with subsection (c), below.

(c) A sign posted under subsection (a), above, must be a weatherproof sign measuring a minimum of three (3) inches by four (4) inches, the letters must be at least one-third (1/3) inch in height, and the sign must be exhibited upon or near a main entrance door to the main structure, building or residence on the property. A sign posted under subsection (b), above, must be a weatherproof sign measuring a minimum of two (2) square feet, the letters must be at least two (2) inches in height, and the sign must be exhibited in a location visible to the drivers of vehicles at each entrance to the subdivision, condominium or other neighborhood. A sign posted under subsection (b), above, must comply with all otherwise applicable requirements of this code and Township standards, including, without limitation, the requirement to obtain a permit if the sign is to be located within a public right-of-way.

Sec. 10-492. Request to Leave.

No canvasser, peddler or solicitor shall remain on private property after having been asked or directed to leave the premises by any person lawfully in possession of the premises.

Sec. 10-493. General Conduct.

Canvassers, peddlers, and solicitors shall not engage in any conduct or activity prohibited in this Code, specifically including but not limited to the activity prohibited in Section 11-003(c).

Sec. 10-494. Inferred Endorsement by the Township.

A peddler license or solicitor registration certificate issued under this Article shall not be used or represented in any manner as an endorsement by the Township or any of its departments, officials or employees.

Sec. 10-495. False or Material Change to Notice or Application Information.

(a) During the period covered by a peddler license or solicitor registration certificate under this Article, material changes in information previously provided shall be reported in writing to the Township official that the information was filed with, by the earlier of any time specified in the applicable Division or within seven (7) days of the change.

(b) It shall be a violation of this Article for any person to knowingly file or cause to be filed false information in an application for a peddler license or solicitor registration certificate.

Secs. 10-496 - 10-509. Reserved.

(*CHAPTER 10, ARTICLE VII cont.*)

Division 3. Solicitor Regulations

Sec. 10-510. Registration certificate requirement.

Soliciting shall not occur until after the Township Clerk has issued any certificate of registration required by this Division for that soliciting.

Sec. 10-511. Registration certificate time and location limitations.

Soliciting shall not occur at times or at locations that have not been approved by a certificate of registration required by this Division.

Sec. 10-512. Carrying and display of registration certificate and identification.

A solicitor shall carry a copy of a required registration certificate that covers the soliciting and photo identification, which shall be displayed upon the request of any police officer or person the solicitor has approached or contacted.

Sec. 10-513. Public place location and activity prohibitions.

All soliciting in public places shall be conducted in compliance with the location restrictions and activity prohibitions in Section 11-003 of this Code.

Sec. 10-514. Fraudulent and misleading representations.

No fraudulent or misleading representations to any person shall be made in connection with any soliciting, including, but not limited to, any misleading representation concerning the purposes for which contributions solicited will be used, the name of the solicitor, or the name, nature, or purpose of any parent organization.

Sec. 10-515. General Registration Requirements and Restrictions.

(a) Individual solicitors in public places for non-charitable purposes are not required to be registered under this Division.
(b) Individual solicitors on private property for non-charitable purposes, which include solicitors for political campaign contributions, are required to be registered under this Division.
(c) Individual solicitors for charitable purposes in public places or on private property shall be registered or covered by a registration under this Division.
(d) Solicitation in public places or on private property by more than one individual solicitor for or on behalf of a parent organization, including charitable, religious or political organizations, requires the parent organization and its individual solicitors to be registered under this Division.
(e) Certificates of registration for street soliciting or the use of fixed stands for soliciting in public places will only be issued to charitable, religious, or political organizations for charitable purpose solicitation and require prior Township Board approval.

Sec. 10-516. Registration statement.

In order to register and obtain a solicitor registration certificate as required by this Article, a solicitor or a solicitor's parent organization shall register with the Township upon application forms provided by the Township Clerk. For street solicitation or the use of fixed stands for soliciting in public places, the application shall be submitted at least 30 days before the first proposed solicitation date. To obtain a registration certificate, the registrant shall provide the following information:

(a) The name of the individual or parent organization that is registering.

(*CHAPTER 10, ARTICLE VII, DIVISION 3 , SECTION 10-516* cont.)

(b) For individual registrations, the registrant's business or residence addresses, telephone numbers, and email address if any.

(c) If the person registering is a parent organization intending to register multiple solicitors:

(1) The legal and any assumed names of the parent organization, its business address, website address (if any), telephone number and form of business organization (corporation, partnership, limited liability company, or other entity);

(2) The names of the parent organization's resident agent and officers, directors, general partners, members, and managers, as applicable;

(3) The identity, title and contact phone numbers and email address for the person who will be in direct charge or control of the soliciting and responsible for the supervision and conduct of the solicitors;

(4) The names of the individual solicitors who will participate in the soliciting;

(5) Where and when the parent organization was established; and

(6) The federal tax identification number, and verification of its tax exempt classification and status under the Internal Revenue Code, if any.

(d) Proof of licensing by the state attorney general as a charitable organization as defined in and if required by the Charitable Organizations and Solicitations Act, Public Act No 169 of 1975, as amended, MCL 400.271 – MCL 400.294.

(e) A statement as to whether the person registering, or if the registrant is a parent organization whether any officer, partner, member, manager, director, or proposed solicitor of the parent organization has been convicted of a felony or any misdemeanor involving moral turpitude, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct, and if so, a brief description of the crime, including its location and date, and final disposition.

(f) A brief description of the purpose of the solicitation and explanation of the intended use of the funds towards that purpose.

(g) If the solicitation is for a charitable purpose, a description of that purpose, identification of the charitable, religious, or political organization it is for, and if the registrant is an individual, a written statement of authorization for the solicitation from that organization.

(h) A daily schedule of the location, dates and times where and when the solicitation will occur, giving the dates the solicitation will begin and end.

(i) A description of the methods and means to be used in the solicitation.

(j) A statement to the effect that if a certificate of registration is issued, it will not be used, relied on, or represented to be an endorsement by the Township or any of its officials or employees.

(k) For street soliciting or the use of fixed stands for soliciting in public places, proof of the ability to satisfy the insurance requirements in Section 10-519.

(l) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.

(m) The registration statement must be signed by an individual applicant, by a partner of a partnership, by an officer of a corporation, by a manager or member of a limited liability company, and for other entities, by a person with the authority to do so. The signature on the registration statement shall be under oath and attest that all of the information in the registration statement is true and correct.

Sec. 10-517. Registration fee.

Every registration statement shall be accompanied by a registration fee in an amount established by resolution of the Township Board, which shall not be refundable if a certificate of registration is not issued.

Sec. 10-518. Issuance of certificate of registration.

(a) Except for street soliciting or the use of fixed stands for soliciting in public places, within ten (10) business days of receiving a registration statement, the Township Clerk shall either issue a certificate of registration or notify the registrant in writing that the registration statement does not comply with the requirements of Section 10-516, identifying the information that has not been furnished that is required before a certificate of registration can be issued.

(*CHAPTER 10, ARTICLE VII, DIVISION 3, SECTION 10-518* cont.)

(b) Within ten (10) business days of that information being provided, the Township Clerk shall issue the certificate of registration.

(c) Except for street soliciting or the use of fixed stands for soliciting in public places, a certificate of registration issued by the Township Clerk shall be valid for a period of up to 120 days or through the last date of soliciting activity disclosed in the registration statement, whichever is earlier.

Sec. 10-519. Street soliciting and fixed stand soliciting and certificates of registration.

(a) Applications for street soliciting or the use of fixed stands for soliciting in public places, shall be reviewed and processed by the Township Clerk as provided in Section 10-518, except that the action to be taken on a complying application shall be to schedule it for the next regular Township Board meeting. Upon Township Board approval, the Township Clerk shall then issue the certificate of registration.

(b) Prior to issuance of a certificate of registration for street soliciting or the use of fixed stands for soliciting in public places, the registrant shall provide the Township Clerk with a certificate of insurance for the solicitation, confirming the existence of commercial general liability insurance policy in an amount established by resolution of the Township Board, that names the Township as an insured in addition to the registrant and each person that will be engaged in the soliciting on the policy.

(c) A certificate of registration for street soliciting or the use of fixed stands for soliciting in public places shall designate no more than three (3) days (twelve-hour periods), by date and hours, within the calendar year during which that charitable, religious, or political organization may engage in such solicitation. The Township Board may extend or alter the dates or hours upon request of the registrant.

(d) Solicitors involved in street soliciting shall not make physical contact with a vehicle or interfere with the passage of any vehicle on the street.

(e) Such solicitors located within the traveled portion of the street shall wear the type of high visibility garment that emergency responders operating in or near a roadway are required to wear pursuant to the Federal Highway Administration regulations and National Fire Protection Association standards, and while soliciting, their position shall not extend more than 100 feet from the stop bar on the leg of the intersection at which they are street and curb soliciting.

(f) Such solicitors shall not solicit in any manner that requires the person wishing to respond to the solicitor to exit a vehicle or walk or stand within the travel portion of the street.

(g) No more than two (2) solicitors may be positioned at any leg of an intersection at any time and they shall not cross from lane to lane while soliciting;

(h) Persons under the age of eighteen (18) shall not engage in street soliciting.

(i) Solicitors shall not harass occupants of vehicles or pedestrians in the area, and shall not make any attempt to communicate with the occupants of a vehicle unless the vehicle occupants ask a question or offer to make a donation.

Sec. 10-520. Form of certificate of registration.

The Township Clerk shall prescribe the form of the certificate of registration, which shall include on the form or by attachments, the registrant name, a registration number corresponding to the file containing the registration statement, the dates and locations for which it is valid, and on the form or by attachment to it, a list of the names of solicitors covered by the certificate. Each certificate of registration shall have the following prominently printed on it. 'The issuance of this Certificate of Registration is not an endorsement by the Township of Waterford or any of its officials or employees."

(*CHAPTER 10, ARTICLE VII, DIVISION 3* cont.)

Sec. 10-521. Public disclosure.

All certificates of registration and registration statements and information filed with the Township Clerk, whether or not a certificate of registration has been issued, shall be a public record subject to disclosure under the Freedom of Information Act and shall be available for inspection by members of the public during regular business hours, with copies obtainable upon payment of costs as allowed by law.

Sec. 10-522. Exemptions.

The following persons shall be exempt from the registration requirements in this Division but shall be subject to and comply with all other requirements unrelated to registration:

(a) A public safety organization as defined in and registered with the state attorney general under the Public Safety Solicitation Act, Public Act No 298 of 1992, as amended, MCL 14.301 – MCL 14.327.

(b) Any honorably discharged veteran who is a resident of this state and who has obtained a veteran's license from a County clerk within the state of Michigan.

(c) Persons under 18 years of age engaged in soliciting within three (3) miles of their residence for a charitable purpose.

Secs. 10-523 - 10-529. Reserved.

Division 4. Peddler Regulations.

Sec. 10-530. Peddler licensing.

(a) No person shall be a peddler or engage in peddling in the Township without first obtaining a peddler license from the Township Clerk, unless such person is specifically exempt from this licensing requirement under Section 10-060.

(b) In order to obtain a peddler license required by this Division, a peddler shall apply for said license upon forms prescribed and furnished by the Township Clerk. The information provided by the applicant shall include all of the following:

(1) The name of the applicant who proposes to peddle within the Township, including his or her business street address, website address (if any) and telephone number, home address and telephone number, driver's license number and physical description including height, weight, and color of hair and eyes.

(2) The complete name, street address, website address (if any) and telephone number of the peddler's parent organization and where and when the parent organization was established or incorporated and the form of its organization.

(3) A detailed description of the type of peddling to be undertaken and the method to be used in conducting the peddling.

(4) The dates and times when, and locations where, peddling will occur, giving the proposed dates for the beginning and ending of such peddling and the hours of the days thereof.

(5) The types of goods, wares, merchandise and services to be sold, offered, or for which orders will be taken.

(6) Whether the applicant or parent organization has ever been denied a license for peddling, had a license for peddling suspended or revoked, or been prohibited from peddling in the Township or any other community.

(7) Whether the applicant, or any officer, partner, member, manager, or director of the parent organization has been convicted of a felony or any misdemeanor for a violation of federal, state or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not

(*CHAPTER 10, ARTICLE VII, DIVISION 4 , SECTION 10-530* cont.)

limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct, and if so, a brief description of the crime or violation, including its location and date, and an explanation of the reason therefore.

(8) Two (2) color photographs of the applicant, one (1) being a photograph taken within sixty (60) days prior to the date of filing of the application and the other photograph being from the applicant's driver's license or other governmentally issued identification, with a copy of such driver's license to be attached to the application. The photograph that is not from the applicant's driver's license shall be at least two (2) inches by two (2) inches and shall show the head and shoulders of the applicant in a clear and distinguishing manner. In the event that the applicant has not been issued a driver's license or it has been revoked, then the applicant shall submit a second separate photograph with the application, such photograph being at least two (2) inches by two (2) inches and shall show the head and shoulders of the applicant in a clear and distinguishing manner.

(9) The applicant's and parent organization's state of Michigan sales tax license number.

(10) A criminal background report of the applicant's criminal history. Such reports shall be obtained by the applicant through the Internet Criminal History Access Tool (ICHAT) for applicants residing in Michigan and/or through another state-sponsored or authorized criminal history access source for applicants who reside in other states or have resided in other states within five (5) years prior to the date of the application. The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report or other criminal history report and the report must be dated within thirty (30) days of the date of the application.

(11) If under eighteen (18) years of age, the applicant must provide a copy of a valid work permit issued by the applicant's school, school district offices or other authorized issuing agency to the applicant for purposes of the peddling activity proposed to be undertaken in the Township.

(12) If the applicant will be engaging in peddling using, from, or out of a motor vehicle on the streets of the Township, the applicant must provide information to verify that the applicant has a valid driver's license, has not been convicted of a misdemeanor or felony moving violation within the last three (3) years, and has not been found responsible for three (3) or more motor vehicle moving violations under the Michigan Motor Vehicle Code or local ordinances within the last three (3) years. Any such motor vehicle shall be brought to the Township and inspected by a designated representative of the police department and must be found to meet any safety standards adopted by the police department and any standards adopted by the State of Michigan, and the police department's checklist form signed by the designated police department representative verifying such compliance shall be submitted with the application.

(13) If the applicant will be engaging in the sale of food or beverages, a health license issued by the Oakland County Health Department. Such peddler's equipment shall be subject to inspections by the Oakland County Health Department at the time of application, as required by the state public health code.

(c)

(1) An administrative processing and license fee for a peddler license application shall be established by resolution of the Township Board and be paid when the application is filed with the Township.

(2) An applicant engaged in interstate commerce that believes the fee constitutes an unreasonable burden on such commerce, may apply in writing to the Township Clerk for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at the time of, or within six (6) months after payment of the required license fee. An application for adjustment of the fee shall present the facts and laws the applicant relies on it support of its position and shall indicate the extent to which the fee unreasonably burdens interstate commerce. The Township Clerk shall then schedule the application for review and consideration by the Township Board and provide notice to the applicant of the day and time of that meeting and the opportunity to be heard. After its hearing and conducting any investigation it determines appropriate, the Township Board shall determine if, and by how much the fee should be adjusted and the applicant shall be notified in writing of that determination. If the Township Board adjusts a fee that has already

(*CHAPTER 10, ARTICLE VII, DIVISION 4 , SECTION 10-530* cont.)

been paid, the Township Clerk shall order a refund of the amount over and above the adjusted fee.

(d) The Township Clerk and Police Chief shall examine all peddler license applications and shall make or cause to be made such further investigation of the application or applicant as the Township Clerk and/or Police Chief shall deem necessary. If the Township Clerk and Police Chief both find the application to be complete and satisfactory in consideration of the purpose, intent and applicable provisions of this Division, the Township Clerk shall approve and issue the license. The Township Clerk may deny issuance of a license upon finding any of the following:

(1) The applicant failed to truthfully provide information required in this Division.

(2) The applicant has engaged in a fraudulent transaction or enterprise.

(3) The applicant has been convicted within the past ten (10) years of a violation of federal, state or local laws, ordinances, or regulations reflecting adversely on the applicant's ability to conduct the business for which the license is being sought in an honest and legal manner, including, but not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, any form of actual or threatened physical harm against another person, or any type of criminal sexual conduct.

(4) The applicant is listed on any criminal sex offender registry or has any outstanding warrants for any misdemeanor or felony.

(5) If the applicant will be engaging in peddling using, from, or out of a motor vehicle in the streets and roads of the Township, the applicant does not have a valid driver's license, has been convicted of a misdemeanor or felony moving violation within the last three (3) years, or has been found responsible for three (3) or more motor vehicle moving violations under the Michigan Motor Vehicle Code or local ordinances within the last three (3) years.

(6) The applicant has had a license to conduct peddling or soliciting suspended or revoked within the past ten (10) years.

(e) A peddler license shall bear the name, address and photograph of the peddler; the date issued; the dates within which the license holder may peddle; the expiration date of the license; and a statement that the license does not constitute an endorsement by the Township of the purpose or products or services involved or of the persons or parent organization conducting the peddling. All peddler licenses shall be signed by the Township Clerk.

(f) A peddler license shall be valid for a period of up to one hundred and twenty (120) days or the last date of peddling disclosed in the application, whichever is earlier, and is nontransferable.

Sec 10-531. Peddler License Renewals.

Peddler licenses may be renewed provided an application for renewal and renewal license fee are received by the Township Clerk no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. If the Township Clerk's review of an application for renewal confirms that the applicant is in full compliance with the provisions of this Division, the license may be renewed.

Sec. 10-532. Peddler License denials, suspensions and revocations.

Peddler licenses may be denied, suspended or revoked as provided in Sections 10-079, 10-080 and in Division 3 of Article III of this Chapter.

Sec. 10-533. Display of license.

A peddler shall visibly display on the exterior of his or her clothes at all times a valid peddler license issued under this Article and shall tender such license upon the request of any police officer or person the peddler has approached or contacted.

(*CHAPTER 10, ARTICLE VII, DIVISION 4* cont.)

Sec. 10-534. Peddling on Public Property.

(a) Except as allowed in subsections (b) and (c), peddling is prohibited within, on, or at any public property, including streets and street rights-of-way, corners and intersections, easements, lanes, sidewalks, driveways, alleys, parking lots, and any other publicly owned, possessed or controlled property.

(b) For special events conducted by or with the approval of the Township, a peddler may apply for a peddler's license at least thirty (30) days prior to the scheduled special event by providing the information required in Section 10-530. If the peddler license is approved by the Township Clerk, the term and property covered by the license shall be limited to the period and location of the special event.

(c) Peddlers of food or beverages from a vehicle approved by the police department may engage in peddling on residential public streets and rights-of-way only, and may not peddle on streets considered major thoroughfares or public parking lots, provided such peddlers comply with all otherwise applicable requirements of this Code, including provisions relating to noise and hours of operation, and otherwise applicable laws and regulations.

Sec. 10-535. Misrepresentation in Peddling.

No fraudulent or misleading representations shall be made by a peddler to any person concerning the product or service being sold or offered, name of the peddler, the name and nature of the parent organization, the purposes for which the parent organization was organized, or any other material fact.

Sec. 10-536. Exemptions.

The following persons shall be exempt from the licensing, registration and fee requirements of this Division, but shall be subject to the other sections of this Division:

(1) Persons engaged in the distribution of newspapers.
(2) Township merchants and representatives engaging in year-round business with a permanent location in the Township.
(3) Any honorably discharged veteran who is a resident of this state and who has obtained a veteran's license from a County clerk within the state of Michigan.
(4) Persons selling produce from the site where it was grown by them.

The following persons shall be exempt from this Division:

(1) Persons peddling to fellow members of the peddler's parent organization.
(2) Persons peddling on private property owned or possessed by the parent organization, or with the permission of the owner or person in lawful possession of other property.

CHAPTER 11 OFFENSES

Art. I. In General, §§ 11-001--11-030 ..... Pages 11-1 and 11-3
Art. II. Offenses Affecting Governmental Functions, §§ 11-031--11-065 ..... Pages 11-3 through 11-5
Art. III. Offenses Against the Person, §§ 11-066--11-090 ..... Pages 11-5 and 11-7
Art. IV. Offenses Against Property, §§ 11-091--11-165 ..... Pages 11-7 through 11-12
Div. 1. Generally, §§ 11-091--11-100 ..... *Page 11-7*
Div. 2. Theft, §§ 11-101--11-125 ..... *Pages 11-7 through 11-10*
Div. 3. Destruction of Property, §§ 11-126--11-140 ..... *Pages 11-10 and 11-11*
Div. 4. Trespass, §§ 11-141--11-165 ..... *Pages 11-11 and 11-12*
Art. V. Offenses Against Public Peace, §§ 11-166--11-200 ..... Pages 11-12 through 11-15
Art. VI. Offenses Against Public Morals, §§ 11-201--11-300 ..... Pages 11-15 through 11-23
Div. 1. Generally, §§ 11-201--11-210 ..... *Pages 11-15 through 17-16*
Div. 2. Prostitution, §§ 11-211--11-225 ..... *Page 11-16*
Div. 3. Gambling, §§ 11-226--11-240 ..... *Pages 11-17 through 11-18*
Div. 4. Controlled Substances, §§ 11-241--11-260 ..... *Pages 11-18 through 11-21*
Div. 5. Drug Paraphernalia, §§ 11-261--11-275 ..... *Pages 11-21 and 11-22*
Div. 6. Model Glue, §§ 11-276--11-300 ..... *Page 11-23*
Art. VII. Offenses Against Public Safety, §§ 11-301--11-350 ..... Pages 11-24 through 11-27
Div. 1. Generally, §§ 11-301--11-315 ..... *Page 11-24*
Div. 2. Weapons, §§ 11-316--11-350 ..... *Pages 11-24 through 11-27*
Art. VIII. Offenses on School Grounds, §§ 11-351--11-380 ..... Pages 11-28 and 11-29
Div. 1. Generally, §§ 11-351--11-370 ..... *Page 11-28*
Div. 2. Smoking in Educational Facilities, §§ 11-371--11-380 ..... *Page 11-29*
Art. IX. Offenses Involving Minors, §§ 11-381--11-399.1 ..... Pages 11-30 through 11-34
Div. 1. Generally, §§ 11-381--11-395 ..... *Pages 11-30 through 11-34*
Div. 2. Curfew, §§ 11-396--11-399 ..... *Page 11-34*
Art. X. Watercraft Regulations, §§ 11-400--11-404 ..... Pages 11-34 through 11-35

ARTICLE I IN GENERAL

Sec. 11-001. Definitions and violations.

(a) Definitions. In addition to the rules of construction and definitions contained in Section 1-002 and this Chapter, definitions of words and phrases in The Michigan Penal Code, Public Act No.328 of 1931, as amended, MCL 750.1 - MCL 750.568, and in Chapter 752 of the Michigan Compiled Laws for Crimes and Offenses, MCL 752.1 et. seq., shall be deemed to apply when those words and phrases are used but not defined in this Chapter or Code.

(b) Violations. Except for Sections of this Chapter designated as civil infraction violations or otherwise, violation of any other Section in this Chapter is a misdemeanor punishable as provided in Section 1-010(a) of this Code, subject to any different punishment or disposition that is specified in and for a violation of a specific Section.

Sec. 11-002. Abolition of distinction between accessory and principal.

Every person concerned in the commission of an offense under this Code, whether he directly commits the act constituting the offense or procures, counsels, aids or abets in its commission may hereafter be prosecuted, indicted, tried and on conviction shall be punished as if he had directly committed such offense.

(*CHAPTER 11, ARTICLE I cont.*)

Sec. 11-003. Begging; Civil infraction.

(a) For purposes of this section, "beg" or "begging" means an uninvited request or solicitation by words, gestures, and/or signs, for the immediate payment of money, provision of a service, or delivery of property by or from another person in a public place, as defined in Section 11-175(a). Except as otherwise prohibited in this section or Code, it shall be lawful to beg in public places, including on public sidewalks and in public parks.

(b) Except as otherwise provided in this Code, or authorized by law, it shall be unlawful for a person to beg in the following locations:
- (1) On property of, or in a building containing, a bank, credit union, or other financial institution that as a principal business, maintains accounts for on-site deposits and withdrawals of cash by customers.
- (2) Within 20 feet of an automated teller (ATM) machine.
- (3) On an area of private property that is physically or visually separated and distinguishable from all public sidewalks, where begging is prohibited by a posted sign that is visible to a reasonably observant person.

(c) Except as otherwise provided in this Code, or authorized by law, it shall be unlawful for a person to beg by engaging in any of the following activities:
- (1) Touching the solicited person without that person's consent.
- (2) Blocking the path of the person being solicited, or the entrance to any building, facility, or vehicle, in a manner that hinders or impedes free and uninterrupted pedestrian or vehicle movement.
- (3) Making more than one additional request after a refusal by the person being solicited.
- (4) With the intent to continue to solicit, following behind, alongside or ahead of a person who walks away from the solicitor after having been solicited.
- (5) Conduct, a statement, or gesture during or following refusal of a solicitation that:
  - (i) Disrupts the public peace and quiet as prohibited in Section 11-167.
  - (ii) Would cause a reasonable person to feel threatened and in fear of harm to his or her person, family, or property.
  - (iii) Is so personally derisive, obscene, lewd, profane, libelous, insulting, or abusive as to inflict injury on, or incite an immediate breach of the peace by, a reasonable person.
  - (iv) Would cause a reasonable person to feel intimidated, coerced, or compelled to make a donation.

(d) Violation of this Section is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Sec. 11-004. Window peeping; Misdemeanor.

It shall be unlawful for any person to look, peer, or peep into, or be found loitering around, or within view of any window not on his own property, with the intent of looking through such window in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy without the occupant's express or implied consent.

(Comp. Ords. 1986, § 20.476)

Sec. 11-005. Loitering at place of criminal activity; Civil infraction.

It is a violation of this Code for any person to knowingly loiter at or near any structure, vehicle, or any public or private property, where criminal conduct or activity is occurring, or where an illegal occupation or business is being conducted. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Ord. of 3-10-2003)

(*CHAPTER 11, ARTICLE I cont.*)

Sec. 11-006. Soliciting illegal or immoral act; Misdemeanor.

It shall be unlawful for any person to solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act.

(Comp. Ords. 1986, § 20.478)

(Ord. of 7-8-2002)

Secs. 11-007--11-030. Reserved

ARTICLE II OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS*

**Cross references:* *Administration, Ch. 2.*

Sec. 11-031. 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:

Government means any principal subdivision or agency of the United States of America, the state, the County, the Township, or any agency of local governmental operation within the Township.

Governmental function means any activity which a public agency or public servant is legally authorized to perform.

Property means any money, personal property, real property, thing in action, evidence of debt or contract, or article of any kind.

(Comp. Ords. 1986, §§ 20.461, 20.463)

Sec. 11-032. Obstructing officer or governmental function; Misdemeanor.

It shall be a violation of this code for any person to obstruct, impair or hinder the legal performance of a governmental function, including but not limited to a police or public safety officer in the reasonable discharge of his or her duties, by any act, word, threat, physical interference or obstacle which either:

(a) Is designed to interfere or hinder the officer or governmental function, or;

(b) Is likely to result in the interference or hindering of any officer or governmental function, and the violator reasonably was aware, or should have been aware, that the said action would likely result in the interference or hindrance.

(Comp. Ords. 1986, § 20.574; Ord. of 3-8-1999)

Sec. 11-033. Resisting officer; Misdemeanor.

It shall be unlawful for any person to resist any police officer or other law enforcement agent while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty, or to use or threaten to use physical force or violence against the peace officer or another; or, to use any other means, thereby creating a substantial risk of causing physical injury to the peace officer or another.

(Comp. Ords. 1986, § 20.587)

(*CHAPTER 11, ARTICLE II cont.*)

Sec. 11-034. Resisting booking procedure; Misdemeanor.

It shall be unlawful for any person to willfully refuse and resist the established booking procedure, including fingerprint exemplars, photographing and supplying arrest card information, of the Township police department following a lawful arrest.

(Comp. Ords. 1986, § 20.575)

Sec. 11-035. Impersonation of officers; Misdemeanor.

(a) It shall be unlawful for any person to impersonate or falsely assume or pretend to be an employee of the Township, County, state, federal government, or a utility, cable, or telecommunications provider for the purpose of gaining entry into any home or business located in the Township.

(b) It shall be unlawful for any person to impersonate or falsely assume or pretend to be a Waterford Township police officer, any other police officer, a sheriff or deputy sheriff, or state or federal agent.

(Comp. Ords. 1986, § 20.571; Ord. of 9-28-1999)

State law references: *False personation of officers, MCL 750.215.*

Sec. 11-036. Expectorating on or at officers; Misdemeanor.

It shall be unlawful for any person to expectorate or spit, or attempt to expectorate or spit, at or on a peace officer, or officer of the court, who is engaged in the performance of the duties of their office.

(Comp. Ords. 1986, § 20.576)

Sec. 11-037. Obstructing judicial functions; Misdemeanor.

It shall be unlawful for any person to obstruct or interfere with the administration of justice by impeding, or attempting to impede, those parties who seek justice in court or those who have duties or powers of administering justice therein.

(Comp. Ords. 1986, § 20.577)

Sec. 11-038. False reporting to law enforcement officials; Misdemeanor.

A person commits the offense of false reporting to law enforcement officials if he:

(a) Makes a report or intentionally causes the transmission of a report to law enforcement authorities of a crime or other incident within their concern when he knows that it did not occur.

(b) Makes a report or purposely causes the transmission of a report to law enforcement authorities pretending to furnish information relating to a crime or other incident within their concern when he knows that he has no such information.

(Comp. Ords. 1986, §§ 20.580--20.582)

Sec. 11-039. Fleeing or eluding traffic stop; Misdemeanor.

A person commits the offense of fleeing a traffic stop if he is the driver of a motor vehicle and fails to stop after being directed to do so by a peace officer, or after having been lawfully stopped and detained by a peace officer, thereafter flees or eludes, or attempts to flee or elude the officer, either on foot, in a motor vehicle, or in any other fashion.

Sec. 11-040. Obstructing, disobeying firefighters; Misdemeanor.

It shall be unlawful for any person within the Township to knowingly and willfully hinder, obstruct or interfere with, or to disobey or disregard any order of any firefighter while in the performance of his duties.

(*CHAPTER 11, ARTICLE II cont.*)

Sec. 11-041. False alarm of fire; Misdemeanor.

Any person who shall knowingly and willfully commit any one (1) or more of the following actions shall be guilty of a misdemeanor:

(a) Raise a false alarm of fire at any gathering or in any public place.

(b) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire.

(c) Raise a false alarm of fire orally, by telephone or in person.

Sec. 11-042. False police or medical emergency alarms; Misdemeanor.

It shall be unlawful for any person to summon, without any good reason therefore, by telephone or otherwise, the police department or any public or private ambulance to go to any address where the service called for is not needed or requested.

(Comp. Ords. 1986, § 20.572)

Sec. 11-043. Obstructing access to polling places; Civil infraction.

It shall be unlawful for any person to solicit, petition, canvass, or in any way interfere with the access of persons to and from polling places in local, state or national elections, either at or within such polling places or within one hundred (100) feet from the entrance of such polling places. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Comp. Ords. 1986, § 20.573)

(Ord. of 7-8-2002)

Secs. 11-044--11-065. Reserved.

ARTICLE III OFFENSES AGAINST THE PERSON

Sec. 11-066. Assault and battery; domestic assault; Misdemeanor.

(a) It shall be a violation of this Code for any person within the Township to attempt or offer, with force and violence, to do a corporal hurt to another, or assault and/or batter any other person.

(b) It shall be a violation of this Code to assault, or assault and batter a person's spouse, former spouse, an individual with whom a person has or has had a dating relationship, an individual with whom a person has had a child in common, or a person with whom one resides or with whom one has formerly resided.

(c) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two (2) individuals in a business or social context.

(d) A violation of this Section is punishable as a misdemeanor as provided in Section 1-010(a) of this Code except that the maximum jail term is 93 days.

(Comp. Ords. 1986, §§ 20.471, 20.486; Ord. of 4-8-1996; Ord. of 5-14-2001; Ord. of 7-8-2002; Ord. of 4-28-2003)

Sec. 11-067. Stalking and Harassment; Misdemeanor.

(a) In this Section, the following words and phrases shall have the meanings respectively assigned to them:

(*CHAPTER 11, ARTICLE III, SECTION 11-067* cont.)

Stalking means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Harassment means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress, including but not limited to:

(1) Stalking, as defined herein.
(2) The transmission of e-mail, text, phone or other social media messages which contains threats of bodily injury, directly or indirectly, or threats of other kinds intended to place the person in fear of the safety of their person or property.
(3) Deliberately follows a person in or about a public place.
(4) Strikes, shoves, kicks, or otherwise intentionally touches a person or subjects person to physical contact.
(5) A combination of any of the above acts or conduct.

Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(b) It shall be unlawful for any person to engage in stalking or harassment of another person.

(Comp. Ords. 1986, §§ 20.473, 20.485--20.488; Ord. of 10-24-2011)

Sec. 11-068. Malicious annoyance by writing; Misdemeanor.

It shall be unlawful for any person within the Township to knowingly send or deliver, or to make, for the purpose of being delivered, or sent, to part with the possession of any letter, postal card or writing containing any obscene language with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation with the intent thereby to cause annoyance to any person, within the Township or with a view or intent to extort or gain any money or property of any description belonging to another.

Sec. 11-069. Malicious acts; Misdemeanor.

(a) Any person is guilty of a misdemeanor who maliciously uses any service provided by a communications, internet, or social media carrier, provider, service, or network with intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or to disturb the peace and quiet of any other person by any of the following:

(1) Threatening physical harm or damage to any person or property.
(2) Falsely and deliberately reporting that any person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime, or of an accident.
(3) Deliberately refusing or failing to disengage a connection between a telephone and another telephone or between a telephone and other equipment provided for the transmission of messages by telephone, thereby interfering with any communications service.
(4) Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of a communication.
(5) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.
(6) Making an unsolicited commercial telephone call which is received between the hours of 9:00 p.m. and 9:00 a.m. For the purpose of this subdivision, "an unsolicited commercial telephone call" means a call made by a person or recording device on behalf of a person soliciting business or contributions.
(7) Deliberately calling a telephone of another person in a repetitive manner which causes interruption in telephone service or prevents the person from utilizing his telephone service.

(b) An offense shall be committed under subsections (a)(1) through (4) of this section if the message either originates or terminates within the Township.

(*CHAPTER 11, ARTICLE III, SECTION 11-069* cont.)

(Comp. Ords. 1986, §§ 20.490--20.495)
(Ord. of 7-8-2002)

Secs. 11-070--11-090. Reserved (Prior text of Sec. 11-070, Nonsupport of family, repealed.)

ARTICLE IV OFFENSES AGAINST PROPERTY*

Division 1. General

Sec. 11-091. Definition.

As used in this article, the word "obstruct" shall mean to interrupt, make difficult, oppose, or come in the way of such, as a course of action, passage, or the progression of an event.

(Comp. Ords. 1986, § 20.462)

Sec. 11-092. Expectorating on sidewalk or other public areas; Civil infraction.

It shall be unlawful for any person to spit or expectorate on any floor or seat of any public carrier; or on any wall, seat or equipment of any place of public assemblage. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Comp. Ords. 1986, § 20.504)
(Ord. of 7-8-2002)

Secs. 11-093--11-100. Reserved.

Division 2. Theft*

Sec. 11-101. Larceny of property; Misdemeanor.

It is a violation of this Code for any person within the Township to steal, take, carry away, obtain by deceit, trick or conversion any money, goods, chattels, property or services of another person or entity where such property has any personal or market value.

(Comp. Ords. 1986, § 20.502; Ord. of 3-8-1999; Ord. of 1-24-2005)

Sec. 11-102. Larceny from vacant buildings; Misdemeanor.

It shall be unlawful for any person or persons within the Township to steal or unlawfully remove or in any manner damage any fixture, attachment, or other property belonging to, connected with, or used in the construction of any vacant structure or building, whether built or in the process of construction, or to break into any vacant structure or building with the intention of unlawfully removing, taking there from, or in any manner damaging any fixture, attachment or other property belonging to, connected with, or used in the construction of such vacant structure or building, whether built or in the process of construction.

Sec. 11-103. Larceny from public libraries; Misdemeanor.

It shall be unlawful for any person within the Township to procure, or take in any way from the public library in the Township any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to his own use.

(*CHAPTER 11, ARTICLE IV, DIVISION 2 cont.*)

Sec. 11-104. Breaking and entering coin box; Misdemeanor.

It shall be unlawful for any person within the Township to maliciously and willfully, by and with the aid and use of any key, instrument, device or explosive, blow or attempt to blow, or force or attempt to force an entrance into any coin box, depository box, newspaper coin box, vending machine, or other device that does or is designed to contain money, established and maintained for the convenience of the public, or for any person to not make payment for any articles of merchandise or service from such a device, or to extract or obtain or attempt to extract or obtain from such a device, any money or thing of value contained therein.

Sec. 11-105. Breaking and entering outside showcases; Misdemeanor.

It shall be unlawful for any person in the Township to break and enter, or to attempt to break and enter, or enter without breaking at any time any outside showcase or other outside enclosed counter used for the display of goods, wares or merchandise, with intent to steal, or to commit the crime of larceny therein.

Sec. 11-106. Weights and measures; Misdemeanor.

Any person who shall offer or expose for sale, sell, or use or retain in his possession, a false weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or for hire or reward; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tags placed thereon by the sealer of weights and measures; or any person who shall sell or offer or expose for sale less than the quantity he represents, or sell or offer or expose for sale any such commodity in any manner contrary to law, or any person who shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, shall be guilty of a violation of this Code.

Sec. 11-107. Frauds unlawful; Misdemeanor.

It shall be unlawful for any person within the Township to engage in any fraudulent scheme, device or trick to obtain money or other valuable thing, or to aid or abet, or in any manner to be concerned therein, or to convert money or property lawfully in one's possession to one's use without authority.

Sec. 11-108. Reserved (Prior text False statements for welfare aid unlawful; repealed)

Sec. 11-109. Fraudulent or insufficient funds checks; or closed account checks; Misdemeanor.

It is a violation of this code for:

(a) Any person who, with intent to defraud, shall make or draw or utter or deliver within the Township any check, draft or order for the payment of money, up to five hundred ($500.00) dollars to apply on account or otherwise, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering, that the maker, or drawer, has not sufficient funds in or credit with such bank or other depository, for the payment of such check, draft or order, in full, upon its presentation;

(b) Or, any person who, with the intent of defraud, shall make, draw, utter deliver within the Township any check, draft or order for the payment of money up to five hundred ($500.00) dollars to apply on account or otherwise, upon any bank or other depository and who shall not have sufficient funds for the payment for same when presentation for payment is made to the bank or depository, except where

(*CHAPTER 11, ARTICLE IV, DIVISION 2, SECTION 11-110 cont.*)

such 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 so doing.

(c) Or, any person who, with the intent to defraud, shall make, draw, utter or deliver within the Township any check for the payment of money on account or otherwise, upon any bank or other depository where the said account shall have been closed.

(Comp. Ords. 1986, § 20.579; Ord. of 6-13-1988, § 1.00; Ord. of 3-8-1999)

Sec. 11-110. Revoked or cancelled financial transaction device; Misdemeanor.

Any person who knowingly and with intent to defraud uses for the purpose of obtaining goods, property or services or anything of value, a financial transaction device which has been stolen or which has been revoked or cancelled by the issuer thereof, as distinguished from expired, and notice of such revocation or cancellation has been received by such person through registered or certified mail or by personal service, shall be guilty of a misdemeanor.

Sec. 11-111. Receiving or concealing stolen property; Misdemeanor.

(a) It is a violation of this code for any person to buy, receive, possess, conceal, or aid in the concealment of stolen, embezzled, or converted money, goods, or property knowing the money, goods, or property to be stolen, embezzled or converted, if the value of the stolen, embezzled or converted money, goods, or property is one thousand dollars ($1,000.00) or less.

(b) A person who is a pawnbroker or dealer in or collector of secondhand materials, junk, precious metals or gems, or other merchandise or personal property, and any agent, employee or representative of such a pawnbroker, dealer or collector who fails to make reasonable inquiry that the person selling or delivering the stolen, embezzled or converted property to the dealer or collector has a legal right to do so or who buys or receives stolen, embezzled or converted property which has a registration, serial or other identifying number altered or obliterated on an external surface of the property, shall be presumed to have bought or received the property knowing the property to be stolen, embezzled or converted. This presumption may be rebutted by proof.

(Comp. Ords. 1986, § 20.505; Ord. of 3-8-1999)

Sec. 11-112. Retail fraud; Misdemeanor.

It shall be unlawful for any person to do any of the following in a store or in its immediate vicinity:

(a) While a store is open to the public, alter, transfer, remove and replace, conceal, or otherwise misrepresent the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale.

(b) While a store is open to the public, steal property of the store that is offered for sale.

(c) With intent to defraud, obtain or attempt to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store.

Sec. 11-113. Fraud on restaurant or inn; Misdemeanor.

(a) Any person who shall put up at any hotel, inn, restaurant or cafe as a guest and shall procure any food, entertainment or accommodation without paying therefore, except when credit is given therefore by express agreement, with intent to defraud such keeper thereof out of pay for the same, or who, with intent to defraud such keeper out of the pay therefore shall obtain credit at any hotel, inn, restaurant or cafe for such food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto, shall be guilty of defrauding an innkeeper; provided, that no conviction shall be had under the provisions of this section unless complaint shall be made within sixty (60) days of the time of the violation hereof.

(*CHAPTER 11, ARTICLE IV, DIVISION 2, SECTION 11-113 cont.*)

(b) Obtaining such food, lodging, or accommodation by false pretense, or by false or fictitious show of baggage or other property, or refusal or neglect to pay therefore on demand, or payment thereof with check, draft or order upon a bank or other depository on which payment was refused, or absconding without paying or offering to pay therefore, or surreptitiously removing or attempting to remove baggage shall be prima facie evidence of such intent to defraud.

(Comp. Ords. 1986, § 20.578)

Secs. 11-114--11-125. Reserved.

Division 3. Destruction Of Property*

Sec. 11-126. Malicious destruction of property generally; graffiti; responsibility of property owner to remove; Misdemeanor.

(a) It is a violation of this code for any person within the Township to willfully or maliciously destroy or damage the real or personal property of another, or to willfully or maliciously destroy or damage, any appurtenances thereof, or to paint, inscribe, write or scrape messages, words, numbers, symbols or any other picture upon the real or personal property of another without the express consent of the owner of such property, where the damage done shall be one thousand dollars ($1,000.00) or less.

(b) It shall be the responsibility of the owner of any property marked or defaced as defined in subsection (a) of this section to remove, erase, or paint over such markings as soon as possible after discovery of the existence of such markings so as to minimize the addition of further markings and other blight upon the property. Pursuant to this section, the owner shall be entitled to restitution in an amount determined by the court for the cost of removing those markings, such restitution to be paid by any person convicted under this section of making such markings.

(Comp. Ords. 1986, § 20.503; Ord. of 8-14-1995; Ord. of 3-8-1999)

Sec. 11-127. Malicious destruction of public property; Misdemeanor.

It shall be unlawful for any person within the Township to maliciously destroy, damage, injure, mar or deface any building, monument, sign or structure or fence, tree, shrub, plant, park or public property of any kind which is owned, controlled, or managed by the state, County, city, any school district within the Township, or by any other unit or agency of government whose operating budget is raised in whole or in part by public taxation, or to commit any act of vandalism on or in any such property.

Sec. 11-128. Responsibility of smokers; Misdemeanor.

It shall be unlawful for any person in smoking or attempting to light or to smoke a cigarette, cigar, pipe or tobacco in any form for which lighters or matches are used, or in the use of flammable liquids, to set fire to any real or personal property the person does not own or have a right to possess.

Sec. 11-129. Tampering--Generally; Misdemeanor.

A person that has no right to do so and no reasonable ground to believe that he has such right, shall not tamper or meddle with public property or private property belonging to another person even though no damage results.

(Comp. Ords. 1986, § 20.520)

Sec. 11-130. Tampering--Motor vehicle; Misdemeanor.

Any person shall be guilty of a violation of this Code who shall:

(*CHAPTER 11, ARTICLE IV, DIVISION 3, SECTION 11-130 cont.*)

(a) Intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of such motor vehicle;

(b) Intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstering of any motor vehicle, the property of another, or intentionally cut, mash, mark, destroy or damage such motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof; or

(c) Intentionally release the brake upon any standing motor vehicle, with intent to injure said machine and cause the same to be removed without the consent of the owner; provided, that this section shall not apply in case of moving or starting of motor vehicles by the police under authority of local ordinance or by members of fire departments in case of emergency in the vicinity of a fire.

Secs. 11-131--11-140. Reserved.

Division 4. Trespass*

Sec. 11-141. Upon lands or premises of another; Misdemeanor.

It shall be unlawful for any person to willfully enter upon the lands or premises of another without lawful authority, after having been forbidden to do so, or after such lands or premises have been previously posted with a conspicuous notice forbidding any trespass thereon by the owner or occupant, or agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, or agent or servant of either, who, without lawful authority neglects or refuses to depart therefrom.

(Comp. Ords. 1986, § 20.510)

Sec. 11-142. Breaking and entering generally; Misdemeanor.

It shall be unlawful for any person to break and enter, or without breaking, shall enter, at any time, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, factory or other building, boat, ship, railroad car or structure used or kept for public or private use with the intent to commit a felony or any larceny therein.

(Comp. Ords. 1986, § 20.506)

Sec. 11-143. Breaking and entering, entering without authority; Misdemeanor.

(a) It shall be unlawful for any person to break and enter, or shall enter without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boathouse, hunting or fishing lodge, garage or the outbuildings belonging thereto, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof.

(b) This section shall not apply:

(1) To entering without breaking of any place which at the time of such entry was open to the public, unless such entry has been expressly denied.

(2) Where the breaking and entering or entering without breaking was committed by a peace officer or other person authorized by law to break and enter or otherwise enter without breaking provided the breaking and entering or entering without breaking was committed in the lawful performance of their duties as a peace officer or other person authorized by law to break and enter or otherwise enter without breaking.

(*CHAPTER 11, ARTICLE IV, DIVISION 4, SECTION 11-143 cont.*)

(3) Where the breaking and entering or entering without breaking was committed by someone under the direction of a person exempted from the applicability of this section as noted in subsection (2) above.

(c) Complaint for violation of this section may be made by the owner, lessee or occupant of the structure, place, or area as set out in subsection (a) above, or the agent thereof, or the police department.

Sec. 11-144. Unauthorized entrance upon private parking area; Misdemeanor.

(a) It shall be unlawful for any person to enter or loiter upon any private parking area, either in a vehicle or on foot, without the express or implied permission of the owner, lessee, occupant or agent.

(b) Before this section shall be effective in any parking area, suitable signs must be first posted which would apprise the ordinarily observant person of the restricted use of the parking area. For the purpose of this section, implied permission shall be deemed granted to any person for the use designated by such signs. Implied permission shall not be deemed granted to any person, found upon any private parking area after business hours of the owner, lessee, occupant or agent of the parking area.

(c) The posting of signs upon a parking area pursuant to this section shall constitute authority by the owner, lessee, occupant or agent of the property for the police department to enforce this section.

(d) Complaint for violation of this section may be made by the owner, lessee or occupant of the parking area, or the agent thereof, or the police department.

Secs. 11-145--11-165. Reserved.

ARTICLE V OFFENSES AGAINST PUBLIC PEACE

Sec. 11-166. Definition

As used in this Article, the words "public place" or “open to the general public” shall mean a place to which the general public has access for business, entertainment, or other lawful purpose, and includes but is not limited to highways, sidewalks, parks, publicly owned or operated property, transportation facilities, schools, places of amusement, parking areas, playgrounds, the immediate area adjacent to a business establishment, and hallways, stairs, lobbies and other common use areas of apartment houses and other multi-user buildings or structures.

(Comp. Ords. 1986, § 20.458)

Sec. 11-167. Disruption of the peace; Misdemeanor.

(a) In this Section the following words and phrases shall have the meanings respectively assigned to them:

Public Peace and Quiet means:

(1) Conditions usually attendant to, and associated with, the public order, decorum, noise levels and activity of a developed residential setting or neighborhood at the time and place in issue.

(2) Conditions usually attended to, and associated with, the business or commercial activity with the occupied portions of business or commercial premises, including the exterior and parking areas or the premise, which conditions are conducive to such activity.

(3) Conditions usually attendant to, and associated with the pursuit of lawful occupations where such occupations are commonly engaged in at the time and place in issue.

Disrupts means to interrupt the normal course of harmony or activity under circumstances and to the degree that such disruption is substantial and unnecessary.

(*CHAPTER 11, ARTICLE V, SECTION 11-167 cont.*)

(b) It is a violation of this Section for any person to willfully, or while under the influence of alcohol and/or a controlled substance, engage in conduct which disrupts the public peace and quiet, by means of shouting or talking loudly, engaging in altercations, the playing of loud or amplified sound of any nature and from any source, the playing of musical instruments, or any other noise that interferes with the peace and comfort of other persons not on the property that is the source of the noise, and for a person that is engaging in such prohibited conduct to refuse to leave a premises when ordered to by the owner or lawful occupant of that premises. For purposes of this section, sound levels exceeding the maximum permitted noise levels under Section 2-206 of the Township Zoning Ordinance shall be presumed to disrupt the public peace and quiet.

(Comp. Ords. 1986, § 20.551; Ord. of 3-13-2000; Ord. of 10-24-2011)

Sec. 11-168. Permitting gathering of disorderly persons; Misdemeanor.

It shall be unlawful for any person within the Township to permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous or disorderly persons.

(Comp. Ords. 1986, § 20.552)

Sec. 11-169. Jostling; Misdemeanor.

It is unlawful for any person within the Township to jostle or roughly crowd people unnecessarily in a public place.

(Comp. Ords. 1986, § 20.472)

Sec. 11-170. Public disturbance or altercations; Civil infraction; Fighting; Misdemeanor.

(a) It is unlawful for any person to engage in a disturbance or altercation with another person in a public place without a good cause. Violation of this Subsection is a civil infraction punishable as provided in Section 1-010(b)of this Code.

(b) It is unlawful for any person to engage in a fight or physical combat with another on or at any public or private property that inflicts or is for the purpose of inflicting injury to another person. Violation of this Subsection is a misdemeanor punishable as provided in Section 1-010(a) of this Code.

(Ord. of 3-10-2003)

Sec. 11-171. Inciting disorder by speech; Misdemeanor.

It shall be unlawful for any person to utter and use language or make gestures, or any combination thereof, toward any person which may be intended to or likely to encourage, adduce and incite altercations, breaches of the peace or riotous behavior or conduct by any other person.

(Comp. Ords. 1986, § 20.553)

Sec. 11-172. Disorderly intoxication; Misdemeanor.

It shall be unlawful for any person to be drunk or intoxicated or to be under the influence of a drug or controlled substance as defined by state law, or any combination thereof in a public place so as to endanger himself, endanger the safety of another person or another person's property, or cause a public disturbance.

(Comp. Ords. 1986, § 20.541)

Sec. 11-173. Consumption of alcoholic beverages on highway; open containers in motor vehicles; Misdemeanor.

(a) In this section "multi-dwelling parking lots" means any residential complex containing more than four (4) dwelling units, and together with commercial parking lots, is considered a public place.

(b) It shall be unlawful for any person to consume any alcoholic beverage upon a public highway or public place. This prohibition shall not apply if the owner or person in possession and

(*CHAPTER 11, ARTICLE V, SECTION 11-173 cont.*)

control of private property that is also a public place has given express permission for the consumption of alcoholic beverages or if the consumption is allowed by license issued by the Michigan Liquor Control Commission and is in compliance with any governmental approvals that are required and have been obtained for such consumption to be lawful.

(c) It shall be unlawful for any person, as an operator or occupant of a motor vehicle, to transport or possess an alcoholic beverage in an open or uncapped container in the passenger area of a vehicle on a highway or in the passenger area of a moving vehicle in a public place, unless the vehicle does not have a trunk or compartment separate from the passenger area and the container is in a locked glove compartment or console, behind the last upright seat, or in an area not normally occupied by the operator or a passenger.

(Comp. Ords. 1986, §§ 20.543, 20.544; Ord. of 10-24-2011)

Sec. 11-174. Gatherings and meetings; Civil infraction.

It shall be unlawful for any person or persons within the Township to willfully interrupt or disturb on any day of the week any assembly of people met for the worship of God within the place of such meeting or out of it, or to make or excite any disturbance or contention in any tavern, dance hall, beer garden, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, ground or park or at any election or other public meeting in the Township where any persons are peaceably and lawfully assembled. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Comp. Ords. 1986, § 20.554)

Sec. 11-175. Loitering; Misdemeanor.

(a) In this section the following words and phrases shall have the meanings respectively ascribed to them:

Loitering means remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and also includes the colloquial expression "hanging around."

Public place means any place to which the general public has access and a right of resort for business, entertainment or for lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

(b) It shall be unlawful for any person within the Township to loiter, either alone or in consort with others in a public place in such manner so as to:

(1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians after having been told to move on by a police officer.

(2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto after having been told to move on by a police officer.

(3) Obstruct the entrance to any business establishment, without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

(Comp. Ords. 1986, §§ 20.465, 20.501, 20.545, 20.546)

Sec. 11-176. Unlawful assembly; Misdemeanor.

It is unlawful and constitutes an unlawful assembly for a person within the Township to assemble or act in concert with four (4) or more persons for the purpose of engaging in conduct constituting the crime of riot or to be present at an assembly that either has or develops such a purpose and to remain there with intent to advance such purpose.

(*CHAPTER 11, ARTICLE VI, DIVISION 1 cont.*)

Sec. 11-177. Failure to disperse; Misdemeanor.

It is a violation of this code for any person who, after having been requested or ordered to do so by a police or law enforcement officer, fire official or other Township enforcement officer authorized to do so, refuses or fails to remove him or herself from the immediate scene of a breach of the peace or where illegal activity is occurring or has recently occurred, or where the continued presence of the violator, alone or in conjunction with others, constitutes a violation of this code or the laws of this state.

(Comp. Ords. 1986, § 20.590; Ord. of 3-8-1999)

Secs. 11-178--11-200. Reserved.

ARTICLE VI OFFENSES AGAINST PUBLIC MORALS

Division 1. Generally

Sec. 11-201. Indecent exposure; Misdemeanor.

It shall be unlawful for any person within the Township to knowingly make any open or indecent exposure of his person or of the person of another, which means the full or partial exposure of genitals, the pubic region, or buttocks, or exposure of the female breast below a point immediately above the top of the areola.

(Comp. Ords. 1986, §§ 20.477, 20.547)

Sec. 11-202. Indecent or obscene conduct; Misdemeanor.

It shall be unlawful for any person within the Township to engage in any indecent or obscene conduct in any public place. For purposes of this Section, indecent conduct is a person fondling their genitals, pubic area, buttocks, or if a female, breasts, while violating Section 11-201. For purposes of this Section, obscene conduct is conduct that an average individual, applying contemporary community standards, would find to appeal to the prurient interest, and specifically includes specified sexual activities as defined in the Adult Entertainment Use definition in Section 1-007 of the Township Zoning Ordinance.

(Comp. Ords. 1986, §§ 20.477, 20.549)
(Ord. of 7-8-2002)

Secs. 11-203--11-210. Reserved.

Division 2. Prostitution*

Sec. 11-211. Prostitution - generally; Misdemeanor.

(a) It shall be unlawful for any person within the Township to commit or offer or agree to commit a lewd act or an act of prostitution.
(b) It shall be unlawful for any person within the Township to secure or offer another for the purpose of committing a lewd act or an act of prostitution.
(c) It shall be unlawful for any person within the Township to be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd act or an act of prostitution.
(d) It shall be unlawful for any person within the Township to knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution.
(e) It shall be unlawful for any person within the Township to knowingly receive or offer to or agree to receive any person into any place or building for the purpose of performing a lewd act or an act of prostitution or to knowingly permit any person to remain in any place or building for any such purpose.
(f) It shall be unlawful for any person within the Township to direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution.

(*CHAPTER 11, ARTICLE VI, DIVISION 2 cont.*)

Sec. 11-212. Houses of ill fame--Patronizing; Misdemeanor.

(a) It shall be unlawful for any person within the Township to patronize, frequent, be found in or be an inmate of any house of ill fame or assignation or place for the practice of prostitution or lewdness.

(b) It shall be unlawful for any person to accept the solicitation of or solicit a prostitute for the practice of fornication, prostitution or lewdness.

Sec. 11-213. Same--leasing premises; Misdemeanor.

It shall be unlawful for any person within the Township to lease to another any house, room or other premises, in whole or in part, for any of the uses or purposes set forth in Section 11-212 or to knowingly permit house, room or other premises to be used or occupied for such purposes.

Sec. 11-214. Soliciting and accosting; Misdemeanor.

It shall be unlawful for any person within the Township to accost, solicit or entice another in any public place or in or from any building or vehicle by word, gesture or any other means to commit prostitution or to submit to an act of gross indecency, or to any other act of depravity or delinquency or shall suggest any of the aforementioned acts.

(Comp. Ords. 1986, § 20.479)

***State** law **references:** Similar provisions, MCL 750.448.*

Secs. 11-215--11-225. Reserved.

Division 3. Gambling*

_____

***State law references:** Gambling, MCL 750.301 et seq.*

_____

Sec. 11-226. Keeping or occupying building for gambling; Misdemeanor.

(a) It shall be unlawful for any person, or his agent or employee, to directly or indirectly keep or occupy, or assist in keeping or occupying any common gambling house, or any building or other place where gambling by others is knowingly permitted, facilitated, promoted, encouraged, or allowed, or to allow or permit on any premises owned, occupied or controlled by him, any apparatus used solely for gaming or gambling.

(b) This section does not prohibit the manufacture of gaming or gambling apparatus or the possession of gaming or gambling apparatus by the manufacturer of the apparatus solely for sale outside of the state, or for sale to a gambling establishment operating within this state in compliance with the laws of this state, if applicable, and in compliance with the laws of the United States, provided the manufacturer meets or exceeds federal government requirements in regard to manufacture, storage, and transportation.

(Comp. Ords. 1986, § 20.556)

Sec. 11-227. Gambling and frequenting prohibited; Misdemeanor.

It shall be unlawful for any person to deal in, play or engage in gaming such as faro, roulette, dice, cards, or other device or game of chance, hazard or skill, either as bookmaker, dealer, keeper, player or otherwise for the purpose of gambling for money or other valuable thing or to knowingly attend or be found frequenting any place where gambling is permitted, allowed, or taking place.

(*CHAPTER 11, ARTICLE VI, DIVISION 3 cont.*)

Sec. 11-228. Cappers, steerers, loiterers; Misdemeanor.

It shall be unlawful for any person to engage in the work or occupation of a roper, steerer, doorman or capper so-called for any gambling room, gaming house, or other place where gaming, gambling, or games of chance, trick or device may be occuring or be carried on. It shall be unlawful for persons to knowingly frequent, attend, or be found present in any of such places.

Sec. 11-229. Keeping gaming room for hire, gain or reward; Misdemeanor.

(a) It shall be unlawful for any person to keep or maintain for hire, gain or reward, a gaming room or gaming table, game of skill and/or chance, or electronic or digital device that is used for gaming by others, or to permit such a gaming room, gaming table, game of skill and/or chance, or electronic or digital device used solely for gaming or gambling, to be kept, maintained or played on a premises owned, occupied or controlled by him, and for any person to aid, assist or abet in the keeping or maintaining of a gaming room, gaming table, game of skill and/or chance, or electronic or digital device in violation of this Section.

(b) Subsection (a) does not apply to a mechanical amusement device which may through the application of an element of skill reward the player with the right to replay the mechanical device at no additional cost if the mechanical amusement device is not allowed to accumulate more than fifteen (15) replays at one (1) time; the device is designed so that accumulated free replays may only be discharged by reactivating the device for one (1) additional play for each accumulated free replay; and the device makes no permanent record directly or indirectly of the free replays awarded.

(c) Subsection (a) does not apply to a slot machine if the slot machine is twenty-five (25) years old or older and is not used for gambling purposes. As used in this subsection "slot machine" means a mechanical device, an essential part of which is a drum or reel which bears an insignia and which when operated may deliver, as a result of the application of an element of chance, a token or money or property, or by operation of which a person may become entitled to receive, as a result of the application of an element of chance, a token or money or property.

(d) A slot machine which is being used for a gambling purpose in violation of subsection (c) shall be confiscated and turned over to the director of the department of state police for auction.

(e) Subsection (a) does not apply to a crane game. As used in this section, "crane game" means an amusement machine activated by the insertion of a coin, by which the player uses one (1) or more buttons, joysticks, or similar means of control, or a combination of those means of control, to position a mechanical or electromechanical claw, or other retrieval device, over a prize, toy, or novelty having a wholesale value of not more than three dollars and seventy-five cents ($3.75), and thereby attempts to retrieve the prize, toy, or novelty. "Crane game" does not include a slot machine, as defined in subsection (c).

(f) The bureau of state lottery or a law enforcement officer may confiscate any crane game that is available for play and is not in compliance with subsection (e) of this section or the rules promulgated under state law. The confiscated games and their contents shall not be destroyed, altered, dismantled, sold, or otherwise disposed of except upon order of a court having competent jurisdiction.

(g) A crane game shall not be made available for play in connection with a fund-raising event, as defined in Section 7 of Act No. 388 of the Public Acts of 1976 (MCL 169.207).

Sec. 11-230. Gambling place and equipment; Misdemeanor.

It shall be unlawful for any person, or his agent or employee, to directly or indirectly keep, maintain, operate or occupy all or part of any building, room, or place at which apparatus, books, or any electronic, digital or other device or equipment used for registering bets, buying or selling pools upon the result of a game, competition, appointment, election, or other event, are present, or

(*CHAPTER 11, ARTICLE VI, DIVISION 4, SECTION 11-230* cont.)

for a person to knowingly permit such apparatus, books, devices or equipment, or the registering of bets or the buying and selling of pools, on any grounds or premises owned, occupied, or controlled by him.

Sec. 11-231. Policy or pool tickets and confiscation of articles of gaming; Misdemeanor.

It shall be unlawful, within the Township, for any person or persons to be in possession of any policy or pool tickets, slips or checks, memoranda, or any combination thereof, bet slips, numbers slip or slips, electronic, digital or other device or equipment, or of any article associated and/or connected with commercial gambling. Any and all such articles may be confiscated and destroyed by the police department, or used in evidence in any prosecution for violation of this Code.

Secs. 11-232--11-240. Reserved.

Division 4. Controlled Substances*

Sec. 11-241. Definition

As used in this division, "drug" means a substance recognized as a drug in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals; a substance other than food intended to affect the structure or any function of the body of human beings or animals; a substance intended for use as a component of any article specified in this subsection, and includes a controlled substance as defined in Section 7104 of the Michigan Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978, MCL 333.7104. It does not include a device or its components, parts, or accessories.

(Comp. Ords. 1986, § 20.459)

Sec. 11-242. Controlled substances prohibitions generally; Misdemeanor.

It shall be unlawful for any person to manufacture, administer, deliver, possess, distribute, prescribe or dispense any controlled substance as defined in Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 et seq.), as amended, except as authorized by this article and the public health code.

(Comp. Ords. 1986, §§ 20.273, 20.274, 20.556)

Sec. 11-243. Lawful possession, dispensation; Misdemeanor.

(a) A manufacturer, wholesaler, apothecary, medical doctor, osteopathic physician, dentist, veterinarian, chiropodist, public or private hospital, sanitarium or institution maintained or conducted in whole or in part for the treatment of disability, disease, inebriety or drug addiction may purchase, receive, possess, sell, distribute, prescribe, administer or dispense the controlled substances described in Section 11-242; provided he or they shall have complied with all provisions as required by the United States Internal Revenue Code, as the same now exists or may be hereafter amended.

(b) No medical doctor, osteopathic physician or other person specified in this section in any manner authorized to prescribe controlled substances shall prescribe such substances for his own use, nor shall any druggist honor such a prescription.

(c) All controlled substances obtained pursuant to this section shall be kept in the original package or container in which they were received; provided, that this requirement should not be construed to apply to any duly licensed medical doctor, osteopathic physician, dentist,

(*CHAPTER 11, ARTICLE VI, DIVISION 4 cont.*)

veterinarian, or chiropodist, or to any authorized person or persons acting directly under their supervision or control.

Sec. 11-244. Operation of boats and snowmobiles while under influence; Misdemeanor.

(a) A person shall not, while under the effects or influence of marijuana, drugs, or a controlled substance, operate or control a motor vehicle, motor boat, snowmobile, or other motor-driven recreational vehicle upon the streets, roads and highways, public or private, or upon the frozen lakes or other areas open to the general public; nor shall a person knowingly permit such operation or control of any of the aforementioned vehicles by a person under the effects or influence of marijuana.

(b) In any prosecution for violation of the provisions of this section, the burden of establishing any license or prescription shall be upon the defendant, but this does not eliminate the burden of proof for the violation.

(Comp. Ords. 1986, §§ 20.75, 20.276, 20.278)

Sec. 11-245. Fraud and deceit in obtaining drugs and use implements; Misdemeanor.

Any fraud, deceit, misrepresentation, subterfuge, concealment of a material fact, or the use of a false name or the giving of a false address for the purpose of obtaining any controlled substances or barbituric acid or any derivative, compound, preparation or mixture thereof, or hypodermic syringe or needle or other instrument or implement or empty gelatin capsules or false statement on any prescription blank shall be deemed a violation of this section. No person who shall have obtained the possession of any controlled substances, hypodermic syringes, needles or other instruments or implements adapted for the use of such substances or empty gelatin capsules pursuant to the terms of this section shall use the same or permit or authorize their use for any purpose other than that specifically authorized in the prescription or order by means of which such possession was obtained.

Sec. 11-246. Fraud and deceit in sale, etc., prohibited; Misdemeanor.

Any fraud, scheme, device, trick, deceit, misrepresentation, subterfuge or any other form of concealment for the purpose of obtaining money or any other thing of value by the sale, furnishing, supplying or giving away of any substance represented to be a drug as described in Section 11-242, when the same may or may not be the same, shall be deemed a violation of this division.

Sec. 11-247. Possession for transportation, enforcement of division.

The provisions of this section restricting the possession of controlled substances or barbituric acid or any derivative, compound, preparation, or mixture thereof or hypodermic syringes, needles or other implements or instruments adapted to the use of such substances by means of subcutaneous injection or intracutaneous injection or any other manner or method of introduction or empty gelatin capsules shall not apply to common carriers or warehousemen or their employees engaged in the lawful transportation or storage of such substances, syringes, needles or capsules or to public officers or employees while engaged in the performance of their official duties nor to temporary incidental possession on the part of employees or agents of persons lawfully entitled to possession.

Sec. 11-248. Reserved (prior text Commitment of addicts; repealed).

Sec. 11-249. Loitering, etc., about places where substances stored, kept; Misdemeanor.

No person shall knowingly loiter about, frequent or live in any building, apartment, store, automobile, boat, boathouse, airplane or other place of any description whatsoever where controlled substances, hypodermic syringes, needles or other instruments or implements or empty gelatin capsules are manufactured, administered, delivered, possessed, distributed, prescribed, dispensed, stored or kept illegally.

(Comp. Ords. 1986, § 20.555)

(*CHAPTER 11, ARTICLE VI, DIVISION 4 cont.*)

Sec. 11-250. Disposition of first offenders.

When any person who has not previously been convicted of any offense under this Division or any statute of the United States or of any state relating to narcotic drugs, coca leaves, marijuana, or stimulant, depressant or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance, or of use of a controlled substance the court, without entering a judgment of guilt, and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilty and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. There may be only one (1) discharge and dismissal under this section with respect to any person. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to any court or police agency upon request for the purpose of showing that a defendant in a criminal action involving the use of a controlled substance covered in this section has already once availed himself of the provision of this section.

Sec. 11-251. Instruction, rehabilitation program.

If a person is convicted of a violation of this division, the court, as part of his sentence during either the period of his confinement or the period of his probation, or both, may require him to attend a course of instruction or rehabilitation program approved by the department of mental health on the medical, psychological and social effects of the misuse of drugs. The court may order him to pay a fee, as approved by the director of mental health, for the instruction or program. Failure to complete the instruction or program shall be considered a violation of the terms of his probation.

Sec. 11-252. Sensory observation of expert witness to constitute prima facie evidence as to identification of marijuana.

In all cases in which alleged marijuana is presented to the court as evidence, the opinion of an expert witness based upon his sensory observation only shall be sufficient to constitute prima facie evidence that the substance constituting the exhibit is marijuana without the necessity of presenting microscopic or chemical test results.

(Comp. Ords. 1986, § 20.277)

Secs. 11-253--11-260. Reserved.

Division 5. Drug Paraphernalia

Sec. 11-261. Short title.

This division shall be known and may be cited as the "Drug Paraphernalia Ordinance."

(Comp. Ords. 1986, § 20.831)

Sec. 11-262. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Controlled substance means a controlled substance as that term is defined in Act 368, Public Acts of 1978 (MCL 333.1101 et seq.), as amended, the Michigan "Public Health Code."

(*CHAPTER 11, ARTICLE VI, DIVISION 5, SECTION 11-262 cont.*)

Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use in preparing, testing, packaging, repacking, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state or local law. The term "drug paraphernalia" includes but is not limited to:

(a) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
(b) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
(c) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
(d) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
(e) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging controlled substances.
(f) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
(g) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
(h) Objects used, intended for use, or designed for use in ingesting inhaling, or otherwise introducing marijuana, cocaine, hashish, or other controlled substances into the human body, such as:
    (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens or punctured metal bowls.
    (2) Water pipes.
    (3) Smoking and carburetion masks.
    (4) Roach clips (meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand).
    (5) Miniature cocaine spoons, and cocaine vials.
    (6) Bongs.

In determining whether or not an object is "drug paraphernalia," a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the objects, concerning its use.
(b) The proximity of the object to controlled substances.
(c) The existence of any residue of controlled substances on the object.
(d) Instruction, oral or written, provided with the object concerning its use.
(e) Descriptive materials accompanying the object which explain or depict its use.
(f) National and local advertising concerning its use.
(g) The manner in which the object is displayed for sale.
(h) Whether the owner, or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
(i) The existence and scope of legitimate uses for the object in the community.
(j) Expert testimony concerning the use of the object.

(Comp. Ords. 1986, § 20.832)

Sec. 11-263. Prohibited activities; Misdemeanor.

(a) Possession. It is unlawful for any person to use, or possess with intent to use, drug paraphernalia to 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 state or local law.

(b) Manufacture, delivery, or sale. It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, drug paraphernalia, knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack,

(*CHAPTER 11, ARTICLE VI, DIVISION 5, SECTION 11-263* cont.)

repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body, a controlled substance in violation of state or local law.

(c) Advertisement. It is unlawful for any person to place in a newspaper, magazine, handbill, sign, poster or other publication, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(Comp. Ords. 1986, § 20.833)

Sec. 11-264. Exemptions.

This division shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

(Comp. Ords. 1986, § 20.834)

Sec. 11-265. Civil forfeiture.

Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this division shall be seized and forfeited to the Township.

(Comp. Ords. 1986, § 20.835)

Secs. 11-266--11-275. Reserved.

Division 6. Model Glue*

Sec. 11-276. Definition.

As used in this division, the term "model glue" means any glue, adhesive cement, mucilage, dope, plastic solvent or other adhesive of the type commonly used in the construction of model airplanes, automobiles, boats and other unassembled model kits, containing toluene, acetone, xylene, butyl alcohol, hexane, tricresyl phosphate or other toxic ingredient.

Sec. 11-277. Minors; sale, possession by; Misdemeanor.

No person under the age of eighteen (18) shall possess or buy any model glue and no person shall sell or transfer possession of any model glue to another person under eighteen (18) years of age, except:

(a) A person may sell or transfer possession of model glue to a person under eighteen (18) years of age for model building or other lawful use where such juvenile has in his possession and exhibits the written consent of his parent or guardian.

(b) A person may sell or transfer possession to a person under the age of eighteen (18) years, not more than one (1) assembly kit which contains not more than one (1) container of model glue not to exceed one (1) fluid ounce, as a necessary part of model assembly.

Sec. 11-278. Parental consent; Misdemeanor.

A person making a sale or transfer of possession of model glue to a person under eighteen (18) years of age who exhibits the written consent of his parent or guardian shall record the name, address, sex and age of the juvenile and the name and address of the consenting parent or guardian. All data required by this section shall be kept in a permanent-type register available for inspection by the police department for a period of at least six (6) months.

(*CHAPTER 11, ARTICLE VI, DIVISION 5 cont.*)

Sec. 11-279. Inhalation of fumes; Misdemeanor.

No person shall inhale, drink, eat or otherwise introduce into his respiratory or circulatory system any compound, liquid, chemical or any substance known as glue, adhesive cement, mucilage, dope, plastic solvent, aerosol, or combination thereof with the intent of becoming intoxicated, elated, dazed, paralyzed, irrational or in any manner changing, distorting the eyesight, thinking process, judgment, balance or coordination of such person. For the purpose of this section, any such condition so induced shall be deemed to be an intoxicated condition.

Sec. 11-280. Medical use.

The provisions of this division shall not pertain to any person who inhales, drinks, eats or otherwise introduces into his circulatory or respiratory system such material or substance pursuant to the direction or prescription of any doctor, dentist or other person authorized to do so, direct or prescribe.

Sec. 11-281. Aiding or abetting violation; Misdemeanor.

No person shall, for the purpose of violating or aiding another to violate any provision of this division, intentionally possess, buy, sell, transfer possession or receive possession of any model glue. It shall be unlawful for any person to assist, aid, abet or encourage any minor to violate any provisions of this division.

Secs. 11-282--11-300. Reserved.

ARTICLE VII OFFENSES AGAINST PUBLIC SAFETY*

Division 1. Generally

Sec. 11-301. Abandonment of refrigerators, etc., with airtight doors; Misdemeanor.

It shall be unlawful for any person to leave outside of any building or dwelling, or in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, trunk, or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of the icebox, refrigerator, trunk or other container, without first removing the locks or doors therefrom.

Sec. 11-302. Throwing stones, missiles or other objects; Misdemeanor.

It shall be unlawful for any person to intentionally or deliberately throw or propel by any means any snowball, missile or other object at or towards any person or vehicle, whether stationary or moving.

(Comp. Ords. 1986, § 20.475)

Sec. 11-303. Depositing snow on sidewalks; Civil infraction.

(a) It is a violation of this Ordinance for any person to shovel, plow or otherwise deposit snow or ice onto a public sidewalk or non-motorized transportation path so as to interfere with the ease of passage of users thereof.

This section is not applicable to the Road Commission of Oakland County or any other governmental agency involved in the clearing of snow from the public streets.

(b) Violation of this Section is a civil infraction punishable as provided in Section 1-10(b) of this Code.

(Comp. Ords. 1986, §§ 20.543, 20.544; Ord. of 10-24-2011)

Secs. 11-304--11-315. Reserved.

(*CHAPTER 11, ARTICLE VII, cont.*)

Division 2. Weapons*

Sec. 11-316. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Armour-piercing bullet shall refer to any bullet that, when fired out of a handgun having a barrel length of five (5) inches or less, can penetrate eighteen (18) layers of kevlar or equivalent bullet-proof material.

Firearm means and includes any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion.

Weapon means any instrument used in the propulsion of shot, shell, bullets, darts, BB's, arrows or projectiles, or any combination thereof, by the action of gun powder exploded within it, or by means of any propellant, gas, spring action, or compressed air. A slingshot shall be deemed a weapon within the meaning of this definition.

(Comp. Ords. 1986, § 20.803)

Sec. 11-317. Discharging weapons; exceptions; Misdemeanor.

It shall be unlawful for any person, except a police officer or other peace officer in the lawful discharge of his or her duties, to fire or discharge any gun, handgun, shotgun, rifle, or any other firearm within the Township, except as follows:

(1) Nothing in this section shall prohibit any person from discharging such a weapon, when necessary, for the defense of person and property from attack.

(2) Nothing in this section shall prevent the discharge of firearms in a regularly licensed shooting gallery.

(3) In accordance with Section 11-331, and Act 10 L.A. 1957, nothing in this section shall prohibit hunting with a bow and arrow within the Township, subject to the limitations contained in Section 11-334 and 11-335.

(4) Nothing in this section shall prohibit the hunting with firearms on state-owned lands under the jurisdiction of the department of conservation pursuant to Section 11-331.

(Comp. Ords. 1986, § 20.804(a); Ord. of 10-27-1997; Ord. of 4-27-1998)

Sec. 11-318. Brandishing or aiming firearm; Misdemeanor.

It shall be unlawful for any person within the Township to intentionally, without malice, brandish a firearm or to point or aim any firearm at or toward any other person.

(Ord. of 10-27-1997)

Sec. 11-319. Aiming and discharging firearm; Misdemeanor.

It shall be unlawful for any person within the Township to discharge without injury to another person any firearm, while intentionally, without malice, aiming at or toward any person.

Sec. 11-320. Injury by discharge of firearm; Misdemeanor.

It shall be unlawful for any person within the Township to maim or injure any other person by the discharge of any firearm pointed or aimed unintentionally, without malice, at any such person.

Sec. 11-321. Possession or control of firearm while intoxicated; Misdemeanor.

It shall be unlawful for any person within the Township, while under the influence of an alcoholic liquor or any exhilarating or stupefying drug, to carry, have in possession or control, or use in any manner, or discharge any firearm.

Sec. 11-322. Unlawful possession of knives; Misdemeanor.

(a) Minors. It is a violation of this section for any minor under the age of eighteen (18) years to have within his or her possession any dagger, dirk, razor, stiletto or knife having a blade of over three (3) inches in length unless, at the time of possession thereof, the minor child is in

(*CHAPTER 11, ARTICLE VII, DIVISION 2 cont.*)

the presence and supervision of a parent, legal guardian or other adult with whom the minor is engaged in a lawful activity such as hunting or trapping, scouting and the like.

(b) Possession with unlawful intent. It is a violation of this section for any person who, with intent to use the same unlawfully against the person or property of another, to have within his or her possession, any dagger, dirk, razor, stiletto or knife having a blade over three (3) inches in length, or other dangerous or deadly weapon or instrument fashioned as such.

(Ord. of 4-27-1998)

Sec. 11-323. Confiscation of firearms.

All weapons, guns, pistols, firearms, knives, dirks, razors, stilettos, or any other sharp-edged or pointed instruments, or weapons carried, possessed or used contrary to this division are hereby declared forfeited to the Township.

Sec. 11-324. Transportation and possession; Misdemeanor.

It shall be unlawful for any person to transport or to have in possession in or upon any vehicle a firearm unless the same be unloaded in both barrels and magazine and carried in the luggage compartment of the vehicle. It shall be unlawful to carry a firearm on any public street or in any public place unless it is unloaded and in a case.

Sec. 11-325. Sale or purchase; Misdemeanor.

It shall be unlawful for any person under eighteen (18) years of age to purchase, carry or transport a firearm on any public street or in any public place. It shall be unlawful for any person to sell a firearm to any person under eighteen (18) years of age.

Sec. 11-326. BB guns; use by minors, prohibition, exception; Misdemeanor.

No person under eighteen (18) years of age shall use or possess any handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of spring, gas or air, outside the curtilage of his or her domicile unless accompanied by a person over eighteen (18) years of age.

(Ord. of 4-27-1998)

Sec. 11-327. Fishing with bow and arrow.

This division shall not apply to a person using a bow with line attached from arrow to bow for purposes of shooting fish, which activity is otherwise in compliance with state and federal laws.

(Comp. Ords. 1986, § 20.808)

Sec. 11-328. Bow and arrow target range permits; Civil infraction.

An individual may establish a target range for bow and arrow on his own property, provided that the target is set at least eighty-five (85) feet between the rear of the target and the property line, and at least thirty-five (35) feet on each side of the target from any property line. Every property owner seeking to create a bow and arrow range on his own property shall first apply for and obtain a written safety permit from the Police Chief. In addition, the application shall be submitted to and approved by the Zoning Official after a review for compliance with the zoning ordinance. The Police Chief shall inspect each proposed target site before issuance of the permit to ensure the safety of persons and property adjacent to the area. The permit will be valid for a period of one (1) year. Establishing or maintaining a bow and arrow target range without the required permit, or in violation of the location requirements in this Section or conditions of a permit is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Comp. Ords. 1986, § 20.809)

Sec. 11-329. Forfeiture of weapons; armor-piercing bullets.

(a) All weapons carried, possessed, aimed, discharged and used contrary to this division are declared forfeited to the Township, and may be seized by any police officer of the Township,

(*CHAPTER 11, ARTICLE VII, DIVISION 2, SECTION 11-329 cont.*)

and, when permitted by state law, may be redeemed at the sole discretion of the Police Chief after all court fines and costs have been paid.

(b) All armor-piercing bullets possessed or sold contrary to the terms of this division are declared forfeited to the Township and shall be destroyed promptly by the order of the Police Chief. Upon destruction of such bullets by the police department, written notice of the place and person from which the bullets were seized and the number of bullets destroyed shall be furnished to the Township Board by the Police Chief.

(Comp. Ords. 1986, § 20.810)

Sec. 11-330. Careless handling; Misdemeanor.

No person shall use, carry, handle, or discharge any weapon or any other instrument or instrumentality fashioned as a weapon, carelessly and heedlessly, in willful or wanton disregard of the rights, safety or property of others, or without due caution or circumspection.

(Comp. Ords. 1986, § 20.804(c))

Sec. 11-331. Firearm hunting restricted; Misdemeanor.

No person shall hunt any fowl, wild game, or animals of any type with a firearm upon any lands or premises within the Township, except on state-owned land under the jurisdiction of the S.E.A.

(Comp. Ords. 1986, § 20.804(e); Ord. of 10-27-1997)

Sec. 11-332. Threatening others; Misdemeanor.

No person shall, while possessing a weapon or fashioning an object as to reasonably appear to be a weapon, threaten, intimidate, or offer to commit an act of force or violence against the person or property of another.

(Comp. Ords. 1986, § 20.804(f))

Sec. 11-333. Bow and arrow hunting requirements as to clothing and safety zones; Misdemeanor.

The following requirements are imposed upon persons hunting by bow and arrow within the Township:

(a) During the entire firearm deer hunting season, bow and arrow hunters are required to wear a hat, cap, vest, jacket or rain gear of highly visible color, commonly referred to as "hunter orange". The garment featuring the hunter orange must be the outermost garment, and must be visible from all sides. Camouflage orange garments, with fifty (50) percent or more of the surface in hunter orange, are legal.

(b) Safety zones are defined as all areas within four hundred fifty (450) feet of an occupied dwelling, house, cabin, residence or any barn or any other building used in a farm operation. It is prohibited to hunt or discharge a bow and arrow within a safety zone or shoot at any wild animal or wild bird while the bird or animal is within a safety zone without the written permission of the owner or occupant of such safety zone.

(Ord. of 10-27-1997; Ord. of 6-8-1998)

Sec. 11-334. Restrictions on weapon use in Township parks; Misdemeanor.

It is unlawful for any person other than a duly sworn police or law enforcement official in the course of his or her official duty to discharge, possess and/or use a firearm, bow and arrow, crossbow, slingshot, pellet gun or air rifle, or other weapon within the boundaries of a Township park. This provision shall not prohibit the possession and/or use of any such weapon within the boundaries of a Township park if such possession or use is within a sanctioned hunt approved by the Township Board under Section 11-335.

(Ord. of 10-27-1997)

Sec. 11-335. Preservation of wildlife in Township parks, sanctioned hunt; Misdemeanor.

No hunting or trapping will be allowed in any Township park, unless the Parks and Recreation Board, or any park governing body and the Township Board, approve a sanctioned hunt, if and/or

(*CHAPTER 11, ARTICLE VII, DIVISION 2, SECTION 11-335 cont.*)

when the population of any wildlife species becomes a nuisance, health and/or safety hazard. The Township Board shall make the final decision as to a sanctioned hunt. The Parks and Recreation Official shall submit to the Township Board, terms and conditions applicable to any request for a sanctioned hunt.

(Ord. of 10-27-1997)

Sec. 11-336. Wildlife blinds; Misdemeanor.

No person shall construct or build, within the boundaries of a Township park, any structure of any material, natural or otherwise, which would be used to take, entrap, snare, injure, maim or kill any animal or bird located in such Township parks.

(Ord. of 10-27-1997)

Secs. 11-337--11-350. Reserved.

ARTICLE VIII OFFENSES ON SCHOOL GROUNDS

DIVISION 1. GENERAL – PROHIBITED CONDUCT.

Sec. 11-351. Definitions.

For purposes of this article the term "school" means any pre-elementary, elementary (grades K--6), secondary (grades 7-12) school, any college or combination thereof; and the term "principal" means any principal of any elementary or secondary school or the chief administrative officer of any elementary or secondary school or college.

Sec. 11-352. Admission restricted; Misdemeanor.

No person who is not a regularly enrolled student or parent or guardian thereof or a school official, teacher, or other public or school employee shall enter or trespass upon or loiter in or upon any public, private, charter, or parochial school building or property unless such person has received written permission from the principal, a person designated by the principal, or other school official authorized to grant such permission; provided that such written permission need not be secured by persons engaging in or attending a school or Recreation Board authorized activity or by persons using school playground or playground equipment after school hours or when school is not in session, unless such entry or use shall have been otherwise prohibited by a rule or regulation of the school board, school principal or other person, board or committee with the authority to prohibit such use or entry.

Sec. 11-353. Disturbing schools; Civil infraction.

No person shall willfully or maliciously make or assist in making any noise, disturbance or improper diversion by which the peace, quietude, or good order of any public, private or parochial school is disturbed. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Sec. 11-354. Duty of person creating disturbance to leave premises; Misdemeanor.

Any person, whether lawfully or unlawfully in or upon any public, private or parochial school building or school property who is found to be creating a disturbance in or upon any such school building or property shall leave immediately when so directed by the principal or by any other person designated by the principal.

State law references: *Disturbing public places, MCL 750.170.*

(*CHAPTER 11, ARTICLE VIII, DIVISION 1, SECTION 11-354 cont.*)

Sec. 11-355. Extortion; Misdemeanor.

No person shall by violence, threats of violence or other form of coercion force or attempt to force any public, private or parochial school student or other person to give or to lend any money or other thing of value to any person at any time.

Sec. 11-356. Unauthorized borrowing of money or things of value from students in school or traveling to or from school; Misdemeanor.

No person shall borrow or attempt to borrow any money or thing of value from any student in or upon any public, private, charter, or parochial school building or property during any time when such student is engaging in, going to, or returning from any regularly scheduled school session or activity without first obtaining the written approval of the school principal, person designated by the principal, or other school official authorized to issue such written approval; provided that this section shall not apply to college students who borrow money or things of value from other college students or adults.

Sec. 11-357. Destruction of school property; Misdemeanor.

No person shall damage, destroy or deface any public, private or parochial school building or the grounds, outbuildings, fences, trees or other appurtenances or fixtures belonging thereto.

Secs.11-358--11-370.Reserved.

DIVISION 2. SMOKING IN EDUCATIONAL FACILITIES*

Sec. 11-371. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 11-351, the following definitions shall apply to this Division:

Educational Facility means a building owned, leased or under the control of a public or private school.

Smoking or Smoke means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

(Ord. of 8-14-1995)

Sec. 11-372. Smoking in educational facility; Civil infraction.

(a) An individual shall not smoke in any educational facility except in a designated smoking area.

(b) This section shall not apply to a private educational facility after regularly scheduled school hours.

(c) An individual who violates Section 9-242 is guilty of a civil infraction and subject to the following civil fines:

(1) For the first violation, a fine of not more than one hundred dollars ($100.00).

(2) For a second or subsequent violation, a fine of not more than five hundred dollars ($500.00).

(Ord. of 8-14-1995)

Sec. 11-373. Designation of smoking areas.

A smoking area may be designated by the school district or a person who owns or operates an educational facility. If a smoking area is designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in both smoking and adjacent nonsmoking areas.

(Ord. of 8-14-1995)

Sec. 11-374. Owners or operators of educational facilities; duties.

The school district or the person who owns or operates an educational facility shall, at a minimum, do all of the following in order to prevent smoking:

(*CHAPTER 11, ARTICLE VIII, DIVISION 2, SECTION 11-374 cont.*)

(1) Post signs which state that smoking in that educational facility is prohibited, except in designated smoking areas, pursuant to this article.

(2) Implement and enforce the policy prohibiting smoking in educational facilities and for the separation of smokers and nonsmokers developed under Section11-373.

(Ord. of 8-14-1995)

Secs. 11-375--11-380. Reserved.

ARTICLE IX OFFENSES INVOLVING MINORS

Division 1. Generally

Sec. 11-381. Contributing to neglect or delinquency of children; Misdemeanor.

No person shall, by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of seventeen (17) years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, whether or not such child shall in fact be adjudicated a ward of the probate court.

(Comp. Ords. 1986, §§ 20.203, 20.489)

State law references: *Similar provisions, MCL 750.145.*

Sec. 11-382. Parental neglect; Civil infraction.

(a) Definitions. For the purposes of this section:

Criminal acts means those acts which violate the statutes of the state or the ordinances of the Township and shall include traffic violations.

Habitual offender means one (1) who commits two (2) or more criminal acts, or including four (4) or more moving traffic violations, within a twelve-month period.

Minor means any juvenile under the age of seventeen (17) residing with the parent as defined in this section.

Parent means the mother, father, legal guardian and any other person having the care or custody of a minor or such other adult with whom a minor may be found residing.

(b) Prohibition. It shall be unlawful for the parent of any minor to fail to exercise reasonable parental control which results in the minor committing any criminal act or to allow or encourage any minor to commit any criminal act or become delinquent in accordance with the probate code as it pertains to juveniles.

(c) Notification.

(1) Whenever a minor shall be arrested or detained for the commission of any criminal act within the Township, the parent of such minor shall be immediately notified by the police department advising the parent of such arrest or detention, the reason therefore and their responsibility under this article.

(2) A record of such notifications shall be kept by the police department.

(d) Violation of this Section is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Sec. 11-383. Furnishing alcohol, controlled substances, or tobacco products to minors; Misdemeanor.

(a) A person shall not sell, give or furnish alcoholic liquor or beverages or a controlled substance, as regulated under Act 318 of 1978, the Public Health Code, to a person under the age of twenty-one (21) years, except in the case of prescription drugs where the person is licensed to dispense such controlled substance under a physician's prescription. A violation of this subsection is a misdemeanor punishable as provided in Section 1-010(a) if this Code,

(*CHAPTER 11, ARTICLE IX, DIVISION 1 cont.*)

unless the charging of the violation is not allowed under Section 701 of the Michigan Liquor Control Code of 1998, as amended, MCL 436.1701.

(b) A person shall not sell, give or furnish a tobacco product to a person under the age of eighteen (18) years. This subsection does not apply to the handling or transportation of a tobacco product by a person under 18 years of age under the terms of that minor's employment. Violation of this subsection is a misdemeanor punishable by a fine of not more than $50.00.

(Comp. Ords. 1986, § 20.542; Ord. of 3-10-2008)

Sec. 11-384. Alcohol possession, purchase, and consumption by minors; Misdemeanor.

(a) A person less than twenty-one (21) years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. For purposes of this section, a person under the age of twenty-one (21) is deemed a "minor." A minor who violates this subsection is guilty of a misdemeanor punishable by the fines and sanctions set forth in this section.

(1) For the first violation of this section, and where the defendant has no previous violations of MCL 436.1703, or other local ordinance substantially corresponding to that statute, a fine of not more than one hundred dollars ($100.00), and the defendant may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as provided in the Public Health Code, MCL 333.6107, and may be ordered to perform community service and to undergo substance abuse screening and assessment, at defendant's own expense.

(2) For a second violation of this section, MCL 436.1703, or other local ordinance substantially corresponding to that statute following a prior conviction or juvenile or other court adjudication for a violation of this section, MCL 436.1703, Section 33b(1) of former 1933 (Ex Sess) PA 8,, or another local ordinance substantially corresponding to those statutes, by imprisonment for not more than thirty (30) days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than two hundred dollars ($200.00), or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as provided in the public health code, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at defendant's own expense.

(3) For a violation of this section following two (2) or more prior convictions hereof or juvenile or other court adjudications for a violation of this section, MCL 436.1703, Section 33b(1) of former 1933 (Ex Sess) PA 8, or another local ordinance substantially corresponding to those statutes, by imprisonment for not more than sixty (60) days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than five hundred dollars ($500.00), or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as provided in the public health code, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at defendant's own expense.

(b) A person who furnishes fraudulent identification to a minor who uses such fraudulent identification to purchase alcoholic liquor is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than one hundred dollars ($100.00), or both.

(c) In case of a plea or determination of guilt under Section (a)(1), the defendant may be afforded the first offender status as provided in MCL 436.1703(3) and (4).

(d) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request the person to submit to a breath test. A peace

(*CHAPTER 11, ARTICLE IX, DIVISION 1, SECTION 11-384* cont.)

officer may arrest a person based in whole or in part upon the results of a breath test analysis. The results of a breath test analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(e) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by the Liquor Control Commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or for personal consumption.

(f) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a requirement of the course.

(g) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this section.

(h) Subsection (a) does not apply to a minor who participates in an undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the Township prosecutor's office as part of an employer-sponsored internal enforcement action or under the direction of the state pollce, Liquor Control Commission, or Police Chief as part of an enforcement action.

(i) In a criminal prosecution for the violation of section (a) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(j) As used in this section, "any bodily alcohol content" means either of the following:

(1) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(Ord. of 11-8-2004)

Editor's note: *An ordinance of November 8, 2004 amended the Code by, in effect, repealing former § 11-384, and adding a new § 11-384. Former § 11-384 pertained to the purchase, consumption and possession of alcoholic liquor by minors; and derived from the Compiled Ordinances of 1986, § 20.557; and ordinances of May 13, 1996 and May 27, 1998.*

Sec. 11-385. Soliciting immoral conduct; Misdemeanor.

It shall be unlawful for any person to accost, entice or solicit a child under the age of sixteen (16) years with intent to induce or force such child to commit an immoral act, or to submit to an act of sexual intercourse, or an act of gross indecency, or to any other act of depravity or delinquency or to suggest to such child any of the aforementioned acts.

(Comp. Ords. 1986, § 20.479)

Sec. 11-386. Tobacco products--Definitions.

As used in Sections 11-383, 11-387 and 11-389**, tobacco products** has the same meaning as defined in the Youth Tobacco Act, MCL 722.644, as amended, which is a product that contains tobacco and is intended for human consumption, including but not limited to, cigarettes, non-cigarette smoking tobacco, or smokeless tobacco such as chewing tobacco (loose tobacco or a tobacco which may be inhaled through the nostrils, chewed or placed against the gums.)

(Ord. of 8-14-1995)

Sec. 11-387. Purchase, possession, or use of tobacco by minor prohibited; Misdemeanor.

(a) Except as provided in this section and in MCL 722.642, as amended, a person under the age of eighteen (18) years shall not do any of the following:

(*CHAPTER 11, ARTICLE IX, DIVISION 1, SECTION 11-387 cont.*)

(1) Purchase or attempt to purchase a tobacco product.
(2) Possess or attempt to possess a tobacco product.
(3) Use a tobacco product in a public place.
(4) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product.

(b) Subsection (a) does not apply to a minor participating in any of the following:
(1) An undercover operation in which the minor purchases or receives a tobacco product under the direction of the minor's employer and with the prior approval of the Township attorney's office as part of an employer-sponsored internal enforcement action.
(2) An undercover operation in which the minor purchases or receives a tobacco product under the direction of a Township police officer as part of an enforcement action.
(3) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in Section 6103 of the public health code, 1978 PA 368, MCL 333.6103, and with the prior approval of the Township police department.

(c) Subsection (a) does not apply to the handling or transportation of a tobacco product by a minor under the terms of that minor's employment.

(d) This section does not prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the violation of subsection (a).

(Ord. of 8-14-1995; Ord. of 3-10-2008)

Sec. 11-388. Purchase, possession, or use of tobacco by minor--Penalty and sanctions.

An individual who violates Section 11-387 is guilty of a misdemeanor punishable by a fine of not more than fifty dollars ($50.00) for each violation. Pursuant to a probation order, the court may also require an individual who violates Section 11-387 to participate in a health promotion and risk reduction assessment program if available. An individual who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the costs of participating in the program. In addition, an individual who violates Section 11-387 is subject to the following:

(a) For the first violation, the court may order the individual to do the following:
(1) Perform not more than sixteen (16) hours of community service in a hospice, nursing home, or long-term care facility
(2) Participate in a health promotion and risk reduction program, as described in this subsection.

(b) For a second violation, in addition to participating in a health promotion and risk reduction program, the court may order the individual to perform not more than thirty-two (32) hours of community service in a hospice, nursing home, or long-term care facility.

(c) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the individual to perform not more than forty-eight (48) hours of community service in a hospice, nursing home, or long-term care facility.

(Ord. of 8-14-1995; Ord. of 3-10-2008)

(Ord. of 7-8-2002)

Secs. 11-387--11-395. Reserved

Division 2. Curfew*

_____

***State law references:** Curfew for minors, MCL 722.751 et seq.*

_____

Sec. 11-396. Minors under seventeen; Misdemeanor.

It shall be unlawful for any minor under the age of seventeen (17) years to loiter, idle, congregate, or otherwise be in or on any public street, highway, alley, park, school, or any public place,

(*CHAPTER 11, ARTICLE IX, DIVISION 2, SECTION 11-396 cont.*)

between the hours of 12:00 midnight and 6:00 a.m., except where the minor is accompanied by a parent or guardian or some adult at least twenty-one (21) years of age delegated by the parent or guardian to accompany such child, or where the presence of the minor is connected with and required by some legitimate work, trade, profession, or occupation in which the minor is upon an emergency errand or other legitimate business directed by his parent or guardian.

(Comp. Ords. 1986, § 20.205)

Sec. 11-397. Minors under thirteen; Misdemeanor.

No minor under the age of thirteen (13) years shall loiter, idle or congregate, or otherwise be in or on any public street, highway, alley, park, school, or other public place, including but not limited to shopping centers, places of amusement, private recreation areas or similar places, between the hours of 10:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

(Comp. Ords. 1986, § 20.204)

Sec. 11-398. Parental responsibility; Civil infraction.

The parent or guardian of a minor subject to the provisions of this division shall be held responsible for the enforcement of Sections 11-396 and 11-397.Violation of this Section is a civil infraction punishable as provided in Section 1-010(b) of this Code.

Sec. 11-399. Presumption against parents; Misdemeanor.

Any person assisting, aiding, abetting, or encouraging any minor to violate the provisions of Sections 11-396 or 11-397 shall be guilty of a violation of this Code and when any such minor is found violating the provisions of Section 11-396 or 11-397, a presumption shall arise that the parent or legal guardian having the care and custody of the minor assisted, aided, abetted and encouraged such minor in so violating that section.

(Comp. Ords. 1986, § 20.206)

(Ord. of 7-8-2002)

Editor's note: *An ordinance of July 8, 2002 amended the Code by adding a new § 11-400. In order to avoid duplication of section numbers, the editor has re-designated the new provisions as § 11-399.1.*

ARTICLE X WATERCRAFT REGULATIONS

Sec. 11-400. Background and definitions.

Adoption of the regulations in this Article as Township ordinances, which correspond to the identified “R” or “WC” section of the Administrative Code for the State of Michigan, required and received prior approval by the Michigan Department of Natural Resources under a procedure that is now provided for in Part 801, Marine Safety (MCL 324.80101 – MCL 324.80199) of Act 451 of the Public Acts of 1994 (Natural Resources and Environmental Protection Act, as amended, with words and phrases used in this Article having the same meaning as words and phrases defined in that statute.

(Comp. Ords. 1986, § 20.261)

Sec. 11-401. Pontiac Lake - Mandatory distance from shoreline for operation of boats; Civil infraction.

On the waters of Pontiac Lake, Township of White Lake/Township of Waterford, County of Oakland, State of Michigan, persons operating vessels shall, in addition to the restrictions set forth in Act 451 of the Public Acts of 1994 (Natural Resources and Environmental Protection Act, Part 801 “Marine Safety”) (MCL 324.80101 et. seq.) as amended, maintain a distance of one hundred (100) feet from the shoreline and from any island, except when proceeding at a slow, no-wake

(*CHAPTER 11, ARTICLE X, SECTION 11-401 cont.*)

speed or when picking up or dropping off water skiers in a manner that is done with due regard to the safety of persons and property, in a line perpendicular to the shoreline insofar as it is reasonably possible, and in accordance with the laws of this state. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b).R281.763.12

(Comp. Ords. 1986, § 20.121)

Sec. 11-402. Pontiac Lake - Mandatory distance from shoreline for water skiing and similar activities, Civil infraction.

Persons navigating, steering or controlling themselves while being towed on water skis, water sleds, surfboards or similar contrivances shall maintain a distance of one hundred (100) feet from the shoreline and from any island, raft, buoyed or occupied bathing area or vessel moored or at anchor, except when being picked up or dropped off, so long as such operation is otherwise conducted with due regard to the safety of persons and property and in a line perpendicular to the shoreline insofar as it is reasonably possible, and in accordance with the laws of this state. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b). R 281.763.13

(Comp. Ords. 1986, § 20.122)

(Comp. Ords. 1986, § 20.261)

Sec. 11-403. Gerundegut Bay - Speed of vessels restricted; Civil infraction.

On the waters of Gerundegut Bay and connected artificial and natural canals and channels, Section 3, Town 2 North, Range 9 East, West Bloomfield Township, and Sections 33 and 34, Town 3 North, Range 9 East, Waterford (Charter) Township, Oakland County, beginning at a line running from the point where Center Drive intersects the westerly shore and thence northeasterly to the nearest shore, it is unlawful for the operator of a vessel to exceed a slow, no-wake speed, which means a very slow speed whereby the wake or wash created by the motorboat would be minimal. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b).
R 281.763.17

(Comp. Ords. 1986, § 20.262)

Sec. 11-404. Lake Oakland Canal: Slow - No Wake Speed.

On the waters of Lake Oakland Canal, from the dam at Donzi Cove Drive north to the end of Lakeshore Drive in Waterford, located within section 2, town 3 north, range 9 east of Waterford Township, County of Oakland, State of Michigan, it is unlawful for the operator of a vessel to exceed a slow--no wake speed. Slow--no wake speed means a very slow speed whereby the wake or wash created by the motorboat would be minimal. The boundaries of the area described immediately above shall be marked with signs and/or with buoys. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the State Uniform Waterway Marking System. Violation of this Section is a civil infraction punishable as provided in Section 1-010(b). WC-63-10-001

(Ord. of 6-28-2010)

CHAPTER 12 PARKS AND RECREATION

Art. I. Alcohol Prohibition, §§ 12-001--12-025 ..... Pages 12-1 and 12-2
Art. II. Recreation System, §§ 12-026--12-070 ..... Pages 12-2 through 12-4
Div. 1. Generally, §§ 12-026--12-045 ..... *Pages 12-2 and 12-3*
Div. 2. Recreation Board and Hess Hathaway Advisory Committee, §§ 12-046--12-070 ..... *Pages 12-3 and 12-4*

ARTICLE I ALCOHOL PROHIBITION

Sec. 12-001. Determinations

In order to maintain the beneficial use and enjoyment of the waters, grounds and parks within the recreation system of the Township for all members of the community, the Township Board determines that, except when allowed by a Township Board approved or authorized contract or license, a ban on the possession, dispensing, and use of alcoholic beverages on recreation system properties is necessary.

(Ord. of 6-26-1995)

Sec. 12-002. Alcoholic beverages prohibition; Civil Infraction.

(a) Except as allowed and in compliance with (i) a Township Board approved or authorized contract or license and (ii) any required permit or license from the Michigan Liquor Control Commission, no person shall sell, furnish, dispense to another, possess, use or consume any alcoholic liquor, wine, beer or malted beverage within the boundaries of any property that is part of the recreation system of the Township, as established by the Township Board under Section 12-028.

(b) At a meeting, the Township Board may approve a contractor license allowing alcohol under this Section for special events by an established service, charitable, civic, governmental, fraternal, or similar organization, entity, or group that will be fully responsible and liable for supervision of the event and for supervising the possession, sale, dispensing, consumption, and use of the alcoholic beverages.

(c) For special events where alcohol is allowed by a Township Board approved contract or license, the Parks and Recreation Official shall be furnished in advance of the event with all of the following:

(1) A copy of the required Michigan Liquor Control Commission liquor license, or permit.

(2) An insurance certificate confirming that the insurance required by the Township Board approved or authorized contract or license is in place and that the Township is an additional insured.

(3) A written disclosure of the nature and approximate quantities of alcoholic beverages which are to be available for consumption at the event.

(d) A rental or reservation agreement for the private use of a recreation system building that allows alcoholic beverages to be possessed, dispensed, consumed, and used in connection with that private use, is a Township Board authorized contract or license for purposes of this Section if:

(1) The agreement is approved by the Parks and Recreation Official.

(2) The agreement prohibits:(i) the use of admission tickets or charges, (ii) direct or indirect alcohol sales, and (iii) possession, consumption, or use of alcohol outside of the building or rented area.

(3) Any extra charges, fees, or deposits based on alcoholic beverages being allowed are paid.

(4) Liability insurance naming the Township as an added insured is provided in the amount specified in the written rental policies approved by the Parks and Recreation Official, which shall be consistent with any Township Board resolution establishing the required amount.

(5) The agreement is for a building or part of a building where the Township Board has authorized alcoholic beverages being allowed in connection with a private rental use.

(*CHAPTER 12, ARTICLE I, SECTION 12-002 cont.*)

(6) All requirements of any Township Board resolution regarding rental, private use, and/or alcohol in recreation system buildings are satisfied, complied with or provided for.

(7) All requirements of the Township's insurance plan are satisfied.

(8) No Michigan Liquor Control Commission license or permit is required, or if such license or permit is required, it is obtained and compliance with it is required by the agreement.

(e) During any special event or private rental use at which alcoholic beverages are allowed by a Township Board approved or authorized contract or license, the Parks and Recreation Official shall have full authority to limit the dispensing, possession, use, and/or consumption of alcoholic beverages at a, and to order termination of all such activities upon any occurrence which constitutes a violation of state law, a Michigan Liquor Control Commission license or permit, a Township ordinance, or a Township Board approved or authorized contract or license, or that creates a nuisance condition, or a threat thereof to other persons.

(f) Violation of this Section or a Parks and Recreation Official directive or order under it is a civil infraction punishable as provided in Section 1-010.

(Ord. of 6-26-1995)

Sec. 12-003. Posting

The Parks and Recreation Official shall post and maintain a conspicuous notice of the prohibition on alcoholic beverages as set forth in Section 12-002 on the properties within the recreation system of the Township.

(Ord. of 6-26-1995)

Secs. 12-004--12-025. Reserved.

ARTICLE II RECREATION SYSTEM

Division 1. Generally

Sec. 12-026. Short title

This article shall be known as the "Recreation System Ordinance."

(Comp. Ords. 1986, § 21.081)

Sec. 12-027. Purpose

This article is created for the purpose of providing public recreational facilities and the administration of same for the Township in conformance with Act 156 of the Public Acts of 1917 (MCL 123.51 et seq.), as amended.

(Comp. Ords. 1986, § 21.082)

Sec. 12-028. Properties included

The recreation system of the Township is hereby defined to include the properties previously and hereafter designated by the Township Board by Resolution or otherwise.

(Comp. Ords. 1986, § 21.082(A); Ord. of 2-22-1988(2), § 1.00)

Sec. 12-029. Parks and Recreation official and assistants

The Township Board may employ a Parks and Recreation Official and such assistants as from time to time may, in the discretion of the Township Board, be necessary to operate the recreation system, and effectuate the purpose of this article.

(Comp. Ords. 1986, § 21.087)

Sec. 12-030. Rules and regulations governing operation of system

The Recreation Board shall, subject to the approval of the Township Board, adopt such rules, regulations and policies as may be necessary to conduct the affairs and operation of the recreation system.

(Comp. Ords. 1986, § 21.088)

(*CHAPTER 12, ARTICLE II cont.*)

Sec. 12-031. Park and facilities use and fees

By Resolution, the Township Board may establish a schedule of fees to be paid for the use of parks and facilities in the recreation system for activities not offered by or affiliated with the Township's recreational programs.

Sec. 12-032. Expenditure of funds

The Recreation Board may expend such funds as are necessary for the operation of the recreational system, providing however, that the Recreation Board shall not, at any time, obligate the Township for any amount in excess of the funds appropriated for this purpose by the Township Board. All expenditures shall be solely for recreational purposes and in accordance with the respective budget.

(Comp. Ords. 1986, § 21.089)

Sec. 12-033. Reports and budget requests

The Recreation Board shall prepare an annual report of its activities for the Township Board. The Recreation Board shall, prior to October first of each year, review and submit to the Township Board, a proposed budget of its estimated expenditures for the next ensuing year.

(Comp. Ords. 1986, § 21.090)

Secs. 12-034--12-045. Reserved

Division 2. Recreation Board and Hess-Hathaway Advisory Committee

---

***Cross references:** Administration, Ch. 2.*

Sec. 12-046. Created

There is hereby created a Township Recreation Board, consisting of nine (9) voting members, who shall serve without compensation and be appointed by the Township Supervisor and approved by the Township Board of Trustees.

(Comp. Ords. 1986, § 21.083; Ord. of 11-14-2005)

Sec. 12-047. Membership

(a) The Recreation Board shall include one (1) member from or representing each of the following:
  (1) The Board of Directors of the Golden Age Club.
  (2) The Waterford School District.
  (3) The Township Board.

(b) The six (6) remaining members of the Recreation Board shall be residents of the Township.

(c) The Parks and Recreation Official shall be a nonvoting member of the Recreation Board.

(d) The board of directors of the Golden Age Club and the Waterford School District Board for their own representatives, and the Recreation Board as to members at large, may recommend specific candidates for appointment to the Recreation Board. Any such recommendations will be considered but are not binding on the Township Supervisor or Board.

(e) Nothing shall prevent the reappointment of an incumbent or appointment of past member of the Recreation Board to an additional term or terms as the Township Supervisor and Board may deem advisable.

(Comp. Ords. 1986, § 21.084; Ord. of 7-14-2003; Ord. of 11-14-2005)

(*CHAPTER 12, ARTICLE II, DIVISION 2, SECTION 12-048* cont.)

Sec. 12-048. Terms

(a) The term for all members shall be three (3) years.

(b) As the terms expire, the successors to these members of the Recreation Board shall then be appointed for a term of three (3) years. All subsequent terms shall be for three (3) years.

(c) If at any time the basis for a member representing the board of directors of the Golden Age Club, the Waterford School District, or the Township Board is altered or changed such as, but not limited to, a cessation of membership or position with respect to those groups, then such member of the Recreation Board shall submit his or her resignation from the Recreation Board to the Township Board. Vacancies thus created shall be filled as provided in Sections 12-046 and 12-047, except that nothing shall prevent the Township Board in its discretion from reappointing such member to complete the term that had been vacated.

(Comp. Ords. 1986, § 21.085; Ord. of 11-14-2005)

Sec. 12-049. Removal of members

(a) The appointment and term of any member may be terminated at any time by the Township Board whenever it determines that such action is necessary in the best interest of the recreation system, and the vacancy created thereby shall be filled by a new appointment for the remainder of terminated member's term, such appointment to represent the same group or organization to which the appointee so removed had represented.

(b) Any member or members of the Recreation Board who shall miss three (3) consecutive meetings of the board without good or proper excuse shall be considered to have established sufficient grounds to sustain his removal by action of the Township Board.

(Comp. Ords. 1986, § 21.086)

Sec. 12-050. Hess-Hathaway Advisory Board

(a) Created. There is hereby created a committee known as the "Hess-Hathaway Advisory Committee," which shall assist in the administration of property known as the Hess-Hathaway Park.

(b) Membership. There shall be a total of not to exceed fifteen (15) members on the committee, appointed by the Township Supervisor and subject to confirmation by the Township Board, each serving a three-year term, except that the initial appointments may be made for a shorter term to provide for staggered terms. Vacancies shall be filled in the same manner as for original appointments. Members may be removed by the Township Board whenever the Board feels such action is necessary in the best interest of the recreation system.

(c) Bylaws. The committee shall adopt bylaws to govern its operation and conduct, subject to approval by the Recreation Board and Township Board.

(d) Expenditure of funds. Expenditure of funds relative to the Hess-Hathaway Park shall be in accordance with Section 12-032.

(e) Trust document. The committee, Recreation Board and Township Board shall not take any action with respect to the administration and/or operation of the Hess-Hathaway Park in contravention of the provisions of the Myrtle E. Hess Trust.

(Comp. Ords. 1986, § 21.088(A); Ord. of 2-22-1988(2), § 1.00)

Secs. 12-050--12-070. Reserved

CHAPTER 13 PLANNING AND ECONOMIC DEVELOPMENT

Art. I. In General, §§ 13-001--13-025..... Page 13-1
Art. II. Corridor Improvement Authority, §§ 13-226--13-231..... Pages 13-1 through 13-3

ARTICLE I IN GENERAL

Secs. 13-001--13-025. Reserved

ARTICLE II CORRIDOR IMPROVEMENT AUTHORITY

Sec. 13-226. Purpose

The purpose of this article is to establish a corridor improvement authority; to prescribe the powers and duties of the Authority; to correct and prevent deterioration in the development area defined herein; to promote economic growth, development and redevelopment in the development area; to create an Authority Board and prescribe the powers and duties of that board; and for such other purposes and to achieve such other lawful objectives as are provided and permitted under Act No. 280 of the Public Acts of 2005.

(Ord. of 3-24-2008)

Sec. 13-227. Created

The Waterford Township Corridor Improvement Authority (referred to in this article as the "authority") is hereby created and established pursuant to the provisions of Act No. 280 of the Public Acts of 2005 as amended (referred to in this article as "the Act").

(Ord. of 3-24-2008)

Sec. 13-228. Authority Board

The Authority shall be under the supervision and control of a board (the "Authority Board") consisting of the Supervisor of the Township and six (6) other members appointed by the Supervisor in accordance with the Act, and subject to the approval of the Township Board. Not less than one (1) member of the Authority Board shall be a resident of the development area or an area within one-half (1/2 mile of any part of the development area, and not less than a majority of the members shall be persons having an ownership or business interest in property located within the development area. The members of the Authority Board shall hold office and the Authority Board shall conduct itself in accordance with the terms and conditions of the Act. Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office. The Authority Board shall elect a chairperson from its members.

(Ord. of 3-24-2008)

Sec. 13-229. Powers and duties

The Authority shall have the powers and duties as provided by and in accordance with the Act, except that the Authority shall not have power to:

(a) Borrow money and issue bonds or notes without the approval of the Township Board; or
(b) Condemn private property.

(Ord. of 3-24-2008)

Sec. 13-230. Development area boundaries

(a) The boundaries of the development area within and with respect to which the Authority shall exercise its powers are hereby designated by the legal description set forth in subsection (b), below, a map of which shall be maintained on file in the office of the Township Clerk. The

(*CHAPTER 13, ARTICLE II, SECTION 13-230 cont.*)

boundaries of the development area are subject to alteration or amendment as the Township Board may deem appropriate in the future, subject to limitations provided by law.

(b) The Authority contains the following tracts of land located in parts of Sections 13, 24, 25 and 36 T3N R9E Waterford Township Oakland County Michigan, described as follows:

(1) *Section 13.* A tract of land delineated from the southeast section corner of Section 13 T3N R9E Waterford Township, Oakland County, Michigan westerly along the south line of Section 13 to the northeasterly right-of-way of Grand Trunk Railroad, thence along said right-of-way to the northerly right-of-way of U.S. 24 (Telegraph Road), thence along said northwesterly Telegraph Road right-of-way southerly to the south section line of said Section 13 thence westerly along the south section line to the north and south 1/4 section line, thence northerly along the north and south 1/4 line of said Section 13 to the northeasterly right-of-way of Grand Trunk Railroad, thence northwest along said Grand Trunk Railroad right-of-way to a point on the east and west 1/4 line, thence easterly along east and west 1/4 line to a point on the northeasterly (120') right-of-way of Dixie Highway, thence along the northeasterly (120') right-of-way of Dixie Highway southeasterly 427.53 feet + or - to the southwest corner of Parcel No. 13-13-426-012, thence along the easterly line of the following two Parcels No. 13-13-426-012 and 13-13-426-010 to the east and west 1/4 line, thence east along the east and west 1/4 line to the east 1/4 corner of Section 13, thence southerly along the east section line to the southeast corner of Section 13.

(2) *Section 24.* A tract of land containing all the land in the E 1/2 of Section 24 T3N R9E Waterford Township Oakland County Michigan except the following: All the land easterly of the westerly right-of-way of U.S. 24 (Telegraph Road).

(3) *Section 25.* The following five (5) tracts:

i. Section 25, Tract 1. A tract of land containing the NE 1/4 of Section 25 T3N R9E Waterford Township Oakland County Michigan.

ii. Section 25, Tract 2. A tract of land in the NW 1/4 of Section 25 T3N R9E Waterford Township Oakland County Michigan described as follows: Beginning at the center section corner of Section 24 T3N R9E, thence northerly along north & south 1/4 line also the east line of Birdsland Subdivision Plat recorded in Liber 34 Page 28 to the north line of Lot 9 of said plat, thence westerly along said north line of Lot 9 and Lot 98 to a point on the west line of said Birdsland Subdivision, thence northerly along the west line of said Birdsland Subdivision 376.08 feet, thence westerly along the north line of Parcel No.13-25-176-003 a recorded distance of 732.00 feet, to a point on the east line of Cherokee Subdivision recorded in Liber 35 Page 48, thence southerly along said east line of said subdivision 460.28 feet to the northeast corner of Lot 69 of said subdivision, thence westerly along the north line of Lots 32, 67, 68, and 69 to a point on the east line of Voorheis Road right-of-way, thence along said easterly line of Voorheis Road and westerly line of Lots 31 and 32 of said subdivision extend to east and west 1/4 line of said Section 25 to point "A" thence along the east and west 1/4 line easterly to center of Section 25 and the point of beginning.

iii. Section 25, Tract 3. A tract of land in the S 1/2 of Section 25 T3N R9E Waterford Township Oakland County Michigan described as follows: Beginning at the east 1/4 corner of Section 25, thence westerly along the east and west 1/4 line of said Section 25 to a point on the east right-of-way line of Voorheis Road right-of-way and said 1/4 section line also Point "A" on Tract 2 description; thence along easterly Voorheis Road right-of-way southerly to the northerly Edgefield Drive right-of-way, thence along said right-of-way easterly to the east right-of-way of Coleman Road, thence southerly to the north line of Lot 36 of Supervisor's Plat No. 1, thence along said north line of Lot 36 easterly to the southeast corner of Lot 1 of Supervisor's Plat No. 1 recorded in Liber 26 Page 28, thence northerly to the northerly right-of-way of Holbrook Ave., thence along the northerly right-of-way of Holbrook Ave. easterly to a point on the easterly right-of-way of West End Ave., thence along the easterly right-of-way of West End Ave. and along the west line of Lot 14 and Lot 148 of Huron Gardens Subdivision Plat recorded in Liber 21 Page 9 southerly to a point on the northerly right-of-way of Lasalle Ave. and the southwest corner of Lot 148 of said plat, thence easterly on the northerly right-of-way of Lasalle Ave. to a point on the east section line, thence northerly on the east section line to the east 1/4 corner section corner of Section 25 to the point of beginning.

(*CHAPTER 13, ARTICLE II, SECTION 13-230 cont.*)

iv. Section 25, Tract 4. A tract of land in the SE 1/4 of Section 25 T3N R9E, Waterford Township Oakland County Michigan as described as follows: Beginning at a point on the east line of said Section 25, and north line of Premont Ave., thence along the east line of Section 25 northerly to the north right-of-way of Lasalle Ave., thence along the north line of Lasalle Ave. right-of-way westerly to the north and south 1/4 line, thence southerly along said north and south 1/4 line to north right-of-way line of Myrtle Ave., thence along the north right-of-way of Myrtle Ave. easterly to a point between Lot 511 and Lot 512 of Huron Gardens Subdivision Plat recorded in Liber 21 Page 21, thence southerly along said line between Lots 511 and 512, Lots 494 and 495, Lots 478 and 479, and Lots 461 and 462 to the north right-of-way line of Premont Ave., thence easterly along said Premont Ave. right-of-way to the point of beginning.

v. Section 25, Tract 5. A tract of land in the SW 1/4 of Section 25 T3N R9E, Waterford Township Oakland Michigan, described as follows: Beginning at a point on the north and south 1/4 line at the north line of Lot 26 of Supervisor's Plat No. 1 recorded in Liber 26 Page 28; thence northerly along the north and south 1/4 line to a point on the north lot line of Lot 31 in said Supervisor's Plat No. 1, thence along said north line of Lot 31 westerly to the westerly line of said Lot 31, thence southerly 192 feet along said westerly line of Lot 30 and Lot 31 to a point on Lot 30 of Supervisor's Plat No. 1, thence westerly along the lot line between Lots 80 and 81, and Lots 72 and 73 of Supervisor's Plat No. 26 recorded in Liber 15 Page 56 to the southwest corner of Lot 72 of Supervisor's Plat No. 26, thence from said southwest corner of Lot 72 westerly to the southeast corner of Lot 37, thence westerly along the south line of said Lot 37 of Supervisor's Plat No. 26 to the northwest corner of Lot 38 of Supervisor's Plat No. 26 also on the easterly right-of-way of Voorheis Road, thence along said right-of-way southeasterly to the southwest corner of Lot 8 of Annett Villa Subdivision Plat recorded in Liber 61 Page 40, thence along the northerly right-of-way of Voorheis Road to the southeast corner of Lot 6 of said plat, thence along the east line of Lot 6 to the northeast corner of Lot 6, thence along the north line of Lot 5 of said plat easterly 50 feet; thence northerly across Lot 27 of Supervisor's Plat No. 1 for a distance of 132 feet, thence westerly along the north line of Lot 27 of Supervisor's Plat No. 1 for a distance of 111.28 feet, thence northerly across Lot 26 of Supervisor's Plat No. 1 for a distance of 132 feet, thence easterly across the north line of Lot 26 of Supervisor's Plat No. 1 for a distance of 344.00 feet to point of beginning.

(4) Section 36. A tract of land in the NE 1/4 of Section 36 T3N R9E, Waterford Township Oakland County Michigan bounded on the east by the east section line of said Section 36, bounded on the south by the northerly right-of-way of Voorheis Road, bounded on the west by the easterly right-of-way of Pioneer Ave., bounded on the north by the south right-of-way of Premont Ave.

(Ord. of 3-24-2008)

Sec. 13-231. By-laws and rules

The Authority shall adopt by-laws governing its procedures and rules regarding the holding of its meetings, all in accordance with Section 8(3) of the Act, and other applicable provisions in the Act and any other applicable statute. The Authority shall immediately forward a copy of its proposed bylaws and rules to the Township Board in care of the Township Clerk. Such by-laws and rules, and amendments thereof, shall be subject to the approval of the Township Board.

(Ord. of 3-24-2008)

CHAPTER 14 PROPERTY, COST RECOVERY AND FINANCES

Art. I. In General, §§ 14-001--14-025 ..... Page 14-1
Art. II. Lost and Abandoned Property, §§ 14-026--14-099 ..... Pages 14-2 through 14-4
Div. 1 General, §§ 14-026--14-030 ..... Pages 14-2 through 14-2
Div. 2 Lost Property, §§ 14-031--14-037 ..... Pages 14-2 through 14-4
Div. 3 Abandoned Property, §§ 14-038--14-099 ..... Pages 14-4 through 14-4
Art. III Cost Recovery, §§ 14-100--14-140 ..... Pages 14-5 through 14-8
Div. 1 Emergency Response Cost Recovery, §§ 14-100--14-020 ..... Pages 14-5 through 14-7
Div. 2 Hazardous/Toxic Substance Cleanup and Cost Recovery, §§ 14-121--14-140 Pages 14-7 through 14-8
Art. IV Finances, §§ 14-141--14-156 ..... Pages 14-8 through 14-11
Div. 1 Escrows and payment of review expenses, §§ 14-141--14-150 ..... Pages 14-8 through 14-9
Div. 2 Bonds and Performance Guarantees, §§ 14-151--14-156 ..... Pages 14-9 through 14-11

ARTICLE I IN GENERAL

Sec. 14-001. Purpose and intent of chapter

The purpose and intent of this Chapter is to confirm and provide procedures and requirements for delivery, payment, deposit, handling, claims to or for, return, reporting, custody, storage, sale, recovery, use, and disposition of property and funds that are paid or payable to, held by, or otherwise in or subject to the Township's possession, custody and control under any provision of this Code.

Sec. 14-002. Funds held by Township

Unless otherwise specifically provided by applicable law, any fees, costs, escrows, bonds, performance guarantees, or other funds paid or delivered to and held by the Township under a provision of this Code are held for the Township public purposes described in the Code provision under which the payment or delivery was made, not for the owner of, or persons that paid or delivered the funds.

Sec. 14-003. Township Board Authority

(a) By resolution, the Township Board may establish fees and charges to be assessed, collected, and paid in connection with implementation of the provisions in this Chapter.

(b) By resolution and/or contract, the Township Board may specify and provide for the manner in which one or more provisions in this Chapter shall be implemented.

(c) The Township Board shall have the authority to hear and decide variance requests and appeals by a person aggrieved by a provision of, or Township action under, this Chapter. Such requests shall be filed in writing with the Township Clerk within 30 days of the decision being appealed or the first notice to the aggrieved person of the provision from which a variance is requested, whichever is earlier. The Township Clerk shall schedule a timely variance request or appeal for the first regular Township Board meeting at which any involved Township personnel can be present that allows at least seven (7) days written notice to the aggrieved person of the date and time. After hearing a variance request or appeal, the Township Board, in its discretion, shall deny, approve, or conditionally approve the request, with reasons for denial to be stated.

(*CHAPTER 14 cont.*)

Secs. 14-004--14-025. Reserved.

ARTICLE II LOST AND ABANDONED PROPERTY

Division 1. General

Sec. 14-026. Short title

This article shall be referred to hereinafter as the "Lost and Abandoned Property Ordinance."

(Comp. Ords. 1986, § 20.291)

Sec. 14-027. Purpose

The purpose of this article is to provide procedures, remedies, and for the disposition of lost, abandoned and stolen property, and for the disposition of the proceeds of sale of such property.

(Comp. Ords. 1986, § 20.292)

Sec. 14-028. Adoptions by reference

(a) The Township adopts by reference Public Act No. 273 of 1987, as amended, MCL 434.21 – MCL 434.29 regarding lost property, which is referred to in this Article as the Act.

(b) The Township adopts by reference Public Act No. 214 of 1979, as amended, MCL 434.181 – MCL 434.184 regarding disposition of stolen and abandoned property and disposition of the proceeds of sale of such property.

Sec. 14-029. Definitions

In addition to the rules of construction and definitions in Section 1-002 and in the Act, the following definitions shall apply to this Article.

Abandoned property means an abandoned vehicle under Article IX of Chapter 16 of this Code, property in an abandoned vehicle, lost property not claimed by its owner within six (6) months of notice under Section 5 of the Act, MCL 434.25, and other property that has been on public property or in a public place for a period of time and/or in a condition that creates a presumption of abandonment under any applicable law, or that would lead a reasonable person to believe that the owners of the property have relinquished, forsaken, or completely given up or forfeited all ownership, possessory, and other rights and interests in the property.

Lost property means property that is not in the immediate possession or custody of its owner that is found on private property, public property, or in a public place in a location or under circumstances that would lead a reasonable person to believe that it was accidentally dropped, misplaced or forgotten.

Property has the same meaning as in the Act, which is anything which is the subject of ownership and is corporeal, tangible, visible, personal, or has an exchange value, which generally means personal property and currency.

(Comp. Ords. 1986, § 20.294)

Sec. 14-030. Exempt property

This Article shall not apply to firearms and other dangerous per se weapons, alcoholic beverages, drugs and controlled substances, and any other article that is illegal, hazardous or detrimental to the health, safety, or welfare of the public.

Division 2. Lost Property.

Sec. 14-031. Finders of lost property

A person that finds and takes possession of lost property shall do one of the following immediately after taking possession:

(a) If the name of its owner is on or in the lost property, or otherwise known to the finder, notify and make arrangements for return of the lost property to its owner and report those actions to the Police Chief.

(b) If the lost property is found on the property of a business, deliver the lost property to a department or employee of that business that accepts the lost property and report such delivery to the Police Chief.

(c) Deliver the lost property to the Police Chief or report and within 24 hours, deliver the lost property to the Police Chief.

(d) A report to the Police Chief under this Section shall include a description of the lost property, the date, time, and location where it was found, and if the finder wishes to receive the property if it is not claimed by its legal owner, the finder's name and current address.

(Comp. Ords. 1986, § 20.295)

Sec. 14-032. Lost property delivered to business

A business that accepts delivery of lost property under Section 14-029 shall hold the property in a location and manner so as to be available for return to the confirmed owner of the property and upon doing so, shall report such return to the Police Chief. Lost property held by a business shall be delivered to the Police Chief at any time required by the Police Chief or if the business intends to stop holding and dispose of the lost property.

(Comp. Ords. 1986, § 20.296)

Sec. 14-033. Handling, processing and disposition of lost property

Lost property delivered to the Police Chief shall be inspected, classified, reported, stored, returned, sold, released, and disposed of as provided in the Act.

(Comp. Ords. 1986, § 20.297)

Sec. 14-034. Owner must establish ownership of lost property

Any person claiming to be the owner of lost property shall establish such ownership to the reasonable satisfaction of the Police Chief by description, title, sales receipt, bill of goods, or other means.

(Comp. Ords. 1986, § 20.298)

Sec. 14-035. Notices and forfeiture of claims by owner

If the identity and address of the owner of lost property delivered to the Police Chief is or becomes known, in addition to the notice required by Section 5 of the Act, MCL 434.25, (for lost property that is collectible currency, currency, evidence, perishable property, or property of major value), for other classification of lost property the Police Chief shall dispose of it as provided in the Act, or may give written notice by first class mail to the owner that any claims to or rights, title and interests in the lost property and its value shall be forfeited, abandoned, and terminated if the owner does not claim and take possession of the lost property from the Police Chief within thirty (30) days from the date of the notice or such other time as required by the Act.

(Comp. Ords. 1986, § 20.299)

Sec. 14-036. Disposition and return of lost property to finder

Lost property that is collectible currency, currency, evidence, perishable property, or property of major value that is not claimed by its owner within the time required and as provided in Section 5 of the Act, MCL 434.25, shall be disposed of by the Police Chief as provided in Section 6 of the Act, MCL 434.26, except that no employee of the Township, or any other law enforcement officer,

(*CHAPTER 14, ARTICLE I, DIVISION 2, SECTION 14-036* cont.)

who found the lost property during or in the course of employment or the performance of their duties, shall be entitled to a return of the lost property as a finder.

(Comp. Ords. 1986, § 20.300)

Sec. 14-037. Storage, sale, and disposition of lost property

(a) Lost property delivered to the Police Chief shall be stored in one or more locations or facilities, disposed of, and be publicly sold consistent and in compliance with the Act and any applicable Township Board or Township Supervisor directives, resolutions, approvals or other actions.

(b) Any retention of lost property by the Police Chief for use by the Township Police Department as provided for in Section 6 of the Act, MCL 434.26, must first be approved by the Township Board.

(c) Any release of lost property to a charitable organization provided for in Section 6 of the Act, MCL 434.26, must first be approved by the Township Board.

(d) Unclaimed currency and the proceeds of all public sales of lost property, shall be deposited with the Township Treasurer to the credit of the general fund unless another disposition is required by applicable law.

(e) The Township may purchase lost property at a public sale in the same manner as any other bidder.

(Comp. Ords. 1986, § 20.301)

Division 3. Abandoned Property.

Sec. 14-038. Abandoned property removal, storage and sale

Abandoned property that is removed from public property or a public place by or at the direction of a Township Official, including abandoned vehicles that are taken into custody and towed at the direction of the Police Chief as provided in Article IX of Chapter 16 of this Code, shall be taken to and stored at allocation or facility, and be sold or disposed of as provided by applicable law and as specified in any applicable Township Board directives, resolutions, approvals, or other actions.

(Comp. Ords. 1986, § 20.302)

Sec. 14-039. Report and request to Township Board

The Police Chief shall report abandoned and stolen property in the custody of the Township and unclaimed for six (6) months since its recovery or discovery to the Township Board, and with such report, shall request Township Board authority to dispose of the property by sale or delivery to the County Sheriff as provided in Public Act No. 214 of 1979, as amended, MCL 434.181 – MCL 434.184.

(Comp. Ords. 1986, § 20.303)

Sec. 14-040. Disposition of abandoned and stolen property

Abandoned and stolen property reported by the Police Chief to the Township Board shall be disposed of consistent with the Township Board's authorization, with that authorization and any public sale, disposition of sales proceeds, and claims to be done, filed, processed and acted on as provided in Public Act No. 214 of 1979, as amended, MCL 434.181 – MCL 434.184.

(Comp. Ords. 1986, § 20.304)

Sec. 14-041. Abandoned vehicles

The disposition of abandoned vehicles and proceeds from the sale of such vehicles shall be as provided in Article IX of Chapter 16 of this Code, with Sections 14-038 and 14-039 only applying

(*CHAPTER 14, cont.*)

to abandoned vehicles to the extent those Sections do not conflict with that Article or the abandoned vehicle provisions of the Michigan Vehicle Code, MCL 257.252a – MCL 257.252l.

(Comp. Ords. 1986, § 20.305)

Secs. 14-042--14-099. Reserved

ARTICLE III COST RECOVERY.

Division 1. Emergency Response Cost Recovery

Sec. 14-100. Findings and purpose

The Township determines that there is a growing need for emergency response by Township personnel and equipment, and other resources from the fire, police, and other Township departments, to the scene of emergencies, vehicle accidents, and matters of urgent concern such as alcohol-driving arrests, medical emergencies involving life-support and transport runs to local hospitals, and utility or power interruptions or emergencies involving Consumers Energy, DTE Energy, or other utility providers, where the urgency of the condition creates an immediate and sustained demand for such Township equipment and personnel.

(Ord. of 8-28-1995; Ord. of 5-12-2003)

Sec. 14-101. Definitions

The following words or phrases are defined as stated herein:

Emergency Response means the dispatch, provision, or utilization of Township personnel and/or equipment, including resultant enforcement and prosecution efforts, in emergency conditions, in any of the following:

(a) The arrest, detention or incarceration of persons in violation of state laws or ordinances of the Township prohibiting the operation of motor vehicles while under the influence of, or while impaired by, the consumption of alcoholic beverages, or controlled substances, or combination thereof.

(b) Emergency requests for life-support vehicles, equipment and/or personnel in the attendance or transport of persons to a hospital or other medical facility where no actual medical emergency existed, whether or not the person was transported.

(c) Emergency requests for life-support vehicles, equipment and/or personnel in the attendance or transport of persons to a hospital or other medical facility where the emergency was substantially induced or precipitated by the ingestion of alcohol or by abuse of drugs or controlled substances.

(d) The use of police or fire department vehicles, equipment or personnel at the scene of an emergency, including downed power lines caused by the careless, negligent, or intentional acts by any person on public or private property.

(e) The use of police, fire, or other Township department vehicles, equipment, or personnel at the scene of a utility emergency involving facilities that are the responsibility of DTE Energy, Consumers Energy, or other utility provider, where Township personnel and/or equipment are required for public protection to the extent that the required use of personnel and/or equipment exceeds thirty (30) minutes from the time of dispatch.

(f) The use of police or fire department vehicles, equipment or personnel in response to:

(1) A false or prank "911" call. If such a call is made from a ground phone, the person in control of the premises shall also be responsible. If the call is by a minor, the minor's parent or guardian shall be responsible.

(CHAPTER 14, ARTICLE III, DIVISION 1, SECTION 14-101 cont.)

(2) The use of police or fire department vehicles, equipment or personnel in response to a "911" call made without good cause, by an intoxicated person or a person who has abused controlled substances, as defined in the Public Health Code.

(g) The use of police or fire department vehicles, equipment, resources, or personnel, including the "Tech Rescue Team," at the scene of individual or common disasters such as building collapse, cave-ins, water rescues, and similar situations, caused by negligent or intentional acts or omissions which carried a clearly foreseeable risk of such disasters.

(h) The use of police or fire department vehicles, equipment, resources, or personnel, including the "SRT Team", at the scene of exigent conditions, including but not limited to harboring of vicious animals, animal rescue, hostage/suicide events, pursuits, and similar situations, caused by acts or omissions which carried a clearly foreseeable risk of such exigent conditions.

(i) The use of police, fire, or other Township department vehicles, equipment, or personnel at the Oakland County International Airport in response to crimes, accidents, or public safety emergencies caused or committed by careless, negligent, or intentional acts or omissions.

(j) The use of police or fire department vehicles, equipment, or personnel for emergency runs requiring the use of emergency vehicle lights and/or sirens to the scene of an actual or reported crime, personal injury accident, or other accident that presents an immediate threat to the public health, safety, or welfare, caused or committed by negligent or intentional acts or omissions.

Expenses of an Emergency Response means all directs costs of or for personnel wages, vehicles, equipment, and expendable items used or provided by the Township, and any private person operating at the request or direction of the Township, when making and attributable to an emergency response. Included in such costs are administrative expense, attorney fees, testing, preparation of reports, and other costs directly attributable to, or that result from, the emergency response.

(Ord. of 8-28-1995; Ord. of 5-12-2003; Ord. of 3-10-2008)

Sec. 14-102. Liability for expenses

Any person who causes, has responsibility for, or substantially contributes to the need for an emergency response shall be liable and responsible to the Township for the expenses of an emergency response. If more than one (1) person responsible, the liability of those persons shall be joint and several.

(Ord. of 8-28-1995; Ord. of 5-12-2003)

Sec. 14-103. Charge against persons liable; collection of debt.

The expenses of an emergency response shall be a charge against all persons that are liable and responsible and constitute a joint and several debt of those persons to the Township, which shall be considered as amounts owing on account, payable and collectible in the same manner as an obligation under an expressed or implied contract, and/or by court order in connection with sentencing of a person for an offense that caused the need for the emergency response.

(Ord. of 8-28-1995; Ord. of 5-12-2003)

Sec. 14-104. Schedule of charges for expenses of emergency responses

The Township Board of Trustees shall, by resolution, adopt a schedule of the charges for wages of personnel, hourly equipment and vehicle use, expendable items at replacement costs, hourly administrative and supervisory expenses, and legal fees, which shall be applied, pro-rata, in the calculation of the expense of an emergency response.

(Ord. of 8-28-1995; Ord. of 5-12-2003)

Sec. 14-105. Invoice determination; Demand for payment.

Once the expenses of an emergency response have been determined, the Police Chief, Fire Chief, and/or Township official responsible for any other Township department that provided an emergency response, shall submit an itemized invoice/statement for such expenses by first class mail or personal service to each person that is liable for these expenses, requiring payment within thirty (30) days from date of submission. If such a person has been charged, convicted, or found

(*CHAPTER 14, ARTICLE III, DIVISION 1, SECTION 14-105* cont.)

responsible for an offense that caused the need for the emergency response, a copy of the itemized invoice/statement shall be provided or made available to the court if the Township has requested or intends to request a court order for payment of the expenses in that case.

(Ord. of 8-28-1995; Ord. of 5-12-2003)

Sec. 14-106. Failure to pay; Civil infraction and suit to recover plus costs.

Failure by a person liable for the expenses of an emergency response to pay the invoice/statement for the expenses within the time required under Section 14-105:

(a) Is a civil infraction, punishable as provided in Section 1-010(b) of this Code, except that the maximum civil fine is $100.00.

(b) Is a default, after which the Township may commence suit to recover the amount due and shall be entitled to have all court costs and attorney fees associated with such suit included within the judgment.

(Ord. of 8-28-1995; Ord. of 5-12-2003)

Secs. 14-107--14-120. Reserved

Division 2. Hazardous/Toxic Substance Cleanup and Cost Recovery

Sec. 14-121. Findings and purpose

The Township determines that in order to implement and carry out its responsibilities under federal and state law with respect to the containment and cleanup of any contamination, discharge, leakage or dissemination onto public or private properties in the Township involving hazardous or toxic substances, as defined herein, it is necessary that persons and/or entities be required to provide for, and bear the full expense of, the cleanup and restoration of the site to a like condition prior to the contamination.

Sec. 14-122. Definitions

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply in the interpretation and application of this article:

Hazardous** or **toxic substances means all chemicals or chemical compounds contained within the United States Environmental Protection Agency Publication EPA 560/4-91-011, entitled "Title III List of Lists," consolidated list of chemicals subject to reporting under the Emergency Planning and Community Right to Know Act. The contents of EPA 560/4-91-011 are incorporated, by reference, in this provision, and a copy shall be maintained on file with the Fire Chief for inspection by the public during regular office hours.

Hazardous** or **toxic substance incident means an event or accident which causes, or results in the dissemination, discharge, leakage or contamination onto public or private property in the Township of a hazardous or toxic substance, to a degree where the Fire Chief or Police Chief, applying applicable state and federal law, rules and regulations, or acting under instructions of an authorized state or federal official, determines that remedial action is necessary to restore the site.

Sec. 14-123. Duty of responsible persons/entities to act

Upon the occurrence of a hazardous or toxic substance incident, it shall be the duty of any and all responsible persons or entities to take such immediate and effective action, as determined by the Fire Chief or Police Chief as may be necessary and appropriate, in his or her sole determination, applying standards from applicable state and federal law, to stabilize the hazardous or toxic substance and to remove such, and thereafter to clean up and restore the site to a like condition

(*CHAPTER 14, ARTICLE III, DIVISION 1, SECTION 14-123 cont.*)

prior to the incident. Upon failure thereof, the Township may take whatever steps are reasonably necessary, including the retention of private contractors, to effectuate the required actions and restoration.

Sec. 14-124. Cleanup costs, debt to Township

Any such person or entity which fails to comply with Section 14-123 of this article, or is unable to do so in a timely manner, shall be liable to and shall pay the Township for its costs and expenses, including the costs incurred by the Township to any party which it engages to effectuate the required actions and restoration as required under Section 14-123. Costs incurred by the Township shall include, but shall not necessarily be limited to, actual labor costs including fringe benefits, administrative overhead, cost of equipment operation and materials used in the cleanup, and actual attorney fees necessitated by the cleanup.

Sec. 14-125. Charge against persons liable; Collection of debt.

The expense of a cleanup under Section 14-123 shall be a charge against the person(s) or entity(ies) liable for expenses under this article. The charge constitutes a joint and several debt of those persons and is collectible by the Township in the same manner as in the case of an obligation under a contract, expressed or implied, including court costs, statutory interest and actual attorney fees, and to the extent the owners of real property that was the site of the hazardous or toxic substance incident are liable for the expense, is secured by a lien on that real property that is enforceable as provided in Chapter 1 of this Code.

Sec. 14-126. Other applicable laws

To the extent the Michigan Natural Resources and Environmental Protection Act (being MCL 324.20101, et seq.), or any other law preempts the cost recovery provisions of this Division, the liability for and recovery of the Township's costs and expenses of cleanup shall be governed by, and the Township may pursue collection of such costs and expenses in a civil action under, those laws.

Secs. 14-127--14-140. Reserved

ARTICLE IV FINANCES.

DIVISION 1. Township review expenses.

Sec. 14-141. Scope

This Division applies when a Township authorization, approval, permit, consent, recommendation, expert determination, opinion, or other action for the benefit of a person or property and not for the township at large, is requested or applied for, which for purposes of this Division, shall be referred to as "Township Review."

Sec. 14-142. Required advance payment for township review

Prior to a Township Review that reasonably requires services by one or more Township consultants, contractors, or agents, or by a Township employee on an overtime basis, the applicant shall deposit money with the Township to pay for those services, with the required amount to be determined by the Township based on compensation rates and the estimated time required for performance and completion of the Township Review.

(*CHAPTER 14, ARTICLE IV, DIVISION 1, SECTION 14-143* cont.)

Sec. 14-143. Establishment of and payments to and from escrow

(a) Money deposited for a Township Review shall be held in an escrow status, with payments by the Township from such escrow to be based upon a written billing or documentation from the service provider, which shall be maintained for inspection by the person or entity providing the funds.

(b) If the Township determines that the amount in escrow is or will be inadequate to pay for all Township Review services, it may require a supplemental deposit of money to be placed in escrow for completion of the Township Review.

(c) To the extent an escrow exceeds the amount required to pay for all completed Township Reviews, the excess shall be returned to the person who provided the funds by first class mail to that person's last known address. If: (i)that person did not provide an address or the address provided is not valid, (ii) no new or forwarding address has been provided to the Township, and (iii) the Township's reasonable efforts to locate and return the funds to the provider are unsuccessful, the excess escrow monies shall be considered as forfeited to the Township for deposit in the general fund one (1) year after completion of the last required Township Review.

Secs. 14-144--14-150. Reserved.

DIVISION 2. Bonds and Performance Guarantees.

Sec. 14-151. Purpose and Scope

The purpose of this Division is to establish the authority and procedures for bonds, performance guarantees, and other forms of financial security that are required by any provision in this Code to assure completion of improvements, compliance with a provision of this Code or a permit, certificate, or approval issued under this Code, or other stated purpose, which are referred to in this Division as a "bond or bonds."

Sec. 14-152. Conditions

(a) Every bond requires compliance with all of the provisions of this Code and all conditions required by the permit, certificate or approval, including any time limits specified, and the payment of all required fees to the Township.

(b) All bonds shall be subject to the Township's right to require an increase in the amount to assure that at all times the bond is sufficient to fully pay for or assure compliance with all purposes and conditions for which it was required. A failure to increase the amount of the bond within 14 days of a Township written notice to do so shall be grounds for the Township to retain any remaining balance of a cash deposit and to draw down the entire remaining balance of a letter of credit.

Sec. 14-153. Form, amount and continuation

Unless limited or expanded by the Code section that requires it, a bond shall be in the form of cash, or surety bond or irrevocable bank letter of credit in a form approved by the Township in an amount determined by the Township to be sufficient for the purposes for which the bond is required. Bonds shall remain in place until approved for refund, cancellation, or release under Section 14-154.

(*CHAPTER 14, ARTICLE IV, DIVISION 2 cont.*)

Surety bonds and irrevocable letters of credit shall not be permitted to lapse or expire without renewal or replacement and may be called, drawn, or collected upon by the Township prior to expiration if it reasonably appears to the Township that the guarantee will be permitted to lapse or expire.

Sec. 14-154. Release, reduction and forfeiture of bonds

(a) A bond shall not be refunded, canceled, or released unless all fees that are due have been paid, any required maintenance guarantee has been posted, all required Township inspections have been performed, and the Township has determined that the conditions and requirements of the Code, permit, certificate, or approval that required the bond have been satisfied or complied with.

(b) At the written request by the person that provided a bond and after a progress review and inspection, the Township may approve a reduction of the bond to an amount that remains sufficient for the purposes for which the bond was originally required, provided that no reduction shall occur until the project or work for which the bond was required is at least 50 percent complete and all fee and other obligations for the project to the Township are satisfied.

(c) Full or partial refunds of cash bonds shall be made payable solely to the person who provided the cash (payor on a check), or an assignee of that person and right to receive the refund. Refunds will be sent by first class mail to the address specified on the bond receipt. If the refund is returned undeliverable, it shall be held by the Township and paid to the person entitled to it upon written demand and payment instructions. If such a demand is not received by the Township within one (1) year after the date of refund, the cash bond shall be deemed forfeited and deposited in the general fund of the Township.

Sec. 14-155. Default.

(a) In the event of a default in complying with one or more requirements or conditions of a bond or the Code, permit, certificate, or approval that required it, the Township shall, following written notice and providing an opportunity to cure the default as specified in the notice, to the persons that provided the bond and that obtained the Township permit, certificate, or approval, have the right (but not the obligation) to use the bond deposited to complete improvements or take the appropriate actions necessary to cure or satisfy the default and achieve compliance with the Code, permit, certificate, or approval requirements or conditions. For such purposes, the application for the permit, certificate or approval for which the bond was provided shall be deemed to have authorized the right of the Township, by its employees, agents, consultants, and contractors to enter upon the property for those purposes. A notice given under this section may be provided by first class mail or other delivery to addresses provided to the Township, or personal delivery at any location.

(b) If the bond is insufficient in amount to pay for the costs that are or will be incurred by the Township under subsection (a), the persons that provided the bond and/or that obtained the Township permit, certificate, or approval shall be required to pay and are liable to the Township, jointly and severally, for such additional amounts. If the Township uses the bond, any portions that remain after payment of:(i) all actual costs,(ii) the Township's administrative costs equal to 10% of the actual costs, and (iii) any actual attorney and consultant fees incurred by the Township, shall be refunded to the person who provided the bond funds that were used by the Township.

Sec. 14-156. Violations; Civil Infraction.

A violation of this Division is a civil infraction punishable as provided in Section 1-010(b) of this Code.

CHAPTER 14.5 RIGHT-OF-WAY MANAGEMENT

***Editor's note:** An ordinance of January 26, 2004, amended the Code by, in effect, repealing former ch. 14.5, §§ 14.5-001--14.5-003, 14.5-025--14.5-035, 14.5-051--14.5-062, 14.5-101--14.5-103, and adding a new ch. 14.5. Former ch. 14.5 pertained to similar subject matter, and derived from ordinances of September 14, 1998 and July 8, 2002.*

Art. I. General, §§ 14.5-001--14.010 ..... Pages 14.5-1 through 14.5-4
Art. II. Disruption Permits, §§ 14.5-011--14.5-020 ..... Pages 14.5-4 and 14.5-5
Art. III. Use Permits, §§ 14.5-021--14.5-030 ..... Pages 14.5-6 and 14.5-7
Art. IV. Telecommunications Permits, §§ 14.5-031--14.5-050 ..... Pages 14.5-8 through 14.5-11
Art. V. Permit Application Requirements and Process, §§ 14.5-051--14.5-070 ..... Pages 14.5-11 through 14.5-15
Art. VI. Ordinance and Permit Terms and Conditions, §§ 14.5-071--14.5-080 ..... Pages 14.5-15 through 14.5-19
Art. VII. Stop Work or Use Orders, Revocations and Penalties, §§ 14.5-081--14.5-090 ..... Pages 14.5-20 and 14.5-21
Art. VIII. Miscellaneous, §§ 14.5-091--14.5-095 ..... Pages 14.5-21 and 14.5-22

ARTICLE I GENERAL

Sec. 14.5-001. Short title

This chapter shall be known and may be cited as the "Township of Waterford Right-of-Way Management Ordinance."

(Ord. of 1-26-2004, § 1)

Sec. 14.5-002. Purpose/legislative findings

(a) Pursuant to Section 29 of Article 7 of the Michigan Constitution of 1963, and other applicable state and federal legislation, including but not limited to, MCL 247.183, the Township has the authority to exercise reasonable control over its highways, streets, alleys and public places. The Township finds that, in the furtherance of control and to ensure and protect the public health, safety and welfare, it is appropriate for the Township to monitor, review and regulate activities and persons that disrupt and/or use a Township right-of-way.

(b) This chapter is further intended to minimize disruption, disturbance and damage to the Township's rights-of-way, to exercise reasonable control over and monitor the use of the same, and to maintain aesthetic, quality, and property values by requiring those persons who seek to disrupt and/or use a Township right-of-way by constructing, installing, locating, operating, using and/or maintaining improvements, including utilities and telecommunications, gas, and/or electric transmission systems therein, to obtain a disruption permit and/or a use permit and pay fair and reasonable permit fees.

(c) The Township further finds that requiring the payment of the application and permit fees when authorized by law will assist in protecting the Township's interests in its rights-of-way, by allowing the Township to cover some of its costs of maintaining, monitoring, and ensuring quality control with regard to its rights-of-way and related records.

(d) This chapter is further intended 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 exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Act No. 48 of the Public Acts of 2002 ("Act") 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.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE I, cont.*)

Sec. 14.5-003. Definitions

The following words, terms and phrases when used in this chapter shall have the meanings indicated. Other terms used in this chapter shall have the same meaning as defined or provided in the Act.

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

Authority means the Authority as defined in Section 2 of the Act.

Disruption means a physical change, modification, alteration, disturbance, injury and/or damage to or in a Township right-of-way, including but not limited to, construction, installation, location, maintenance, modification, alteration, replacement or repair of improvements, and the removal or alteration of a right-of-way surface grade or material, tree, sign, marker, hydrant or other material or object.

Disruption permit, which may also be called or referred to as a ***construction permit***, means a nonexclusive limited permit issued by the Township to a person pursuant to this chapter allowing an activity which will result in disruption to the Township's right-of-way.

Franchise means a nonexclusive limited Township Board approved authorization to transact, conduct and/or operate a use in the Township, including but not limited to, the operation or use of improvements in the Township's right-of-way.

Franchise disruption means disruption that is necessary for the franchisee to satisfy or comply with its rights or duties under a franchise and which is performed by the franchisee or its authorized contractor whose authority is disclosed in writing to the Township in advance of the disruption.

Improvement means any equipment, conduit, facility, pipe, pole, structure, wire, cable, fiber, building or any other man-made or placed material or object, including but not limited to any water or sewer main, pipe, catch basin, manhole or other structure used for the accumulation or transportation of water, storm-water, sewage, liquid or gas and any overhead or underground cable, wire and/or a combination thereof, for the transmission or distribution of electrical energy, telephone service, telecommunications services or other utility or communication services or signals, including service connections and any other material protecting said cable or wire used in connection therewith.

Minor disruption means disruption in connection with work or an improvement on an individual lot or parcel that:

(a) Will not extend beyond the property's right-of-way frontage;
(b) Will not result in any obstruction or interference with the traveled portion of the right-of-way,
(c) As determined by the Township, will not have any impact on existing or planned Township utilities or other existing or permitted improvements in the right-of-way, and
(d) As determined by the Township, is not of sufficient size or consequence and has no other aspects or components that warrant or necessitate compliance with otherwise applicable disruption permit requirements.

MPSC means the Michigan Public Service Commission in the Department of Licensing and Regulatory Affairs, and shall have the same meaning as the term "Commission" in the Act.

Ordinances means all laws, codes and regulations duly enacted and adopted by the Township.

Permittee means a person who has been issued a disruption or use permit pursuant to the terms and provisions of this chapter and all employees, agents, contractors and other persons that direct or perform any activity covered by the permit.

Person means a natural person, company, corporation, partnership, joint venture, voluntary association, organization or other form of legal entity.

(*CHAPTER 14.5, ARTICLE I, SECTION 14.5-003* cont.)

Public easement means any area of land which has been granted or dedicated to the Township or to public use, including but not limited to, road or right-of-way, utility, water main, sewer line, access, drainage, recreation, conservation and other public areas, whether as easements or in fee.

Public place means any area owned, under the jurisdiction of, or controlled by the Township.

Street means the paved area or area designated for vehicular travel within the right-of-way, and is synonymous with the words "highway" and "road."

Telecommunication 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 telecommunication services or signals. Telecommunication facilities or facilities do 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 U.S.C. 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, 1991 PA 179, MCL 484.2102. Telecommunication 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 U.S.C. 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 chapter only, a provider also includes:

(a) A cable television operator that provides a telecommunications service;
(b) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way; and
(c) A person providing broadband internet transport access service.

Telecommunication system means conduit, improvements and other materials which are designed and/or used to provide telecommunications services.

Township means the Charter Township of Waterford, and unless this chapter or resolution of the Township Board indicates otherwise, means the Township Supervisor or Township Supervisor's designee for purposes of reviews, decisions and actions on all permit and ordinance issues and applications.

Township or Township's right-of-way or right-of-way means any and all public rights-of-way, streets, highways, roads, sidewalks, alleys, thoroughfares, public easements and public places located within the Township, including within any curbs, shoulders, landscaped areas and/or other areas incidental and/or appurtenant thereto. "Right-of-way" shall not include federal and state highways for purposes of telecommunication permit applications.

Use may be limited by the Act to meaning the ownership of an improvement by a telecommunications provider. For all other persons, use means the ownership, lease or rental, possession, operation, occupancy or use of all or part of an improvement.

Use permit means a nonexclusive limited permit issued by the Township to a person pursuant to this chapter or a prior ordinance, allowing use of the Township's right-of-way for an improvement therein, and includes a use permit described in Article III and a telecommunications permit described in Article IV.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE I, cont.*)

Sec. 14.5-004. Application

This chapter applies to all disruption or use of Township right-of-way, regardless of whether persons are excepted or exempted from the disruption and/or use permit requirements, with the provisions of Article IV applying to telecommunications providers and controlling in the event of any conflict or inconsistency with other provisions of this chapter.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-005--14.5-010. Reserved

ARTICLE II DISRUPTION PERMITS

Sec. 14.5-011. Disruption permit required

(a) Generally. Except as otherwise provided in this article, no person, including persons who have or are exempt from having a use permit, shall direct or perform any activity which causes or results in any disruption to any Township right-of-way unless the consent of the Township Board is first obtained, as evidenced by a disruption permit issued by the Township pursuant to this chapter. Activity shall be performed in accordance with the disruption permit and in the manner provided for in this chapter.

(b) Exemptions and emergencies. A disruption permit is not required for:

(1) Activities by or under contract with the state department of transportation or County road commission or Township.

(2) Activities that have been disclosed and described to the extent required by this chapter and that are thereafter approved as part of a permit, site plan, plat or other approval under another Township ordinance.

(3) Temporary obstructions which are incidental to the expeditious movement of articles and things to and from abutting premises.

(4) The lawful operation and parking of vehicles within a Township right-of-way.

(5) The lawful and customary use of property by adjoining property owners for such things as landscaping and lawful repairs, maintenance and other activities of, for or on a sidewalk, driveway or other similar improvement in a Township right-of-way, provided that all other Township required permits are first obtained.

In an emergency, including, but not limited to natural disaster, civil disorder, flood, war and/or severe weather condition, a person and/or a permittee may disrupt a Township right-of-way without first receiving a disruption permit from the Township provided that the Township has approved the emergency repairs before the disruption takes place.

(c) Violations. Failure to obtain a disruption permit under this section shall constitute a violation of this article and shall subject the violating person to the penalties provided for in this chapter. A person who violates this section shall pay the required application fee and disruption permit fee, as well as any additional charge established by resolution of the Township Board for that period of time that the person did not have a valid disruption permit pursuant to this article.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-012. Forms of and applications for disruption permits

(a) Applications. A person that wants to direct or perform any activity which will or may result in any disruption to a Township right-of-way shall apply to the Township for a disruption permit pursuant to this article and Article V.

(b) Franchise disruptions. An annual disruption permit may be applied for and issued for all franchise disruptions in a calendar year under a single franchise, provided that the plans and other applicable information for each disruption are filed with the Township sufficiently in advance of the work that they may be reviewed.

(c) Minor disruptions. Permits for minor disruptions may be approved and issued by the Township without requiring full compliance with the application requirements in Article V.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE II, cont.*)

Sec. 14.5-013. Disruption permit fees

(a) At the time of filing an application, the applicant must pay the Township a nonrefundable application fee and an application review and processing fee in an amount necessary to reimburse the Township for the costs in reviewing, processing, investigating, granting or denying and issuing the disruption permit, as estimated by the Township based on rates and factors established by resolution of the Township Board. If review and processing costs exceed the Township's estimate, they shall be paid by the applicant prior to permit issuance.

(b) In addition to the nonrefundable application fee and application review and processing fees, at or prior to the time the Township issues the disruption permit, the permittee shall pay the Township a disruption permit fee in an amount which will cover all of the Township's administrative, inspection, consulting, plan review, monitoring and other costs in conjunction with the permittee's disruption of the Township right-of-way. The disruption permit fee shall be based on rates and factors established by resolution of the Township Board in an amount representing the Township's estimate of what its costs in connection with the disruption are likely to be. Additional disruption permit fees may be required by the Township during construction to cover unanticipated inspection costs, and shall be paid by the permittee within three (3) calendar days of the Township's notice. If they are not, the permittee shall immediately restore the work site to a safe condition and suspend activities authorized under the permit until the additional inspection fees are paid. Upon completion of the disruption activities, the permittee shall pay to the Township any costs incurred in connection with the disruption activities that are over and above the amount paid to the Township by the permittee as estimated or additional disruption permit fees.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-014. Disruption permit term and extension

(a) The disruption permit granted to the permittee by the Township shall be for a specified time period established by the Township after taking into consideration the information in the permittee's disruption permit application.

(b) Prior to the expiration of the term of the disruption permit, a permittee may apply in writing to the Township for an extension of the permit, which shall be granted by the Township if the permittee demonstrates a valid reason and explanation for why the disruption activities could not be completed during the term initially established. For purposes of seeking an extension of its disruption permit, the applicant, shall pay an extension application fee to the Township in an amount established by resolution of the Township Board. The Township shall have the right to impose additional conditions on disruption permit extensions.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-015. Disruption permit terms and conditions

In addition to any individual conditions included by the Township in a permit as provided in Article V, all disruption permits shall be considered to include and require compliance with all terms and conditions set forth in Article VI.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-016. Revocation of permit and stop work orders

All disruption permits shall be subject to stop work orders and/or revocation under the standards and procedures contained in Article VII.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-017--14.5-020. Reserved

(*CHAPTER 14.5, cont.*)

ARTICLE III USE PERMITS

Sec. 14.5-021. Use permit required

(a) Generally. Except as modified for telecommunications permits under Article IV and as otherwise provided in this article, no person shall use a Township right-of-way for any improvements therein unless the consent of the Township Board is first obtained, as evidenced by a use permit issued by the Township pursuant to this chapter.

(b) Exemptions. An exemption described in this section shall not apply until it has been documented and proven in written form by the person claiming it to the Township's satisfaction. A use permit is not required for any person that has a valid, effective and current franchise from the Township to use the Township's rights-of-way for improvements.

(c) Board permit decisions. Applications to use and/or occupy Township rights-of-way that do not abut real property owned by the applicant, shall be approved, approved with conditions or denied for issuance by the Township Board as provided in Article V.

(d) Violations. Failure to obtain a use permit under this section shall constitute a violation of this article and shall subject the violating person to the penalties provided for in this chapter. A person who violates this section shall pay the required application and use permit fee, as well as any additional charge established by resolution of the Township Board for that period of time that the person did not have a valid permit pursuant to this chapter.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-022. Use permit application procedures and fees

(a) A person that wants to use a Township right-of-way shall apply to the Township for a use permit as provided in the permit application requirements and procedures in Article V.

(b) At the time of filing an application, the applicant must pay to the Township a nonrefundable application fee in an amount established by resolution of the Township Board and an application review and processing fee in an amount necessary to reimburse the Township for the costs in reviewing, processing, investigating, granting or denying and issuing the use permit, as estimated by the Township based on rates and factors established by resolution of the Township Board. If review and processing costs exceed the Township's estimate, they shall be paid by the applicant prior to permit issuance.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-023. Use permit fee

(a) Except for telecommunications permits under Article IV, in addition to the nonrefundable application fee and application review and processing fees, for each year the use permit is in effect, the permittee shall pay an annual use permit fee to the Township in an amount established by resolution of the Township Board. The annual use permit fee shall be paid prior to use permit issuance, and for each year thereafter, on or before the last Township business day prior to January 1, said fee being payable in advance of the year it is for.

(b) The amount of the use permit fee shall be fair and reasonable, competitively neutral, nondiscriminatory and reasonably related to the Township's costs in connection with the permit and Township right-of-way involved and shall not exceed what is authorized by applicable laws. Upon the written request of the Township or applicant, the fees established by the Township Board resolutions shall be reviewed on a case-by-case basis for the purpose of determining whether the fee should be more or less. In making such determination, the Township Board shall take into consideration the following factors:

(*CHAPTER 14.5, ARTICLE III, SECTION 14.5-023(b)* cont.)

(1) The annual fixed and variable cost to the Township in maintaining the right-of-way in, under or over which the permittee's use occurs.
(2) The total amount of area that the permittee will be using and occupying in the Township right-of-way, including but not limited to, the length of right-of-way and the number and size of the improvements to be used.
(3) The frequency and unit cost of monitoring the rights-of-way on a regular basis to ensure that the use by permittee conforms with applicable law, ordinance and permit conditions, and that such use has not created the need for public attention.
(4) The proportionate cost of maintaining and administering records of right-of-way use, including administration to assist in the avoidance of conflicts in the use of the rights-of-way by other users, and auditing of the extent of permittee's use.
(5) Any unique aspects of permittee's use or improvements that are likely to affect the cost to the Township of permittee's use of the rights-of-way.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-024. Use permit term, renewal and reviews

(a) Except for telecommunications permits under Article IV, a use permit may be issued for a term of up to ten (10) years, with the first year ending on December 31 of the year the use permit is issued. The permittee may apply to the Township for ten-year renewals of its use permit, which renewal periods would run from January 1 to December 31 of each ten-year term. Unless earlier terminated by the permittee or the Township, a permittee must file an application for renewal of its use permit with the Township not less than one hundred twenty (120) days before the expiration of the current term, and pay a renewal application fee to the Township in an amount established by resolution of the Township Board. The Township shall review and approve, conditionally approve, or deny all renewal applications. Decisions on renewal applications shall be made by the Township in the same manner as the original permit. The Township shall have the right to impose additional reasonable conditions on those use permit renewals.

(b) Although permits may be granted for a ten-year term, the Township may conduct an interim review at the end of the third and sixth years of a permit to determine whether the use permit fee then in effect should be revised and/or to require the permittee to affirmatively demonstrate that it is complying with all permit and ordinance terms and conditions. If the Township determines that the fee should be revised, a resolution to do so shall be presented to the Township Board, and upon approval, shall be established and be effective for the balance of the permit term. If a permittee fails to demonstrate ordinance and permit compliance, the Township may impose further conditions upon the use permit, or, where the review reveals a material failure of compliance, may initiate revocation proceedings as provided in Article VII.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-025. Use permit terms and conditions

In addition to any individual conditions imposed by the Township on a permit as provided in Article V, all permits shall be considered to include and require compliance with all terms and conditions set forth in Article VI.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-026. Revocation of permit and stop use orders

All use permits shall be subject to stop use orders and/or revocation under the standards and procedures contained in Article VII.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-027--14.5-030. Reserved

(*CHAPTER 14.5, cont.*)

ARTICLE IV TELECOMMUNICATIONS PERMITS

Sec. 14.5-031. Permit required

(a) Generally. Except as otherwise provided in the Act, a telecommunications provider using or seeking to use Township rights-of-way for its telecommunications facilities shall apply for and obtain a telecommunications permit, which is a form of use permit, pursuant to this article.

(b) Previously issued permits. Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the Township under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, 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 chapter.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-032. Permit applications

(a) Application. Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act by filing three (3) copies with the Township Clerk. Upon receipt, the Township Clerk shall make and distribute copies of the application to other Township staff and consultants as necessary. 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 Section 6(5) of the Act.

(b) 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 Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(c) Application fee. Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of five hundred dollars ($500.00).

(d) Additional information. The Township may request an applicant to submit such additional information required for use permit applications under Article V, which the Township 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. If the Township and the applicant cannot agree on the requirement of additional information requested by the Township, the dispute shall be resolved as provided in the Act.

(e) Existing providers. A telecommunications provider with facilities located in a Township right-of-way in the Township that as of November 1, 2002, the effective date of the Act, has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the Township an application for a permit in accordance with the requirements of this article and within the time required or extended under Sections 5(3) and 5(4) of the Act. Pursuant to Section 5(3)of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the five hundred dollars ($500.00) application fee required under subsection (c) above.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE IV, cont.*)

Sec. 14.5-033. Issuance of permit

(a) Approval or denial. The Township shall have the authority to approve or deny an application for a permit. Pursuant to Section 15(3) of the Act, the Township shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 14.5-032, for access to a Township right-of-way within the Township. Pursuant to Section 6(6) of the Act, the Township shall notify the MPSC when the Township 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 shall not unreasonably deny an application for a permit.

(b) Form of permit. If an application for permit is approved, the Township 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.

(c) Conditions. Pursuant to Section 15(4) of the Act, the Township may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the Township right-of-way.

(d) Bond requirement. Pursuant to Section 15(3) of the Act, the Township 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 Township right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-034. Disruption permit

A telecommunications provider shall not commence construction in a Township right-of-way without first obtaining a disruption permit as provided in Articles II and V. Unless authorized by law, no otherwise applicable fees may be charged by the Township for such a disruption permit.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-035. Conduit or utility poles

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-036. Route maps

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within ninety (90) days after the substantial completion of construction of new telecommunications facilities in the Township, submit route maps to the MPSC and Township, showing the location of the telecommunications facilities. The route maps shall be in the format (electronic, paper or otherwise) as finally determined by the MPSC (or a court of competent jurisdiction) in accordance with Section 6(8) of the Act.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-037. Repair of damage

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a Township right-of-way or temporarily obstructing a Township 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 Township right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE IV, cont.*)

Sec. 14.5-038. Establishment and payment of maintenance fee

In addition to the non-refundable application fee paid to the Township set forth in Section 14.5-032, a telecommunications provider with telecommunications facilities in the Township's rights-of-way shall pay an annual maintenance fee to the authority pursuant to Section 8 of the Act.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-039. Modification of existing fees

In compliance with the requirements of Section 13(1) of the Act, the Township hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the Township 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, the Township also hereby approves modification of the fees of providers with telecommunication facilities in Township rights-of-way within the Township's boundaries, so that those providers pay only those fees required under Section 8 of the Act. 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.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-040. Savings clause under the act

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 14.5-039, shall be void from the date the modification was made.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-041. Use of funds

Pursuant to Section 10(4) of the Act, all amounts received by the Township from the authority shall be used by the Township solely for right-of-way related purposes.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-042. Annual report.

As required by Section 10(5) of the Act, the Township shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-043. Cable television operators

Pursuant to Section 13(6) of the Act, 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 this act, 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.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-044. Existing rights and permits

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter 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 Township rights-of-way.

(*CHAPTER 14.5, ARTICLE IV, SECTION 14.5-044* cont.)

Upon the written request of a telecommunications provider holding such a permit, the Township shall issue a replacement permit in the form approved by the MPSC in accordance with Sections 6(1), 6(2) and 15 of the Act, with the effective date of the replacement permit to be the same date as the original permit.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-045. Compliance

The Township hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The Township shall comply in all respects with the requirements of the Act, including but not limited to the provisions referenced in this article.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-046. Reservation of police powers

Pursuant to Section 15(2) of the Act, this article shall not limit the Township's right to review and approve a telecommunication 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.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-047. Violations

Failure to obtain or violation of a permit under this article shall be subject to the penalties and procedures provided for in the Act, and to the extent authorized by law, to the penalties and procedures in Article VII.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-048--14.5-050. Reserved

ARTICLE V PERMIT APPLICATION REQUIREMENTS AND PROCESS

Sec. 14.5-051. Filing of complete applications required

At least three (3) copies of a permit application, and more if necessary to secure all Township staff and consultant reviews, shall be filed with the Township Clerk and shall not be considered as complete for any purposes, including any time periods for Township reviews and decisions, until the required application fee and information has been provided.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-052. General application information requirements

(a) Except for telecommunications use permits and as provided in this section, permit applications shall include all of the following information, as applicable, on a Township application form or by attachment to the form of applicable documents and plans.

(b) With the Township's approval, an applicant may rely on information submitted in connection with a specifically identified, previously issued permit, upon a written certification to the Township that the information has not changed and remains accurate.

(c) Upon an applicant's written request and demonstration to the Township's satisfaction that one (1) or more application requirements serve no useful purpose or have been adequately addressed in an alternative manner or form, and for minor disruptions, the Township may waive or modify one (1) or more of the information requirements, with or without conditions.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE V, cont.*)

Sec. 14.5-053. Information required for all permits

(a) The name, age if an individual, and address of the applicant, and if the applicant is not a natural person, the date, state and form of business organization.

(b) The character of the business the applicant engages in and the lengths of time and locations where that business has been conducted.

(c) Written documentation of the applicant's lawful existence, authorization and good standing to conduct its business in the state.

(d) The names, phone numbers, fax numbers, addresses, e-mail addresses if applicable, and position, relationship or affiliation with applicant for the following persons:

(1) Applicant's contact person(s);

(2) The person(s) that is authorized to and will sign and agree to permits that are issued on behalf of applicant;

(3) Applicant's resident agent for service of process;

(4) The person(s) responsible for preparation and revisions of applicant's maps and plans;

(5) All contractors that will be performing any work in Township right-of-way for the applicant under the permit(s) requested;

(6) The construction and engineering personnel that will be responsible for supervision of disruption, maintenance and repair work in Township right-of-way and for communication with the Township regarding such work;

(7) Identification of all other permits the applicant has been issued by the Township and proof of full compliance with them.

(e) For proposed aboveground improvements, the application shall demonstrate that they can not be placed underground or that the applicant is exempted by law from the requirement of this chapter that all new improvements be placed underground.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-054. Required route and improvement information for use permits

Use permit applications shall include a textual description and scaled drawing or map on 8 1/2" × 11" paper or other size accepted by the Township that shows or contains:

(a) The general route and horizontal and vertical (above or below ground) location within the right-of-way of improvements to be installed and/or used;

(b) The relationship of the improvements to existing and proposed improvements in adjoining municipalities;

(c) The length, area or other applicable measurement of Township right-of-way that will be used by applicant, expressed in lineal feet of aerial and under ground portions of proposed and existing improvements, and for improvements that are not measurable in lineal feet, the number of square feet of right-of-way that will be used;

(d) If the applicant is proposing to construct new aerial poles or new underground conduit or pipe improvements, a description of why it is not physically and financially feasible for applicant to utilize existing poles, pipes, conduits and improvements;

(e) A detailed description of the services to be provided by applicant's improvements, which shall include a description of the system those improvements will be a part of and the categories or classifications and locations of existing, intended and potential customers or persons that are or may be served by the improvements; and

(f) A copy of a current financial statement for the applicant.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-055. Construction plans required for disruption permits

Detailed construction plans and a separate list or index of same, at a scale of no less than one (1) inch equals one hundred (100) feet for the improvements applicant proposes to construct and/or use, with each plan to clearly show or contain all of the following information:

(a) The name and address of the person that prepared the plan, the dates of preparation and revisions, a job/work title and/or number and a drawing/sheet number.

(b) Whether the improvements are existing or proposed.

(*CHAPTER 14.5, ARTICLE V, SECTION 14.5-055 cont.*)

(c) All Township right-of-way lines and property lines if within the Township right-of-way and the location of the improvements in relation thereto.

(d) The lineal feet or other area of Township right-of-way occupied or proposed to be occupied by the improvements shown on the plan, expressed separately for aerial and underground portions.

(e) Match lines by which each plan can be related to the applicant's other plans.

(f) A description of the improvements shown on the plan that includes the size, components, capacity, ownership and existing, proposed and potential uses.

(g) For aerial improvements, all existing and new poles or structures to which the improvements are or will be attached shall be shown and designated as such together with the owner of each such pole or structure.

(h) For aerial improvements, elevations shall be depicted on a drawing that shows applicant's improvements in relation to all other existing improvements and the poles or structures to which they are or will be attached.

(i) For underground improvements, in addition to the applicant's, the plans shall show all other existing underground appliances, conduits and improvements, it being the applicant's responsibility to determine the existence and location of such other improvements. The plans shall show the applicant and other existing improvements by reference to the horizontal and vertical location and separation between improvements that exist or are proposed.

(j) The locations of rivers, streams, drains, bodies of water and state or Township regulated wetlands crossed by applicant's improvements.

(k) The location of all Township right-of-way that will or may be disrupted by the installation, use, maintenance or repair of applicant's improvements.

(l) The location of any above ground structures or landscaping including but not limited to, trees, shrubs, signs, hydrants, mail boxes and driveways within or adjoining the Township right-of-way, that will or may be disrupted or damaged by the installation, use, maintenance or repair of the applicant's improvements.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-056. Construction and schedule information for disruption permits

(a) A description of the manner in which the improvements will be installed, maintained and repaired by reference to the number and types of vehicles, equipment and personnel involved and the area of Township right-of-way within which disruption activities will be occurring at any given time.

(b) A description of the time and manner in which applicant will restore Township rights-of-way that may be disrupted or damaged by applicant's activities.

(c) If the applicant is proposing to construct new aerial poles or new underground conduit or pipe improvements, a description of why it is not physically and financially feasible for applicant to utilize existing poles, pipes, conduits and improvements.

(d) The cost of the improvements to be installed and such other information as may be required for the Township to issue and establish individual terms and conditions for a permit.

(e) The length of time it will take applicant to complete the installation and required restoration under a proposed disruption permit, expressed in terms of the number of weeks from the date the permit is issued, and noting any changes to the schedule that may be needed based on the time of year the permit is issued or any other variable that is not within applicant's control.

(f) Copies of Michigan Department of Transportation, Road Commission of the county, and other governmental permits or approvals that are required for applicant's improvements, or documentation that such permits have been applied for.

(g) If applicant proposes to locate its improvements on, within or as part of poles, conduits or improvements of another person, that person's written confirmation of applicant's rights to do so.

(h) Notes on the plans requiring traffic control devices in accordance with Township ordinance, the most recent edition of the Michigan Manual of Uniform Traffic Control Devices Guide, and reasonable engineering specifications required by the Township.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE V, cont.*)

Sec. 14.5-057. Additional information for disruption permits

If the Township determines it to be necessary to the proper and efficient administration of this chapter, it may also require an applicant for a disruption permit to provide plans on a larger scale, elevations, locations and topography at specified contours for existing and proposed improvements, landscaping and natural features, property lines and other relevant information for areas within one hundred (100) feet of the proposed improvement.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-058. Application reviews and permit decisions

(a) Except as otherwise provided in this article, the Township shall approve, conditionally approve or deny a permit for issuance within forty-five (45) days from the date the applicant files a complete application. The time limit for the Township to make a decision may be extended with the applicant's written agreement, and except for telecommunications permits under Article IV, by the Township for good cause. Approval of a permit for issuance does not authorize any disruption or use of Township right-of-way.

(b) The Township review and decision on an application shall be based on this chapter, which establishes the terms and conditions under which the Township Board consents to disruption in and use of the Township rights-of-way. The Township will not approve a permit for issuance to an applicant that is in violation of or has unsatisfied obligations to the Township under a prior permit.

(c) Approval of a permit for issuance does not authorize any disruption or use of Township right-of-way and may be subject to conditions that must be satisfied prior to permit issuance and the commencement of permitted activities.

(d) Complete use permit applications requiring Township Board decision shall be scheduled for the first regular meeting that allows the Township to provide at least ten (10) days written notice to the applicant of the location, day and time of that meeting, at which the applicant and other interested persons will have the right to present evidence, information, comments, statements and questions regarding, in support of or in opposition to the application.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-059. Permit conditions and bonds

The Township may impose conditions on any permit it approves as it determines necessary to ensure and protect the public health, safety and welfare. Subject to any limitations for telecommunications permits under Article IV, the Township may require, as a condition of the permit, that a bond in the form of cash, letter of credit or other security acceptable to the Township be posted by the applicant, which bond shall not exceed the reasonable costs to ensure that the Township's rights-of-way that are to be disrupted and/or used by the applicant are returned and restored to their original condition after the applicant's disruption and/or use of the rights-of-way, that all required fees are paid, that all permit conditions are satisfied and that acceptable as-built plans are provided to the Township.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-060. Permit issuance

Upon approving a permit for issuance, the Township shall provide the applicant with two (2) copies of a completed permit form and documents that contain or incorporate all terms and conditions under Article VI of this chapter and any individual permit conditions. To obtain permit issuance, the applicant shall accept and agree to the permit by signing both copies of the permit and applicable permit documents in the form and manner specified and delivering them to the Township together with any required fees, bonds, insurance certificates and any other documents that were specified by the Township as conditions for permit issuance.

(*CHAPTER 14.5, ARTICLE V, SECTION 14.5-060 cont.*)

When all requirements for permit issuance have been satisfied, the Township shall issue the permit by dating and signing each of the permit forms, keeping one (1) for Township records and mailing or delivering the second to the permittee.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-061. Permit display

A disruption permit or copy thereof, together with the approved construction plans shall be in the possession of the permittee's employee or representative at each work location at all times.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-062. Permit amendments

Disruption permit amendments are in the discretion of the Township, who for more than minor changes or alterations, may require that a new permit be applied for and obtained. Use permits may be amended by the Township upon a written application of the permittee, to include the right to use additional right-of-way for the remainder of the original use permit term. All application, application review and processing and annual use permit fees shall be paid in connection with such an amendment.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-063. Appeals

Any person, firm or corporation whose permit application is denied or approved with conditions the applicant wishes to challenge, may appeal to the Township Board by filing a written appeal with the Township not more than ten (10) days after the decision. The application for appeal shall fully and particularly set forth the nature and grounds upon which the appeal is based. The Township Board, shall, within thirty (30) days after the filing of such notice of appeal, hold a hearing on the appeal. Upon hearing the appeal, Township Board shall approve, conditionally approve or deny the permit for issuance, and in doing so, may in its sole discretion, on the applicant's request or its own motion, waive or modify ordinance requirements that were the basis for permit denial.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-064--14.5-070. Reserved

ARTICLE VI ORDINANCE AND PERMIT TERMS AND CONDITIONS

Sec. 14.5-071. General ordinance regulations and permit terms and conditions

Except for telecommunications permits issued under Article IV, the following terms and conditions shall apply to all persons directing or performing disruption or use of Township right-of-way, regardless of whether they have or are required to have a permit, and shall be considered a part of every disruption and use permit issued under this chapter.

(a) Non-exclusive. A permit shall be nonexclusive and does not restrict the Township from at any time issuing additional permits to other persons to disrupt and/or use the same Township right-of-way. The issuance of a permit does not establish any priority for the disruption and/or use of a Township right-of-way and permittees shall coordinate their work to avoid conflicts with the Township and all other persons lawfully working in the right-of-way.

(b) Compliance with permits and laws. All persons shall strictly comply with all of the terms and conditions of a permit and with all applicable laws, codes, restrictions and ordinances, including the public utility notification provisions of Act 174 of the Public Acts of 2013, as amended, and Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended, and no person shall disrupt and/or use any Township

(*CHAPTER 14.5, ARTICLE VI, SECTION 14.5-071(b)* cont.)

right-of-way without first obtaining all other required Township or other governmental permits and approvals and paying all other applicable fees.

(c) Permit fees and taxes. A permittee shall timely pay all annual use and other permit fees and all personal and real property taxes and any other obligations due and payable to the Township.

(d) Transfer/assignment. A disruption permit is shall not be assigned or transferred without the written consent of the Township which it shall have no obligation to grant. Prior to completion of the construction of the improvements in the Township public rights-of-way covered by a use permit, there shall not be any transfer, conveyance or assignment of the permit or the rights/privileges granted by it or any change in control of permittee, in whole or in part, voluntarily, involuntarily, or by operation of law, merger, consolidation, substantial change in the ownership or control or other means, without prior written consent of the Township, which shall not be unreasonably withheld for reasons unrelated to the ability and/or willingness of the proposed transferee/assignee to comply with the permit and all of its terms and conditions. After the completion of such construction, such a conveyance, transfer, assignment or change in control may be done without Township consent provided that permittee provides written notice to the Township of same no later than thirty (30) days after such occurrence and:

(1) Any transferee or assignee shall be qualified to perform under the permit terms and conditions and comply with applicable law, shall be subject to the obligations of the permit, including responsibility for any defaults which occurred prior to the transfer or assignment, shall supply the Township with written notice of the same identification, address and contact information required of a permittee and shall comply with any updated insurance and performance bond requirements under the permit which the Township reasonably deems necessary; and

(2) A change in control shall not be to an entity lacking the qualifications to assure permittee's ability to perform under the terms and conditions of the permit and comply with applicable law and shall be subject to compliance with any updated insurance and performance bond requirements which the Township reasonably deems necessary.

If a permit is assigned in whole or in part, its terms and conditions shall be binding upon the successors or assigns of the permittee. A security interest in a permit and the improvements covered by it may be granted at any time without notice to the Township.

(e) As-built plans. A permittee shall deliver to the Township, as-built plans in a form and at a scale acceptable to the Township for the permitted improvements which are in the Township right-of-way within sixty (60) days after completion of installation or commencement of use, whichever first occurs.

(f) G.I.S. Within sixty (60) days of completion of improvements, a permittee shall provide the Township with a geographical information system layer in a media form acceptable to the Township, which accurately portrays the permittee's as-built improvements and shall be updated to accurately reflect any changes to the same which are approved by the Township.

(g) Additional and/or future use. The issuance of a permit does not confer rights to any additional disruption and/or use of the Township's right-of-way, except as specifically granted and described in the permit.

(h) Township modifications and future use. The issuance of a permit does not prohibit the Township from requiring modifications to permittee's construction activities or from using the Township's right-of-way in a manner which may interfere with, disrupt or prevent the permittee's disruption and/or use of the same. Permittees acknowledge and accept this risk and shall not be entitled to receive any compensation from the Township in the event that the Township uses the Township right-of-way in that manner. The expense of making any necessary modifications of its improvements in order to accommodate a conflict shall be borne by the permittee.

(i) No interference in Township rights-of-way. No person shall disrupt a right-of-way or construct, install, locate, maintain, use or operate its improvements in the Township's rights-of-way in a manner that interferes with Township or other lawful use, existing water mains, gas lines, sanitary sewer lines, drains or drain pipes, or other improvements that are existing in the Township's right-of-way. Any portion of improvements that so interfere, or that will interfere with a proposed public utility or street improvement project, shall, at the request of the Township, be removed or modified by a permittee or owner of the improvements at its cost, without entitlement to receive any compensation from the Township. Such removal or modification shall be made within a reasonable time of request, as stated in a written notice from the Township. If the removal or modification is not made within such time, the Township may remove or modify the interfering improvement(s) to the extent required, and bill the

(*CHAPTER 14.5, ARTICLE VI, SECTION 14.5-071(i)* cont.)

permittee or owner of the improvements for the expenses incurred in doing so. If such a bill is not paid in full within thirty (30) days of the date of billing, Township may recover its expenses from a permittee's bond and/or by an action at law. With regard to interference with the use of the right-of-way for pedestrian, vehicular or other related purposes, all activities of a permittee shall be undertaken in a manner to minimize interference, and all due precautions shall be taken to maximize public safety.

(j) Plan, schedule and permit compliance; costs. The installation of improvements in, and the permittee's disruption and/or use of the Township's rights-of-way, shall be in compliance with the plans submitted to and approved and all permits issued by the Township. All costs of the permittee's improvements in use of the right-of-way shall be the sole responsibility of the permittee. All construction and installation of improvements in the Township's rights-of-way, shall be performed by the permittee in compliance with the schedule submitted to and approved by the Township, shall be done and maintained with all necessary precautions to prevent injury or damage to persons and property and in a good and workmanlike fashion in accordance with recognized construction industry and other applicable standards and shall be subject to inspection and final approval of the Township.

(k) Restoration of property. Any portion of the Township's right-of-way that is disrupted by the construction, installation, location, maintenance, use or operation of improvements shall be restored to its prior condition by the permittee, owner of the improvements and/or the persons that caused or directed the disruption. The disrupted right-of-way shall be restored and returned to a condition that is as good or better than that which existed at the time the disruption occurred. The time period and the manner in which the restoration is to take place shall be established by the Township, and, in the event the permittee does not complete the restoration in that time and/or does not undertake the restoration in the manner approved by the Township, upon written notice the Township may complete the repair and restoration and recover its costs from any bond posted by the permittee and/or by an action at law. If the bond does not cover all of the costs incurred by the Township, the permittee shall immediately pay the outstanding balance of the costs to the Township, and reinstate the required bond.

(l) Maintenance and repair. During the term of a permit, the permittee shall maintain and repair its improvements in a good and workmanlike condition. If permittee fails to do so, the Township may send a written notice to the permittee to correct the defective condition within a specified time. If the defective condition is not corrected within the time allowed, the Township shall be entitled, at its sole discretion, to perform said maintenance and repair, correct the defect and/or remove the improvement, and bill the cost of the same to the permittee. If such a bill is not paid in full within thirty (30) days of the date of billing, the Township may recover its costs from any bond posted by permittee. In the event the bond does not cover all of the costs incurred by the Township, the permittee shall immediately pay the outstanding balance of the costs to the Township and reinstate the required bond.

(m) Removal and/or relocation for or by Township. A permittee or owner of improvements shall remove, relocate and/or disconnect any portion of its improvements located in the Township's rights-of-way when the permittee is advised in writing by the Township that the same is necessary for the Township to do any construction, excavation, maintenance, repair or other work in furtherance of the public health, safety and welfare. The Township may remove, relocate, damage, disrupt and/or disconnect a permittee's or owner's improvements in the event of an emergency, including but not limited to civil disorder, war, disaster, accident, fire, flood or severe weather occurrence, if the same is determined to be necessary to protect the public health, safety and welfare, with the Township not being liable to the permittee, owner or any persons receiving services from the improvements, for any damages or injuries caused by the Township's actions.

(n) Vacation/abandonment. If a right-of-way is vacated, discontinued, abandoned, terminated and/or released, the permittee's right to use that area of land shall immediately terminate and the permittee shall remove its improvements therefrom.

(o) Removal upon expiration or termination of use permit. Upon the expiration or termination of a permit, or if the permittee abandons or ceases operating or using its improvements in the Township's rights of way, within three (3) months or a longer time period established by the Township Board, permittee shall remove all of its improvements from the Township's right-of-way and restore the area to a condition that is as good or better than that which existed prior to the installation and use of its improvements in the Township right-of-way. If the permittee and Township agree that it would not be in the best interest of the public health, safety and welfare for permittee to remove its improvements and the Township agrees to accept ownership of same, at no cost to the Township, permittee shall convey the improvements to the Township, who may thereafter use the improvements. The decisions

(*CHAPTER 14.5, ARTICLE VI, SECTION 14.5-071(o)* cont.)

as to whether a permittee shall remove its improvements from the Township's right-of-way and whether the Township will accept ownership, and if so, any conditions, is in the sole discretion of the Township Board.

(p) Notice of commencement and completion of permitted activities. At least forty-eight (48) hours prior to commencing or performing activities allowed by a permit, the permittee shall notify the Township to arrange for inspection of the activities by the Township. Within five (5) days of completing permitted activities, permittee shall notify the Township so that final inspection may be made.

(q) Personnel and equipment identification. Personnel, including contractors and subcontractors of permittee conducting permitted activities shall at all times wear or have clearly visible identification as a representative of permittee, and all vehicles and equipment used in the activities shall be clearly identified with permittee's name.

(r) Prohibited work days. Except for emergencies, no disruption activities shall be performed on Sundays or legal holidays without the written authorization of the Township.

(s) Traffic control. The permittee shall furnish, install and maintain all necessary traffic controls and protection during disruption activities in accordance with the current edition of the Michigan Manual of Uniform Traffic Control Devices and any special instructions set forth in the permit.

(t) Private property. A permit does not authorize entry upon private property or the use of private water supplies.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-072. Indemnification

(a) The Township and its officials, officers, employees, agents, volunteers, representatives and contractors shall not be liable or responsible for any damages or injuries that occur to or are suffered by any person or property which are caused by or result from the permittee's or its contractor's construction, installation, location, use or maintenance of improvements in the Township right-of-way.

(b) Permittees shall indemnify, defend and hold the Township and its officials, officers, employees, agents, volunteers, representatives and contractors harmless from any claims or encumbrances which may be imposed as a result of any indebtedness by the permittee to any contractors, subcontractors or any other persons providing services, labor or materials to the permittee. If the Township discovers that such a claim or encumbrance has been placed on or against a Township right-of-way, the Township shall notify the permittee in writing to remove the same within thirty (30) days from said notice, with failure to remove such a claim grounds for revocation of permit. If the permittee fails to remove the claim or encumbrance from the Township's right-of-way within thirty (30) days from the Township's written notice, the Township may apply any bond posted by the permittee towards the Township's cost of completely removing the claim or encumbrance. The permittee shall have the affirmative obligation to inform the Township of any claims or encumbrances that the permittee is aware have been placed on or against the Township's right-of-way.

(c) Permittees shall indemnify, defend and hold the Township, its officers, agents, employees and officials harmless from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses, including attorney fees, of any nature ("claims") arising out of or resulting from the acts or omissions of permittee, its officers, agents, employees, contractors, successors, or assigns or the permittee's use or installation of improvements in the Township right-of-way. The Township shall notify permittees of any such claims and shall cooperate and consult with permittees in the defense and resolution of them, including the selection and direction of legal counsel. The Township shall not settle any claim subject to indemnification under this section without the advance written consent of the permittee, which shall not be unreasonably withheld, with permittees, at their expense, having the right to defend or settle any claim against the Township for which permittee is responsible.

(*CHAPTER 14.5, ARTICLE VI, SECTION 14.5-072* cont.)

(d) The indemnification obligations of a telecommunications provider that has obtained a telecommunications permit from the Township as provided in the act and this chapter shall be as described in that permit.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-073. Insurance

(a) The permittee shall, at its own cost, maintain in full force and effect during the term of each permit, the following kinds of insurance in amounts established by Resolution of the Township Board, with the company providing same to be licensed and admitted to do business in the state and acceptable to the Township:

(1) Comprehensive commercial general liability insurance on an occurrence basis, with liability limits in an amount established by resolution of the Township Board, which liability insurance coverage shall include coverage for operations, products and completed operations, contractual liability, independent contractors and for explosion, collapse and underground liabilities, commonly referred to as "XCU" coverage;

(2) Motor vehicle insurance covering all owned and non-owned vehicles used in the permitted activities, including state no-fault coverage, with liability limits in amounts established by resolution of the Township Board;

(3) Owner's and contractor's protective liability insurance with liability limits established by resolution of the Township Board;

(4) Worker's compensation insurance, including employer's liability coverage, in accordance with applicable state statutes;

(b) The Township and its officials, officers, employees, agents, contractors and representatives shall be named as additional insureds on the comprehensive commercial general liability insurance, owner's and contractor's protective liability insurance and the motor vehicle liability insurance to be obtained by permittee.

(c) The permittee shall furnish to the Township certificates of insurance and, upon request, certified copies of each insurance policy that the permittee is required by this section to obtain. No insurance policy and coverage that the permittee is required to obtain and keep in full force and effect by this section shall be cancelled, changed or subject to cancellation or reduction without prior written notice to the Township. If any coverage will expire during the term of a permit, the permittee shall deliver renewal certificates to the Township engineer at least ten (10) days prior to the expiration date.

(d) The insurance obligations of a telecommunications provider that has obtained a telecommunications permit from the Township as provided in the act and this chapter shall be as described in that permit.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-074. Stop work/use orders and permit revocations

All permits shall be subject to the issuance of stop work or stop use orders by the Township Engineer and revocation as provided in Article VII.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-075--14.5-080. Reserved

(*CHAPTER 14.5, cont.*)

ARTICLE VII STOP WORK OR USE ORDERS, REVOCATIONS AND PENALTIES

Sec. 14.5-081. Stop work or use orders

In addition to any other rights or remedies the Township may have pursuant to this chapter or other applicable law, the Township, upon finding the existence of an imminent threat to the public health, safety or welfare, may order a stoppage of work and/or use pending:

(a) Removal or elimination of the threat; and/or

(b) A hearing on the order before the Township Board under Section 14.5-083.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-082. Revocation of permits

The Township Board may revoke a permit for any of the following reasons, subject to undertaking the procedure in Section 14.5-083.

(a) Permittee's violation of and/or noncompliance with this chapter or a stop work or stop use order of the Township;

(b) Permittee's failure to comply with any of the terms, conditions and/or requirements of its permit;

(c) Permittee's failure to obtain permits and other approvals and to timely pay any fees required by this chapter and/or any other applicable ordinances, codes, statutes or laws;

(d) Violation of any ordinance, code, state or federal law or any other applicable law or legal requirement;

(e) A change to or cancellation of an insurance policy or coverage required by this chapter without the prior written approval of the Township;

(f) The cessation of operation, termination, dissolution or disbanding of the permittee;

(g) Causing, allowing and/or maintaining a nuisance as determined by the Township in the Township's right-of-way;

(h) Failure to timely pay to the Township any real property taxes, personal property taxes, assessments and/or other obligations;

(i) Failure to remove any liens or encumbrances from the Township's right-of-way;

(j) A material change of circumstance relating to the right-of-way which results in a material adverse condition in which to permit a continuation of permittee's use.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-083. Hearing procedure

In the event a stop work or use order is issued or the Township determines that a permit is subject to revocation under this article, the Township shall do the following:

(a) Mail or deliver a written notice of hearing to the permittee at the last address furnished to the Township by permittee, at least ten (10) days prior to the hearing and containing the following information:

(1) Notice of the Township's proposed action and stop work or use order, if applicable;

(2) Reasons for the Township's proposed action and stop work or use order, if applicable;

(3) Date, time and location of hearing; and

(4) A statement that at the hearing the permittee may present witnesses, evidence, information and arguments on its behalf, and that the permittee has the right to be represented by counsel.

(b) At the hearing the permittee shall be given an opportunity to be represented by counsel and to present witnesses, evidence, information and arguments. Other interested persons shall also be permitted to attend the hearing and may present evidence, information and comments on the matters addressed at the hearing.

(c) Following the hearing, the Township Board shall make a decision to continue, modify or dissolve a stop work or use order and/or revoke a permit, as applicable. In the event the Township Board decides to revoke a permit or to continue or modify a stop work or use order, the Township Board shall state the reasons for its decision on the record and shall mail or deliver written notice of its decision and reasons to the permittee.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE VII, cont.*)

Sec. 14.5-084. Violations/penalties; Civil infraction

(a) Any person determined to be in violation of this chapter or a permit issued under it shall be responsible for a municipal civil infraction, and shall pay a fine in the following amount:
  (1) First offense: $1,000.00
  (2) Second or subsequent offense: $5,000.00

(b) Any person in violation of this chapter or a permit issued under it shall be responsible for restoration of the right-of-way to the condition that existed prior to the violation. If such person fails or refuses to restore the right-of-way within thirty (30) days of written notice from the Township, and if the Township determines that the civil infraction remedy is inadequate under the circumstances, the Township may initiate proceedings in the appropriate court to recover the cost estimated to accomplish the restoration, or recover such costs as have been actually expended by the Township in achieving the restoration, as the case may be. Such costs shall include finance and reasonable administrative costs estimated or incurred.

(c) Each occurrence of a violation, and each day a violation exists, shall constitute a separate violation of this chapter.

(d) Violations of this chapter are considered to be a nuisance per se with such violations and correction of any conditions resulting from violations subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-085. Election of remedies

Violations of this chapter and permits or orders issued under it subject the violator to Township enforcement through one (1) or more of the remedies provided in this article, and the election by the Township to pursue one (1) form of remedy does not waive or restrict the Township's option to pursue other remedies at the same or later time.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-086--14.5-090. Reserved

ARTICLE VIII MISCELLANEOUS

Sec. 14.5-091. No waiver

Nothing in this chapter shall be construed as a waiver of any of the rights, remedies and/or authority of the Township pursuant to any laws, ordinances, Codes or regulations of the Township, and the Township reserves the right to exercise all authority and take any and all action granted to it by any constitution, law, Township ordinance, code and/or regulation. Nothing in this article shall be construed to limit and/or preclude the Township from exercising its right of eminent domain.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-092. Notices

Any notices required to be sent to the permittee by this chapter may be delivered, or may be sent by first-class mail to the permittee at the address listed in the permittee's disruption and/or use permit application.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-093. Severability

If any section, clause or provision of this chapter shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this chapter, but the remainder of this chapter shall stand and be in full force and effect.

(Ord. of 1-26-2004, § 1)

(*CHAPTER 14.5, ARTICLE VIII, cont.*)

Sec. 14.5-094. Repealer

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this chapter full force and effect.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-095. Savings

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this chapter takes effect are saved and may be consummated according to the law when they were commenced. As hereby amended, the Township right-of-way management ordinance, shall continue in full force and effect, with all rights and liabilities that existed under permits and sections of the chapter being amended, hereby saved and preserved for all purposes related to the terms and conditions of those permits and the Township's permit authority. Should any portion of the right-of-way management ordinance, as hereby amended, be declared invalid, that portion shall cease to be a part of the ordinance, the remainder of which shall be unaffected.

(Ord. of 1-26-2004, § 1)

CHAPTER 15 SUBDIVISION AND LAND MANAGEMENT REGULATIONS*

**Editor's note:* *The 2014 ordinance recodification amended the Code substantially revising and reorganizing this Chapter to provide subdivision and land management regulations that conform to the state laws governing such matters and to the Township's Zoning Ordinance.*

Art. I. In General, §§ 15-001--15-019 ..... Pages 15-1 through 15-3
Art. II. Subdivision Control, §§ 15-020--15-069 ..... Pages 15-3 through 15-11
Div. 1 Generally, §§ 15-020--15-029 ..... Pages 15-3 through 15-4
Div. 2 Review and Approval Procedures, §§ 15-030--15-049 ..... Pages 15-4 through 15-8
Div. 3 Development Requirements and Design Layout Standards, §§ 15-050--15-069 Pages 15-8 through 15-11
Art. III. Assessor's Plats, §§ 15-070--15-079 ..... Pages 15-11 through 15-11
Art. IV. Land Divisions, §§ 15-080--15-099 ..... Pages 15-11 through 15-15
Art. V. Tax Parcels, §§ 15-100--15-109 ..... Pages 15-15 through 15-15
Art. VI. Vacation of Subdivision Streets, §§ 15-110--15-129 ..... Pages 15-15 through 15-18
Art. VII. Private Street Requirements, §§ 15-130--15-132 ..... Pages 15-18 through 15-19

ARTICLE I IN GENERAL

Sec. 15-001. Short title.

The regulations in this chapter shall be known and referred to as the "Charter Township of Waterford Subdivision and Land Management Regulations."

(Comp. Ords. 1986, § 16.011)

Sec. 15-002. Purpose.

The purpose of this Chapter is to regulate and manage the division of and access to land within the Township and carry out the provisions of the Land Division Act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended, in order to promote the public health, safety, and general welfare of the community. These regulations are specifically designed to:

(a) Provide for orderly development of land through minimum requirements for the review and approval of certain land divisions within the Township.
(b) Prevent the creation of parcels of property which do not comply with applicable ordinances and the Land Division Act
(c) Secure adequate and convenient traffic circulation through coordinated street systems with relation to:
  (1) major arterial streets, minor arterial streets, and collector streets,
  (2) adjoining subdivisions,
  (3) public facilities, and
  (4) public safety and emergency medical services vehicles.
(d) Achieve individual property lots of maximum utility and livability.
(e) Ensure compliance with the Master Plan; Zoning Ordinance; and all other codes, ordinances and regulations which are applicable to the division of land.
(f) Ensure adequate provisions for storm drainage, water and sanitary sewer facilities, and other health requirements.

(Comp. Ords. 1986, § 16.012)

(*CHAPTER 15, ARTICLE I cont.*)

Sec. 15-003. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Chapter:

(a) The following terms from the Land Division Act, Public Act 288 of 1967: "**Accessible", "Alley", "County Plat Board", "Development Site", "Division", "Exempt Split", "Forty Acres or the Equivalent", "Government Survey", "Land", "Michigan Coordinate System", "Outlot**", **"Parcel",** "**Parent Parcel" or "Parent Tract", "Plat", "Preliminary Plat", "Proprietor",** "Public Utility", "Public Sewer", **"Replat", "Subdivide" or "Subdivision", "Tract",** and **"Topographical Map"**.

(b) The following terms from the Waterford Township Zoning Ordinance: **"Planning Commission", "Public Utility",** and **"SPL Manual"**.

(c) ***Floodplain*** shall be as defined in the Act and Section 8-045 of this Code.

(d) When used in this Chapter, "lot" shall mean the same as "**Lot of Record**" as defined in Section 1-002 of this Code.

(e) When used in this Chapter, "Act" shall mean the Land Division Act, Public Act 288 of 1967, as amended.

(Comp. Ords. 1986, § 16.021)

Sec. 15-004. Fees and escrow requirements.

The Township Board shall establish by resolution a schedule of fees, escrow, and performance guarantee requirements intended to cover the costs associated with the procedures regulated by this Chapter, which may be modified by resolution of the Township Board as necessary.

(Ord. of 5-22-1989)

Sec. 15-005. Delinquent taxes and special assessments.

Any due or unpaid taxes or special assessments upon the property shall be paid before any approved division of land under this Chapter is processed or recorded.

Sec. 15-006. Variances.

Unless otherwise indicated elsewhere in this Chapter, the Township Board shall have the power to fully or conditionally vary or modify one or more regulations in this Chapter upon finding practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter, such as topographical and other physical characteristics of a parcel or other difficulties which are not self-created or financial in nature, and:

(a) The granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which such property is situated.

(b) Such variance will not violate the provisions of the Act.

(c) Such variance will not have the effect of nullifying the interest and purpose of this Chapter, the Master Plan, or the Zoning Ordinance.

Sec. 15-007. Appeals.

An applicant who is aggrieved by an administrative decision made pursuant to this Chapter may, within 30 days of notification of the decision, appeal the decision to the Township Board. At least ten (10) 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 on the application or the written appeal. The Township Board may affirm or reverse such administrative decisions, in whole or in part, and the decision of the Township Board shall be final.

Sec. 15-008. Validity of land divisions.

(a) The approvals required under the provisions of this Chapter shall be obtained prior to the installation of any subdivision or project improvements within the Township, in public alleys,

(*CHAPTER 15, ARTICLE I, SECTION 15-008(a)* cont.)

public rights-of-way, and public easements, and/or under the ultimate jurisdiction of the Township shall comply with all of the provisions and requirements of this or any other related ordinance.

(b) No division of land shall be admitted to the public land records of the County or received or recorded by the County register of deeds until such division of land has received final approval in accordance with the requirements of this Chapter.

Sec. 15-009. Violations and sanctions.

Violation of any section of this Chapter is a civil infraction, punishable as provided in Section 1-010(b).

Secs. 15-010--15-019. Reserved.

ARTICLE II. SUBDIVISION CONTROL

Division 1. Generally

Sec. 15-020. Document standards and required information for plats.

All preliminary and final plats submitted for review and approval in Sections 15-030 through 15-039 shall conform to the following document standards and contain the listed information:

(a) All plats shall be legibly prepared on one or more sheets, eighteen (18) inches wide by twenty-four (24) inches long in size, leaving a 1.5 inch binding margin and a ½ inch margin on all other sides.

(b) All plats must be drawn to scale of at least one (1) inch to one hundred (100) feet and must be prepared by a professional surveyor licensed in the State of Michigan in accordance with the survey requirements of the Act.

(c) The following information shall be shown on the plat:
- (1) Date of the plat document.
- (2) North arrow and bar scale.
- (3) The name of the proposed subdivision.
- (4) Parcel number and legal description of the proposed subdivision.
- (5) The names, addresses and telephone numbers of the proprietor and surveyor preparing the plat. The plat must bear the seal and include the signature of the licensed professional surveyor preparing the plat.
- (6) The location of the subdivision, giving the numbers of section, township and range, and the name of the township and county.
- (7) The names of abutting developments, if any.
- (8) A location map showing the relationship of the proposed plat to the surrounding area.
- (9) The land use and existing zoning of the proposed subdivision and the adjacent tracts.
- (10) Existing and proposed streets, street names, right-of-way, street roadway widths, pavement striping, lane widths, driveways, bypass lanes and off-site driveways within one hundred (100) feet of the subject property.
- (11) Lots numbered in sequence, for the plat and/or all phases therein.
- (12) Contours shall be shown on the preliminary plat at intervals as follows: one (1) foot intervals if the land is generally sloped less than one (1) percent and two (2) foot intervals if the slope is more than one (1) percent.
- (13) The phasing plan, if the subdivision is proposed to be developed in phases.
- (14) Any school district boundary lines that touch or fall within the proposed subdivision.
- (15) Right-of-way easements, showing location, width and purpose.
- (16) All stormwater, detention or sedimentation facilities to be located within the development.
- (17) A grading plan for the subdivision.
- (18) Street tree location plan.

(*CHAPTER 15, ARTICLE II, DIVISION 1 cont.*)

Sec. 15-021. Additional information required.

The following information must be submitted along with all preliminary and final plats:

(a) Statement of intended use of the proposed plat, such as single-family residential, multiple-family residential, commercial, industrial, or recreational; also proposed sites, if any, for parks, playgrounds, schools or other public uses.

(b) Accompanying sketch showing the following information:
  (1) Drainage pattern including drainageways and directions of their flow.
  (2) Soil characteristics.

(c) A plan delineating all natural features on or abutting the site, including but not limited to, ponds, streams, lakes, drains, floodplains, wetlands, and woodland areas.

(d) If the proprietor has an interest in any adjacent land or excepted parcel shown on the plat, the proprietor shall indicate how this property could be developed in accordance with requirements of the existing zoning district in which it is located.

(e) A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development.

(f) For each proposed plat that will be located in more than one (1) school district, the proprietor must submit written documentation verifying the school district in or to which the future lots will be located or assigned. Said written documentation must include and be confirmed by an agreement signed by the superintendent of each affected school district, and must identify each lot and/or unit number affected, and to which school district each lot/unit will be associated.

Secs. 15-022--15-029. Reserved.

Division 2. Review and Approval Procedures

Sec. 15-030. Steps.

The review and approval of subdivision land development plats shall follow the steps listed below:

(a) Pre-application review.
(b) Preliminary plat tentative approval.
(c) Engineering plan approval.
(d) Preliminary plat final approval.
(e) As-built plan approval.
(f) Final plat approval.

(Comp. Ords. 1986, § 16.030)

Sec. 15-031. Pre-application review.

(a) Prior to the preparation of a preliminary plat, the proprietor shall acquire all necessary background material, including:
  (1) The proprietor shall secure a copy and become familiar with this Article, the Zoning Ordinance, Master Plan, Township Engineering Standards, SPL Manual, and other applicable ordinances and regulations relative to the subdivision and improvements of land.
  (2) The zoning district designation of the proposed subdivision.
  (3) The relationship of the proposed subdivision with respect to adjacent land uses and to major thoroughfares and plans for widening of thoroughfares.
  (3) Adequacy and standards for schools and public open spaces, including parks and playgrounds, to serve the proposed subdivision.
  (4) Availability, standards, and adequacy of sewage disposal, water supply, and drainage within the Township.

(b) The proprietor may request that a pre-application review meeting be held to conduct an informal review of the proprietor's concept plan for the preliminary plat. Such a meeting shall take place by submitting a written request to the chairperson of the county plat board and submitting copies of the concept plan for the preliminary plat to the Township Clerk and to each officer or agency entitled to review the preliminary plat under Sections 113 to 118 of the Act. A pre-application review meeting shall take place not later than thirty (30) days after the written request and concept plan are received. The meeting shall be attended by the

(*CHAPTER 15, ARTICLE II, DIVISION 2, SECTION 15-031(b) cont.*)

proprietor, representatives of each officer or agency entitled to review the preliminary plat under Sections 113, 114 and 118 of the Act, and the Zoning Official and Township Engineer as the Township representatives.

(c) In the absence of such pre-application meeting, it is recommended that the proprietor meet informally with the Zoning Official and Township Engineer to investigate the procedures and standards of the Township established by this Article. At this informal meeting, it is suggested that the proprietor also informally submit a sketch plan showing the proposed development of the subdivision in schematic form and serving only as a general guide for the proprietor and the Township. However, nothing in this subsection shall be construed to require approval of the sketch plan. Such sketch plan shall include:
   (1) General layout of streets and lots.
   (2) Existing characteristics and conditions of the site.
   (3) General area set aside for schools, parks, and other community facilities.

Sec. 15-032. Preliminary plat tentative approval.

(a) To initiate the tentative approval process for a preliminary plat, the proprietor shall submit the number of copies established by the Township and in conformance with the requirements of the Act, of the preliminary plat and other information required by this Article to the Township Clerk; the proprietor shall also submit copies of the preliminary plat to all authorities as provided in Sections 113 to 119 of the Act and to the school district(s) in which the project is located. The proprietor shall submit a written application for approval and the review fee established by the Township Board.

(b) The Township Clerk shall transmit copies of the preliminary plat to the Zoning Official and the Township Engineer for review and comment and for the Zoning Official to schedule the Planning Commission public hearing described in subsection (c). The Zoning Official and the Township Engineer shall submit their comments and recommendations to the Township Clerk within the timeframe established by the Township Clerk to achieve the requirements of subsection (d) below.

(c) Upon receipt of the proposed preliminary plat, the Zoning Official shall identify a date, time and place for a public hearing by the Planning Commission on the proposed preliminary plat, notice of which shall be published in a newspaper of general circulation in the Township and mailed to the proprietor and owners of the land immediately adjoining the proposed platted land at least 15 days before the hearing. After holding the public hearing and before the deadline for a Township Board decision under subsection (d), the Planning Commission shall provide a recommendation to the Township Board for approval, conditionally approval, or rejection/disapproval of the tentative plat.

(d) Upon receipt and review of a preliminary plat, the Township Board shall issue one of the following decisions:
   (1) Tentative approval and note its approval on a copy of the preliminary plat to be returned to the proprietor,
   (2) Tentative approval subject to conditions, noting its approval and the conditions on a copy of the preliminary plat to be returned to the proprietor, or
   (3) Rejection of the preliminary plat, setting forth in writing to the proprietor its reasons for rejection,

   within the following time period, as applicable:
      (i) Within sixty (60) days after it was submitted to the Township Clerk, if a pre-application review meeting was conducted.
      (ii) Within ninety (90) days after it was submitted to the Township Clerk, if a pre-application review meeting was not conducted.

(e) Tentative approval of a preliminary plat shall not constitute final approval of the preliminary plat, but rather shall confer upon the proprietor for a period of one (1) year from that date, approval of lot sizes, lot orientation, street layout, and application of the regulations in this

(*CHAPTER 15, ARTICLE II, DIVISION 2, SECTION 15-033(e)* cont.)

Article as of that date, and authorization to complete the engineering and final preparations of the preliminary plat. Such tentative approval may be extended if applied for by the proprietor and granted by the Township Board.

Sec. 15-033. Engineering plan approval.

(a) After tentative approval of the preliminary plat and prior to consideration for final approval of the preliminary plat the proprietor shall obtain engineering approval for all or that portion of the preliminary plat for which the proprietor desires preliminary plat final approval. Engineering plans for the proposed subdivision and the review fee established by the Township Board shall be submitted to the Township Engineer for review and approval in accordance with the Township Engineering Standards.

(b) No installation or construction of any improvements shall be made or begun at or during this time.

Sec. 15-034. Preliminary plat final approval.

(a) To initiate the final approval process for a preliminary plat, the proprietor shall submit to the various approving authorities the number of copies of the final preliminary plat required by Sections 113 to 119 of the Act, one (1) copy of the final preliminary plat to the school board of each respective school district in which the plat is to be located, and the number of copies established by the Township to the Township Clerk for internal review and distribution to the Planning Commission. The proprietor shall also submit the following to the Township Clerk:
   (1) A list of all authorities to whom copies of the final preliminary plat have been distributed.
   (2) The review fee established by the Township Board.
   (3) Verification of the engineering plan approval by the Township Engineer.
   (4) The plan for installation of landscaping and other improvements required by this Article.
   (5) Verification of Assessing Official approvals for any necessary parcel splits and/or combinations.
   (6) A draft of any proposed restrictive covenants for the subdivision to be submitted for review and approval by the Township.
   (7) Verification of the establishment of the special assessment district for the operation and maintenance of street lights within the subdivision.
   (8) Where applicable, verification of a special assessment district established to install and maintain detention or retention facilities for the subdivision.
   (9) All supporting documentation required by the Township in accordance with this Article.

(b) Zoning Official and Township Engineer Reviews.
Copies of the final preliminary plat shall be forwarded to the Zoning Official and Township Engineer for review to determine compliance with the preliminary plat document that received tentative approval from the Township Board and all policies, codes, ordinances and the Master Plan

(c) Letters of conditional approval or rejection. When the proprietor has secured the approvals of the various approving authorities, as required by Sections 113 to 119 of the Act, the proprietor shall deliver all copies to the Township Clerk who shall then schedule consideration and review of the final preliminary plat approval for a Township Board meeting that is no more than 20 days after receipt of those approvals.

(d) Township Board review and approval process.
   (1) The Township Board shall not reject, or unconditionally approve a final preliminary plat until it has received the Planning Commission's recommendation.
   (2) The Township Board shall:
      (i) Consider and review the final preliminary plat at a meeting scheduled as provided in subsection (c), and after receiving the Planning Commission recommendation, shall approve it if the proprietor has met all conditions laid down by the Township for approval of the preliminary plat.
      (ii) Instruct the Township Clerk to promptly notify the proprietor of approval or rejection in writing and if rejected, give the reasons.

(*CHAPTER 15, ARTICLE II, DIVISION 2, SECTION 15-034(d)* cont.)

(iii) Instruct the Township Clerk to note all proceedings in the minutes that are open to public inspection and to transmit a certified copy of the approved meeting minutes to the proprietor.

(e) Final approval of a preliminary plat shall not constitute approval of the final plat, but rather shall confer upon the proprietor for a period of two (2) years from the date of approval, the conditional right that the general terms and conditions under which preliminary plat final approval was granted will not be changed. The two (2) year period may be extended if applied for by the proprietor and granted by the Township Board in writing. Written notice of the extension shall be transmitted by the Township Clerk to the other appropriate authorities involved in the plat approval process in accordance with the Act.

Sec. 15-035. Initial site construction.

After final approval of the preliminary plat, the proprietor may, after submittal of all required bond(s) and after obtaining any required permits from the Township and other agencies, apply for permits to install underground utilities and construct the street improvements. Building permits for building on the individual lot sites shall not be issued until after final plat approval.

Sec. 15-036. Final plat approval.

(a) After obtaining all required State and County approvals, the proprietor shall submit to the Township Clerk the number of final plat copies established by the Township and in conformance with the requirements of the Act and the documentation required in accordance with this Article. A written application for approval and the review fee established by the Township Board shall accompany all final plats. The Township Clerk shall forward copies to the Zoning Official and Township Engineer for review to determine compliance with the approved final preliminary plat and all applicable ordinances and regulations, and for recommendation to the Township Board.

(b) At the next regularly scheduled Township Board meeting, or at a meeting to be called within twenty (20) days of receipt of all information required by the Act and the Township, the Township Board shall review the final plat and the reports from the Zoning Official and Township Engineer. After reviewing all such information and documents, the Township Board shall instruct the Township Clerk to record all proceedings in the minutes that are open to public inspection and send a copy of the minutes to the county plat board, and issue one of the following decisions:

(1) Approve the final plat and instruct the Township Clerk to transmit the approval notification and a certified copy of the approved meeting minutes to the proprietor as well as to sign the municipal certificate on the approved plat on behalf of the Township Board, showing the date of the Township Board's approval. Approval of the final plat may be conditioned on the proprietor providing one (1) or more agreements or performance guarantees to insure timely completion of required subdivision improvements.

(2) Reject the final plat and instruct the Township Clerk to transmit to the proprietor a certified copy of the approved meeting minutes and a written explanation of the Township Board's reasons for rejecting the final plat as set forth in the meeting minutes, and return the plat to the proprietor.

Sec. 15-037. Guarantee of completing of improvements required.

To insure the actual and timely installation of required subdivision improvements required by the Township or any other governmental agency, the Township Board may require the proprietor to enter into an agreement and/or provide a financial performance guarantee in the form of a cash deposit, certified check, or irrevocable bank letter of credit or surety bond in a form acceptable to the Township, except that the Township may not require a performance guarantee for an improvement for which another governmental has a performance guarantee. Performance guarantees required by the Township shall be subject to the following:

(*CHAPTER 15, ARTICLE II, DIVISION 2, SECTION 15-037* cont.)

(a) Shall accrue and be payable to the Township and be deposited with the Township Treasurer or a responsible escrow agent or trust company approved by the Township Treasurer.
(b) The amount of the performance guarantee shall be based on the Township's total estimated cost of construction of the subdivision improvement for which it is given, including contingencies.
(c) Upon written application by the person that provides a performance guarantee, the Township Treasurer may reduce the amount of the required performance guarantee to the extent of the cost of the completed portions of the subdivision improvement for which it is held.

Sec. 15-038. Condition of Township approval of final plat; performance guarantees.

(a) Unless it states otherwise, Township Board approval of all final subdivision plats shall be conditioned on the proprietor providing an agreement and/or performance guarantee as described in Section 15-037 for any subdivision improvements that have not been completed to the satisfaction of the Township or applicable governmental agency as of the date of that Township Board approval.
(b) Before approving a final plat and construction plans and specifications for public improvements, an agreement between the proprietor and the Township Board shall be made to provide for inspecting the construction and its conformity to the submitted plans.
(c) If the proprietor fails to complete a subdivision improvement within the time required by an agreement or performance guarantee with the Township, the Township may, but shall not be required to, complete the improvement using the performance guarantee to pay the cost of completion and for the Townships staff time and out-of-pocket costs and expenses in doing so.
(d) Prior to the acceptance of improvements, by the Township, a two-year maintenance bond in an amount set by and form acceptable to the Township shall be posted by the proprietor.

Sec. 15-039. As-built plan approval.

As-built plans shall be submitted to the Township Engineer for review and approval in accordance with the Township Engineering Standards. As-built plans are required for final acceptance of all proposed improvements.

Sec. 15-040. Certificates of occupancy.

No final certificates of occupancy shall be issued for a new building on an individual lot until satisfactory evidence is furnished that the yard grading is complete, vegetation and required landscaping are established, and required sidewalks and other subdivision improvements are installed for the lot upon which the building is located. Upon the decision of the Building Official and the Zoning Official a Temporary Certificate of Occupancy may be issued allowing occupancy prior to full completion of all such improvements provided that a performance guarantee in a form described in Section 15-037 is submitted by the applicant to provide for the installation of the remaining improvements before the expiration of the Temporary Certificate of Occupancy without expense to the Township.

Secs. 15-041--15-049. Reserved.

Division 3. Development Requirements and Layout Standards

Sec. 15-050. Generally.

It is the purpose of this Division to establish and define the public improvements which will be required to be constructed by the proprietor as conditions for final plat approval for plats. The improvements set forth under this Division are to be considered as the minimum acceptable standards.

Sec. 15-051. Monuments and lot irons.

Monuments and lot irons shall be set in accordance with Section 125 of the Act.

(*CHAPTER 15, ARTICLE II, DIVISION 3* cont.)

Sec. 15-052. Streets.

(a) Streets shall conform to the following minimum requirements so that the street layout shall:
- (1) be arranged in relation to topography so as to result in desirable and usable lots and safe streets with reasonable gradients;
- (i2 be arranged in relation to the existing and planned major arterial streets, minor arterial streets, and collector streets;
- (3) be arranged to provide for continuation of collector streets in adjoining subdivisions;
- (4) be arranged to provide local streets where use by through traffic shall be discouraged;
- (5) be arranged such that intersecting streets shall possess intersection angles of approximately ninety (90) degrees, but in no case less than sixty (60) degrees;
- (6) provide a minimum street right-of-way width of sixty (60) feet, except where a greater right-of-way width is required by the governing street agency;
- (7) provide permanent concrete curb and gutter for all streets in accordance with the Township Engineering Standards; and
- (8) ensure that all street rights-of-way and street intersections shall comply with the clear vision area requirements of the Zoning Ordinance.

(b) Street names shall not be permitted which might cause confusion with names of existing streets within the Township. Streets that will be continuations of existing streets shall be called by the same names as such existing streets. All names shall be approved in accordance with the street naming procedure established by the Township Board.

(c) The proprietor shall provide and erect street signs in accordance with the requirements of the governing street agency.

(d) The street layout shall be regulated by the following restrictions:
- (1) Dead-end streets, half-streets, and alleys shall not be permitted unless authorized by the Township Board upon the recommendation of the Township Engineer and approval of the governing street agency that such dead-end streets and alleys are necessary to achieve the purpose and intent of this Chapter.
- (2) Cul-de-sacs may be utilized when constructed in accordance with the right-of-way and layout requirements of the governing street agency and Township Engineering Standards. The maximum permissible length of cul-de-sacs shall be six hundred (600) feet measured from the right-of-way line of the nearest intersecting street to the farthest point on the right-of-way of the cul-de-sac.
- (3) The length of blocks between intersecting streets or emergency vehicle turnarounds shall not exceed the maximum length established by the Fire Chief and Township Engineer to protect the public safety and provide for the accessibility of emergency response vehicles.
- (4) Marginal access streets, reverse frontage, or such other treatment shall not be permitted unless authorized by the Township Board upon the recommendation of the Township Engineer and approval of the governing street agency that such methods are necessary to provide effective separation from an adjoining major arterial street or railroad. Any intersection occurring on a street which crosses a railroad track shall not be less than four hundred (400) feet from the nearest railroad right-of-way. Greater distance may be required if it is deemed necessary for safety, approach gradients or future grade separations.

Sec. 15-053. Utilities.

(a) *Requirements for underground wiring.* The proprietor shall make arrangements for all facilities for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout a subdivided area. Overhead utility lines may be authorized by the Township Board upon the recommendation of the Township Engineer at the time of final preliminary plat approval where it is determined that overhead lines will not constitute a detriment of the health, safety, general welfare, plat design and character of the subdivision. The proprietor shall provide all necessary easements to each utility company installing and maintaining facilities to and throughout the subdivision. Facilities placed in dedicated public ways shall be planned so as not to conflict with other

(*CHAPTER 15, ARTICLE II, DIVISION 3, SECTION 15-053(a)* cont.)

underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.

(b) *Sewage disposal.* All subdivisions shall be required to be connected to the public sanitary sewer system and conform to all requirements of Chapter 17 of this Code. The location and construction of all sewer mains, laterals, and appurtenances within the subdivision shall receive the approval of the Public Works Official.

(c) *Water supply*. All subdivisions shall be required to be connected to the public water system and conform to all requirements of Chapter 17 of this Code. The location and construction of all water mains, fire hydrants and required water system appurtenances within the subdivision shall receive the approval of the Public Works Official, along with the approval of the Fire Chief for all fire hydrant locations.

(d) *Storm drainage system*. All subdivisions shall require a storm drainage system that conforms to all requirements of, and receives approvals in accordance with Chapter 8 of this Code. All proposed storm drainage construction plans as it relates to street rights-of-way shall be approved by the governing street agency. Construction of street right-of-way storm drainage systems shall follow the specifications and procedures established by the governing street agency. All lots proposed for exclusive use as part of a subdivision storm drainage system, such as for a retention or detention facility, shall be regulated and secured by such deed restrictions, maintenance agreements, or other such mechanisms required by the Township Attorney and Township Engineer to ensure the maintenance and viability of such system components.

Sec. 15-054. Lots.

Lots shall conform to the following standards:

(a) Lot areas and widths shall conform to the minimum requirements of the zoning district in which the subdivision is located.

(b) Lot depths shall not exceed the maximum depth-to-width ratio of three (3) to one (1).

(c) Building setback lines shall conform to the minimum requirements of the zoning district in which the subdivision is located.

(d) Corner lots in residential subdivisions shall be platted at least twenty-five (25) feet wider than the minimum width permitted by the zoning district in which the subdivision is located.

(e) Lots intended for purposes other than residential use shall be specifically designed for such purposes, and shall have adequate provision for off-street parking, setbacks, and other requirements in accordance with the zoning district in which the subdivision is located.

(f) Every lot shall front or abut on a street.

(g) Side lot lines shall be at right angles or radial to the street lines, or as nearly as possible thereto.

(h) Residential lots abutting major arterial or collector streets, where marginal access streets are not desirable or possible to attain, shall be platted with reverse frontage lots (rear lot line at such street), or with side lot lines parallel to such streets, or shall be platted with extra depth to permit sufficient setbacks from such streets.

Sec. 15-055. Nonmotorized pathways.

(a) Crosswalks. The Township Engineer may require pedestrian crosswalks in the middle of long blocks to obtain safe and convenient pedestrian circulation to and from schools, parks or other pedestrian destinations.

(b) Sidewalks. Rights-of-way shall be provided to enable the installation of sidewalks on both sides of all subdivision streets. The Township Board is empowered to ensure sufficient right-of-way for future sidewalk installation and to defer the installation of a required sidewalk until after initial subdivision development if immediate installation is not necessary to adequately serve the residents of the subdivision and doing so would be consistent with the public health, safety and welfare. All sidewalks shall be constructed in accordance with the SPL Manual and Township Engineering Standards.

(*CHAPTER 15, ARTICLE II, DIVISION 3, SECTION 15-055* cont.)

(c) Bikepaths. Where a subdivision either fronts along a public right-of-way that is part of the township bikeway master plan, a bike path, in lieu of a sidewalk, shall be installed as part of the subdivision. Bikepaths shall be constructed in accordance with the SPL Manual and Township Engineering Standards.

Sec. 15-056. Natural features.

The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as woodlands, watercourses, and similar community assets that will add attractiveness and value to the property, when preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate barriers, where appropriate, shall be required.

Sec. 15-057. Floodplain.

Any areas of land within the proposed subdivision which lie either wholly or in part within the floodplain of a river, stream, or lake, or any other areas which are subject to flooding or inundation by stormwater shall require specific compliance with Section 138 of the Act.

Sec. 15-058. Street trees.

Street trees shall be provided and installed in accordance with the SPL Manual. The healthy establishment of all street trees shall be guaranteed by the proprietor for a period of one (1) year.

Sec. 15-059. Open spaces.

In the design of the plat, thorough and equitable consideration shall be given by the proprietor to the allocation of areas within the plat suitably located and of adequate size for playgrounds, parks, and recreation facilities for the use of property owners. Such areas shall be secured through deeds, easements, subdivision restrictions, or open space, maintenance and other agreements reviewed and approved by the Township Attorney when such documents meet the objectives of this Chapter.

Sec. 15-060. Public street lights.

A street light shall be required, and if necessary, installed and dedicated to the public by the proprietor as a public improvement, at each intersection within the subdivision and of a subdivision street with a public road. The street light shall meet the design, construction, location and approval standard of the governing street agency and utility company that will provide the source of power, and be shown and disclosed on the preliminary plat. The cost of maintenance and operation of a street light required by this Section shall be the responsibility of the properties in the subdivision, to be assessed and collected by the Township as a special assessment. The proprietor shall record notice of said requirement on or with the final plat.

Secs. 15-061--15-069. Reserved.

ARTICLE III. ASSESSOR'S PLATS

Sec. 15-070. Assessor's plats.

If it is established that conditions exist whereby an assessor's plat is necessary, the assessor's plat shall comply with Sections 201 through 213 of the Act.

Secs. 15-071--15-079. Reserved.

ARTICLE IV. LAND DIVISIONS

(*CHAPTER 15, ARTICLE IV, cont.*)

Sec. 15-080. Generally.

(a) It shall be unlawful for any person to divide, partition or split any lot, zoning lot, outlot, tract, parcel, parent parcel, or other parcel of land except in accordance with the provisions of this Article.

(b) Lots, zoning lots, outlots, tracts, parcels, parent parcels, or parent tracts of land may be partitioned, divided or split in accordance with the provisions of Sections 108 and 109 of the Act; the provisions of this Article adopted to administer and enforce the Act, and applicable township ordinances and regulations.

(c) Any due or unpaid tax(s) or special assessment(s) upon the property to be divided shall be paid prior to an approved division, partitioning, splitting, transfer, combination, or separation of land, lot, zoning lot, or outlot being processed or recorded.

Sec. 15-081. Submittal requirements.

An applicant shall file all of the following with the Assessing Official for review and approval of a proposed land division:

(a) A completed application on such form(s) provided by the Assessing Official.

(b) An affidavit of 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 on the form(s) provided by the Assessing Official.

(c) 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.

(d) Six (6) copies of a survey prepared by a professional engineer or land surveyor licensed in the State of Michigan of the proposed division of land and properly scaled within the range of one (1) inch = twenty (20) ft. to one (1) inch = fifty (50) ft. and shall consist of the following items of information:
  (1) The seal of the licensed engineer or surveyor who prepared the survey;
  (2) Date, north arrow, and scale;
  (3) Proposed boundary lines and the dimensions of each resultant parcel;
  (4) 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;
  (5) The location, dimensions and nature of the required ingress to and egress from the adjoining public or private street(s); and
  (6) The location of all existing buildings and structures.

(e) A statement explaining how the proposed land division complies with Section 108 of the Act.

(f) A statement confirming that the resultant parcels shall possess a depth-to-width ratio of three (3) to one (1) and a lot area and lot width conforming to the Waterford Township Zoning Ordinance requirements for the zoning district in which the resultant parcels are located.

(g) The application fee, as established by the governing body.

Sec. 15-082. Procedure for review of applications for land division approval.

(a) Upon receipt of an application for a land division, the Assessing Official shall review the submittal for completeness. It shall be the responsibility of the applicant to ensure that they submit a complete application package in accordance with the requirements of this Article. No progress beyond this step will occur until the applicant fully complies with the application submittal requirements of the preceding section.

(b) As soon as the Assessing Official determines that a land division application is complete, copies of the application shall be transmitted to the Zoning Official and Township Engineer for review and determination of compliance with the requirements of this Article. The Zoning Official and Township Engineer shall review the application and submit their respective determinations of compliance to the Assessing Official within thirty (30) days of the Assessing Official's receipt of the complete application.

(c) A proposed land division shall be approved by the Assessing Official within forty-five (45) days of receipt of a complete application if all of the following requirements are met:

(*CHAPTER 15, ARTICLE IV, SECTION 15-082(c) cont.*)

(1) Each resulting parcel shall be accessible to a public or private street. Such access shall comply with one of the following requirements:
   (i) A driveway or area for a driveway that meets all applicable location standards for vehicular access of the governing street agency and applicable township ordinances.
   (ii) An existing or proposed vehicular access easement that is a minimum of twenty (20) feet in width, meet all the location standards for vehicular access of the governing street agency, and only serves one (1) parcel. Such an easement that serves more than one (1) parcel shall be established as a private street in accordance with the requirements in Article VII of this Chapter. A proposed easement shall be in writing in a form suitable for recording and be signed by all the owners of the parcel upon which the easement is to be located.

(2) The proposed land division, together with any previous land division(s) 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.

(3) Each resulting parcel that is a development site shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.

(4) The depth-to-width ratio of any parcel created by the proposed division(s) does not exceed three (3) to one (1).

(5) All resulting parcels shall comply with the minimum lot area and width zoning lot requirements of the Zoning Ordinance for the zoning district in which the resulting parcels are located.

(d) The approval of a land division shall not, of itself, constitute an assurance that a building permit or any zoning approvals such as special approval use or site plan approval will be issued for the parcel.

(e) A denial of a land division request under this Section may be appealed to the Township Board in accordance with Section 15-007. In considering such appeals, the Township Board shall incorporate into its decision all applicable conditions established under the Zoning Ordinance.

Sec. 15-083. Requirements for land divisions resulting in parcel areas less than one (1) acre.

(a) In accordance with Section 109a of the Act, a building permit shall not be issued for a parcel less than one (1) acre in size that results from a division unless the parcel has all of the following:
   (1) Available connection to the Waterford Township public water system in accordance with Chapter 17 of this Code.
   (2) Available connection to the Waterford Township public sewer system in accordance with Chapter 17 of this Code.

(b) If a division resulting in a parcel area less than one (1) acre is approved in accordance with this Article, the notice of approval shall contain a statement as follows: "The Township and its officers and employees are not liable if a building permit or zoning approvals are not issued for this parcel because required public water and/or sewer system connections are not available."

Sec. 15-084. Property transfers.

In accordance with Section 102 of the Act, an applicant may apply to the Assessing Official for a property transfer between two (2) or more adjacent parcels if the property taken from one (1) parcel is added to an adjacent parcel. The Assessing Official shall approve a property transfer request and note such transfers upon the township assessment roll if, upon the review and recommendations of the Zoning Official and Township Engineer, the resulting parcels comply with all applicable zoning lot requirements of the Zoning Ordinance for the zoning district in which the resulting parcels are located, including minimum lot area and lot width, and do not result in a parcel having a depth to width ratio of more than three (3) to one (1).

Sec. 15-085. Combination of zoning lots.

Two (2) or more zoning lots established on the township assessment roll and in common ownership may be combined into one zoning lot established on the township assessment roll after application

(*CHAPTER 15, ARTICLE IV, SECTION 15-085* cont.)

to, and approval by, the Assessing Official in accordance with the procedures established by the Assessing Official. All taxes must be paid and all parties who have a legal interest in the property must sign and provide the Assessing Official with an approval of the split and combination application.

Sec. 15-086. Separation of combined lots in a recorded plat.

(a) Where a zoning lot has been established on the township assessment roll through the combination of two (2) or more undivided lots of record, an applicant may apply to the Assessing Official to re-establish such undivided lots of record as separate zoning lots on the township assessment rolls provided that such lots of record conform to all of the following:
   (1) No existing buildings or structures, or any part thereof, are located on a lot line.
   (2) Existing buildings or structures on a re-established lot comply with all applicable zoning lot setback and impervious surface requirements of the Zoning Ordinance for the zoning district in which the lot is located.
   (3) Buildings and structures can be constructed on a re-established vacant lot in compliance with all applicable zoning lot setback, impervious surface, and floor area requirements of the Zoning Ordinance for the zoning district in which the lot is located.

(b) An applicant shall submit to the Assessing Official three (3) copies of a survey of the subject property prepared by a professional engineer or land surveyor licensed in the State of Michigan and properly scaled within the range of one (1) inch = twenty (20) ft. to one (1) inch = fifty (50) ft. and shall consist of the following items of information:
   (1) The seal of the licensed engineer or surveyor who prepared the survey;
   (2) Date, north arrow, and scale;
   (3) Existing zoning lot lines, and the lines and dimensions of each lot to be re-established; and
   (4) The location of all existing buildings and structures.

(c) The Assessing Official shall transmit copies of the application to the Zoning Official and the Township Engineer for review and determination of compliance.

(d) The Assessing Official shall issue one of the following decisions:
   (1) Approve the application when the Zoning Official and Township Engineer have determined the request would be in compliance with the provisions of subsections (a)(2) or (a)(3) above.
   (2) Hold the application in abeyance when the Zoning Official and Township Engineer have determined the request would result in noncompliance with the provisions of subsections (a)(2) or (a)(3) above and the applicant decides to seek variance relief from the Zoning Board of Appeals in accordance with the ZBA procedures and standards established in the Zoning Ordinance. Once the ZBA renders a decision on the applicant's request, the Assessing Official shall:
      (i) Approve the application if the ZBA grants the variance relief necessary for compliance with the provisions of subsections (a)(2) or (a)(3) above.
      (ii) Deny the application if the ZBA denies the variance relief necessary for compliance with the provisions of subsections (a)(2) or (a)(3) above.
   (3) Deny the application when the Zoning Official and Township Engineer have determined the request would result in noncompliance with the provisions of subsections (a)(2) or (a)(3) above if the applicant has not applied for variance relief from the Zoning Board of Appeals within 30 days of being notified by the Assessing Official that the request would result in noncompliance with the provisions of subsection (a)(2) and/or (a)(3).

Sec. 15-087. Authority to consolidate zoning lots governed by individual site plan.

Where two (2) or more zoning lots have been identified for common development and regulation through a site plan required and approved in accordance with the Zoning Ordinance, and where such zoning lots remain separately established on the township assessment roll after improvements governed by the site plan have been constructed, the Assessing Official is authorized to consolidate such parcels into one zoning lot upon request of the Zoning Official. The intent of such consolidation is to ensure that the boundaries of a zoning lot match the boundaries established on an approved site plan. This section does not prevent the Assessing Official from establishing multiple

(*CHAPTER 15, ARTICLE IV, SECTION 15-087* cont.)

tax parcels within a zoning lot owned by the County, containing wireless communication facilities, or developed with condominium units in accordance with Public Act 59 of 1978, Condominium Act.

Secs. 15-088--15-099. Reserved.

ARTICLE V. TAX PARCELS

Sec. 15-100. Creation of tax parcels.

Tax parcels, as defined in Section 1-002(f) of this Code, may be established by the Assessing Official within the boundaries of a lot or zoning lot to identify buildings, sections of a building, or structural improvements for the purpose of treating such improvements as separate units for tax administration purposes. Except as provided in Section 15-087, the procedures under Article IV of this Chapter shall not be used to create tax parcels.

Secs. 15-101--15-109. Reserved.

ARTICLE VI VACATION OF SUBDIVISION STREETS

Sec. 15-110. Intent and purpose.

It is the intent and purpose of this article to establish the authority and procedure for vacating certain streets dedicated as part of the subdivision of land under the Land Division Act, Act 288 of the Public Acts of 1967, as amended, and to provide standards for Township Board consideration of petitions for vacation. It is the further intent and purpose of this article to clarify and reflect the law in the State of Michigan that the Township Board's jurisdiction to vacate streets is limited, and even when exercised, may not be sufficient to vest title in vacated street areas without relief in the circuit court.

(Ord. of 3-11-1996, § 1)

Sec. 15-111. Jurisdiction.

(a) Concurrent jurisdiction. The Township Board and the circuit court have concurrent jurisdiction to consider petitions for the vacation of streets dedicated to the public as part of the subdivision of land under the Land Division Act following abandonment of such streets by the governing street agency, except as provided in the next subparagraph.

(b) Exclusive circuit court jurisdiction. The circuit court has exclusive jurisdiction, and the Township does not have jurisdiction, to consider the vacation of:
  (1) Subdivision streets not dedicated for public use.
  (2) Public streets having any part within twenty-five (25) meters of a lake or the general course of a stream.

(c) For streets that the Township board does not have jurisdiction to vacate, if requested or required by law and without requiring the petition and processing in Sections 15-112 and 15-113, by Resolution the Board may state its position regarding a pending circuit court action that seeks vacation of a publicly dedicated street to the Township.

(Ord. of 3-11-1996, § 1)

Sec. 15-112. Petitions for vacation.

(a) Qualification. A petition seeking vacation under this article may be filed by:
  (1) One (1) or more owners of lots abutting the street proposed to be vacated; or
  (2) Any ten (10) persons residing in the Township.

(b) Contents. A person or entity requesting the Township Board to vacate a subdivision street shall prepare and file with the Township Clerk copies of a petition, in the quantity established by the Township Clerk, as well as the following documentation:
  (1) A description of the part or parts of the street sought to be vacated.

(*CHAPTER 15, ARTICLE VI, SECTION 15-112(b) cont.*)

(2) The reasons for seeking the vacation.
(3) An identification of each public utility known to the petitioner to have installations or equipment in the subdivision, or which has a recorded easement or franchise right in the existing street right-of-way, or which would otherwise be affected by the vacation.
(4) A copy of the file and resolution of the governing street agency abandoning and discontinuing the street.
(5) Any and all additional facts known to the petitioner relative to:
a. The use or non-use of the street to be vacated.
b. Any function performed, or anticipated to be performed by the street, or the lack of present or anticipated function to be performed by the street.
c. Any other relevant facts and circumstances.

(c) Preliminary review. Upon receipt of a petition by the Township Clerk, copies shall be distributed to the Township Supervisor, Building Official, Zoning Official, Township Engineer, Public Works Official, Police Chief and Fire Chief. Such officials shall undertake a review and provide a report to the Township Board, to be filed with the Township Clerk for distribution, providing a recommendation on whether the petition for vacation of the street should be granted. If a recommendation is that the petition should be denied, the reasons for such denial should be stated. In addition, such report shall include a recommendation to the Township Board with regard to any conditions or reservations that should be made in the event the petition for vacation is granted, such as, the reservation of right-of-way for drainage and/or utilities, fire access, or similar public interests.

(Ord. of 3-11-1996, § 1)

Sec. 15-113. Proceedings on petition.

(a) Following receipt of the reports and recommendations from the several Township officials, consideration of the petition for vacation shall be placed on an agenda of the Township Board. In connection with such agenda item, the Board shall be provided with a copy of the petition, together with the reports and recommendations of the Township officials.
(b) Notice of the time, date and place of the meeting shall be given to the petitioner, which shall include a statement that the Township Board shall commence its consideration of the petition at such meeting.
(c) At the meeting, which the Board may adjourn, for reasons stated at the meeting, the petition shall be analyzed in light of the reports and recommendations of the respective Township officials. In addition, the petitioner shall be provided with an opportunity to be heard.
(1) On the basis of the reports and recommendations of the Township officials, taking into consideration the materials and any presentation of the petitioner, if the Township Board determines that the petition for vacation should be denied, the Board shall adopt a resolution denying the petition for vacation, including a statement of the reasons for denial.
(2) If the Township Board finds that the street sought to be vacated has not been dedicated and accepted for public use as part of the establishment of a subdivision, or that any part of the street to be vacated is within twenty-five (25) meters of a lake or the general course of a stream, the Board shall deny the petition for vacation on the ground that the Board lacks jurisdiction to vacate such a street.
(3) If the Township Board has not otherwise denied the petition for vacation in accordance with subparagraphs (1) or (2), above, and if the Board tentatively determines that the petition for vacation may be granted, the Board shall set a date for a public hearing on the petition. The Board may require the petitioner to submit additional information and documentation on or before a date specified by the Board, for consideration at the public hearing.

(d) Notice of the time, date and place of the public hearing on the petition for vacation shall be transmitted to the petitioner, and to the owners of each lot or zoning lot within three hundred (300) feet of the street sought to be vacated, with ownership being determined on the basis of the Township tax assessment roll. Notice shall also be transmitted to the County Water Resources Official.

(*CHAPTER 15, ARTICLE VI, SECTION 15-113 cont.*)

(e) On the date scheduled for public hearing, which may be adjourned from time-to-time, as determined by the Township Board, the Board shall provide the petitioner with an opportunity to be heard, and also provide an opportunity to be heard to interested parties. The Board may also elect to consider further reports and/or testimony from the Township officials or other experts and consultants.

(f) Following the public hearing, the Township Board shall adopt a resolution granting the petition for vacation, denying the petition for vacation or granting the petition for vacation with conditions and/or reservations. If vacation is granted, the effective date of vacation shall be the date recorded by the Township Clerk with the Register of Deeds or such later date as may be specified in the Resolution. If vacation is denied, the reasons for denial shall be specified.

(Ord. of 3-11-1996, § 1)

Sec. 15-114. Standards for decision making.

In arriving at its decision on a petition for vacation at the conclusion of a public hearing, the following standards for decision making shall be considered by the Township Board:

(a) If objections to the petition for vacation are presented which create a material question as to whether the street is necessary for the promotion or protection of the public health, safety and general welfare, the petition for vacation may be denied by the Board.

(b) The Township Board may adopt a resolution granting the petition if it is found by the Board that there are no material questions as to whether the street is necessary for the promotion or protection of the public health, safety and general welfare, and that there are no reasonable objections presented. In reaching its conclusions on these issues, the Board shall take into consideration:

(1) Whether any property intended to be served by the street would be landlocked, considering property improvements and divisions previously made, as well as those likely to occur in the future.

(2) Whether access to any one (1) or more properties, natural features, or natural resources would be terminated, and the nature of any objections with regard to such termination.

(3) The positive and negative impacts of a transfer of ownership of the land to be vacated to adjacent property owners upon vacation of the street, including impact relating to law enforcement and fire and emergency medical services, views of natural features and resources, buffering, and other public or private purposes, services, rights, or interests, and the likelihood of losing effective control of land which is used or usable for maintaining grades relative to drainage and/or the installation, repair and/or maintenance of utilities, telecommunications facilities, or other subdivision improvements.

(4) The present or future need for the right-of-way for through traffic purposes.

(5) Any impact vacation would have on future right-of-way planning.

(6) Other considerations which are relevant to the particular facts and circumstances attendant to the street sought to be vacated.

(Ord. of 3-11-1996, § 1)

Sec. 15-115. Conditions and reservations.

With or in conjunction with a resolution granting a petition to vacate, the Township Board may impose conditions and/or reservations. A resolution granting a vacation of a street being used by a public utility for public utilities purposes shall reserve an easement for the use of public utilities and may reserve an easement for other purposes, including such things as drainage, law enforcement, fire and emergency medical access, views of natural features and resources, buffering, telecommunications, and other public purposes.

(Ord. of 3-11-1996, § 1)

Sec. 15-116. Vesting of title upon vacation of street.

(a) Upon the effective date of a street vacation granted under this article the Township shall have no interest in or jurisdiction of the vacated street, and subject to any requirement under the Act for a circuit court order or judgment and the preparation and recording of an amended

(*CHAPTER 15, ARTICLE VI, SECTION 15-116(a) cont.*)

plat, title to the land occupied by the vacated street may vest in the owners of the lots abutting the vacated street as provided for in the Act.

(b) In granting a street vacation under this article, the Township Board is not guaranteeing or warranting, to the petitioner or any other person, the transfer of ownership of the vacated street as provided in this Section, or that all requirements under the Act related to this street vacation will be satisfied upon the Township Clerk recording the Township Board resolution granting such street vacation and filing copies with the S.E.A. as provided in this Chapter and in the Act. The language of this subsection shall be incorporated into all resolutions adopted by the Township Board to grant street vacations in accordance with this Article.

(c) All resolutions adopted by the Township Board granting street vacations in accordance with this Article shall indicate that the resolution is conditioned on the petitioner for the street vacation:

(1) Complying with and being solely responsible for satisfying any additional requirements under the Act related to the subject street vacation, and

(2) Indemnifying and holding the Township harmless from any and all costs and expenses that the Township may be required to incur in connection with any such additional requirements.

(Ord. of 3-11-1996, § 1)

Sec. 15-117. Requirements upon approval.

The Township Clerk shall record a certified copy of the Resolution granting a petition for vacation with the Register of Deeds and file a copy with the S.E.A. as defined in Section 1-002(g) of this Code, within thirty (30) days following approval of the minutes of the meeting at which the vacation was granted.

(Ord. of 3-11-1996, § 1)

Sec. 15-118. Fees.

At the time of filing of a petition for vacation under this article, the petitioner shall pay the fee established by resolution of the Township Board.

(Ord. of 3-11-1996, § 1)

Secs. 15-119--15-129. Reserved.

ARTICLE VII. PRIVATE STREET REQUIREMENTS

Sec. 15-130. Private street requirements.

In all cases where a parcel resulting from or proposed in a land division pursuant to this Chapter does not possess frontage on a public street, access to which is or proposed to be provided over a vehicular access easement that is or may be used by more than one (1) parcel, such vehicular access easement shall comply with the following private street requirements:

(a) All private streets shall have a minimum right-of-way of sixty (60) feet in width, and shall conform to governing street agency standards and the Township Engineering Standards.

(b) Prior to building occupancy, the street shall be completed in accordance with subsection (1) above.

(c) The private street shall be named. All private street names shall be approved in accordance with any street naming procedure established by the Township Board.

(d) The applicant seeking approval of a private street shall provide evidence satisfactory to the Township Board of the physical and financial ability to regularly maintain said private street. The evidence of ability to maintain the street shall include:

(1) A method of initiating and financing whatever improvements and/or maintenance may be needed from time to time in order to keep the private street in a reasonably good and usable condition.

(2) Should the private street be owned by more than one person, a workable method of apportioning the cost of maintenance and improvement shall be provided.

(3) Easements granting to the Township or other applicable authorities the right to come upon the property for emergency, police, fire or other public services shall be provided.

(*CHAPTER 15, ARTICLE VII, SECTION 15-130(d) cont.*)

(4) Evidence that the owners of any and all of the property using the private street shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include any use by the family, guests, invitees, tradesmen, businesses, industrialists and others bound to or returning from any of the properties having a right to use the private street.

Sec. 15-131. Township Engineer review of private street requests.

The Township Engineer shall be responsible for processing and reviewing all private street requests under this Article. The Township Engineer shall make a recommendation on such applications to the Township Board within thirty (30) days of receipt of a complete application.

Sec. 15-132. Township Board approval of private street requests.

The Township Board shall have sole authority to approve, in whole or part, requests for the establishment and construction of private streets.

CHAPTER 15.5 TAXATION

Art. I. In General, §§ 15.5-001--15.5-030 ..... Pages 15.5-1 through 15.5-4
Div. 1. State Housing Development Authority Act
Tax Exemptions §§ 15.5-001--15.5-013 ..... *Pages 15.5-1 through 15.5-4*
Art. II. Tax Exemption--Riverside Gardens, §§ 15.5-031--15.5-037 ..... Pages 15.5-4 through 15.5-7

ARTICLE I IN GENERAL

Division 1. State Housing Development Authority Act Tax Exemptions

Sec. 15.5-001. Purpose and intent.

The regulations in this division are adopted for the purpose and with the intent to fully exercise and/or reserve the Township's rights and options regarding exemptions from ad valorem property taxes under MCL 125.1415a, which is Section 15a of the State Housing Development Authority Act, Public Act No. 346 of 1966, as amended ("Act"), and to provide for matters not addressed in that Act, including elimination of the exemption for certain classes of housing projects, providing for Township changes in the otherwise applicable tax exemption periods and service charges in lieu of taxes, and providing for uniform and efficient implementation, administration and enforcement of the tax exemption process and requirements for existing and future classes of eligible housing projects consistent with state assessment and property tax laws and existing Ordinances.

(Ord. of 12-14-2009)

Sec. 15.5-002. Scope and application.

The regulations in this division shall apply to all housing projects for which exemption from ad valorem property taxes has been approved in the past or is approved in the future under the Act, including those housing projects for which a Township tax exemption ordinance was adopted, with the provisions of this division to control over any conflicting or inconsistent provisions of such ordinances to the extent allowed by law.

(Ord. of 12-14-2009)

Sec. 15.5-003. Definitions.

The following words and phrases, when used in this chapter shall have the meanings indicated except where the context used clearly indicates a different meaning. Words and phrases used in this chapter and not defined in this section shall have their commonly understood meaning.

Act means the State Housing Development Authority Act, Public Act No. 346 of 1966, as amended, specifically including MCL 125.1415a.

Annual shelter rent means the total collections during a calendar year that an eligible housing project has tax exempt status from all occupants of that housing project of rent or occupancy charges, excluding any collections from the occupants of charges for gas, electricity, heat, water and other utilities furnished to occupants and paid for by the Owner.

Annual service charge means a percentage of annual shelter rent or other amount as determined under the Act or by an ordinance of the Township that is to be paid to the Township in lieu of property taxes as provided in this division.

Authority means the Michigan state housing development authority created in the Act

Elderly means a single person who is 55 years of age or a household in which at least one member is 55 years of age or older and no other household members are under the age of 50 years.

Eligible housing project means an elderly housing project.

(*CHAPTER 15.5, ARTICLE I, DIVISION 1, SECTION 15.5-003 cont.*)

Housing project means a primarily residential real property development in the Township providing or proposed to provide housing that the Authority has determined is exempt or eligible for exemption from property taxes under the Act.

Low income persons and families means persons and families that are eligible to move into a housing project as defined in the Act or determined by the Authority.

Owner means the person or legal entity that holds legal title or another ownership interest of or in a housing project.

(Ord. of 12-14-2009)

Sec. 15.5-004. Eligible and ineligible housing projects.

Notwithstanding an Authority determination that a housing project is exempt or eligible for exemption from property taxes under the Act, the only class of housing project that is exempt from property taxes in the Township are those where occupancy is limited to low income elderly persons and families. Tax exemption under the Act shall not apply to any other class of housing projects in the Township, including those where the exemption would have been based on the income of occupants only.

(Ord. of 12-14-2009)

Sec. 15.5-005. Tax exemption effectiveness period.

By separate ordinance for an eligible housing project, the Township may limit the otherwise applicable period of time the exemption from property taxes would be in effect under the Act, provided that the proposed ordinance and written notice of the dates when it will be considered for introduction and adoption has been provided to the Owner and the ordinance is adopted prior to December 31 of the year following notice to the Township assessor of the Authority's approval of the exemption or exemption eligibility.

(Ord. of 12-14-2009)

Sec. 15.5-006. Tax exemption commencement.

As provided in the Act, the tax exempt status for exemption of an eligible housing project from property taxes begins in the year following a timely notice to the township assessor of the Authority's approval of the exemption or exemption eligibility.

(Ord. of 12-14-2009; Ord. of 8-23-2010)

Sec. 15.5-007. Annual service charges in lieu of taxes.

(a) By separate ordinance at any time during the period that a tax exemption is in effect for an eligible housing project, the township may establish or change the annual service charge to be paid in lieu of taxes to an amount different than the service charge specified in the Act, provided that the amount established shall not exceed the property taxes that would be payable if the eligible housing project was not exempt and the amount is applied to all other eligible housing projects in the same class. A proposed ordinance under this section and written notice of the dates when it will be considered for introduction and adoption shall be provided to the Owner. If the township does not adopt such an ordinance, the annual service charge shall be as required by the Act when the tax exemption commences (10% of annual shelter rents as of December 14, 2009 when the ordinance that added this division was adopted.)

(*CHAPTER 15.5, ARTICLE I, DIVISION 1, SECTION 15.5-007 cont.*)

(b) Notwithstanding the annual service charge specified in the Act or by ordinance, for any portion of the eligible housing project that is occupied by other than low income persons and families with an elderly member of the household, the township may assess and require payment of an amount equal to the full amount of taxes that would be payable on that portion of the project if it were not tax exempt.

(Ord. of 12-14-2009; Ord. of 8-23-2010)

Sec. 15.5-008. Payment of annual service charge in lieu of taxes.

(a) On or before June 1 of the year following each tax year that an eligible housing project has tax exempt status as provided in section 15.5-006, the owner shall pay the township the required annual service charge in lieu of taxes. The calendar and tax year that ended on December 31 immediately preceding the date the payment is due shall be the applicable period for calculating annual shelter rents if those are a basis for the annual service charge. Owner's payment shall be accompanied by supporting documentation of the rent or occupancy charges collected and charges for utilities furnished to occupants and paid for by owner.

(b) The Township's acceptance of the owner's payment shall not be considered or construed as agreement to the amount or a waiver of the right to contest or claim additional amounts. The Township shall have the right to inspect and/or audit the Owner's records regarding the annual shelter rents upon written request.

(c) The Township may assess and collect a 4% percent administrative fee and interest of 1% per month on any amounts of a required annual service charge the Township determines to be owed that are not paid by the required date.

(Ord. of 12-14-2009; Ord. of 8-23-2010)

Sec. 15.5-009. Eligible housing project requirements.

During all periods that an eligible housing project is exempt from property taxes the Owner shall devote the entire Project and its rental units to the exclusive occupancy of low income persons and families with an elderly member of the household as defined in this division and shall allocate the full benefits of the tax exemption granted to the housing project exclusively to such persons in the form of reduced housing charges. The Township shall have the right to physically inspect the project and its records and communicate with its occupants for purposes of determining if these requirements are being satisfied.

(Ord. of 12-14-2009)

Sec. 15.5-010. Owner reporting obligations.

The owner of an eligible tax exempt housing project shall immediately notify the Township in writing of any change in the ownership, financing, occupancy or other aspect or feature of the housing project from what existed and was the basis for the Authority's determination that the project was exempt or eligible for exemption under the Act. Upon the Township's written request, the owner shall provide documentation of the project's continued eligibility for tax exemption.

(Ord. of 12-14-2009)

Sec. 15.5-011. Township revocation, repeal or suspension of tax exemption.

Notwithstanding the period of effectiveness of a tax exemption provided by the Act or approved by an ordinance of the Township for an eligible housing project, after providing written notice and an opportunity to be heard to an owner, the Township by introduction and adoption of an ordinance, may repeal, revoke or suspend the tax exemption based on violations of one or more of the requirements of this division by the owner of that housing project as a non-compliant class of housing project.

(Ord. of 12-14-2009)

(*CHAPTER 15.5, ARTICLE I, DIVISION 1, cont.*)

Sec. 15.5-012. Township distribution of annual service charges.

All annual service charges received by the Township shall be distributed as provided in the Act.

(Ord. of 12-14-2009)

Sec. 15.5-013. Previously approved tax exempt eligible housing projects.

(a) The housing projects with exemption from property taxes under ordinances that remain in effect that were approved prior to the ordinance that added this division, which are now subject to the requirements of this division to the extent allowed by the Act and ordinances which approved the exemptions are: Riverside Gardens as described in Article II of this Chapter (Parcel No. 13-21-227-006), Whispering Woods Elderly Housing (Parcel No. 13-32-301-032) and Lakeland Place Elderly Housing (Parcel No. 13-25-176-003), and the elderly housing portion of the Waterford Meadows housing project (Parcel No. 13-24-451-011) pursuant to Ordinance No. 114, as amended.

(b) As of December 14, 2009 when the ordinance that added this division was adopted, Ordinance No. 114, which approved tax exempt status for the elderly housing portion of the Waterford Meadows housing project (Parcel No. 13-24-451-011), was in effect.

(c) As of December 14, 2009 when the ordinance that added this division was adopted, the non-elderly portion of the Waterford Meadows housing project (Parcel No. 13-24-451-012) was exempt from property taxes for the 2009 tax year only pursuant to the Act. As of December 18, 2009 when the ordinance that adopted this division was published and took effect and pursuant to Section 15.5-4, commencing with the 2010 tax year, the non-elderly housing portion of the Waterford Meadows housing project (Parcel No. 13-24-451- 012) is not exempt from property taxes under the Act.

(Ord. of 12-14-2009; Ord. of 8-23-2010; Ord. of 8-8-2011)

Secs. 15.5-014--15.5-030. Reserved

ARTICLE II TAX EXEMPTION--RIVERSIDE GARDENS

Sec. 15.5-031. Purpose.

It is acknowledged that it is a proper public purpose of the state and its political subdivisions to provide housing for its citizens of low and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL 125.1401 et. seq.). The Township is authorized by this act to establish a service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this act at any amount it chooses not to exceed the taxes that would be paid but for the act. It is further acknowledged that housing for elderly persons of low and moderate income is a valid public purpose; further, that the continuance of the provisions of this article for tax exemption and the service charge in lieu of taxes during the period contemplated in this article are essential to the determination of the economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The Township acknowledges that Lockwood Group-Riverside Gardens Limited Dividend Housing Association Limited Partnership (the "sponsor") has offered, subject to receipt of a federally-aided mortgage (as defined below), to erect, own, and operate a housing development (as defined below) identified as Riverside Gardens on certain property located on the south side of M-59 (Highland Road), west of Crescent Lake Road, and more particularly described on Exhibit 1, attached hereto, in the Township, which will serve elderly persons of low and moderate income (as defined below), and that the sponsor has offered to pay the Township on account of this housing development an annual service charge for public services in lieu of all taxes.

(Ord. of 6-26-2000, § 1)

(*CHAPTER 15.5, ARTICLE II, cont.*)

Sec. 15.5-032. Definitions.

Act means the State Housing Development Authority Act, being Public Act 346 of 1966, of the state, as amended.

Annual shelter rents means the total collections during a calendar year from all occupants representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished by the housing development or sponsors to the occupants.

Authority means the Michigan State Housing Development Authority.

Calendar year means the consecutive twelve-month period which ends on December 31 of the year immediately preceding the year in which the service charge is to be paid.

Elderly person means a family where the head of the household is fifty-five (55) years old or older and in which no one is under fifty (50) years of age, or a single person who is fifty-five (55) years of age or older.

Elderly person of low and moderate income means elderly persons who meet the eligibility criteria set by the authority to move into a housing development.

Federally-aided mortgage means any of the following:

(1) A below market interest rate mortgage insured, purchased, or held by the Secretary of the U.S. Department of Housing and Urban Development.

(2) A market interest rate mortgage insured by the Secretary of the U.S. Department of Housing and Urban Development and augmented by a program of rent subsidies.

(3) A mortgage receiving interest reduction payments provided by the Secretary of the U.S. Department of Housing and Urban Development.

(4) A mortgage on a housing development to which the authority allocates low income housing tax credits under Section 22b of the Act.

(5) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the act.

Housing development means a development which contains a significant element of housing for elderly persons of low and moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines improve the quality of the development as it relates to housing for elderly persons of low and moderate income.

Mortgage loan means a loan to be made by the authority to the sponsor for the construction and/or permanent financing of the housing development.

Operating expenses means the costs incurred, other than by tenants, to operate and maintain the housing development including, without limitation, charges, if any, for repairs and maintenance of the grounds and buildings, extermination, maintenance salaries and payroll taxes, maintenance supplies, snow removal, painting and decorating, trash removal, landscaping, security, apartment and common area cleaning, utilities (fuel, electricity, water, sewer, gas, cable TV), insurance, and administration (accounting, advertising and marketing, legal, management fees, management salaries and payroll taxes, office supplies, postage, telephone, human resources programs and social activities).

Utilities means charges for fuel, water, sanitary sewer service, rubbish removal and/or electrical service which are paid by the housing development or sponsor, during the calendar year.

(Ord. of 6-26-2000, § 2)

Sec. 15.5-033. Class of housing developments.

It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes is housing for elderly persons of low and moderate income as defined above, which are financed or assisted pursuant to the act. It is further determined that Riverside Gardens is of this class.

(Ord. of 6-26-2000, § 3)

(*CHAPTER 15.5, ARTICLE II, cont.*)

Sec. 15.5-034. Establishment of annual service charge.

The housing development identified as Riverside Gardens and the property on which it shall be constructed, shall be exempt from all property taxes from and after the commencement of construction, subject further to the provisions of this article. The Township, acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this article and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this article, and in consideration of the sponsor's offer, subject to receipt of a federally-aided mortgage, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. From and after commencement of construction until completion of construction and the issuance of a certificate of occupancy, the annual service charge shall be equal to the amount of taxes which would be paid as if the housing development consisted only of vacant land with no improvements thereon. Following the issuance of a certificate of occupancy for the housing development, the annual service charge for the all of the units shall be equal to the following percentage of the difference between annual shelter rents and utilities during the following operating years:

Year	Annual Service Charge Rate
1--5 (inclusive)	4.0%
6	4.5%
7	5.0%
8	5.5%
9	6.0%
10	6.5%
11	7.0%
12	7.5%
13	8.0%
14	8.5%
15	9.0%
16	9.5%
17 (and thereafter)	10%

Notwithstanding the foregoing, the payment of any amount, if any, of an annual service charge in excess of seven (7) percent of the difference between annual shelter rents and utilities shall be subordinated and subject to the payment of debt service (including principal, interest, related fees and charges) on the bond or mortgage indebtedness encumbering the housing development, operating expenses and MSHDA required replacement reserves payable during the calendar year.

(*CHAPTER 15.5, ARTICLE II, SECTION 15.5-034* cont.)

The terms, provisions, and conditions of this section are conditioned and contingent upon the sponsor obtaining the required site plan approval for the proposed housing development known and described as Riverside Gardens, including any necessary rezoning, variances, or other approvals, from the Township. In the event that the sponsor for the proposed Riverside Gardens development is unable to obtain such approvals, then the provisions of this section shall be of no force and effect and not binding on the Township, the sponsor, and/or any other party.

(Ord. of 6-26-2000, § 4)

Sec. 15.5-035. Contractual effect of article.

Notwithstanding the provisions of Section 15(a)(5) of the Act, to the contrary, a contract between the Township and the sponsor with the authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this article.

(Ord. of 6-26-2000, § 5)

Sec. 15.5-036. Payment of service charge.

The annual service charge in lieu of taxes as determined under this article shall be payable in the same manner as general property taxes are payable to the Township, except that the annual payment shall be paid on or before June 15 of each year.

(Ord. of 6-26-2000, § 6)

Sec. 15.5-037. Duration.

This article shall remain in effect, and shall not terminate so long as the mortgage loan with the authority and/or other financing permitted by the act and obtained by the sponsor remains outstanding and unpaid, or the authority has an interest in the property. This article shall terminate and the tax-exempt status of the property shall be rescinded, and the property shall be returned to the tax rolls when the mortgage loan or other permitted financing is paid, and the authority no longer has an interest in the property. If the construction of the housing development does not commence within one year from the effective date of this article, this article shall automatically expire and be of no effect.

(Ord. of 6-26-2000, § 7)

CHAPTER 16 TRAFFIC AND MOTOR VEHICLES*

Art. I. In General, §§ 16-001--16-025 ..... Page 16-1
Art. II. Michigan Vehicle Code, §§ 16-026--16-050 ..... Page 16-1 through 16-3
Art. III. Recreational Vehicles, §§ 16-051--16-085 ..... Pages 16-3 through 16-7
Art. IV. School Property, §§ 16-086--16-115 ..... Page 16-7 through 16-8
Art. V. Shopping Centers, §§ 16-116--16-145 ..... Pages 16-8 through 16-9
Art. VI. Reserved, §§ 16-146--16-185 ..... Page 16-9
Art. VII. Bicycles and Other Nonmotorized Modes of Transportation, §§ 16-186--16-299 ..... Pages 16-9 through 16-12
Art. VIII. Motor Carrier Safety ..... Pages 16-13 through 16-14
Art. IX. Abandoned Vehicles, §§ 16-321--16-330 ..... Pages 16-14 through 16-16

ARTICLE I IN GENERAL

Sec. 16-001--16-025. Reserved.

ARTICLE II MICHIGAN VEHICLE CODE*

**Editor's note:* *An ordinance of October 27, 2003, amended the Code by, in effect, repealing former art. II, §§ 16-026--16-030, and adding a new art. II. Former art. II pertained to the Uniform Traffic Code, and derived from the Compiled Ordinances of 1986, §§ 20.003--20.005, and ordinances of April 9, 1990; November 27, 1995; September 27, 1999; and March 13, 2000.*

Sec. 16-026. Adoption by reference.

The Michigan Vehicle Code, Act Number 300 of the Public Acts of 1949, as amended, MCL 257.1 – MCL 257.923, is adopted by reference, with the following chapters and corresponding MCL sections to serve as the basic traffic regulations of the Township:

Chapter I Words and Phrases Defined; (257.1 – 257.82
Chapter II Administration, Registration, Certifcate of Title and Anti-Theft
Unregistered vehicle (257.215)
Failure to display registration (257.223)
Display of registration plates (257.225)
Failure to notify of change of address for registration (257.228)
Abandoned vehicles (257.252a – 257.252l)
Improper use of title, or registration certificate or plate (257.256)
Chapter III Operator's and Chauffer's License
Operator's and chauffer's license possession and display (257.311)
Restricted license (257.312)
Driving on suspended license; non-resident (257.317)
Commercial vehicle operation; alcohol (257.319d)
Employer allows commercial vehicle violation (257.319g)
Failure to answer court citation (257.321a)
License, unlawful use or alteration (257.324)

Allowing unlicensed minor to operate (257.325)
Operation in violation of act (257.326)
Employment of unlicensed chauffeur (257.327)
Proof of insurance (257.328)
Chapter VI Obedience to and Effect of Traffic Laws; (257.601 – 257.750)
Chapter VIII Penalties; (257.901 – 257.910

(Ord. of 10-27-2003)

Secs. 16-027--16-050. Reserved.

ARTICLE III RECREATIONAL VEHICLES

Sec. 16-051. Short title.

This article shall be known and cited as the "Recreational Vehicle Regulation Ordinance." It shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such title and reference to the number hereof.

(Comp. Ords. 1986, § 20.311)

Sec. 16-052. Purpose.

The purpose of this article shall be:

(a) To define and regulate the use and operation of recreational vehicles within the Township.
(b) To adopt by ordinance the statutes of the state regulating the use and operation of snowmobiles within the Township.
(c) To impose parental responsibility for operation of such vehicles by children.
(d) To provide for penalties upon the violation of these provisions.

(Comp. Ords. 1986, §§ 20.312--20.316)

Sec. 16-053. 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:

Dealer means any person engaged in the sale, lease or rental of snowmobiles, motorbikes, motor driven cycles or other recreational vehicles, as a regular business.

Highway *or* ***street*** means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Motor driven cycle means every motorcycle, including every motor-scooter, with a motor which produces not to exceed five (5) maximum brake horsepower, and every bicycle with motor attached.

Motorbike *or* ***mini-bike*** means any wheeled cycle driven by an internal combustion engine having a saddle or seat for the use of the rider and not being licensed as a motor vehicle within this state, regardless of the horsepower of such vehicle. As used herein, the terms motorbike and mini-bike are declared interchangeable.

Operate means to ride in or on and be in actual physical control of the operation of a snowmobile, motorbike, motor driven cycle or other recreational vehicle.

Operator means any person who operates or is in actual physical control of a snowmobile, motorbike, motor driven cycle or other recreational vehicle.

Other recreational vehicle means any mechanical power driven vehicle, whether steered by propeller, track, wheels or skis designed or manufactured primarily for operation as

(*CHAPTER 16, ARTICLE III, SECTION 16-053 cont.*)

recreation, including professional competition, not being eligible for licensing and registration under the Michigan Vehicle Code.

Owner means any of the following:

(1) A person who holds the legal right, title or interest to a snowmobile, motorbike, motor driven cycle or other recreational vehicle.

(2) A vendee or lessee of a snowmobile, motorbike, motor driven cycle or other recreational vehicle which is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.

(3) A person renting a snowmobile, motorbike, motor driven cycle, or other recreational vehicle or having the exclusive use and possession of a snowmobile, motorbike, motor driven cycle or other recreational vehicle.

Right-of-way means that portion of a highway outside the roadway and any shoulder.

Roadway means that portion of a highway improved, designated or ordinarily used for vehicular travel. If a roadway includes two (2) or more separate roadways the term roadway refers to any such roadway separately, but not to all such roadways collectively.

Shoulder means that portion of a highway on either side of the roadway which is normally snowplowed for the safety and convenience of vehicular traffic.

Snowmobile means any motor driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled-type runners or skis, or an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated.

(Comp. Ords. 1986, §§ 20.317--20.329)

Sec. 16-054. Snowmobile; certificate of registration and decal.

(a) Except as otherwise provided in MCL 324.82103 and MCL 324.82104, a snowmobile shall not be operated unless the owner first obtains a certificate of registration and a registration decal and the registration decal assigned to that snowmobile has been affixed to each side of the forward half of the cowl above the foot -well of the snowmobile.

(b) Registration as required by subsection (a) shall not be required for a snowmobile operated exclusively on lands owned or under the control of the snowmobile owner or for a snowmobile used entirely in a safety education and training program conducted by a certified snowmobile safety instructor and authorized by MCL 324.82108.

(Comp. Ords. 1986, §§ 20.330--20.332; Ord. of 7-8-2002)

Sec. 16-055. Equipment required--Snowmobiles.

All snowmobiles operated in the Township shall have the following equipment:

(a) At least one (1) headlight, one (1) taillight, which shall each be lighted during operation in the Township.

(b) Adequate brakes capable one (1) of the following while the snowmobile travels on packed snow and carries an operator who weighs one hundred seventy-five (175) pounds or more:

(1) Stopping the snowmobile in not more than forty (40) feet from an initial steady speed of twenty (20) miles per hour; or

(2) Locking the snowmobile's traction belt or belts.

(c) All sleds or separate passenger compartments, if any, shall be properly maintained and in good working order to reasonably ensure the safety of passengers, if any.

(d) A person operating or riding on a snowmobile shall wear a crash helmet on his or her head. Crash helmets shall be approved by the United States Department of Transportation. This section does not apply to a person riding on or operating a snowmobile on his or her own private property.

(e) A muffler in good working order and in constant operating from which noise emission at fifty (50) feet at right angles from the vehicle path under full throttle does not exceed eighty-six (86) DBA, decibels on the "a" scale, on a sound meter having characteristics defined by American standards association S1, 4-1966 "general purpose sound meter". A snowmobile manufactured after July 1, 1977, and sold or offered for sale in this state shall not exceed seventy-eighty (78) decibels of sound pressure at fifty (50)

(*CHAPTER 16, ARTICLE III, SECTION 16-055 cont.*)

feet as measured under the 1974 society of automobile engineers code J-192a. This section does not apply to a snowmobile that is being used in an organized race on a course which is used solely for racing.

(Comp. Ords. 1986, §§ 20.333--20.337; Ord. of 7-8-2002)

Sec. 16-056. Same--Other recreational vehicles.

All motorbikes, motor driven cycles and other recreational vehicles shall have the following equipment:

(a) A muffler properly attached, in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(b) Adequate brakes, all in good working order.

(c) All safety devices such as the particular vehicle might be equipped with should also be maintained in good working order.

(Comp. Ords. 1986, §§ 20.338--20.341)

Sec. 16-057. General operating regulations - Snowmobiles.

The following regulations are applicable to the operation of snowmobiles:

(a) A person shall not operate a snowmobile upon a public street, or on a public or private parking lot not specifically designated for the use of snowmobiles except under the conditions and circumstances in subsection (b) below;

(b) A snowmobile may be operated on the street or associated right-of-way when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the street or associated right-of-way and the operator yields to approaching vehicles on the public street.

(Comp. Ords. 1986, §§ 20.342--20.344)

Sec. 16-058. Operation on public street right-of-way – Snowmobiles.

A snowmobile may be operated on the right-of-way of a public street within the Township if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the public street. Snowmobiles operated on the public street rights-of-way of a public highway, as herein provided shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile on a public street right-of-way as herein provided in this section shall be limited to the speed limited posted on the public street.

(Comp. Ords. 1986, § 20.345; Ord. of 7-8-2002)

Sec. 16-059. Crossing public street - Snowmobiles.

A snowmobile may be operated across a public street, at right angles to the street for the purpose of getting from one (1) area to another when the operation can be done in safety and another vehicle is not crossing the public street at the same time in the same general area. An operator shall bring his snowmobile to a complete stop before proceeding across any public street and shall yield to all oncoming traffic.

(Comp. Ords. 1986, § 20.346)

Sec. 16-060. County streets; outside limits - Snowmobiles.

(a) Within the Township, snowmobiles may be operated on a public street which is not normally snowplowed for vehicular traffic and on any snowplowed public street which is designated and marked for snowmobile use by the Road Commission for Oakland County.

(b) A duly constituted law enforcement officer of the Township may authorize use of a snowmobile on a public street within the Township when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme winter weather conditions.

(c) A snowmobile may be operated on a street for a special event of limited duration when permitted by the Township. The event may be conducted on the frozen surface of public waters only under permit from the S.E.A.

(Comp. Ords. 1986, §§ 20.347--20.349)

(*CHAPTER 16, ARTICLE III* cont.)

Sec. 16-061. Prohibitions.

No person shall operate, nor shall an owner allow to be operated a snowmobile, motorbike, motor driven cycle or other recreational vehicle in the following manner:

(a) In a careless or negligent manner likely to endanger persons or property.
(b) At a rate of speed greater than is reasonable and proper, having due regard for conditions then existing.
(c) In a manner which would cause loud, unnecessary or unusual noise which would unreasonably interfere with the peace and quiet of other persons.
(d) While the operator is using the snowmobile to hunt, pursue, worry or kill a wild bird or animal.
(e) While transporting on the snowmobile a bow, unless unstrung or encased, or a firearm, unless unloaded in both barrel and magazine and securely encased.
(f) No operator or owner shall allow or cause to be allowed a snowmobile, motorbike, motor drive cycle or other recreational vehicle while the motor is running or to remain unattended on public property with the keys for starting left in the ignition or otherwise in open view.

(Comp. Ords. 1986, §§ 20.350--20.356; Ord. of 7-8-2002)

Sec. 16-062. Place of operation.

No person shall operate nor shall the owner allow to be operated a snowmobile, motorbike, motor driven cycle or other recreational vehicle:

(a) On the private property of another, without the express permission to do so by the owner or occupant of such property.
(b) On public school grounds, park property, playgrounds, and recreation areas or any other public property, without express permission or provision to do so by proper public authority.

(Comp. Ords. 1986, §§ 20.357--20.359)

Sec. 16-063. Prohibitions on snowmobile operation.

A person shall not operate a snowmobile:

(a) In any forest nursery, planting area or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or as a natural dedicated area.
(b) On the frozen surface of public waters within one hundred (100) feet of a person, including but not limited to a skater, not in or upon a snowmobile, or within one hundred (100) feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile or an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water.
(c) Within one hundred (100) feet of a dwelling between 12:00 midnight and 6:00 a.m., at a speed greater than minimum required to maintain forward movement of the snowmobile.
(d) In or upon or remain unlawfully on premises which are fenced, otherwise enclosed in a manner to exclude intruders, posted in a conspicuous manner or when notice against trespass is personally communicated to him by the owner or an authorized person. A person shall not operate a snowmobile in or upon farmlands, farm wood lots or platted property without permission of the landowner.
(e) On or across a cemetery or burial ground.
(f) Within one hundred (100) feet of a slide, ski or skating area. A snowmobile may enter such an area for the purpose of servicing the area of and for medical emergencies.
(g) On a railroad or railroad right-of-way, except railroad, public utility or law enforcement personnel while in the performance of their duties.

(Comp. Ords. 1986, §§ 20.360--20.367)

Sec. 16-064. Operating in reckless manner or while under influence of intoxicating liquor or controlled substances - Snowmobiles.

(a) A person shall not operate a snowmobile upon a public street, public non-motorized pathway, frozen surface of a public watercourse, inland lake or stream, or another public place, including, but not limited to, an area designated for the parking of snowmobiles or other motor vehicles, in willful or wanton disregard for the safety of persons or property.
(b) A person shall not operate a snowmobile in the Township if either of the following applies:
(1) The person is under the influence of intoxicating liquor or a controlled substance, or both.

(*CHAPTER 16, ARTICLE III, SECTION 16-064* cont.)

(2) The person has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The owner of a snowmobile or a person in charge or in control of a snowmobile shall not authorize or knowingly permit the snowmobile to be driven or operated by a person who is under the influence of intoxicating liquor or a controlled substance, or both, or who has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(d) A person shall not operate a snowmobile when, due to the consumption of an intoxicating liquor or a controlled substance, or both, the person's ability to operate the snowmobile is visibly impaired. If a person is charged with violating subsection (b), a finding of guilty under this subsection may be rendered.

(Ord. of 7-8-2002)

Editor's note: *An ordinance of July 8, 2002 amended the Code by, in effect, repealing former § 16-064, and adding a new § 16-064 to read as herein set out. Former § 16-064 pertained to unattended vehicles, and derived from the Compiled Ordinances of 1986, § 20.368.*

Sec. 16-065. Parental responsibility for operation by children.

(a) A parent or legal guardian shall not permit his or her children who are under the age of twelve (12) years to operate a snowmobile, motorbike, motor driven cycle or other recreational vehicle without the direct supervision of an adult except on land owned or under the control of the parent or legal guardian.

(b) A person who is at least twelve (12) but less than sixteen (16) years of age may operate a snowmobile if:

(1) The person is under the direct supervision of a person who is twenty-one (21) years of age or older;

(2) The person has in his immediate possession of a snowmobile safety certificate (when operating a snowmobile) issued pursuant to state law.

(3) The person is on land owned or controlled by his parent or legal guardian.

(c) A person who is operating a snowmobile pursuant to subsection (b)(2) above shall present the snowmobile safety certificate to any peace officer upon demand.

(d) Notwithstanding subsection (a) above, an operator who is under twelve (12) years of age shall not cross a public street. An operator who is at least twelve (12) years of age, but less than sixteen (16) years of age, may cross a public street only if the person has a valid snowmobile safety certificate in his immediate possession.

(e) The owner of a snowmobile, motorbike, motor driven cycle or other recreational vehicle, shall not permit the said vehicle to be operated contrary to this section.

(Comp. Ords. 1986, §§ 20.369--20.376; Ord. of 7-8-2002)

Sec. 16-066. Violations--Penalties and sanctions; owner presumed operator.

(a) Violations of Section 16-064 are a misdemeanor punishable as provided in Section 1-010(a) of this Code and in Part 821 of the Natural Resources and Environmental Protection Act, as amended, MCL 324.82101 – MCL 324.82160, which is adopted by reference, and may be investigated, charged, and prosecuted as provided in that statute.

(b) Violation of any of the remaining sections of this article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(c) In a proceeding for violation of this article involving prohibited operation or conduct, the registration number displayed on a snowmobile or other recreational vehicle constitutes a rebuttable presumption that the owner of the said vehicle was the person operating the vehicle at the time of the offense.

(Comp. Ords. 1986, §§ 20.377--20.379; Ord. of 7-8-2002)

(*CHAPTER 16, ARTICLE III* cont.)

Secs. 16-067--16-085. Reserved.

ARTICLE IV SCHOOL PROPERTY

Sec. 16-086. Applicability of article.

The provisions of this article shall apply to all properties, lands and premises of the Community College District of Parts of the Counties of Oakland, Washtenaw, Livingston and Lapeer, Michigan (Oakland Community College), and the Waterford School District located in the Township, referred to in this Article as "school property."

(Comp. Ords. 1986, § 20.091)

Sec. 16-087. Application of general traffic regulations.

All provisions of the Michigan Vehicle Code, adopted by Article II of this chapter, insofar as they can have application, shall be applicable to the Community College District and Waterford School District property.

Sec. 16-088. Establishment of traffic control devices.

The boards of trustees of the Community College District and the Waterford School District shall respectively place and maintain upon their respective property such traffic control devices, not inconsistent with the provisions of this article, as each shall deem necessary to indicate and carry out the provisions of this article or to regulate, warn or guide traffic. All such traffic control devices hereafter erected shall conform to state specifications. Any such rules shall be in the form of traffic control orders and shall be submitted to the Township Board and remain in effect unless disapproved in writing by the Township Board.

(Comp. Ords. 1986, § 20.093)

Sec. 16-089. Speed limits.

It shall be unlawful for any person to operate a motor vehicle in excess of a speed of fifteen (15) miles per hour upon any school property, unless otherwise posted.

(Comp. Ords. 1986, § 20.097)

Sec. 16-090. Depositing waste materials on street roadways.

(a) No person shall throw or deposit upon any school property street, any glass bottle, glass, nails, tacks, wire, cans, or waste materials as defined in Chapter 9 of this Code, or any other substance likely to injure any person, animal or vehicle upon such street.

(b) Any person who drops, or permits to be dropped or thrown, upon any school property street, any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from school property shall remove any glass or other injurious substance dropped upon any school property or public street from such vehicle.

(Comp. Ords. 1986, § 20.113)

Sec. 16-091. Consumption of liquor on school property streets and parking areas.

No alcoholic beverage in an open container shall be possessed, and no alcoholic beverage shall be consumed on school property streets or parking areas.

(Comp. Ords. 1986, § 20.114)

Sec. 16-092. Violations and sanctions.

Violation of any section of this article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Comp. Ords. 1986, § 20.116; Ord. of 7-8-2002)

Secs. 16-093--16-115. Reserved.

(*CHAPTER 16 cont.*)

ARTICLE V SHOPPING CENTERS

Sec. 16-116. Authority.

This article is enacted pursuant to authority granted and conferred by Act 235 of the Public Acts of 1969 (MCL 257.941 et seq.) entitled "Control of Traffic in Parking Lots."

(Comp. Ords. 1986, § 20.181)

Sec. 16-117. Application of general traffic regulations.

All provisions of the Michigan Vehicle Code, adopted by Article II of this chapter, insofar as they can have application, shall be applicable to shopping center parking lots.

(Comp. Ords. 1986, § 20.184)

Sec. 16-118. 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:

Parking area means an area near or contiguous to a shopping center, used by the public as the means of access to and egress from the stores and business establishments at the shopping center and for the free parking of motor vehicles of patrons of the shopping center.

Shopping center means a minimum area of three (3) acres of land on which there is located one (1) or more stores or business establishments and where a parking area is provided.

(Comp. Ords. 1986, § 20.182)

Sec. 16-119. Authority of Township.

The Township may:

(a) Order stop signs, yield signs or other traffic control devices erected at specified entrance or exit locations to a shopping center or at any intersection in the parking area.

(b) Regulate traffic in the parking area, including regulation by means of traffic control signals.

(c) Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations in the parking area.

(d) Regulate the crossing of any street roadway in the parking area by pedestrians.

(e) Designate any separate street roadway, drive or land in the parking area for one-way traffic.

(f) Prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas of the parking area.

(g) Designate safety zones, loading zones and other restricted areas.

(h) Provide for the removal and storage of vehicles parked or abandoned in the parking area during snowstorms, floods, fires or other public emergencies, or found unattended in the parking area, where they constitute an obstruction to the traffic or where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

(i) Adopt additional rules and regulations to control traffic and parking in the parking areas as local conditions may require for the safety and convenience of the public or of the users of the shopping center.

(Comp. Ords. 1986, § 20.183)

Sec. 16-120. Liability for costs.

The cost of any signs, markings, signals or other devices and the cost of installing and maintaining same shall be paid by the shopping center requesting regulation and control under this article.

(Comp. Ords. 1986, § 20.185)

Sec. 16-121. Application of article; parking space for disabled.

(a) This article applies to the Waterford Plaza Shopping Center located at the northwest corner of the intersection of Crescent Lake Road and Highland Road, and to the Summit Place Shopping Center at the northwest corner of Telegraph Road and Elizabeth Lake Road. This article will apply to those shopping centers which subsequently qualify for and make proper

(*CHAPTER 16, ARTICLE V, SECTION 16-121 cont.*)

application for regulation and control as to satisfy the requirements of this article, which upon adoption of the necessary ordinance, shall be added to this Section as additional subsections.

(b) The Township Board shall provide for parking spaces specifically designated for persons with disabilities in numbers to conform with the requirements of Public Act 1 of the Public Acts of 1966 in each shopping center area within the Township.

(Comp. Ords. 1986, §§ 20.186, 20.211--20.217; Ord. of 7-8-2002)

Sec. 16-122. Request for operation of article provisions.

To become subject to the requirements of this article, the owner or person in charge of the general operation and control of the shopping center parking area shall make a written request to the Township directed to the Supervisor thereof who will then bring same to the attention of the Township Board for such action as they deem necessary.

(Comp. Ords. 1986, § 20.187)

Sec. 16-123. Violations and sanctions.

Violation of any section of this article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Comp. Ords. 1986, § 20.190; Ord. of 7-8-2002)

Secs. 16-124--16-145. Reserved.

ARTICLE VI RESERVED

***Editor's note:** The 2014 ordinance recodification amended the Code repealed the fee-based public parking lot regulations in this Article, formerly §§ 16-146--16-185, and reserving this Article for future use.*

Secs. 16-146--16-185. Reserved.

ARTICLE VII BICYCLES AND OTHER NONMOTORIZED MODES OF TRANSPORTATION

Sec. 16-186. Title.

This article shall be known and cited as the "Bicycle and Non-motorized Transportation Ordinance." It shall be deemed sufficient in any action for enforcement of the provisions hereof, to define the same by such title and reference to the number hereof.

(Comp. Ords. 1986, § 20.020)

Sec. 16-187. Purpose.

The purpose of this article is declared as follows:

(a) To establish and define nonmotorized pathways within the Township.

(b) To establish regulations governing the equipment, operation and use of bicycles and nonmotorized pathways.

(c) To establish sanctions, misdemeanor penalties, and in certain cases, impoundment procedures for violations of this article.

(Comp. Ords. 1986, § 20.021)

Sec. 16-188. Definitions.

The following definitions shall apply in the interpretation of the provisions of this article:

Bicycle means every device propelled by human power upon which any person may ride, having one (1), two (2), or three (3) wheels, any of which is over fourteen (14) inches in diameter. It includes pedal bicycles with helper motors rated less than one (1) brake horsepower

(*CHAPTER 16, ARTICLE VII, SECTION 16-188* cont.)

transmitted by friction and not by gear or chain, which produce ordinary pedaling speeds up to a maximum of twenty (20) miles per hour.

Bike route means those sections of less traveled public or private streets interconnecting other bikeways. Bike routes shall be posted as such by appropriate signs.

Class I bikeway means a continuous concrete or asphalt path or sidewalk designated, set aside or posted for use by bicycles or other forms of non-motorized transportation, usually located adjacent to, but separated from a public street.

Class II bikeway means narrow lanes marked within an existing street right-of-way posted for the use of bicycles or other forms of non-motorized transportation.

Hazardous materials means substances and materials of any nature and kind, including but not limited to glass, oil, grease or chemicals which create an obstacle or hazard to authorized vehicles on all bikeways and non-motorized pathways.

Motorized transportation and/or vehicles means all conveyances of a nature powered electrically or by internal combustion engine, designed, equipped or used for carrying or transporting persons, excluding bicycles with helper motors rated less than one (1) brake horsepower transmitted by friction and not by gear or chain, and excluding all conveyances designed for handicapped persons.

(Comp. Ords. 1986, § 20.022)

Sec. 16-189. General prohibition for Class I bikeway.

It is prohibited and a violation of this Code for any person to use or employ, or for any parent or guardian to allow or permit a minor under their care to use or employ, any form of motorized transportation to be operated or driven in any fashion whatsoever upon a Class I bikeway.

(Comp. Ords. 1986, § 20.023)

Sec. 16-190. Hazardous materials.

It is prohibited and a violation of this Code for any person to place, deposit, permit or allow to be placed or deposited any hazardous materials upon any bikeway or non-motorized pathway within the Township.

(Comp. Ords. 1986, § 20.025)

Sec. 16-191. Obstructions.

It is prohibited and a violation of this Code for any person to place, permit, allow, deposit or create any obstacle within any bikeway or non-motorized pathway, such as but not limited to, structures, tree or shrub limbs, signs, gates, fences, receptacles, poles, posts or other obstacle of every nature and kind.

(Comp. Ords. 1986, § 20.026)

Sec. 16-192. Lamps and reflectors on bicycles.

Every bicycle when in use at nighttime shall be outfitted with reflective materials or lighting devices, white on the front and red on the rear, so attached or affixed, designed and maintained as to be visible at night from all distances within three hundred (300) feet when approached by a motor vehicle displaying lawfully lighted head lamps.

(Comp. Ords. 1986, § 20.031)

Sec. 16-193. Reserved. (Prior text - Audible signal on bicycles repealed.)

Sec. 16-194. Brakes on bicycles.

Every bicycle shall be equipped with a brake adequate to control the movement of and to stop within reasonable limits such bicycle whenever necessary.

(Comp. Ords. 1986, § 20.033)

(*CHAPTER 16, ARTICLE VII cont.*)

Sec. 16-195. Obedience to traffic control devices.

(a) Any person operating a bicycle shall obey the instruction of the official traffic signals, signs and other control devices applicable thereto placed in accordance with the traffic ordinances of this Township, unless otherwise directed by a police officer or traffic officer.

(b) Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no persons riding a bicycle shall disobey the directions of any such signs, except where such persons dismount from the bicycle to make such turns.

(Comp. Ords. 1986, § 20.034)

Sec. 16-196. Right-of-way rules.

The operator of a bicycle emerging from any alley, driveway or building shall, upon approaching a bikeway, bike route, bikepath or sidewalk, yield the right-of-way to all pedestrians approaching on that area; and upon entering a street or bikeway shall yield the right-of-way to all vehicles approaching on the street.

(Comp. Ords. 1986, § 20.035)

Sec. 16-197. Right side traffic flow observed.

Every person operating a bicycle upon a bikeway, bike route or street shall ride as near to the right-hand side as practicable, exercising due care when passing a vehicle or pedestrian.

(Comp. Ords. 1986, § 20.036)

Sec. 16-198. Riding on bicycles.

A person operating a bicycle shall not ride other than upon or astride the permanent and regular seat attached thereto, nor carry any other person upon such bicycle other than upon a firmly attached and regular seat.

(Comp. Ords. 1986, § 20.037)

Sec. 16-199. Improper towing prohibited.

No person operating a bicycle shall attach such bicycle to any other vehicle of any kind moving upon a street or bikeway. No person riding a bicycle shall tow or draw any coaster, sled, person on roller skates, skateboard, toy vehicle, or any other similar vehicle, unless such trailer or device is constructed and designed for the specific purpose of being towed by a bicycle.

(Comp. Ords. 1986, § 20.038)

Sec. 16-200. Riding in a group.

Persons riding bicycles upon a street shall not ride more than two (2) abreast except on Class I bikeways or parts of streets set aside for the exclusive use of bicycles.

(Comp. Ords. 1986, § 20.039)

Sec. 16-201. Carrying articles.

No person riding a bicycle shall carry any package, bundle or article which prevents the rider from keeping both hands upon the handlebars.

(Comp. Ords. 1986, § 20.040)

Sec. 16-202. Speed.

No persons shall operate a bicycle at a speed greater than is safe and prudent under the conditions then existing.

(Comp. Ords. 1986, § 20.041)

Sec. 16-203. Parking.

It is prohibited to park or leave unattended any bicycle or other vehicle upon or within a designated bikeway, whether such bikeway is on or off the street.

(Comp. Ords. 1986, § 20.042)

(*CHAPTER 16, ARTICLE VII cont.*)

Sec. 16-204. Bicycle dealers.

(a) All persons engaged in the business of buying or selling new bicycles shall keep a record of the name and address of the person from or to whom such bicycle is purchased or sold, the description thereof, the frame number thereof and the number of the license, if any. Such reports shall be available at all reasonable times for inspection by the Township or its duly authorized agents.

(b) All persons engaged in the business of buying or selling secondhand bicycles shall first obtain and maintain a secondhand dealers license in accordance with the requirements in Chapter 10 of this Code.

(Comp. Ords. 1986, § 20.043)

Sec. 16-205. Traffic laws apply to persons riding bicycles.

Every person riding a bicycle upon a street shall be subject to the provisions of the traffic ordinances of this Township applicable to the driver of a vehicle except as to special regulations in this article and those provisions of the ordinances which, by their nature, can have no application.

(Comp. Ords. 1986, § 20.044)

Sec. 16-206. Impoundment of vehicles.

(a) Authorized enforcement officers of the Township shall have the authority to impound vehicles under the following circumstances:

(1) Abandoned, stolen, or unclaimed bicycles found on a bikeway or non-motorized pathway.

(2) Bicycles in operation on a public street, bikeway or non-motorized pathway with defective equipment or equipment which is inadequate under the provisions of this chapter.

(3) Motorized vehicles being operated or illegally parked on or within a class I bikeway in the presence of an authorized enforcement officer.

(b) All bicycles or other vehicles impounded under this section shall be held securely by or on behalf of the Police Chief in one or more locations or facilities approved by a Township Board or Supervisor directive, resolution, approval, or other action. The bicycle or other vehicle shall be held until ordered released, after payment of all towing and storage fees, by court order or by the Police Chief upon proper disposition of the violation or ground for impoundment.

(Comp. Ords. 1986, § 20.045)

Sec. 16-207. Violations and sanctions.

Violation of any section of this article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

(Comp. Ords. 1986, § 20.046; Ord. of 7-8-2002)

Secs. 16-208--16-220. Reserved.

***Editor's note:** The 2014 ordinance recodification amended the Code repealed the bicycle licensing requirements in this Division, formerly §§ 16-221--16-224, and reserving this Division for future use.*

ARTICLE VIII. MOTOR CARRIER SAFETY

***Editor's note:** The 2014 ordinance recodification amended the Code transferring the Waterford Township Alarm System Control Ordinance from this Article, formerly §§ 10-141 – 10-175, to Article VI of this Chapter, §§ 10-451 – 10-480; further, transferring the Motor Carrier Safety Rules Ordinance from Article*

VIII of this Chapter, formerly §§ 10-306 – 10-330, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources,.

Sec. 16-221. Short title.

This Article shall be known and cited as the "Motor Carrier Safety Ordinance."

(Ord. No. 149, § 1.00, 3-27-1989)

Sec. 16-222. Purpose.

The purpose of this Article is declared as follows:

(1) To facilitate the local enforcement of the Motor Carrier Safety Act of 1963, Act No. 181 of the Public Acts of 1963 as amended (MCL 480.11 – MCL 480.25), referred to in this Article as the "Act", and the rules and regulations promulgated by the Department of State Police under the Act, referred to in this Article as the "Rules", including subsequent additions and amendments thereto.

(2) To adopt the Act and Rules by reference as an ordinance of the Township and provide for its enforcement by the Township police department subject to any requirements of the Act, and in a manner that is not more permissive, restrictive, and does not require more action, equipment, or permits, than the Act or Rules, and that does not prevent or obstruct compliance with the Act.

(3) To provide sanctions for violations of the motor carrier safety rules as adopted into this Code.

(Ord. No. 149, § 2.00, 3-27-1989; Ord. of 12-10-2001)

Sec. 16-223. Adoption by reference.

The Motor Carrier Safety Act of 1963, Act No. 181 of the Public Acts of 1963 as amended (MCL 480.11 – MCL 480.25), and the rules and regulations as promulgated by the Department of State Police under that Act, with subsequent additions and amendments thereto, are hereby adopted, by reference as an ordinance of the Township. Copies of the Act and Rules shall be kept on file in the office of the Township Clerk and shall be available for public inspection and distribution at all times that office is open for business with the general public.

(Ord. No. 149, § 3.00, 3-27-1989; Ord. of 12-10-2001)

Sec. 16-224. Enforcement.

(a) All police officers of the Township and designated motor carrier officers having reasonable cause to believe that a commercial motor vehicle is being operated in violation of the Act or Rules may stop the vehicle and make a full inspection.

(b) In the event that the officer determines a violation of the Act or Rules has occurred, the officer may issue a notice to appear for violation of this Article in the same manner as civil infraction citation under the Michigan Vehicle Code. The notice to appear citation shall serve as a complaint to be filed in the district court.

(Ord. No. 149, § 4.00, 3-27-1989; Ord. of 12-10-2001)

Sec. 16-225. Preemption.

Any provision of this Article that is "inconsistent" with the Act or Rules, as defined in MCL 480.21(1), is preempted to the extent of the inconsistency and shall not be enforced.

(Ord. No. 149, § 5.00, 3-27-1989)

Sec. 16-226. Violation; civil infraction, sanctions and misdemeanor.

(a) Any driver or operator who violates this Article, and any owner, user, or officer, agent, lessee, or receiver of an owner or user of a commercial motor vehicle, who requires or permits the operation of a commercial vehicle in violation of this Article, shall be subject to sanctions and punishment by the court as follows, or as provided in the Act or Rules to the extent they provide different sanctions and punishment:

(1) As a civil infraction punishable as provided in Section 1-010(b) of this Code, with the civil fine to be not more than two hundred fifty dollars ($250.00).

(2) Costs of not less than five dollars ($5.00) or more than one hundred dollars ($100.00).

(*CHAPTER 16, ARTICLE VIII, SECTION 16-226 cont.*)

(3) Violations for operation or requiring or permitting operation of a commercial motor vehicle with a serious safety defect are subject to a civil fine of not more than three hundred dollars ($300.00) for each violation.

(4) Violations for operation or permitting or allowing operation of a commercial motor vehicle wherein the vehicle is transporting a package required to be marked or labeled under 49 C.F.R. parts 100 to 180, are subject to a civil fine of not more than five hundred dollars ($500.00) for each violation.

(5) An officer, employee, owner, or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of any hazardous materials vehicle inspection or repair facility that violates a section of this Article related to the transportation of hazardous materials, is guilty of a misdemeanor punishable as provided in Section 1-010(a) of this Code.

(6) The court (judge, referee or magistrate) may also order a person found to have violated this Article to attend and complete a program of treatment, education, or rehabilitation.

(b) As used in this Article:

(1) Commercial motor vehicle has the same meaning as in the Act, which means any self-propelled or towed vehicle designed or used on public highways to transport passengers or property, except for a bus exempted by the Act, if the vehicle is one or more of the following:
(i) Has a gross vehicle weight rating, actual gross weight, gross combination weight rating, or actual gross combination weight of 10,001 or more pounds.
(ii) Is designed for carrying 16 or more passengers, including the driver.
(iii) Is used in the transportation of hazardous materials in a quantity that requires marking or placarding pursuant to 49 CFR parts 100 to 180.

(2) Operation means being in actual physical control of a vehicle regardless of whether the person is licensed under the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, as an operator or chauffeur.

(c) For each violation of this Article, the court, in its discretion, shall impose sanctions pursuant to paragraph (a) of this Section.

(Ord. No. 149, § 6.00, 3-27-1989; Ord. of 12-10-2001)

ARTICLE IX. ABANDONED VEHICLES

***Editor's note:** The 2014 ordinance recodification amended the Code repealing the Waterford Township Abandoned, Junked and Distressed Vehicle Ordinance in Article III of Chapter 10, formerly §§ 10-066 – 10-090, and adopting the provisions under this Article for similar subject matter pertaining to abandoned vehicles and derived from the same historical ordinance sources.*

Sec. 16-321. Short title.

This Article shall be known and cited as the "Abandoned Vehicle Ordinance".

Sec. 16-322. Purpose.

The purpose of this Article is to summarize and provide for implementation of the abandoned vehicle provisions in the Motor Vehicle Code adopted by reference in Article II of this Chapter, MCL 257.252a – MCL 257.252l, which are referred to in this Article as the "Act" .

Sec. 16-323. Definition.

As defined in MCL 257.252a of the Act and used in this Article, ***Abandoned Vehicle,*** means a vehicle that has remained on::

(a) Private property without the consent of the owner;

(b) Public property for a period of not less than 48 hours;

(c) A state trunk line highway as described in Section 1 of Public Act 51 of 1951, MCL 247.651, as follows:

(*CHAPTER 16, ARTICLE IX, SECTION 16-323 cont.*)

(i) If a valid registration plate is affixed to the vehicle, for a period of not less than 18 hours.
(ii) If a valid registration plate is not affixed to the vehicle.

Sec. 16-324. Prohibition on abandoning vehicles.

Registered owners, and the last operator of a vehicle before it becomes an abandoned vehicle shall be responsible for a civil infraction, punishable as provided in Section 1-010(b) of this Code.

Sec. 16-325. Abandoned vehicle administrative procedures.

The Police Chief shall establish and implement an abandoned vehicle determination, processing, reporting, notice, and claim procedure that follows and complies with the procedures established in the Act.

Sec. 16-326. Abandoned vehicle removal, storage, and disposition procedure.

Subject to and in compliance with any Township Board or Township Supervisor directives, resolutions, approvals, or other actions, the Police Chief shall establish and implement an abandoned vehicle removal, storage, disposition, and sale procedure that follows and complies with the Act.

Sec. 16-327. Vehicle removal by enforcement agency.

Subject to and in compliance with the procedures in MCL 257.252d, the Police Chief may cause the immediate removal to a place of safekeeping that conforms to any Township Board or Township Supervisor directives, resolutions, approvals, or other actions, with the cost of such removal and storage to be at the expense of the registered owner of the vehicle in any of the following circumstances:

(a) If the vehicle is in such a condition that the continued operation of the vehicle would constitute an immediate hazard to the public.
(b) If the vehicle is parked or standing upon a highway or other public place in such a manner as to create an immediate public hazard or an obstruction of traffic.
(c) If the vehicle is parked in a posted tow away zone.
(d) If there is reasonable cause to believe that all or part of the vehicle is stolen.
(e) If the vehicle must be seized to preserve evidence of a crime, or if there is reasonable cause to believe that such vehicle was used in the commission of a crime.
(f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.
(g) If the vehicle is hampering the use of private property by the owner or person in charge of such property or is parked in a manner that impedes the movement of another vehicle.
(h) If the vehicle is stopped, standing, or parked in a designated parking space for persons with disabilities without being permitted by law to be in that space.
(i) If the vehicle is located in a clearly identified access aisle or access lane immediately adjacent to a space designated as parking for persons with disabilities.
(j) If the vehicle is interfering with the use of a ramp or a curb-cut by persons with disabilities.
(k) If the vehicle involved in a traffic crash cannot be safely operated from the scene of the crash.

Sec. 16-328. Abandoned vehicle claims and disputes; court review.

Hearings on claims and disputes regarding whether the Police Chief, a towing agency, a custodian, or a private property owner acted properly and regarding the reasonableness of towing and storage fees under the Act, shall be conducted by the 51st District Court of the State of Michigan as provided in MCL 257.252e and MCL 257.2f.

Sec. 16-329. Disposition of abandoned and other vehicles; public sale.

After all proceedings and time periods required by the Act, vehicles determined to be abandoned and removed under Section 16-325, vehicles removed under Section 16-327, and the contents of such vehicles, shall be sold at a public sale, with the sale and disposition of the vehicle or sale proceeds to be as provided in MCL 257.252g

(*CHAPTER 16, ARTICLE IX cont.*)

Sec. 16-330. Violations; Civil infraction.

In addition to Section 16-324, violation of any other provision of this Article is a civil infraction punishable as provided in Section 1-010(b) of this Code.

CHAPTER 17 WATER AND SEWERS*

Art. I. In General, §§ 17-001--17-025 ..... Page 17-1
Art. II. Inspections, §§ 17-026--17-050 ..... Pages 17-1 through 17-3
Art. III. Sewers and Sewage Disposal, §§ 17-051--17-220 ..... Pages 17-4 through 17-25
Div. 1. Generally, §§ 17-051--17-090 ..... *Pages 17-4 through 17-12*
Div. 2. Use of Public Sewers, §§ 17-091--17-115 ..... *Pages 17-12 through 17-14*
Div. 3. Private Disposal, §§ 17-116--17-135 ..... *Pages 17-14 and 17-15*
Div. 4. Laterals Generally, §§ 17-136--17-155 ..... *Page 17-15*
Div. 5. Rates and Charges, §§ 17-156--17-190 ..... *Pages 17-16 through 17-21*
Div. 6. Sewer Connection Hardship Provisions, §§ 17-191--17-220 ..... *Pages 17-21 through 17-24*
Art. IV. Wastewater Disposal Standards and Regulations, §§ 17-221--17-325 ... Pages 17-24 through 17-64
Div. 1. Generally, §§ 17-221--17-240 ..... *Pages 17-24 through 17-33*
Div. 2. Regulations of County Department of Public Works, Sewage Disposal Systems, §§ 17-241--17-270 ..... *Pages 17-34 through 17-38*
Div. 3. Regulations of County Drain Commissioner, Sewage Disposal System, §§ 17-271--17-290 ..... *Pages 17-38 through 17-41*
Div. 4. General Wastewater Disposal Regulations, §§ 17-291--17-325 ..... *Pages 17-41 through 17-64*
Art. V. Water, §§ 17-326--17-368 ..... Pages 17-64 through 17-76
Div. 1. Generally, §§ 17-326--17-365 ..... *Pages 17-64 through 17-75*
Div. 2. Supply Wells, §§ 17-366--17-368 ..... *Page 17-75 through 17-76*

ARTICLE I IN GENERAL

Sec. 17-001. Fees and performance bonds.

The Township Board shall establish by resolution a schedule of fees, escrow, cash reserve funds, and performance bond requirements intended to cover the costs associated with the procedures regulated by this Chapter, which may be modified by resolution of the Township Board as necessary.

Sec. 17-002. Violations; Civil Infractions unless otherwise provided.

Unless otherwise provided, a violation of this Chapter is a civil infraction, punishable as provided in Section 1-010(b).

Secs. 17-003--17-025. Reserved.

ARTICLE II INSPECTIONS

Sec. 17-026. Short title.

This article shall be known and cited as the "Water and Sewer Inspection Ordinance." It shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such title, and reference to the number hereof.

(Comp. Ords. 1986, § 26.201)

Sec. 17-027. Statement of purpose.

The purpose of this article is hereby declared to be:

(a) To prevent the contamination and blockage of public water and sanitary sewer systems.
(b) To require permits by public works contractors on any adjustment, reconstruction, relocation, or alteration of certain facilities.
(c) To require minimum standards of repair and relocation by contractors.
(d) To provide for Township inspections, performance bonds and reserve funds.
(e) To establish fee schedules for permits and inspections.

(Comp. Ords. 1986, § 26.202)

(*CHAPTER 17, ARTICLE II cont.*)

Sec. 17-028. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002, the following definitions shall be applicable in the interpretation of this article:

Contractor means one who contracts or is a party to a contract to perform work.

Curbstop and box means a valve on the water service line, with a round telescoping tube that allows operation of the valve without excavation.

Hydrants means a discharge pipe with a valve and nozzle from which water may be drawn from the water main.

Sanitary sewer manholes means a concrete, brick, or block structure that provides access to the sewer for cleaning and maintenance.

Township utilities means the public water and/or sanitary sewer systems operated by the Township.

Valve boxes means a round metal telescoping tube that allows operation of the valve without excavation.

Water gate wells means a concrete, brick or block structure that houses a valve on the water main.

(Comp. Ords. 1986, §§ 26.220--26.226)

Sec. 17-029. Plan review.

Before any work on or related to Township utilities, the Public Works Official or Township Engineer shall first review and approve all plans and specifications for the work which shall be submitted by the permit applicant and be by a design engineer or the governmental organization. In the event the plans and specifications do not adequately insure for the proper protection, adjustment, and delineation of Township utilities, the plans shall be rejected. Rejected plans shall be returned to the applicant for correction.

(Comp. Ords. 1986, § 26.230)

Sec. 17-030. Permit and inspection fee.

(a) Any contractor to perform work within a public right-of-way or easement on or for Township utilities shall first apply for and obtain a permit from the Public Works Official, including but not limited to work involving the adjustment, reconstruction, relocation or alteration of water gate wells, valve boxes, fire hydrants, curb-stops or sanitary sewer manholes. Anon-refundable permit fee as established in accordance with Section 17-001 shall accompany the application.

(b) Prior to starting any work for which a permit is required herein, the contractor shall notify the Public Works Official at least twenty-four (24) hours in advance of a time designated for inspection.

(c) All construction inspection fees shall be deposited prior to commencement of construction activities. Such fees will be held in an escrow account until all work is completed. All unused fees will be returned to the owner. If further inspection is required upon depletion of inspection deposit, additional site work may be stopped until additional funds are deposited.

(Comp. Ords. 1986, § 26.240; Ord. of 12-11-1995)

Sec. 17-031. Performance bond.

The contractor shall provide, prior to a permit being issued, a performance bond in the form of cash, or irrevocable bank letter of credit, surety bond, or other security in a form acceptable to the Public works Official, for each project in the amount as established in accordance with Section 17-001 as security for the faithful performance of the work in accordance with the plans, specifications, permit and standards in this Chapter.

(Comp. Ords. 1986, § 26.250)

(*CHAPTER 17, ARTICLE II cont.*)

Sec. 17-032. Reserve fund.

The contractor shall provide, prior to any permits being issued, a cash reserve fund as established in accordance with Section 17-001 for each project. The cash reserve shall be escrowed in a noninterest bearing account available for use by the Township during the course of the project for emergency work, such as blockage of sewer or waterlines, and/or other work as may be deemed necessary by the Public Works Official due to job difficulties. The balance of the reserve fund for each project, less funds expended by the Township, shall be returned at such times as the project has final approval by the Public Works Official.

(Comp. Ords. 1986, § 26.260; Ord. of 12-11-1995)

Sec. 17-033. Correction of defects or infiltration to system.

In the event of blockage or clogging of the sewer system, or blockage of access to the sewer system, or any part thereof, including any structure which is a part thereof, caused by any action performed by any property owner or his agent, the Township may, in its sole discretion, enter onto the subject property and proceed to correct the defect without notice to such property owner or his agent. All moneys expended and reasonable costs for labor performed by the Township shall be a lien against the real property involved and shall be reported to the Assessing Official who shall assess the cost against the property on which the blockage or clogging or blockage of access to the sewer system occurred. The owner or parties of interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within thirty (30) days after such notice, the Assessing Official shall add the same to the next tax roll of the Township and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes.

(Comp. Ords. 1986, § 26.270)

Sec. 17-034. Injunctive relief; nuisance per se.

Any violation of this article is hereby deemed to be a nuisance per se and shall be enforceable through the bringing of appropriate action for injunctive relief in any court having jurisdiction.

(Comp. Ords. 1986, § 26.271)

Sec. 17-035. Miscellaneous standards.

(a) All sanitary sewer manholes shall be provided with "bolted waterproof" covers in accordance with current standards. All alterations, replacements, or adjustments of a gate well frame and cover will be in accordance with current Township standards. Any valve box found to be damaged or with missing parts shall be replaced with new material in accordance with current standards. Curb boxes damaged by the contractor shall be replaced with new material in accordance with current standards.

(b) The County requirements as currently in effect for changing the elevation of manhole structures shall govern in all cases.

(Comp. Ords. 1986, § 26.280)

Secs. 17-036--17-050. Reserved.

(*CHAPTER 17 cont.*)

ARTICLE III SEWERS AND SEWAGE DISPOSAL*

*Cross references: Health and sanitation, Ch. 9.

Division 1. Generally

Sec. 17-051. Short title.

This article shall be known and cited as the "Sanitary Sewer System Ordinance."

(Comp. Ords. 1986, § 25.051)

Sec. 17-052. Purpose.

The purpose of this article shall be:

(a) To provide for the maintenance, management, operation and repair of the Township sewer system.

(b2) To establish and provide for collection of such charges and rates pertaining thereto as shall be required to ensure revenues sufficient therefor.

(c) To provide funds for payment of the Township's obligations and responsibilities to the County under the contracts pertaining thereto.

(d) To incorporate the provisions of the Michigan Public Health Code which require connection of certain structures to the system.

(e) To provide enforcement provisions and penalties for violations hereof.

(Comp. Ords. 1986, § 25.052)

Sec. 17-053. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002 and 17-028, when used in this article, unless otherwise indicated by the context, the following definitions shall apply:

As addressed means the given place of destination by street and number or box and route, excluding a post office box, with any other details necessary for the direction of a letter or package for delivery to person. "Front foot as addressed" means the frontage of premises at the street and number or box and route addressed as owned or used by the person addressed.

Available public sanitary sewer system *or* ***system*** means a public sanitary sewer system located in a right-of-way, easement, street or public way which crosses, adjoins, abuts, or is contiguous to a property containing a structure in which sanitary sewage originates and which is located not more than 200 feet from the nearest point of that structure.

BOD means the biochemical oxygen demand which is the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20) degrees Celsius, expressed as milligrams per liter.

Building sewer means the sewer that connects the structure in which sanitary sewage originates to the public sewer or other place of disposal and conveys the sewage originating in only one (1) structure.

Capital charge means the amount charged at the time and in the amount hereinafter provided to each structure in the area served by the laterals for connecting or being connected to the new construction or to existing laterals, and represents the proportionate cost allocable to such structure for the interceptor, trunk line and pumping facilities by which sewage disposal services are immediately provided to such areas.

Charges for sewage disposal services mean the amount charged to the users of each structure in the area served by the laterals for sewage disposal services, and which may include a debt service factor.

(*CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-053, cont.*)

Commercial users mean persons who are occupants or users of any structure which is involved in a commercial enterprise, business or service and which, based upon a determination by the Township, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

Compatible pollutant means a substance amenable to treatment in a publicly owned wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus "additional pollutants" identified in the NPDES Permit of the publicly owned treatment works designed to treat such pollutants and which does in fact remove such pollutants to a substantial degree. Such "additional pollutants" may include but not be limited to: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen and nitrogen compounds, fats, oils and greases of animal or vegetable origin.

Debt service charge means the charge assessed users of the system which is used to pay principal, interest and administrative costs of retiring the debt incurred for the construction of the local portion of the system.

Direct connection means the connection of a premises and structure wherein sanitary sewage originates directly to sewer lines constructed by the Township.

Existing laterals means all sewer laterals in a safe and efficient operable condition existing on May 12, 1980.

Federal grant means a grant made for the construction of wastewater collection, transportation, and treatment works provided under P.L. 92-500, as amended, or other applicable Federal law.

Garbage shall be as defined in Article III of Chapter 9 of this Code on Waste Materials Control.

Incompatible pollutant means any pollutant which is not a compatible pollutant.

Indirect connection means the connection of a structure on any premises to any sewer lines not originally comprising the sewer system constructed by the Township but connecting thereto, e.g., premises served by subdivision and mobile home park private sanitary sewers which in turn connect to public sanitary sewers.

Industrial cost recovery system means a system whereby the Township recovers from industrial users of the system that portion of the grant amount allocable to the construction of the facility from such users pursuant to 40 CFR 35.928, as amended, or other applicable Federal law or regulation.

Industrial user means:

(1) Any nongovernmental and nonresidential user of a publicly owned treatment works which discharges more than the equivalent of twenty-five thousand (25,000) gallons per day (gpd) of industrial wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one (1) of the following divisions:

Division A.	Agriculture, forestry and fishing.
Division B.	Mining.
Division D.	Manufacturing.
Division E.	Transportation, communication, electric, gas and sanitary services.
Division I.	Services.

a. In determining the amount of a user's discharge for purposes of industrial cost recovery, the Township will exclude domestic wastes or wastes from sanitary conveniences.

(*CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-053, cont.*)

b. After applying the waste exclusion in subsection (1)a. of this section, discharges in the above divisions that have a volume exceeding twenty-five thousand (25,000) gpd or the weight of biochemical oxygen demand (BOD) or suspended solids (SS) equivalent to that weight found in twenty-five thousand (25,000) gpd of sanitary waste are considered industrial users. Sanitary wastes, for purposes of this calculation of equivalency, are the type of wastes discharged from residential users, but with BOD greater than200 mg/l and SS greater than 250 mg/l.

(2) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

(3) All commercial users of an individual system constructed with grant assistance under Section 201(h) of P.L. 92-500.

Industrial wastes mean the wastewater discharges from industrial, trade or business process as distinct from their employees' domestic waste or waste from sanitary conveniences.

Inspection, approval and tap fee means the amount charged to each applicant by the Township to cover the cost of inspecting and approving the physical connection to the system and the issuance of a connection permit.

Lateral means a pipe or conduit, laying within the public right-of-way or easement, that receives sanitary sewage from abutting premises.

Lateral benefit fee means the amount charged at the time and in the amount hereinafter provided to the users of each structure on premises in the area served by the laterals for the availability directly to serve such structure by the new construction facilities of the system, and represents the proportionate cost allocable to such structure for the lateral service made directly available to the structure by the new construction.

Major contributing industry means an industrial user of the publicly owned sewage works that:

(1) Has a flow of fifty thousand (50,000) gallons or more of industrial wastes per average work day.

(2) Has a flow greater than five (5) percent of the flow carried by the public sanitary sewer system receiving the waste.

(3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Water Pollution Control Act.

(4) As found by the permit issuance authority in connection with the issuance of an NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact either singly or in combination with other contributing industries on the treatment works or upon the quality of effluent emanating from the treatment works.

Mg/l means milligrams per liter.

Natural outlet means any outlet into a drain, watercourse, pond, ditch, inland lake or stream, or other body of surface water or groundwater.

New construction means the laterals to be constructed pursuant to a contract dated April 28, 1969, between the County and the Township and any and all future additions and extensions thereof and present and future extensions of the Clinton-Oakland System which are being built or may be built by the County under contract with the Township now or hereafter.

Normal domestic strength wastewater means a sewage or other wastewater effluent which shall be a compatible pollutant and with BOD of two hundred (200) milligrams per liter or less, suspended solids of two hundred fifty (250) milligrams per liter or less, and total phosphorus of ten (10) milligrams per liter or less.

NPDES permit means a permit issued pursuant to the National Pollution Discharge Elimination System prescribed in P.L. 92-500, as amended, or other applicable Federal or State law.

(*CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-053, cont.*)

O & M charge means the charge assessed to users of the system for the cost of operation and maintenance (including the cost of replacement) of the system pursuant to Section 204b of P.L. 92-500, as amended, or other applicable Federal or State law.

Operation and Maintenance (O & M) means all work, materials, equipment, utilities and other effort required to operate and maintain the system, including the cost of replacement, wastewater collection, transportation and treatment of effluent consistent with adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other county, state and federal regulations, if any.

Owner means where appropriate the person who owns, occupies or uses the premises and/or structure from or in which sanitary sewage originates.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Premises means any areas of land in the Township consisting of a lot, zoning lot, or real property upon which a structure stands or may be placed or constructed and "a premises" shall mean the single area included in a street address, tax roll description or tract index description attributed to a single occupant, taxpayer or property owner.

Present system means that part of the system which had been constructed as of May 12, 1980.

Properly shredded garbage means the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers with no particles greater than one-half inch in any dimension.

Property owner means a person that holds or has interest in legal title to the premises according to the Township's tax and assessing records or register of deeds records, and shall include in the case of a land contract sale, the land contract vendee or vendees.

Replacement means the obtaining and installing of any equipment, accessories, and appurtenances which are necessary during the service life of the system to maintain the capacity and performance to which such system was designated and constructed and to preserve its financial integrity.

Residential equivalent *or* ***equivalent unit*** means the factor representing a ratio of the capacity requirement and estimated sewage generated by each user class to that required or generated by the normal single-family residential user.

Residential user means the user of the system whose premises or structure are used primarily as a residence for one (1) or more persons including dwelling units such as detached, semidetached, row houses, mobile homes, apartments or permanent multifamily dwellings. For purposes of this article transient lodgings shall be considered to be a "commercial" use.

Sanitary sewage means the liquid or water carried waste discharge from structures on premises created by the use or occupancy thereof by persons who are residential users, commercial users or industrial users but excluding therefrom industrial wastes.

Sanitary sewer means the sewer which carries sanitary sewage and industrial waste or either of them into which stormwater, surface water and groundwater are not intentionally admitted.

Sewage treatment plant means any arrangement of devices or structures used for the treating of sanitary sewage or industrial waste.

Storm sewers means a rain and stormwater runoff drainage system within which no sanitary sewage is permitted to be deposited.

Structure means anything constructed or erected and located on or attached to the ground, including a dwelling and any other type of building that is designed or intended for, capable of, or actually used as or for a place of residence, employment, business, congregation, or other permanent, temporary, or intermittent use and occupancy.

(*CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-053, cont.*)

Structure in which sanitary sewage originates means a structure for use for household, commercial, industrial or other purposes by persons, in which toilet, kitchen, laundry, bathing or other facilities are located and in which are or may be generated water carried sanitary sewage.

Surcharge means the additional charge which a user discharging wastewater having strength in excess of the limits set by the Township for transmission and treatment within the sanitary sewage system will be required to pay to meet the cost of treating such excessively strong wastewater.

Suspended solids means solids that either float on the surface of, or are in suspension in the water, sewage or other liquids and which are removable by laboratory filter.

Unit means that quantity of sanitary sewage ordinarily originating from the occupancy of a residential building by a single family. The number of units or fractional parts thereof to be assigned to types of usage other than single-family residential use shall be defined or determined by the Township Board from time to time, as hereinafter provided.

User charge means a charge on users of the system to recover costs of operation and maintenance for work performed pursuant to Section 204(b) of P.L. 92-500, as amended, or other applicable Federal or State law, which charges also include cost of replacement.

User class means the kind of the uses of structures on premises connected to the sanitary sewers including but not limited to residential, industrial, commercial, institutional and governmental users.

Wastewater means water which contains, or previous to treatment has contained, pollutants such as sanitary sewage and/or industrial wastes.

(Comp. Ords. 1986, § 25.053)

Sec. 17-054. Operation, maintenance and control.

The operation and maintenance of the system shall be under the supervision and control of the Township subject to the terms of the County-Township contract. Pursuant to the terms of such contracts, the Township has retained the exclusive right to establish, maintain, and collect rates and charges for sewage collection, treatment, transmission and debt service, and in such capacity the Township Board may employ such persons in such capacities as it deems advisable, and may make such rules or regulations as it deems advisable and necessary to ensure the efficient establishment, operation, and maintenance of the system, to discharge its financial obligations, and collection of rates and charges as herein provided.

(Comp. Ords. 1986, § 25.054)

Sec. 17-055. State standards adopted.

The provisions of the Michigan Public Health Code, as amended, requiring connection to an available public sanitary sewer system (MCL 333.12751 through 333.12758) are hereby incorporated and adopted by reference, as if fully set forth herein.

(Comp. Ords. 1986, § 25.056)

Sec. 17-056. Connection applications and permits.

Application for permit to connect to the sewer system must be made in writing by the owner of the premises. Such application shall give the exact property description including address and parcel identification number, amount of front footage as addressed, number of structures to be connected, and the name of the master plumber, or licensed sewer builder, employed to do the work, and shall be made on forms furnished for the express condition that the owner for whose benefit the connection is made, shall, on behalf of himself, his heirs, or assigns, hold the Township harmless for any loss or damage that may in any way result or be occasioned by making of such connection.

(Comp. Ords. 1986, § 25.058)

(*CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-054, cont.*)

Sec. 17-057. Connection permit fees.

The owner of any structure or premises within the area served by the laterals shall pay such sewer permit fee as established in accordance with Section 17-001, which fee shall reimburse the Township for any and all cost necessary to issue a permit for the connection of such premises. This fee shall be in addition to all other charges and fees set forth herein.

(Comp. Ords. 1986, § 25.059)

Sec. 17-058. House connection--Materials.

The house connection sewer extending from the lateral sewer in the street or easement to within five (5) feet from the house or other structure from which sewage originates shall be:

(a) Six-inch diameter, Extra Strength Vitrified Sewer Pipe manufactured in accordance with current N.C.P.I. Designation ER4-67 Standards, or equal, with the County approved joint.

(b) Six-inch diameter, Class 2400 Asbestos Cement Pipe with ring-tite, fluid-tite or County approved joint.

(c) Six-inch diameter, service strength, cast iron soil pipe with hot poured lead joint, or County approved equal.

(d) Other pipe and joints as may be approved by the County.

(e) Copies of specifications for County approved joints shall be on file at the office of the Township.

(f) All house connection sewers shall be six-inch diameter pipe, except that four-inch diameter pipe of comparable strength and joint material may be used when it meets all requirements of the County and of the Township. All joints shall be tight and when tested for infiltration, or exfiltration, shall not exceed the requirements of the County. Copies of these rules and regulations shall at all times be kept in the office of the Township.

(g) The iron pipe inside any building or structure shall be plugged and leaded, and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement if any backfilled, and the roof is on such building, thereby preventing water from entering the sanitary sewer from the excavated basement or other excavated area beneath the building.

(h) All house leads shall be properly bedded in sand a minimum of eight (8) inches below and six (6) inches above the pipe where the type of soil is hard clay or rocky. Unstable ground conditions shall also require proper bedding.

(Comp. Ords. 1986, § 25.075)

Sec. 17-059. House connection fees and inspection.

(a) A house connection shall not be installed without a plumbing permit having been issued for same by the Township Building Official under the building/construction code, with payment of associated fees, as established for such permits and in accordance with Section 17-001. Opportunity for such inspection shall be provided after all pipe is in place and before the covering of such pipe or other backfilling.

(b) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner of such property.

(c) All required water and sewer connection fees shall be paid in full prior to any physical connection to the public water and/or public sewer system.

(Comp. Ords. 1986, § 25.076)

Sec. 17-060. Conditions requiring sewage pump.

In cases where conditions prohibit the flow of sewage by gravity, the premises may be served by a sewage ejector pump, as determined by the Public Works Official or Township Engineer.

(Comp. Ords. 1986, § 25.077; Ord. of 12-11-1995)

Sec. 17-061. Sewer connection contractors.

Any person desiring to secure permits to make sanitary sewer connections shall, prior to the issuance of such permits, provide the Building Official with the following:

(a) Surety bond. A satisfactory corporate surety bond, renewable yearly, in an amount established by the Building Official as security for the faithful performance of the work in accordance with the Township ordinances, standards, specifications, rules and regulations. The surety bond shall be

(*CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-061, cont.*)

kept in full force and effect by the sewer contractor until such contractor shall have given ten (10) days written notice to the Township of his intention to terminate such bond and shall thereafter have received a written release from the Building Official.

(b) Reserve fund. A reserve fund shall be provided in an amount as established in accordance with Section 17-001. The cash reserve shall be escrowed in a noninterest bearing account and be available for use by the Township to reimburse:

(1) The Township for labor required or moneys expended to correct damages or deficiencies in the entire sewer system, including the portion on private property occasioned by the acts or omissions of the sewer contractor.

(2) Any and all owners of premises contracting with the sewer contractor for connection to the sewer, in the event the sewer contractor has perpetrated a fraud or gross, wanton breach of contract with one (1) or more owners, resulting in damages or injuries which are actionable at law or equity.

A gross or wanton breach of contract shall include any and all negligence exceeding ordinary negligence, such as overall poor or shoddy workmanship.

Upon such event occurring with one (1) or more owners, the Township Board shall have the sole discretion as to the terms of reimbursement to be made, if any. In the event such reserve funds shall be insufficient to cover reimbursement deemed necessary by the Township, the sewer contractor in question shall be liable for restitution of such costs. The contractor may be given the opportunity to correct said damages or deficiencies prior to the invasion of the reserve fund by the Township. Failure to comply with the regulations and standards of the Township, and failure to make restitution as hereinbefore mentioned may result in the immediate execution of collection procedures including all legal remedies available and shall be grounds for suspension or revocation of the sewer contractor's permit.

The balance of moneys remaining in the reserve fund, if any, shall be returned to the sewer contractor not later than one (1) year following final inspection and approval of the sewer connection, or earlier, in the discretion of the Township Board. The sewer contractor shall first be required to submit a written request for return of the reserve fund to the Building Official, who shall forward such request, along with its recommendation, within thirty (30) days to the Township Clerk.

(c) Certificate of insurance. A certificate of insurance indemnifying the Township for public liability and property damage, with limits of at least one hundred thousand dollars ($100,000.00) for each person and three hundred thousand dollars ($300,000.00) for each occurrence.

(d) Contractor's license. Any person may be issued permits upon being licensed by the Township as contractors. As a prerequisite to obtaining a contractor's license, an applicant must complete and file an application as supplied by the Building Official and pay an annual license fee in an amount as established in accordance with Section 17-001which shall be renewable as of January first of each year. This license may be suspended or revoked upon noncompliance with the Township ordinances, standards, specifications, rules and regulations.

(e) Connection permit. Before either a direct or indirect connection is made into any interceptor sewer system of the County, or any work done on such connection, a connection permit shall be obtained by the owner or contractor from the County. Such permit shall be obtained in accordance with the rules and regulations of the County.

(f) Permits; total number, expiration. The total number of permits which may be issued and outstanding to any contractor at any one (1) time shall not exceed ten (10). All permits shall expire one (1) year from the date of issuance.

(Comp. Ords. 1986, § 25.078)

Sec. 17-062. Home owner connection permit.

A permit shall be issued to an owner of premises only if the owner has executed an affidavit verifying the applicant is the owner and occupant, or intended occupant of the structure where the work is to be performed and performance bond conforming to Section 17-031 is provided.

(Comp. Ords. 1986, § 25.079)

(*CHAPTER 17, ARTICLE III, DIVISION 1 cont.*)

Sec. 17-063. Contract between sewer contractor and owner.

With respect to written or oral agreements, contracts or transactions between owners of premises and a sewer contractor licensed herein, the Township, notwithstanding any provisions contained in this article, shall not be deemed to have knowledge of a contract between such parties, shall not be deemed a principal or master, or the agent or servant of the sewer contractor. The Township does not in any way act as guarantor or surety for any sewer contractor licensed herein, and does not extend warranties, expressed or implied for the contractor's performance.

(Comp. Ords. 1986, § 25.080)

Sec. 17-064. Premises lying outside Township.

Any person whose property lies outside the Township desiring to connect to the sewer system shall be subject to one and one-half (1 1/2) times the normal connection fees and one and one-half (1 1/2) times the normal quarterly billing rate. Such parties outside the Township interested in connecting to the sewer system shall provide a letter of no objection from the local governing body of the township or city within which the building or property is located. The proposed connection shall thereafter be submitted to the Township Board by the Public Works Official for review and decision, in its sole discretion.

(Comp. Ords. 1986, § 25.084; Ord. of 6-24-1991)

Sec. 17-065. Sewer revenue fund account.

The Township Treasurer, in conjunction with the Public Works Official, shall consolidate all existing bank accounts and funds into a single sewer bank account and fund to be managed by the Township Treasurer in accordance with the requirements of this article and with existing agreements with the County.

(Comp. Ords. 1986, § 25.085; Ord. of 6-24-1991)

Sec. 17-066. Fiscal year.

The system shall be operated upon the basis of the calendar year as the fiscal year.

(Comp. Ords. 1986, § 25.090)

Sec. 17-067. Inspection powers; corrective orders.

(a) The duly authorized officials and agents of the Township shall continue at all times to have the right to enter any structure or premises within which sewage originates at any reasonable time and to examine and inspect all plumbing equipment, machinery, processes, wastes or discharges which relate to the effluents that are or have been introduced into the sewage system. This shall be in addition to and not by way of limitation of the powers otherwise possessed by the Township.

(b) The authorized inspecting agent shall make written report of such inspection in the event the user is ordered to take preventative or corrective action. The failure of the user to:

(1) Permit an inspection as demanded, or

(2) Take the corrective action within a reasonable time as demanded,

shall empower the Township Board, at its option, to terminate sewage services to the premises or bring an action for equitable relief. In the event suit is commenced, the Township shall be entitled to costs and attorney's fees where the Township prevails in the action.

(Comp. Ords. 1986, § 25.091)

Sec. 17-068. Enforcement.

(a) The provision of this article shall be enforceable through the bringing of appropriate action for injunction, mandamus, or otherwise in any court having jurisdiction. Any violation of this article is deemed to be a nuisance per se.

(b) Any person convicted of disposing sewage in any manner contrary to the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-010(a) of this Code, together with costs of such prosecution; provided that no person shall be confined or jailed for a single but continuing violation for a period longer than ninety (90) days.

(Comp. Ords. 1986, §§ 25.092, 25.094)

Sec. 17-069. Right to amend.

The Township specifically reserves the right to amend this article in whole or in part, at one (1) or more times hereafter, or to repeal the same, and by such amendment or repeal to abandon, increase, decrease or otherwise modify any of the fees or charges presently specified herein. Adoption of this article or its subsequent amendment or repeal shall in no way change, relieve or release the contractual or legal obligation of the Township:

(a) To make the required payments to the County under and as set forth in any contract pertaining to the Clinton-Oakland Sewage Disposal System, the Waterford Extension of the Clinton-Oakland Sewage Disposal System, and any improvements, extensions and enlargements thereof under applicable law; or

(b) To use any other means or available funds to make the required payments to the County, and the article shall not be deemed to be a part of any contractual obligation or bond contract pertaining to such laterals.

(Comp. Ords. 1986, § 25.093)

Sec. 17-070. Civil procedures to compel compliance.

The Township may bring a civil proceeding for a mandatory injunction or injunctive order or for such other remedial relief as will correct or remedy the violation, including damages for the costs or expenses thereof. The Township may join in such action or actions any number of property owners.

(Comp. Ords. 1986, § 25.095)

Secs. 17-071--17-090. Reserved.

Division 2. Use Of Public Sewers

Sec. 17-091. Stormwater, groundwater and unpolluted water.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater or roof water to any sanitary sewer.

(b) Stormwater, groundwater and all other unpolluted drainage (including noncontact industrial cooling water) shall be discharged into storm drains or into a natural outlet suitable for such purpose.

(Comp. Ords. 1986, § 25.057(a))

Sec. 17-092. Prohibited discharges.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit.

(b) Any waters or wastes which may contain more than one hundred (100) milligrams per liter, by weight of fat, oil or grease.

(c) Any gasoline, benzine, naphtha, fuel oil or other flammable or explosive, liquid, solid or gas.

(d) Any garbage that has not been properly shredded.

(e) Any ashes, cinders, sand, mud, straw, shaving metal, glass, rags, feathers, tar, plastics, woods, paunch manure or any other solid or viscous substance capable of causing obstruction to flow in sewers or other interference with the proper operation of the sewage works.

(f) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, or to constitute a hazard to humans or animals, or to create any hazard in the receiving waters of the treatment plant.

(*CHAPTER 17, ARTICLE III, DIVISION 2, SECTION 17-092 cont.*)

(g) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(h) Any industrial waste that may cause a deviation from the NPDES permit requirements, pretreatment standards and all other state and federal regulations.

(i) Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(Comp. Ords. 1986, § 25.057(b))

Sec. 17-093. Grease, oil and sand interceptors.

(a) Grease, oil and sand interceptors (traps) shall be provided at the expense of the property owner when liquid wastes may contain grease, oil and sand in excessive amounts. All interceptors (traps) shall be of a type and capacity approved by the Building Official and shall be located as to be readily and easily accessible for cleaning and inspection. Grease, oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted into place shall be gastight and watertight.

(b) Where installed, all grease, oil and sand interceptors (traps) shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(Comp. Ords. 1986, § 25.057(c))

Sec. 17-094. Preliminary treatment.

(a) The admission into the public sewers of any waters or wastes:

(1) Containing a five-day BOD greater than two hundred (200) mg/l or containing more than two hundred fifty (250) mg/l of suspended solids;

(2) Containing any quantity of substances having the characteristics described in Section 17-092;

(3) A chlorine demand of more than fifteen (15) milligrams per liter; or

(4) Total phosphorous concentration greater than ten (10) milligrams per liter as phosphorous,

shall be subject to review and approval for acceptance by the County.

(b) Preliminary treatment shall be provided, at no expense to the Township, as may be necessary to reduce the BOD to two hundred (200) mg/l and suspended solids to two hundred fifty (250) mg/l or to reduce objectionable characteristics of such effluent to within the maximum limits provided for in Section 17-092, or to control the quantity and rates of discharges of such waters or wastes. On direction of the Township, a person may be required to remove, exclude, or require pretreatment of any industrial waste in whole or in part for any reasons deemed to be in the Township's interest. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained in satisfactory and effective operation at no expense to the Township. Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval to the Township and no construction of such facility shall be commenced until said approvals are obtained in writing. All preliminary treatment or pretreatment shall be in accordance with federal and state laws and regulations. All expenses of Township services as to such preliminary treatment facilities plans and specifications shall be borne by the owner.

(Comp. Ords. 1986, § 25.057(d))

Sec. 17-095. Industrial wastes.

(a) The owner of any property served by a building sewer carrying industrial wastes may be required by the Township to install a suitable control manhole or other structure in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, or structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Township. The manhole or structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(*CHAPTER 17, ARTICLE III, DIVISION 2, SECTION 17-095 cont.*)

(b) All measurements, tests and analysis of the characteristics of waters and wastes to which references are made in Sections 17-092 and 17-094 hereof shall be determined in accordance with Standard Methods for Examination of Water and Wastewater and Guidelines Establishing Test Procedures for the Analysis of Pollutants, Federal Regulations 40 CFR 136, published in the Federal Register on October 16, 1973, and shall be determined at the control manhole.

(Comp. Ords. 1986, § 25.057(e))

Sec. 17-096. Rejection or surcharge of deleterious substances.

If any water or wastes are discharged to the public sewer, which contain the substances or possess the characteristics enumerated above in this section which, in the judgment of the Public Works Official, may have deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitutes a public nuisance, the manager may:

(a) Reject the wastes in whole or part for any reason deemed appropriate by the Township;
(b) Require pretreatment of such wastes to within the limits of normal sewage as defined; and/or,
(c) Require payments of a surcharge on any excessive flows or loading discharged to the system to cover the additional costs of having capacity for and treating such wastes.

(Comp. Ords. 1986, § 25.057(f))

Sec. 17-097. Special agreements.

Special agreements and arrangements between the Township and any person may be established by the Township Board within the terms and intent of this article when, in the opinion of the Township Board, extraordinary circumstances compel special terms and conditions whereby an unusual wastewater may be accepted for treatment, subject to payment of applicable fees.

(Comp. Ords. 1986, § 25.057(g))

Secs. 17-098--17-115. Reserved.

Division 3. Private Disposal

Sec. 17-116. Prohibited acts.

(a) Without prior consent of the Township Board, it shall be unlawful for any person to place, deposit or permit to be deposited in any structure or upon any public or private premises within the Township (or any area under its jurisdiction) any sanitary sewage, garbage, industrial waste or other objectionable waste.
(b) It shall be unlawful to discharge to any natural outlet any sanitary sewage, industrial waste, or other polluted water except where suitable treatment has been provided in accordance with subsequent provisions of this article.
(c) Except as hereinafter provided, it shall be unlawful to construct any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sanitary sewage or industrial waste.

(Comp. Ords. 1986, § 25.055(1--3))

Sec. 17-117. When use permitted.

Where a public sanitary sewer system is not available under the provisions of this article, the building sewer shall be connected to a private sanitary sewer disposal system which shall be approved by the County health department.

(Comp. Ords. 1986, § 25.055(4))

(*CHAPTER 17, ARTICLE III, DIVISION 3 cont.*)

Sec. 17-118. Discontinuance, connection to public system.

At such time as the public sanitary sewer system becomes available to premises served by a private sanitary sewage disposal system, connection to the public system shall be made in compliance with this article, and any septic tank, cesspools and similar private disposal facilities located thereon shall be abandoned and discontinued for sanitary sewage disposal use.

(Comp. Ords. 1986, § 25.055(5))

Sec. 17-119. Maintenance.

All private sanitary sewage disposal systems maintained in compliance with this article shall be maintained in a sanitary manner at all times at the sole expense of the owner thereof.

(Comp. Ords. 1986, § 25.055(6))

Sec. 17-120. Permits restricted.

Permits for the construction, remodeling or improvement of any structure situated upon a parcel of land or platted lot which premises or structure thereon is required to be connected to the sanitary sewer system shall not be issued unless such premises or structure shall first be connected to the sewer lateral.

(Ord. of 1-22-1990, § 25.055(7))

Cross references: *Business regulations and Licensing, Ch. 10.*

Secs. 17-121--17-135. Reserved.

Division 4. Laterals Generally

Sec. 17-136. Extensions of, changes in.

Extension of, or changes in, sanitary sewer laterals may be initiated by the Township Board, or by petition from the property owners. Petitions for the construction of new sanitary sewer laterals shall be addressed to the Township Board upon blank forms provided for that purpose. The Township Board may refuse to grant, or may grant the same, and may prescribe the conditions upon which the petition will be granted, and may require the written acceptance of such terms and conditions by the petitioners. If the petition be granted, the Township shall proceed promptly as practical with the proposed work under the terms and conditions named. The work shall be done at the expense of the property owners unless otherwise stipulated, and any and all extensions shall be subject to the provisions of this article.

(Comp. Ords. 1986, § 25.081)

Sec. 17-137. Plans of proposed extensions.

Any persons who propose installing sanitary sewer laterals shall first submit complete plans and specifications for such work, prepared by a registered civil engineer, to the Public Works Official for approval, upon receipt of which the Township Board shall determine the conditions for such installation.

(Comp. Ords. 1986, § 25.082; Ord. of 6-24-1991)

Sec. 17-138. Control generally.

The sanitary sewer laterals of the sewer system are under the exclusive control of the Township Board, and all persons other than agents or employees of the Board are forbidden to disturb, tap, change, obstruct access to or interfere with them in any way.

(Comp. Ords. 1986, § 25.083)

Secs. 17-139--17-155. Reserved.

(*CHAPTER 17, ARTICLE III cont.*)

Division 5. Rates And Charges

Sec. 17-156. Capital charges--Existing structures.

(a) Owners of existing structures or premises within the area served by the laterals from which sanitary sewage originates on May 12, 1980 and which premises are hereafter connected to the system and owners of existing structures on premises presently being provided with sewage service by existing independent sewage treatment plans shall pay a capital charge for connection to the system.

(b) The owner may pay the capital charge in full upon application for the permit or, the owner may elect to defer the payment over a period of thirty (30) years. The initial payment, and annual payments thereafter, including interest at six and five-tenths (0.065) percent on the unpaid balance, compounded annually, shall be paid in accordance with the applicable annual payment as established by the resolution of the Township Board.

(c) Any owner electing the deferred method payment plan may, no more than once a year, pre-pay additional annual principal payments in numerical order, with interest on the amount of such prepayment form the last payment date, as indicated on the applicable per unit payment schedule. The complete principal balance may be paid at any time with accumulated monthly interest from the last annual payment date.

(Comp. Ords. 1986, § 25.060; Ord. of 12-11-1995)

Sec. 17-157. Same--New structures.

Owners of premises within the area served by the laterals upon which structures are constructed, from which sanitary sewage or industrial waste shall originate and which premises are to be connected to the system, shall pay a capital charge for connection to the system to be paid in full at the time of application, or issuance of, a permit. Capital charge fees shall be in any amount to be established periodically by resolution of the Township Board.

(Comp. Ords. 1986, § 25.061; Ord. of 12-11-1995)

Sec. 17-158. Lateral benefit fee--Existing structures.

(a) Owners of premises on which are existing structures within the area served by the laterals from which sewage originates on May 12, 1980 and for which premises there is an available public sanitary sewer system as part of the new construction financed by the Township shall pay a lateral benefit fee for connecting to the system.

(b) The lateral benefit fee for the connection shall be an amount as established in accordance with Section 17-001.

(c) The owner may pay the lateral benefit fee in full upon application for the permit or, the owner may elect to defer the payment over a period of thirty (30) years. The initial payment, and annual payments thereafter, including interest at six and five-tenths (0.065) percent on the unpaid balance, compounded annually, shall be paid in accordance with the applicable annual payment, as established by the resolution of the Township Board.

(d) Any owner electing the deferred payment plan may, no more than once a year, pre-pay additional annual principal payments in numerical order, with interest on the amount of such prepayment from the last payment date, as indicated on the applicable per unit payment schedule. The complete principal balance may be paid at any time with accumulated monthly interest from the last annual payment date.

(Comp. Ords. 1986, § 25.062; Ord. of 12-11-1995)

(*CHAPTER 17, ARTICLE III, DIVISION 5 cont.*)

Sec. 17-159. Same--New structures.

(a) Owners of premises within the area served by the laterals upon which structures in which sanitary sewage or industrial waste will originate are hereafter constructed and for which premises there is an available public sanitary sewer system as part of the new construction financed by the Township, shall pay a lateral benefit fee to be paid in full at the time of application for, or issuance of a permit. Capital charge fees shall be in any amount to be established periodically by resolution of the Township Board.

(b) The total fees required by this section and Section 17-157 shall be paid prior to the issuance of any certificate of occupancy for structures on such premises.

(c) The lateral benefit fees shall be in an amount as established in accordance with Section 17-001.

(Comp. Ords. 1986, § 25.063; Ord. of 12-11-1995)

Sec. 17-160. Sewer line unavailable on private property; owner to assume costs; maintenance.

(a) If an owner desires to construct a structure on premises that abut a sanitary sewer lateral but there is not a sanitary sewer lead available to the property line, then it shall be the responsibility of the owner, his agent, or his contractor to install the sanitary sewer service from the lateral to the property line and to the structure. All costs shall be borne by the owner, and no credit will be allowed toward the lateral benefit fee. It shall also be the responsibility of the owner, his agent, or his contractor to obtain all necessary permits and inspections for the work performed within the street right-of-way or easement.

(b) The property owner shall be responsible for the maintenance and repair of their building sewer line from the structure in which the sanitary sewage originates to the lateral sewer line within the public sanitary sewer system. In the event that the property owner fails or refuses to timely repair any condition which may result in contamination of the system or a sewage leak, the Township shall have the power and authority to enter upon the property, after ten (10) days' written notice to the property owner, and make the necessary repairs. The cost thereof shall be billed to property owner, and if not paid, collected in the same manner as delinquent water and sewer charges under this division.

(Comp. Ords. 1986, § 25.065)

Sec. 17-161. Debt service agreement and lien.

An owner of premises shall not be permitted to elect to pay any charges required under the provision of Sections 17-156 and 17-158 over any extended period of annual payments unless such owner executes a debt service agreement and lien in a form to be provided by the Township, which form shall be recorded with the County Register of Deeds office. The Township authorizes and directs that the Public Works Official execute the above cited debt service agreement and lien for and on behalf of the Township.

(Comp. Ords. 1986, § 25.066)

Sec. 17-162. Annual installments; when payable.

All annual installments to be paid under the provisions of Section 17-174 shall be due and payable as of the first of the month one (1) year following the date of issuance of the connection permit. A penalty of one (1) percent per month for late payment shall be added beginning one (1) month from due date of any installment.

(Comp. Ords. 1986, § 25.067)

(*CHAPTER 17, ARTICLE III, DIVISION 5 cont.*)

Sec. 17-163. Usage units generated.

The number of units generated by different types of use and occupancy shall be determined and established by separate resolution enacted by the Board and may, from time to time, thereafter be amended by the Board; provided, however, that such resolution shall not be contrary to the obligation and limitation set forth in any contractual agreement between the Township and the County pertaining to the laterals, or contrary to the contract between the Township and the County pertaining to the Clinton-Oakland Sewage Disposal System.

(Comp. Ords. 1986, § 25.068)

Sec. 17-164. Usage units assigned.

The number of units to be assigned to any particular premises used for other than single-family residential purposes shall be determined by the Board or its designee, and its decision shall be final. The Board or its designee, if the circumstances warrant, may assign more than one (1) unit to a single-family use. No less than one (1) unit shall be assigned to each premises and for purposes of computing the capital charge and lateral benefit fee herein set forth, assignment of units in addition to one (1) shall be to the nearest one-tenth of a unit. After premises have been connected to the lateral, subsequent changes in the character of the use or type of occupancy of such premises (including destruction, removal or abandonment of any and all structures thereon) shall not abate the obligation to continue the payment of the capital charge or the lateral benefit fee, as set forth herein, charged to such structures in the amount and for the period hereinbefore provided. If such subsequent changes in the character of the use or type of occupancy increase the amount of sanitary sewage originating from the structures, the Board may, in its discretion, increase the number of units assigned to such structure and thereupon any additional capital charge occasioned by such increase in units or fractional parts thereof shall be payable in cash at the time that construction or other permit is issued or required.

(Comp. Ords. 1986, § 25.069; Ord. of 6-24-1991)

Sec. 17-165. Notice of increase of capital charge; contents.

In the event of a preliminary determination by the Public Works Official that an increase in the capital charge for any given premises is required due to an increased use capacity, the Public Works Official shall prepare and forward by certified mail to the owner or responsible party, a notice of the increased assessment for the connected capital charge to the public sanitary sewer system. The notice shall contain the following:

(a) The present unit factor assignment based on existing or previous usage.
(b) A statement setting forth the nature of the increased use capacity necessitating an additional capital charge.
(c) A statement of the proposed increased unit factor assignment for the premises based upon the increased use capacity.
(d) The date upon which the increased unit factor assignment shall become effective and the cost thereof. This date shall be at least thirty (30) days from the date of mailing.
(e) Notice to the owner or responsible party that if the amounts due are delinquent for more than six (6) months the amount shall be added to the tax rolls and collected pursuant to the general property tax laws.
(f) Notice to the owner or responsible party that the party has thirty (30) days following the date of the notice to review this preliminary determination with the Public Works Official, and further notice that the party has forty (40) days after date of the written notice of the preliminary determination to file with the Township Clerk a request for review and appeal of determination to the Township Board.

(Comp. Ords. 1986, § 25.069)

Sec. 17-166. Administrative hearing.

The Public Works Official shall provide an opportunity for the owner or responsible party to be heard on objections to the determination within thirty (30) days of the date of the notice. After review with the owner or responsible party, the Public Works Official shall forthwith provide a

(*CHAPTER 17, ARTICLE III, DIVISION 5, SECTION 17-166 cont.*)

written notice of the preliminary determination of increase to the owner and to the Township Board. The owner, if aggrieved by such determination, shall have an additional ten (10) days thereafter to file with the Township Clerk a written request for review and appeal to the Township Board. If no appeal is filed within the time allowed, the preliminary determination shall become final.

(Comp. Ords. 1986, § 25.069)

Sec. 17-167. Township Board appeal.

From the time of filing of an appeal with the Township Clerk, the Township Board shall thereafter review the preliminary determination of the Public Works Official and shall have the authority to modify in whole or in part the determination made by the Public Works Official. The decision of the Township Board shall be final and shall be furnished to the Public Works Official in writing by the Township Clerk.

(Comp. Ords. 1986, § 25.069)

Sec. 17-168. Delinquent charges.

All delinquent charges for additional capital charges as established herein shall be made a lien on the premises and on September first of each year, the person or persons charged with the management of the sewage disposal system shall certify any such charges which have been delinquent six (6) months or more to the Township Supervisor who shall enter the same upon the next tax roll against the premises for which such services have been furnished, and such charges shall be collected and such lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll.

(Comp. Ords. 1986, § 25.069)

Sec. 17-169. Sewer service charge.

Charges for sewage disposal services to each premises in the area served by the sewage disposal laterals shall be as follows:

(a) *Premises with metered water supply:* Applied first is a fixed charge, also called a ready-to-serve charge, and a usage charge based upon all water consumption calculated upon a one hundred (100) cubic foot basis, to be established and adjusted from time to time by resolution of the Township Board. Theses charges shall be quarterly or other invoicing periods.

(b) *Premises with structures with non-metered water supply - commercial and residential.* Quarterly, or other invoicing periods, sewage disposal service charge shall be a ready to serve charge based upon the number of residential equivalent units (REU) assigned to the respective premises. The service charge(s) shall be established and adjusted from time to time by resolution of the Township Board.

(c) *Definition:* For purpose of subsection (1) above, a metered water supply is defined as one (1) meter measuring water consumption in a single-family residence or in a single apartment, unit or part of a multiple-dwelling from which sewage originates, and one (1) meter for each and every business entity of any kind or description occupying commercial structures or any portion thereof from which structures sewage originates.

(d) *Other charges:* All other charges are to be established and adjusted by the Township Board, in a like manner.

(e) *Charges subject to contracts for Clinton-Oakland System:* The Township Board's power to establish and adjust the rates and charges herein is within the sound discretion of the Board, provided, however, that the charges shall not be altered in such a manner as shall be contrary to the obligations and limitations set forth in any contractual agreement between the Township and the county pertaining to the laterals, or contrary to the obligations and limitations of the contract between the Township and the county pertaining to the Clinton-Oakland Sewage Disposal System. The charges shall be audited biennially to ensure continued proportionality.

(Comp. Ords. 1986, § 25.070; Ord. of 6-24-1991; Ord. of 3-26-2007)

Sec. 17-170. Charges for sewage disposal services; when billed and payable.

(a) Rates and charges for sewage disposal services shall be billed and collected quarterly, or more often as determined by the Township Board. Failure to receive a bill shall not excuse

(*CHAPTER 17, ARTICLE III, DIVISION 5, SECTION 17-170 cont.*)

failure to pay the billing when due. Bills shall be due and payable, without discount, at such time as the Township Board shall determine, but not more than thirty (30) days after specified date, which date shall be indicated on the face of each bill. If the bill is not paid when due, a penalty of five (5) percent shall be added thereto.

(b) Free sewage disposal facilities or services shall not be furnished to the Township, any person or to any government agency.

(Comp. Ords. 1986, § 25.071)

Sec. 17-171. Additional burden; surcharges.

(a) The rates and charges set forth herein notwithstanding, if the character of the sewage of any user shall impose an unreasonable additional burden upon the sewage disposal and transmission system of the Township, an additional charge shall be made over and above the rates herein established. Effluent in excess of the maximum limitations imposed by this division shall be deemed prima facie subject to surcharge. If necessary to protect the system or any part thereof, the Township shall deny the right of any user to empty such sewage into the system. Surcharges required by this section shall be computed as the prorated share of the annual cost of operation and maintenance, including replacement, attributable to treating the substance multiplied by the ratio of weight of surchargeable excess of the discharged substance to the total weight of such substance that is treated in that year. This amount shall be collected on the basis of estimated surchargeable amounts with each periodic billing and shall be adjusted annually to reflect actual operation, maintenance and replacement costs (OM&R).

(b) The current sewage surcharges are as set out in the following table:

	Price per Pound		
	Total	**OM&R**	**Local Capital Cost**
BOD (for each lb. in excess of 200 mg/l)	$0.103	0.099	.004
TSS (for each lb. in excess of 250 mg/l)	0.104	0.102	.002
P (for each lb. in excess of 10 mg/l)	1.193	1.167	.026

(Comp. Ords. 1986, § 25.072)

Sec. 17-172. Delinquent charges, usage or other cost due, lien, tax rolls assessed; exceptions where lessee provides deposit.

(a) All delinquent charges for lateral benefit fee, front footage fee, capital charge, charges for sewage disposal service, cost reimbursement and penalties shall be a lien on the premises served, as set forth herein. On August 15 of each year, any such charges which have been delinquent ninety (90) days or more shall be transferred to the next tax roll against the premises served, plus a surcharge of ten (10) percent to cover certain administrative expenses of the Township. Such charges shall be collected and such lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll under the general property tax law.

(b) In the case where a lease has been legally executed for property served by Township water or sanitary sewer, the property owner shall not be subject to the lien provisions above where the lessee and the property owner comply with requirement of this section, and MCL 123.165. All of the following must be completed to exempt the property owner from the lien provision:

(1) An affidavit filed with the department of public works by the property owner that a lease has been legally executed which provides that the lessor shall not be liable and that the lessee shall

(*CHAPTER 17, ARTICLE III, DIVISION 5, SECTION 17-172 cont.*)

be laible for payment to the Township for water and sewage charges accruing subsequent to the filing of the affidavit. A copy of the lease shall be attached to the affidavit, with the expiration date thereon.

(2) The lessee shall provide a deposit in an amount equal to two (2) times the average quarterly water and sewer invoice before the department shall be required to provide or continue services. The deposit shall be held for and applied to any delinquent charges, as stated above.

(3) Twenty (20) days written notice shall be given to the department of public works by the lessor of any cancellation, change in, or termination of the lease.

In the event of a failure to comply with any of the above requirements or the termination of the lessee's responsibility to pay the water and sewer expenses the lessor's property shall be thereafter subject to the lien provisions of this section, and the property owner shall be liable for all such water and sewer expenses which were incurred thereafter.

(Comp. Ords. 1986, § 25.074; Ord. of 9-12-2005; Ord. of 11-26-2007)

Secs. 17-173--17-190. Reserved.

Division 6. Sewer Connection Hardship Provisions

Sec. 17-191. Short title.

This division shall be known and cited as the "Charter Township of Waterford Sewer Connection Hardship Ordinance."

(Comp. Ords. 1986, § 25.301)

Sec. 17-192. Purpose.

The purpose of this division is declared:

(a) To enact an ordinance under Public Act 368 of 1978, Public Health Code (MCL 333.12756 et seq.) allowing deferment of sewer tap-in expense in cases where hardship prevents the owners of premises to connect to the available sewer.

(b) To establish a H.A.R.B. (hardship advisory review board) to review and recommend property owners to be considered under this division.

(c) To establish procedures for connection of premises to the sewage system by the Township.

(d) To require the eventual connection of all premises to the sewage system.

(e) To establish enforcement powers and penalties for violations.

(Comp. Ords. 1986, § 25.302)

Sec. 17-193. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002, the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Premises means and includes any zoning lot from which sanitary sewage originates, for which sewage services are available and required by law to be serving such zoning lot.

Private plumbing expense means the estimated costs of the installation of all necessary sewage disposal facilities on the property of the applicant for hardship.

Property owner means and includes any person having a legal or possessory interest in a premises or zoning lot, which interest includes the legal obligation to assume the expenses of sewer connection charges.

Sewage system *or* ***services*** means any municipality operated sewage collection facility, serving premises within the Township.

(Comp. Ords. 1986, §§ 25.304--25.308)

Sec. 17-194. Hardship advisory board--Membership; terms; compensation.

(a) A three-member hardship advisory review board shall be created by the Township Board, with the Public Works Official or that Official's designee as the chairman, one (1) member of

(*CHAPTER 17, ARTICLE III, DIVISION 6, SECTION 17-194 cont.*)

the Township Board and one (1) resident of the Township qualified to determine economic hardship.

(b) The term of the Township board member shall correspond to their current term on the Township Board and the term of the resident member shall be three (3) years, unless removed for good cause shown, with compensation at a per diem rate as established by resolution of the Township Board.

(Comp. Ords. 1986, § 25.309)

Sec. 17-195. Same--Duties, powers and meetings.

(a) The hardship advisory review board shall periodically examine those premises which have not made connection to an available public sanitary sewer system as required by this Article based on a claim of hardship by a property owner, and shall render their recommendation to the Township Board on that claim.

(b) Meetings, not to exceed two (2) per month, shall be designated by the chairman, who shall prescribe all procedural rules.

(Comp. Ords. 1986, § 25.310)

Sec. 17-196. Guidelines.

In determining whether hardship exists with respect to a property owner who is unable to make the connection, the following criteria shall be applied by the hardship advisory review board:

(a) Annual income by property owner.
(b) Net worth of property owner.
(c) Current financial obligations of fixed nature of property owner.
(d) Land use.
(e) Land value.
(f) Availability of public welfare funds.
(g) Sewer connection expense to property owner.
(h) Special and unique circumstances.

(Comp. Ords. 1986, § 25.311)

Sec. 17-197. Determination; connection.

(a) Following a recommendation by the hardship advisory review board to the Township Board on any premises not connected to an available sewage system, the Township Board shall take effective action to achieve connection of said premises to the sewage system, whether the connection is made under the provisions of this article or otherwise. The hardship advisory review board shall within thirty (30) days of the close of its investigation file with the Township Board its report and recommendation clearly stating whether any proposed deferment includes private plumbing expenses as well as capital charges and lateral benefit fees.

(b) Upon receipt of the hardship advisory review board recommendation regarding any premises, the Township Board shall promptly determine, without the necessity of a public hearing or public meeting, whether to accept the recommendation. No recommendation of hardship for any premises shall be rejected without good cause shown and until the property owner has had an opportunity to answer the objections before the Township Board. A recommendation of hardship not rejected by the Township Board within thirty (30) calendar days of receipt thereof shall be deemed accepted and shall entitle the owner thereof to be qualified for connection under the provisions of this division.

(Comp. Ords. 1986, § 25.312)

Sec. 17-198. Deferred payment; lien; costs.

(a) In the event an owner accepted for hardship herein requests the Township to effectuate connection to the sewage system, the Township Supervisor shall direct the Public Works

(*CHAPTER 17, ARTICLE III, DIVISION 6, SECTION 17-198* cont.)

Official to ascertain the cost to connect the premises to the system, and/or the reasonable value of its labor and materials. The Township Board shall specify to the Public Works Official whether the physical connection is to be accomplished by a licensed sewer contractor or by the agencies and employees of the Township. The Township Board reserves to itself the sole and exclusive right to make or alter its designation as made herein previous to the commencement of the physical connection. Previous to the connection, the owner shall execute a promissory note, and lien or mortgage to the Township for deferred payment payable on or before death, or in any event, on the sale or transfer of the property.

(b) In cases where the Township Board directs the agencies and employees of the Township to accomplish the physical connection to a premises, the Public Works Official shall submit to the Township Board for approval a documented opinion of the market value of private plumbing expenses of that premises. In cases where the Township Board directs the Public Works Official to engage the services of a licensed sewer contractor, the Public Works Official shall engage such services in accordance with the Township Procurement Policy as adopted by resolution of the Township Board.

(c) The private plumbing expenses, as determined by the Township Board, in addition to capital charges and lateral benefit fees, may be included within the amount of the note, mortgage and/or lien which shall also include annual interest on the balance of such indebtedness to the Township at the rate of six and five-tenths (6.5) percent per year, commencing the date of the documents of indebtedness.

(d) The property owner shall also be responsible for all costs of the Township in connection with processing the property owner's application for deferred payments, such as, by way of illustration, and not by way of limitation, costs of recording the mortgage, costs of title insurance insuring the mortgage interest of the Township, and any direct legal fees in connection with reviewing of the foregoing and preparation of the mortgage to be recorded. Such costs shall be added to the amount due and owing upon the note and mortgage to be executed by the owner of the premises.

(Comp. Ords. 1986, § 25.313)

Sec. 17-199. Physical connection.

Upon execution of the documents in accordance with the provisions of Section 17-198, the Township Board shall direct the Public Works Official to complete the physical connection of the premises, in the method approved by the Township Board, to the sewage system in accordance with all laws, ordinances, rules and regulations of the State, County and Township.

(Comp. Ords. 1986, § 25.314)

Sec. 17-200. Hardship revolving fund; Board control.

The moneys necessary to implement the provisions of this division shall be drawn from and returned to the "hardship revolving fund" to be created and maintained by the Township Board. The improvement and reserve fund, as established in Section 18.3 of Ordinance No. 79, shall be the sole source of Township moneys deposited to the "hardship revolving fund." The Township Board shall transfer funds between the improvement and reserve fund and the hardship revolving fund as necessary to properly implement the provisions of this division.

(Comp. Ords. 1986, § 25.315)

Sec. 17-201. Nuisance.

Any premises, which has not made connection to the sewer system at the close of an eighteen-month period following availability is declared a public nuisance per se, and shall be abated forthwith.

(Comp. Ords. 1986, § 25.316)

Sec. 17-202. Additional power.

This article is in addition to and not in limitation of the power of the Township to adopt, amend and enforce laws and ordinances relating to the connection of a structure in which sanitary sewage originates to the sewage system.

(Comp. Ords. 1986, § 25.317)

Secs. 17-203--17-220. Reserved.

ARTICLE IV WASTEWATER DISPOSAL STANDARDS AND REGULATIONS*

Division 1. Generally*

***Editor's note:** An ordinance of December 9, 2002, amended the Code by repealing former div. 1, §§ 17-221--17-225, and adding a new div. 1. Former div. 4 pertained to similar subject matter, and derived from Ord. No. 153, §§ 1--4 and 11, adopted January 22, 1990.*

Sec. 17-221. Purpose.

(a) The purpose of this division is the protection of the environment, and of public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of wastes admitted to or discharged into the wastewater collection and treatment system under the jurisdiction of the Township and enabling the Township to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act, being 33 U.S.C. 1251, et seq., and the general pretreatment regulations, being 40 C.F.R. part 403.

(b) The objectives of this division are:

(1) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or contaminate the resulting sludge, or will pose a hazard to the health or welfare of the people or the employees of the City of Detroit Water and Sewerage department;

(2) To prevent the introduction of pollutants into the wastewater system which will pass inadequately treated through the system into receiving waters, the atmosphere or the environment, or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle or reclaim wastewater or sludge from the system in an economical and advantageous manner; and

(4) To provide for the recovery of the costs from users of the wastewater collection and treatment system sufficient to administer regulatory activities and meet the costs of the operation, maintenance, improvement or replacement of the system.

(c) This division provides for the regulation of contributors to the Detroit and the Township wastewater collection and treatment system through the issuance of wastewater discharge permits to certain users and through the enforcement of general requirements for all users, authorizes monitoring and enforcement, and authorizes fees and penalties.

(d) This article shall govern the design, construction and use of wastewater facilities under the jurisdiction of the County, enumerating the permit requirements for tapping into the county wastewater facilities, for altering existing county wastewater facilities, for pumping stations and for industrial connections to public sewers; and the authority of the County's inspectors or authorized agents of the County and State, and to provide a uniform policy for rates for wastewater disposal service.

(*CHAPTER 17, ARTICLE IV, DIVISION 1, SECTION 17-221* cont.)

(Ord. of 12-9-2002)

Sec. 17-222. Authority.

By virtue of the obligations and authority placed upon the Township by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 U.S.C. 1251 et seq.; the 1963 Constitution of the State of Michigan; Part 31 of Public Act 451 of 1994, the Natural Resources and Environmental Protection Act, as amended, being MCL 324.3101 et seq.; the National Pollutant Discharge Elimination System (NPDES) permit for the City of Detroit Publicly Owned Treatment Works (POTW); the consent judgment in U.S. EPA v. City of Detroit et al, Federal District Court for the Eastern District of Michigan Case No. 77-1100, as amended; and existing or future contracts between the Water Board and suburban communities or other governmental or private entities; or by virtue of common law usage of the system, this division shall apply to every user contributing or causing to be contributed, or discharging, pollutants or wastewater into the wastewater collection and treatment system of the City of Detroit POTW.

(Ord. of 12-9-2002)

Sec. 17-223. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002, when used in this article, the following terms shall have the meanings described in this section unless the context specifically indicates a different meaning:

Act** or **the Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

As-built plans means engineering drawings prepared after installations of wastewater facilities which shall show a statement by a registered engineer or surveyor certifying this to be "as-built plans" and shall include, but not be limited to, length of sewer, invert elevation, locations with respect to property lines, wye and riser locations and depths, sewer material and joints used, and mechanical, electrical and structural details for pump stations, wastewater treatment facilities and other appurtenances.

Authorized representative of industrial user means:

(1) Responsible corporate officer, where the industrial user submitting the reports required by this article is a corporation, who is either:

(i) The president, vice-president, secretary, or treasurer of a corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

(ii) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000.00) in second-quarter 1980 dollars, when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or

(2) A general partner or proprietor where the industrial user submitting the reports required by this article is a partnership or sole proprietorship respectively.

Available cyanide means the quantity of cyanide that consists of cyanide ion (CN); hydrogen cyanide in water (HCNaq); and the cyano-complexes of zinc, copper, cadmium, mercury, nickel and silver, determined by EPA method OIA-1677, or other method designated as a standard method or approved under 40 CFR 136.

Best management practices (BMP) means programs, practices or other directed efforts initiated and implemented by a user, which can or does lead to the reduction, conservation or minimization of pollutants being introduced into the ecosystem, including but not limited to the Detroit sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control and may include technical and economic considerations.

Biochemical oxygen demand (BOD) means the quantity of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five (5) days at

(*CHAPTER 17, ARTICLE IV, DIVISION 1, SECTION 17-223 cont.*)

twenty (20) degrees Celsius expressed in terms of weight and concentration (milligrams per liter (mg/l)) as measured by standard methods.

Building drain means that part of the lowest horizontal piping of a drainage system which receives discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the builder's sewer (house sewer). The latter begins five (5) feet outside the inner fact of the building wall.

Building sewer means the extension from the building drain that connects the building in which the sanitary sewage originates to the public sewer or other place of disposal and conveys the sewage of but one (1) building.

Bypass means the intentional diversion of a wastestream from any portion of an industrial user's treatment facility (see 40 C.F.R. 403.17.)

Categorical standards means the National Categorical Pretreatment Standards or a pretreatment standard as promulgated under authority of the Act, 40 CFR 403.

Centralized waste treatment (CWT) facility means any facility that treats any hazardous or non-hazardous industrial waste received from off-site by tanker truck, trailer / roll-off bins, drums, barges, or any other forms of shipment including:

(1) A facility that treats industrial waste received exclusively from off-site, and

(2) A facility that treats industrial waste generated on-site as well as industrial waste received from off-site.

Chemical oxygen demand (COD) means a measure of the oxygen-consuming capacity inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.

Chlorine demand means the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time; expressed in milligrams per liter.

Combined sewer means a sewer receiving both surface run-off and sewage.

Compatible industrial wastewater means wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater, and which can be efficiently and effectively transported and treated with domestic wastewater.

Compatible pollutant means pollutants which can be effectively removed by the POTW treatment system to within the acceptable levels for the POTW residuals and the receiving stream.

Composite sample means a collections of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provides a representative sample of the average stream during the sampling period. A minimum of four (4) aliquot per twenty-four (24) hours shall be used where the sample is manually collected (see 40 C.F.R. 403, Appendix E).

Confidential information means the information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

Control authority means the Detroit Water and Sewerage Department which has been officially designated as such by the State under the provisions of 40 C.F.R. 403.12 (see 40 C.F.R. 403.12(a)).

Control manhole means a suitable manhole, together with such necessary meters, including where appropriate, adequate power source and other appurtenances, to facilitate observation, sampling and measurement of wastewater to be constructed in accordance with plans approved by the County's engineering personnel.

Cooling water means the noncontact water discharge from any use such as air conditioning, cooling or refrigeration, and whose only function is the exchange of heat.

County means the County of Oakland, State of Michigan, or its authorized representative, the Detroit Water and Sewerage Department.

(*CHAPTER 17, ARTICLE IV, DIVISION 1, SECTION 17-223* cont.)

County agency means the County Water Resources Official or the County department responsible for public works.

Critical materials means the organic and inorganic substances, elements or compounds listed in the register compiled by the S.E.A.

Days means, for purposes of computing a period of time prescribed or allowed by this article, consecutive calendar days.

Debt service charge means charges levied to customers of the wastewater system which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system. The debt service charge is separate and distinct and may be in addition to the "user charge" specified below.

Department means the City of Detroit Water and Sewerage Department, and authorized employees of the department.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the State.

Director means the director of the Detroit Department of Water and Sewerage, or the director's designee.

Discharger means a person who, directly or indirectly, contributes, causes, or permits wastewater to be discharged into the POTW.

Domestic sewage means waste and wastewater from humans or household operations which is discharged to, or otherwise enters, a treatment works.

Environmental Protection Agency *or* ***administrator*** *or* ***EPA administrator*** means the United States Environmental Protection Agency or, where appropriate, the authorized representatives or employees of the EPA.

Facility means a location which contributes, causes or permits wastewater to be discharged into the POTW including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.

Fats, oils or grease (FOG) means any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other nonvolatile material of animal, vegetable or mineral origin that is extractable by solvent in accordance with standard methods.

Flow proportional sample means a composite sample taken with regard to the flow rate of the wastestream.

Footing drain means a pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits groundwater.

Garbage shall be as defined in the Waterford Code of Ordinances, Waste Materials Control.

General specifications means the current edition of standard material and construction requirements of the County.

Grab sample means an individual sample collected over a period of time not exceeding fifteen (15) minutes, which reasonably reflects the characteristics of the stream at the time of sampling.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Incompatible pollutant means any pollutant which is not a compatible pollutant.

Indirect discharge *or* ***discharge*** means the discharge or the introduction of pollutants into the POTW from any nondomestic source regulated under 33 U.S.C. 1317 (b), (c) or (d).

Industrial user means a person who contributes, causes or permits wastewater to be discharged into the POTW, including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable but excludes single-family and multi-family residential dwellings with discharges consistent with domestic waste characteristics.

Industrial waste means any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

(*CHAPTER 17, ARTICLE IV, DIVISION 1, SECTION 17-223 cont.*)

Infiltration means any waters entering the system from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include and is distinguished from inflow.

Infiltration/inflow means the total quantity of water from both infiltration and inflow.

Inflow means any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, as amended, being 33 U.S.C. 1345, the Solid Waste Disposal Act (SWDA), as amended, (including the Resource Conservation and Recovery Act (RCRA), and State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

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 Water Works Association, and the Water Pollution Control Federation or in accordance with any other method prescribed by the rules and regulations promulgated pursuant to federal or state law.

Lateral line means that portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk line or interceptor and which collects sewage from a particular property for transfer to the trunk line or interceptor.

Local means a prefix denoting jurisdiction by the Township.

Manager means the Township Supervisor, or his authorized representatives or agents.

Municipality means the Township.

National categorical pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 U.S.C. 1317 (b) and (c) which applies to a specific class or category of industrial users.

National Pollutant Discharge Elimination System (NPDES) permit means a permit issued pursuant to 33 U.S.C. 1342.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means:

(1) Any building, structure, facility or installation from which there is or may be discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 33 U.S.C. 1317 (c) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided, that:

(i) The building, structure, facility or installation is constructed at a site where no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered; or

(2) Construction on a site where an existing source is located resulting in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (1)b. or (1)c. of this definition but otherwise alters, replaces, or adds to existing process or production equipment; or

(3) Construction of a new source has commenced where the owner or operator has:

(i) Begun, or caused to begin as part of a continuous on site construction program:

a. Any placement, assembly, or installation of facilities or equipment; or

b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that are necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entering into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts of feasible, engineering, and design studies do not constitute a contractual obligation under this section.

Normal domestic strength sewage *or* ***normal domestic strength wastewater*** means a sewage or other wastewater effluent which shall be a compatible pollutant with BOD of two hundred seventy-five (275) milligrams per liter or less, suspended solids of three hundred fifty (350) milligrams per liter or less, total phosphorus of twelve (12) milligrams per liter or less, and fats, oil and greases of one hundred (100) milligrams per liter or less.

Obstruction means any object of whatever nature which substantially impedes the flow of sewage from the point of origination to the trunk line or interceptor. This shall include, but not be limited to, objects, sewage, tree roots, rocks and debris of any type.

Operation and maintenance (O&M) means all work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation and treatment system consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations, and includes the cost of replacement.

Owner means the owners of record of the freehold of the premises or lesser estate therein, a mortgager or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a building.

Pass through means discharge which exists the POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the NPDES permit including an increase in the magnitude or duration of a violation.

pH means the intensity of the acid or base condition of a solution, calculated by taking the negative base-ten logarithm of the hydrogen ion activity. Activity is deemed to be equal to concentration in moles per liter.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or industrial, municipal and agricultural waste which is discharged into water.

Pollution means the introduction of any pollutant that, alone or in combination with any other substance, can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.

Pretreatment means the reduction of the amount of pollutants, the removal of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction, removal or alteration may be attained by physical, chemical or biological processes, or process changes by other means, except as prohibited by federal, state or local law, rules and regulations.

Pretreatment requirements means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user (see 40 C.F.R. 403.3(r).).

Pretreatment standards means all National Categorical Pretreatment Standards, the general prohibitions specified in 40 C.F.R. 403.5(a), the specific prohibitions delineated in 40 C.F.R. 403.5(b), and the local or specific limits developed pursuant to 40 C.F.R. 403.5(c), including the discharge prohibitions specified in this article.

Private means a prefix denoting jurisdiction by a nongovernmental entity.

Properly shredded garbage means the waste from the preparation, cooking and dispensing of foods that has been shredded 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 inch (1.27 centimeters) in any dimension.

Public means a prefix denoting jurisdiction by any governmental subdivision or agency.

Public sewer means a common sewer controlled by a governmental agency or public utility.

Publicly owned treatment works (POTW) means a treatment works as defined by 33 U.S.C. 1292(2)(A) which is owned by a state or municipality, as defined in 33 U.S.C. 1362, including:

(1) Any devices and systems used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial waste of a liquid nature;

(2) Sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant; or

(3) The municipality, as defined in 33 U.S.C. 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

POTW treatment plant means that portion of the POTW designated to provide treatment to wastewater, including recycling and reclamation of wastewater.

Quantification level means the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.

Representative sample means any sample of wastewater that accurately and precisely represents the actual quality, character, and condition of one or more pollutants in the wastestream being sampled. Representative samples shall be collected and analyzed in accordance with 40 C.F.R. Part 136.

Replacement means the replacement in whole or in part of any equipment, appurtenances and accessories in the wastewater transportation or treatment systems to insure continuous treatment of wastewater in accordance with the NPDES permit and other applicable state and federal regulations.

Sanitary sewer means a sewer which carries sewage and into which stormwater, surface water and groundwater is not intentionally admitted.

Sanitary wastewater means the portion of wastewater that is not attributable to industrial activities and is similar to discharges from domestic sources including, but not limited to, discharges

from sanitary facilities and discharges incident to the preparation of food for on-site non-commercial consumption.

Separate means a prefix denoting a wastewater transmission facility or sewer which is intended to transport sanitary wastewater only.

Service area means any area whose wastewater is received by the Township or the County for the transmission for treatment by the City of Detroit DWSD.

Sewer means a pipe or conduit that carries wastewater or drainage water. See the following definitions modifying "sewer":

(1) Building sewer, in plumbing, means the extension from the building drain to the public sewer or other place of disposal. Also called "house connection."
(2) Combined sewer means a sewer intending to receive both wastewater and stormwater or surface water or drainage water.
(3) Common sewer means a sewer in which all owners of abutting properties have equal rights.
(4) County sewer means a public sewer controlled by the county agency.
(5) Intercepting sewer means a sewer that received dry weather flow from a number of transverse sewers of outlets in frequently additional predetermined quantities of stormwater (if from a combined system) and conducts such waters to a point for treatment or disposal.
(6) Lateral sewer means a sewer which is designed to receive a building sewer.
(7) Municipal sewer means a public sewer exclusive of a county sewer or City of Detroit sewer.
(8) Public sewer means a common sewer controlled by a governmental agency or public utility.
(9) Sanitary sewer means a sewer that carries liquid and water carried waste from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwater, stormwater and surface water and drainage water which are not admitted intentionally.
(10) Storm sewer means a sewer that carries stormwater and surface water, street wash and other wash waters, or drainage, but excludes domestic wastewater and industrial wastewater. Also called a "storm drain".
(11) Trunk sewer or trunk line means a sewer which connects the lateral sewer to the intercepting sewer and to which building sewers may be connected.

Sewer service charge means the sum of the applicable user charge, surcharges and debt service charges.

Significant noncompliance means any violation which meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed by any magnitude the daily maximum limit or the average limit for the same parameter;
(2) Technical review criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the department determines has caused, alone or in combination with other discharges, interference or pass-through including endangering the health of POTW personnel or the general public;
(4) Any discharge of a pollutant that has cause imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority;
(5) Failure to meet a compliance schedule milestone contained in a local control mechanism, or enforcement order for starting construction, completing construction, or attaining final compliance within ninety (90) days after the scheduled date;
(6) Failure to provide required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty (30) days after the due date;
(7) Failure to accurately report noncompliance; or

(*CHAPTER 17, ARTICLE IV, DIVISION 1, SECTION 17-223 cont.*)

(8) Any other violation or group of violations which the department determines will adversely affect the operation or implementation of the local pretreatment program.

Significant industrial users means any user of the POTW who:

(1) Has an average discharge flow of 25,000 gallons per day or more of process wastewater excluding sanitary, boiler blowdown, and noncontact cooling water, or
(2) Has discharges subject to the national categorical pretreatment standards, or
(3) Requires pretreatment to comply with the specific pollutant limitations of this division; or
(4) Has in its discharge toxic pollutants as defined pursuant to 33 U.S.C. 1317, or other applicable federal and state laws or regulations, that are in concentrations and volumes which are subject to regulation under this division as determined by the department; or
(5) Is required to obtain a permit for the treatment, storage or disposal of hazardous waste pursuant to regulations adopted by this State or adopted under the Federal Solid Waste Disposal Act, as amended by the Federal Resource Conservation and Recovery Act, as amended, and may or does contribute or allow waste or wastewater into the POTW including, but not limited to, leachate or runoff; or
(6) Is found by the City of Detroit or the Township to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.

Slug means any discharge of a non-routine episodic nature including, but not limited to, an accident spill or a non-customary batch discharge.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of the Management and Budget, 1987, as amended.

Standard methods means methods set forth in 40 C.F.R. Part 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants" or the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollutant Control Federation, or methods set forth in 40 C.F.R. 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants." Where these two (2) references are in disagreement regarding procedures for the analysis of a specific pollutant, the methods given in 40 C.F.R. Part 136 shall be followed.

Surcharge means an additional charge which may be imposed to cover the cost of treatment of excess strength wastewater discharged by any customer.

Surface water means, in addition to the definition in Section 1-002, water appearing on the surface in a diffused state, with no permanent source of supply or regular course for any considerable time, as distinguished from water appearing in watercourses, lakes or ponds.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtration or as measured by standard methods.

Total equivalent master metered water consumption means the equivalent to the total amount of potable water used by a municipality as recorded by a master water meter for sewered premises, and shall include, but not limited to, fire protection water, gardening and lawn water.

Total PCB means the sum of the individual analytical results for each of the PCB aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.

Total phenolic compounds means the sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2,4-dichlorophenol, 2,4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/l.

Toxic pollutant means any pollutant or combination of pollutants designated as toxic in regulations promulgated by the administrator of the U.S. Environmental Protection Agency under the provisions of the Clean Water Act, being 33 U.S.C. 1317, or included in the Critical

Materials Register promulgated by the S.E.A., or by other federal or state laws, rules or regulations.

Trade secret means the whole, or any portion or phase, of any propriety manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value, and whose secrecy the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products of their constituents discharged or sought to be discharged into the Detroit wastewater treatment plant, or into the wastewater system tributary thereto.

Uncontaminated industrial waste *or* ***unpolluted industrial process water*** means industrial process water or cooling water which has not come into contact with any substance used in or incidental to industrial processing operations and to which no chemical or other substance has been added, and which is completely compatible with application stream standards, excepting thermal limitations.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with limits imposed under this article or with national categorical pretreatment standards due to factors beyond the reasonable control of the industrial user but excludes noncompliance to the extent caused by operational error, improperly designated treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

User means any person who, directly or indirectly, contributes, causes or permits the discharge or wastewater into the POTW as defined herein.

User charge means a charge levied on users of a treatment works for the cost of operation and maintenance of sewerage works, and includes the cost of replacement.

Wastewater *or* ***wastestream*** means the liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which are contributed to or permitted to enter the POTW including infiltration and inflow waters, storm water, and cooling water.

Wastewater discharge permits means permits issued by the department in accordance with division 4 of this article.

Wastewater facilities means the structures, equipment and processes required to collect, carry away, and treat domestic and industrial waste, and dispose of the effluent.

Water Board means the board of water commissioners of the City of Detroit.

For purposes of this division, the following acronyms shall have the meanings designated by this section:

(1) BMR -- Baseline monitoring report
(2) BOD -- Biochemical Oxygen Demand
(3) C.F.R. -- Code of Federal Regulations
(4) EPA -- Environmental Protection Agency
(5) FOG -- Fats, Oil or Grease
(6) l - Liter
(7) mg - Milligrams
(8) mg/l - Milligrams per liter
(9) NPDES -- National Pollutant Discharge Elimination System
(10) POTW -- Publicly Owned Treatment Works
(11) RCRA -- Resource Conservation and Recovery Act, being 42 U.S.C. 6901 et seq.
(12) SIC -- Standard Industrial Classification
(13) SWDA -- Solid Waste Disposal Act, being 42 U.S.C. 6901 et seq.
(14) TSS -- Total Suspended Solids
(15) U.S.C. -- United States Code

(Ord. of 12-9-2002; Ord. of 3-24-2008)

Secs. 17-224--17-240. Reserved.

Division 2. Regulations of Oakland County -Sewage Disposal Systems

Sec. 17-241. Systems subject to division.

All sanitary sewer systems connected directly or indirectly into the County intercepting sewer or sewers shall meet the requirements set forth in this division.

(Ord. No. 153, § 5(A), 1-22-1990)

Sec. 17-242. Plans, permits and bonds.

(a) Prior to connection and prior to start of land development, all sanitary sewer systems shall have engineering plans and specifications prepared by a professional engineer and shall be approved as established by the Responsible County Department.

(b) A connection permit shall be obtained by the owner or contractor from the County. Such connection permit shall show the location of the work, the extent of the work, information regarding the contractor, the owner and the engineer, and any other pertinent information as shall be determined necessary by the County.

(1) A fee shall be charged for such permit to cover the cost of inspection of each connection, and to verify the result of the acceptance test. The permit fee shall be as established in Section 17-001for each new manhole constructed.

(2) Inspection requested during other than normal working hours shall be performed only if deemed necessary by the County. The fee for such inspection shall be as established in Section 17-001, in addition to the normal connection permit fee.

(c) Individual building sewers which are directly connected into the county sanitary sewer system shall conform to all applicable requirements of this article. A connection permit shall be obtained in accordance with the procedures and fee schedule established by the County department issuing the permit before such connection is made. Prior to the issuance of such connection permit, the person obtaining such permit shall have obtained the written approval of the Township.

(1) Connection shall be made in a workmanlike manner and in accordance with methods and procedures established by the County department issuing the permit.

(2) The party to whom such a permit is issued shall be responsible for notifying the County department issuing the permit twenty-four (24) hours in advance of the date and time when such a connection is made so that proper inspection of same can be made by such County department.

(d) Prior to the adjustment, reconstruction, relocation or any other altering of the sewers of the County, including manhole structures, the contractor or the person responsible for the work shall first obtain a permit in accordance with the procedures and fee schedule established by the County department issuing the permit.

(e) Prior to construction and during the life of permits obtained in accordance with subsections (b), (c) and (d) above, all owners or contractors shall:

(1) Yearly furnish to the Responsible County Department a satisfactory surety bond in an amount established by the County as security for the faithful performance of the work in accordance with the plans and specifications and departmental standards.

(2) Yearly furnish to the Responsible County Department a cash deposit in an amount established by the County. Such deposit shall provide funds for emergency work and/or such other work as may be deemed necessary by the Responsible County Department arising as a result of construction by the owner or contractor.

Such bonds shall not be cancelled by the owner, the contractor or the surety without first having given ten (10) days' written notice to the Responsible County Department. Cash deposits may be returned to the owner or contractor within ten (10) days of receipt of written request therefor, except that no deposits will be returned until such time as all outstanding permits have received final inspection and approval. In the event that it becomes necessary for the Responsible County Department to expend funds for work arising as a result of construction by the owner or the contractor, then the cost of such work shall be deducted from the aforementioned cash deposit.

(*CHAPTER 17, ARTICLE IV, DIVISION 2, SECTION 17-242 cont.*)

(f) The owner or contractor shall have the right and opportunity to correct any deficiencies promptly before any deposit funds will be spent by the Responsible County Department. The owner or contractor shall, within thirty (30) days of the mailing of written notice thereof, pay to the Responsible County Department the entire amount of such cost. Failure to comply with these rules and regulations and County standards may result in the immediate termination of the surety and cash bonds.

(Ord. No. 153, § 5(B), 1-22-1990)

Sec. 17-243. Bulkhead.

The contractor shall install a suitable bulkhead to prevent construction water, sand, silt, etc., from entering the existing sewer system. Such bulkhead shall be left in place until such time as removal is authorized by the Responsible County Department.

(Ord. No. 153, § 5(C), 1-22-1990)

Sec. 17-244. Acceptance test.

All sanitary sewer systems shall be subjected to infiltration, air, or exfiltration tests or a combination thereof in accordance with the following requirements prior to acceptance of the system by the Responsible County Department and prior to removal of the bulkhead as required in Section 17-243. All final acceptance tests shall be witnessed by the Responsible County Department.

(a) Infiltration test. All sewers over twenty-four-inch diameter shall be subjected to infiltration tests. All sewers of twenty-four-inch diameter or smaller where the ground water level above the top of the sewer is over seven (7) feet shall be subjected to an infiltration test. Maximum allowable infiltration shall not exceed two hundred fifty (250) gallons per inch of diameter per mile of pipe per twenty-four (24) hours for the overall project. Maximum allowable infiltration shall not exceed five hundred (500) gallons per inch of diameter per mile of pipe per twenty-four (24) hours for any individual run between manholes.

(b) Air test or exfiltration test. All sewers of twenty-four-inch diameter or less, where the ground water level above the top of the sewer is seven (7) feet or less, shall be subjected to air tests or exfiltration tests. For exfiltration tests, the internal water level shall be equal to the external water level plus seven (7) feet as measured from the top of pipe. The allowable exfiltration rate shall be the same as that permitted from infiltration. The procedure for air testing of sewers shall be as follows:

(1) The sewer line shall be tested in increments between manholes. The line shall be cleaned and plugged at each manhole. Such plugs shall be designed to hold against the test pressure and shall provide an airtight seal. One (1) of the plugs shall have an orifice through which air can be introduced into the sewer. An air supply line shall be connected to the orifice. The air supply line shall be fitted with suitable control valves and a pressure gauge for continually measuring the air pressure in the sewer. The pressure gauge shall have a minimum diameter of three and one-half (3 1/2) inches and a range of 0--10 PSIG. The gauge shall have minimum divisions of 0.10 PSIG and an accuracy of ±0.04 PSIG.

(2) The sewer shall be pressurized to 4.0 PSIG greater than the greatest back pressure caused by groundwater over the top of the sewer pipe. At least two (2) minutes shall be allowed for the air pressure to stabilize between 3.5 and 4.0 PSIG. If necessary, air shall be added to the sewer to maintain a pressure of 3.5 PSIG or greater.

(3) After the stabilization period, the air supply control valve shall be closed so that no more air will enter the sewer. The sewer air pressure shall be noted and timing for the test begun. The test shall not begin if the air pressure is less than 3.5 PSIG, or such other pressure as is necessary to compensate for groundwater level.

(4) The time required for the air pressure to decrease 1.0 PSIG during the test shall not be less than the time shown in the Air Test Tables adopted by the Responsible County Department.

(5) Manholes on sewers to be subjected to air tests shall be equipped with a one-half inch diameter galvanized capped pipe nipple extending through the manhole, three (3) inches into the manhole wall and at an elevation equal to the top of the sewer pipe. Prior to the air test, the groundwater elevation shall be determined by blowing air through the pipe nipple to clear it and then connecting a clear plastic tube to the pipe nipple. The tube shall be suspended vertically in the

(*CHAPTER 17, ARTICLE IV, DIVISION 2, SECTION 17-244 cont.*)

manhole and the groundwater elevation determined by observing the water level in the tube. The air test pressure shall be adjusted to compensate for the maximum groundwater level above the top of the sewer pipe to be tested. After all tests are performed and the sewer is ready for final acceptance, the pipe nipple shall be plugged in an acceptable manner.

(6) If a sewer fails to pass any of the previously described tests, the contractor shall determine the location of the leaks, repair them and retest the sewer. The tests shall be repeated until satisfactory results are obtained.

(7) All visible leaks and cracks shall be repaired regardless of test results.

(Ord. No. 153, § 5(D), 1-22-1990)

Sec. 17-245. Stormwater and groundwater control.

(a) Yard drains, patio drains, catchbasins, downspouts, weep tile, perimeter and footing drains or any other structure used for the collection and conveyance of stormwater and/or groundwater shall not be permitted to discharge into any sanitary sewer connected directly or indirectly to the county system, except as provided under subsection (b) below.

(b) Perimeter and footing drains from buildings existing before December 16, 1968, shall not be required to disconnect from the sanitary sewer system, provided that federal, state or local law or regulation does not require, or may not require subsequent to the adoption of these standards and regulations, the disconnection of such perimeter and footing drains.

(c) The crock to iron joint shall be sealed by approved flexible adaptor fittings such as those manufactured by Fernco Joint Sealer Company, or as approved by the Responsible County Department. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement backfilled and the roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(Ord. No. 153, § 5(E), 1-22-1990)

Sec. 17-246. Building sewers.

(a) House connection sewer from lateral sewer in street or easement to within five (5) feet from house shall be:

(1) Six-inch diameter extra strength vitrified sewer pipe, manufactured in accordance with current NCPI Designation ER 4-67 Standards, or equal, with DPW approved premium joint;

(2) Six-inch diameter Class 2400 Asbestos Cement Pipe with Ring-Tite, Fluid-Tite or DPW approved joint;

(3) Six-inch diameter, service strength, cast iron soil pipe with hot poured lead joint, or DPW approved equal;

(4) Six-inch diameter extra strength (ES) solid wall pipe extruded from acrylonitrile-butadiene-styren (ABS) plastic meeting the minimum cell classification 2-2-3 as defined in ASTM Specification D1788-68;

(5) Other pipe and joints as may be approved by the Responsible County Department.

Copies of the Responsible County Department approved joint shall be on file at the offices of the Public Works Official.

(b) House connection sewers shall be six-inch minimum diameter, except that four-inch pipe of comparable strength and joint material may be used if permitted by the local unit of government. All joints shall be tight and when tested for infiltration, or exfiltration, shall not exceed the requirements of Section 17-244.

(Ord. No. 153, § 5(F), 1-22-1990)

Sec. 17-247. Septic tank abandonment and waste disposal.

(a) Prior to connecting an individual building sewer to the sewers of the County, either directly or indirectly, all existing wastewater treatment facilities, including septic tanks, tile fields, and sump pumps shall be physically and permanently disconnected from the building sewer.

(b) Septic tank sludge shall be discharged into the sewers of the County, directly or indirectly, only at locations specified by the Responsible County Department, and only after obtaining proper septic tank dumping tickets.

(c) The liquid and solids from an abandoned septic tank shall not be drained, dewatered, pumped or in any other manner discharged to the sewers of the County, except as provided for above.

(Ord. No. 153, § 5(G), 1-22-1990)

Sec. 17-248. Ownership, operations and maintenance responsibility.

All new sanitary sewer systems, except individual building sewers, connected directly or indirectly into the intercepting sewer or sewers of the County shall be owned, operated and maintained by the governing community. This includes, but is not necessarily limited to, onsite sewer systems serving condominiums, apartment projects, shopping centers and mobile home parks.

(Ord. No. 153, § 5(H), 1-22-1990)

Sec. 17-249. Manholes.

(a) All manholes constructed on sanitary sewer systems shall be provided with lid frames bolted to the cone section of the manhole with rubber O-ring gaskets compressed between the frame and the top of the cone in accordance with the current "Standard Manhole Detail" of the Responsible County Department.

(1) Adjustments to manhole tops shall be accomplished by using precast concrete adjustment rings bolted to the cone section of the manhole with rubber O-ring gaskets compressed between each adjacent ring.

(2) Mortar and brickwork adjustment at the top of manholes will not be allowed. All manhole riser and cone sections shall have modified groove tongue joint with rubber gasket.

(3) The bolted frame, bolts, adjustment rings and O-ring gaskets shall be in accordance with the standards of the Responsible County Department.

(b) All manholes shall be provided with "Bolted Waterproof Covers" in accordance with the current "Standard Manhole Detail" of the Responsible County Department.

(c) Although not recommended, and only under certain circumstances, consideration will be given to the burying of manholes in lieu of providing bolted covers and only upon written request to the Responsible County Department.

(Ord. No. 153, § 5(I), 1-22-1990)

Sec. 17-250. As-built plans.

Prior to the acceptance of any sewer system and prior to the removal of the bulkhead as required in Section 17-243 (except under extenuating circumstances as may be approved by the director), as-built plans shall be provided to the Responsible County Department. Such as-built plans shall show a statement by a registered engineer or surveyor certifying this to be as-built plans and shall include, but not be limited to, length of sewer, invert elevation, locations with respect to property lines, wye and riser locations and depths, and sewer material and joints used.

(Ord. No. 153, § 5(J), 1-22-1990)

Sec. 17-251. Requirements for combined systems.

All combined sewer systems connected directly or indirectly to the intercepting sewer or sewers of the County shall meet the following requirements:

(a) Sections 17-242, 17-243, 17-246, 17-247, 17-248, 17-249 and 17-250 are required for sanitary sewer system connecting to interceptor sewers of the County as hereinbefore mentioned.

(b) Prior to acceptance of the system and prior to removal of the bulkhead as required under Section 17-243, all combined sewer systems shall be subjected to an infiltration test in accordance with the infiltration requirements of the Responsible County Department as outlined in Section 17-244. Such test shall be witnessed by the Responsible County Department.

(c) Downspouts and footing drain tile may be connected to a combined sewer if permitted by the Township.

(*CHAPTER 17, ARTICLE IV, DIVISION 2, SECTION 17-251* cont.)

(d) No requirements of the Responsible County Department, or permits issued hereunder by such department, shall relieve the property owner of complying with all the rules and regulations of the Township, wherein such property is located, when such rules and regulations are not in conflict with the requirements of the Responsible County Department.

(e) All sewer construction shall comply with the "General Specifications" of the Responsible County Department. Copies of such specifications may be obtained from such department.

(f) Construction of new combined sewer systems shall be prohibited except when no prudent or feasible alternative exists.

(Ord. No. 153, § 5(K), 1-22-1990)

Secs. 17-252--17-270. Reserved.

Division 3. Regulations Of County Water Resources Official; Sewage Disposal System

Sec. 17-271. Scope of division.

This division sets forth the procedures and regulations governing the granting of permits to connect into the Twelve Towns Relief Drains directly and to all other county drains that are tributary directly or indirectly to the facilities under the jurisdiction of the Southeastern Oakland County Sewage Disposal System (SOCSDS).

(Ord. No. 153, § 6(A), 1-22-1990)

Sec. 17-272. Submission of plan.

(a) Each municipality is requested to furnish an up-to-date plan of its sewerage system. Such plan should include the location, size and direction of flow in all existing sewers. Sewers should be identified as separated or combined. Pumping stations, flow regulation and diversion structure should be shown.

(b) Plans for laterals shall be submitted in the name of the municipality by the municipal officials or a firm of consulting engineers officially authorized to do so. Generally, this authority will be vested in the Public Works Official, Township Engineer, or a single firm of consulting engineers retained as the Township Engineer. All plans submitted to this office shall bear the signature of the above designated official.

(c) A letter requesting the approval of plans by the County Water Resources Official's office and the water quality division of the S.E.A. shall be addressed to the County Water Resources Official and be accompanied by a minimum of five (5) sets of plans. Upon approval of the plans, the County Water Resources Official's office will retain one (1) set and forward the remaining sets to the S.E.A. along with a letter requesting their approval. Copies of this letter will be sent to the Public Works Official. The S.E.A., upon their approval of the plans, will return at least three (3) sets of approved plans bearing the construction permit number to the Public Works Official. The Public Works Official will keep two (2) sets and send one (1) set to the County Water Resources Official. In the event that the Public Works Official requires an extra set of approved plans, additional sets shall be included with the initial request for approval.

(d) Plans submitted to this office for review must meet the following requirements:

(1) General location plan which shows the relationship to existing sewerage facilities, including outlet sewer interceptors, pumping stations, etc.

(2) Detail plan and profile drawings along with criteria of hydraulic design (storm frequency, line capacity, line velocities, tributary areas, etc.).

(3) Material and construction standards, regular and special.

(4) Desirable scale and size for plan and profile drawings are:

(i) Horizontal scale: 1" = 100', 1" = 50'

(ii) Vertical scale: 1" = 10', 1" = 5'

(iii) Plan size: 24" × 36"

(*CHAPTER 17, ARTICLE IV, DIVISION 3, SECTION 17-272* cont.)

(Ord. No. 153, § 6(B), 1-22-1990)

Sec. 17-273. Connections in combined sewer areas.

(a) A connection permit must be obtained prior to connection from the County Water Resources Official's office. A legal description of the property to be served by the connection is required.
(b) The fee for connection permits which is to cover the cost of the inspection of the tap shall be as established by the County Water Resources Official.
(c) The connection to the county drain will be made under the supervision of an inspector from the County Water Resources Official's office in accordance with approved plans of such connection.
(d) A minimum of twenty-four (24) hours' notice (excluding Saturday, Sunday, and holidays) must be given prior to tap to enable the County Water Resources Official office to arrange for inspection.
(e) Requests for inspection shall be directed to the technician charged with the responsibility of permit issuance.
(f) All lines connected to county drains shall be clean (free from silt, dirt, debris, etc.).
(g) Yard drains, catchbasins, downspouts, weep tile, perimeter drains or other structures used for the collection and conveyance of stormwater will be permitted to outlet into the county combined drains, provided such properties lie within such combined drainage district.
(h) The contractor, during the construction of a lateral, shall install a suitable bulkhead to prevent sand, silt, dirt or other debris from entering the county drain. Upon work completion and removal of any debris that may have collected, the contractor shall contact the County Water Resources Official's inspection office for permission to remove the bulkhead.
(i) A connection from any industrial plant or facility using chemical processes shall be provided with a readily available sampling point (manhole or equivalent).
(j) All wastes discharged into county drains shall meet the standards as specified in the current Detroit ordinance governing domestic and industrial wastes.

(Ord. No. 153, § 6(C), 1-22-1990)

Sec. 17-274. Discharge of stormwater and groundwater from areas outside combined sewer area.

(a) For the purposes of this section, "system" is defined as a lateral having two (2) or more connections.
(b) A construction permit from the S.E.A. is required for a sewer system.
(c) All sanitary sewer systems lying in those areas of the SOCSDS district, designated as separated, to be connected directly or indirectly into the intercepting sewer or sewers of the SOCSDS prior to connection, shall meet the following requirements:
    (1) A connection permit shall be obtained by the owner or contractor from the County Water Resources Official's office. Such connection permit shall show the location of the work, the extent of the work, information regarding the contractor, the owner and the engineer, the scheduled date of infiltration test and any other pertinent information as shall be determined necessary by the County Water Resources Official. A fee shall be charged for such permit to cover the cost of inspection of the connection and system connected.
    (2) All sewer systems shall be subjected to infiltration, air, or exfiltration tests or a combination thereof in accordance with the following requirements prior to acceptance of the system by the County Water Resources Official's office.
(d) All sewers over twenty-four-inch diameter shall be subjected to infiltration tests. All sewers of twenty-four-inch diameter or smaller where the groundwater level above the top of the sewer is over seven (7) feet shall be subjected to an infiltration test.
    (1) Maximum allowable infiltration shall not exceed two hundred fifty (250) gallons per inch of diameter per mile of pipe per twenty-four (24) hours for the overall project. Maximum allowable infiltration shall not exceed five hundred (500) gallons per inch of diameter per mile of pipe per twenty-four (24) hours for any individual run between manholes.
    (2) All sewers of twenty-four-inch diameter or less, where the groundwater level above the top of the sewer is seven (7) feet or less, shall be subjected to air tests or exfiltration tests. For exfiltration tests the internal water level shall be equal to the external water level plus seven (7) feet as measured from the top of pipe. The allowable exfiltration rate shall be the same as that permitted from infiltration.

(*CHAPTER 17, ARTICLE IV, DIVISION 3, SECTION 17-274 cont.*)

(3) The procedure for air testing of sewers shall be as follows:

(i) The sewer line shall be tested in increments between manholes. The line shall be cleaned and plugged at each manhole. Such plugs shall be designed to hold against the test pressure and shall provide an airtight seal. One (1) of the plugs shall have an orifice through which air can be introduced into the sewer. An air supply line shall be connected to the orifice. The air supply line shall be fitted with suitable control valves and a pressure gauge for continually measuring the air pressure in the sewer. The pressure gauge shall have a minimum diameter of three and one-half (3 1/2) inches and a range of 0--10 PSIG. The gauge shall have minimum divisions of 0.10 PSIG and an accuracy of ±0.04 PSIG.

(ii) The sewer shall be pressurized to 4.0 PSIG greater than the greatest back pressure caused by groundwater over the top of the sewer pipe. At least two (2) minutes shall be allowed for the air pressure to stabilize between 3.5 and 4.0 PSIG. If necessary, air shall be added to the sewer to maintain a pressure of 3.5 PSIG or greater.

(iii) After the stabilization period, the air supply control valve shall be closed so that no more air will enter the sewer. The sewer air pressure shall be noted and timing for the test begun. The test shall not begin if the air pressure is less than 3.5 PSIG, or such other pressure as is necessary to compensate for groundwater level.

(iv) The time required for the air pressure to decrease 1.0 PSIG during the test shall not be less than the time shown in the "County Water Resources Official's Air Test Tables."

(v) Manholes on sewers to be subjected to air tests shall be equipped with a one-half-inch diameter galvanized capped pipe nipple extending through the manhole, three (3) inches into the manhole wall and at an elevation equal to the top of the sewer pipe. Prior to the air test, the groundwater elevation shall be determined by blowing air through the pipe nipple to clear it and then connecting a clear plastic tube to the pipe nipple. The tube shall be suspended vertically in the manhole and the groundwater elevation determined by observing the water level in the tube. The air test pressure shall be adjusted to compensate for the maximum groundwater level above the top of the sewer pipe to be tested. After all tests are performed and the sewer is ready for final acceptance, the pipe nipple shall be plugged in an acceptable manner.

(vi) If a sewer fails to pass any of the previously described tests, the contractor shall determine the location of the leaks, repair them and retest the sewer. The tests shall be repeated until satisfactory results are obtained.

(vii) All visible leaks and cracks shall be repaired regardless of test results.

(e) Stormwater and groundwater control measures shall be as follows:

(1) Yard drains, patio drains, catchbasins, downspouts, weep tile, perimeter and footing drains or any other structure used for the collection and conveyance of stormwater and/or groundwater shall not be permitted to discharge into any sanitary sewer connected directly or indirectly to the county system, except as provided below.

(2) Perimeter and footing drains from buildings existing before July 23, 1981, shall not be required to disconnect from the sanitary sewer system, provided that federal, state or local law or regulation does not require, or may not require subsequent to the adoption of these standards and regulations, the disconnection of such perimeter and footing drains.

(3) The crock to iron joint shall be sealed by approved flexible adaptor fittings such as those manufactured by Fernco Joint Sealer Company, or as approved by the County Water Resources Official's office. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement backfilled and the roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(f) Building sewers shall be subject to the following:

(1) House connection sewer from lateral sewer in the street or easement five (5) feet from house shall be:

(i) Six-inch diameter extra strength vitrified sewer pipe, manufactured in accordance with current NCPI Designation ER 4-67 Standards, or equal, with drain commissioner approved premium joint;

(ii) Six-inch diameter ABS plastic solid wall sewer pipe conforming to ASTM designation D-2751 SDR 35 or 23.5;
(iii) Six-inch diameter PVC plastic solid wall sewer pipe conforming to ASTM designation ASTM D-3034 SDR 35 or ASTM D-2665 Schedule 40;
(iv) Other pipes and joints as may be approved by the County Water Resources Official.

(2) House connection sewers should be six-inch minimum diameter; however, four-inch pipe of comparable strength and joint material may be used if permitted by the local unit of government. All joints shall be tight and when tested for infiltration, shall not exceed five hundred (500) U.S. gallons per inch of diameter, per mile, per twenty-four (24) hours.

(3) The crock to iron joint shall be sealed by an approved bituminous filler, enclosed in concrete to provide a watertight seal. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(4) The municipality shall issue tap permits for each structure that is connected into the SOCSDS and be responsible to see that the above specifications pertinent to materials and installations are followed.

(g) The SOCSDS, through their agent, the County Water Resources Official, shall, at his option, be permitted to set up and operate flow metering equipment to gauge sanitary flow, either on a temporary or permanent basis, in any sanitary sewer lying within the "separated areas."

(h) Plans and specifications covering the construction of all new sewers, both combined and sanitary (separate), lying within the SOCSDS service area shall be submitted to the office of the County Water Resources Official for review and approval prior to construction.

(i) The quality of domestic and industrial waste outletted into the SOCSDS facilities shall conform to the current City of Detroit Ordinance pertinent to domestic and industrial wastes. It is the contractual obligation of the municipality, reference section 16 of contract with County, to use SOCSDS facilities to enforce these standards.

(j) No requirements of the SOCSDS or permits issued hereunder by the system through their agent, the County Water Resources Official, shall relieve the property owner of complying with all the rules and regulations of the local unit of government, wherein such property is located, where such are not in conflict with requirements of the SOCSDS.

(k) All sewer construction shall comply with the general specifications of the County Water Resources Official; copies of such specifications may be obtained from the office of the County Water Resources Official.

(Ord. No. 153, § 6(D), 1-22-1990)

Secs. 17-275--17-290. Reserved.

Division 4. General Wastewater Disposal Regulations*

**Editor's note:* *An ordinance of December 9, 2002, amended the Code by repealing former div. 4, §§ 17-291--17-310, and adding a new div. 4. Former div. 4 pertained to similar subject matter, and derived from Ord. No. 153, § 7, adopted January 22, 1990.*

Sec. 17-291. Delegation of authority.

The City of Detroit, through the Detroit Water and Sewerage Department, as the state-approved control authority, is authorized to administer and enforce the provisions of this division on behalf of the Township. The Township executed and hereby ratifies its delegation agreement with the City of Detroit through the Detroit Water and Sewerage Department, which sets forth the terms and conditions of such delegated authority, consistent with this division, and shall allow the Detroit Water and Sewerage Department to perform the specific responsibilities of control authority pursuant to state and federal law.

(Ord. of 12-9-2002)

Sec. 17-292. Discharge prohibitions.

(a) *General pollutant prohibitions.* No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general discharge prohibitions shall apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or to any other federal, state, or local pretreatment standards or requirements. In addition, it shall be unlawful for a user to discharge into the POTW:

(1) Any liquid, solid or gas, which by reason of its nature or quantity, is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or to be injurious in any other way to persons, to the POTW, or to the operations of the POTW, pollutants, which create a fire or explosion hazard in a POTW, include, but are not limited to, wastestreams with a closed cup flash point of less than 140° F or 60° C using the test methods specified in 40 C.F.R. 261.21; or

(2) Any solid or viscous substance in concentrations or quantities, which are sufficient to cause obstruction to the flow in a sewer or other encumbrances to the question of the POTW, including, but not limited to, grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastic, tar, asphalt residues; residues from refining or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones; or

(3) Any wastewater having a pH of less than 5.0 units or greater than 11.5 units; or

(4) Any wastewater containing petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, or toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference, or pass through, or constitute a hazard to humans or animals; or

(5) Any liquid, gas, solid or form of energy, which either singly or by interaction with other waste is sufficient to create toxic gas, vapor, or fume within the POTW in quantities that may cause acute worker health and safety problems, or may cause a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair; or

(6) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW, such as residue, sludge, or scum to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under 33 U.S.C. 1345, with any criteria, guidelines, or developed and promulgated regulations affecting sludge use or disposal developed pursuant to the Solid Water Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act, or with state criteria applicable to the sludge, management method being used; or

(7) Any substance which will cause the POTW to violate either the consent judgment in U.S. EPA v. City of Detroit, et al, Federal District Court for the Eastern District of Michigan Case No. 77-1100, or the City of Detroit's National Pollutant Discharge Elimination System permit; or

(8) Any discharge having a color uncharacteristic of the wastewater being discharged; or

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150°F or which will cause the influent at the wastewater treatment plant to rise above 104°F (40°C); or

(10) Any pollutant discharge which constitutes a slug; or

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable federal or state regulations; or

(12) Any floating fats, oil or grease which are sufficient to cause interference with or pass through the POTW; or

(13) Any solid materials having a specific gravity greater than one and two-tenths (1.2) or a cross section dimension of one-half (1/2) inch or greater which are sufficient to cause interference with the POTW.

(b) *Specific pollutant prohibitions.* No user shall discharge wastewater containing in excess of the following limitations:

(*CHAPTER 17, ARTICLE IV, DIVISION 4, SECTION 17-292* cont.)

(1) *Compatible pollutants:* See appendix C.

(2) *Non-compatible pollutants.* No user shall discharge wastewater containing in excess of the following, expressed in mg/l:

Arsenic (As)	1.0
Cadmium (Cd)	See Appendix C
Chromium (Cr)	25.0
Copper (Cu)	2.5
Cyanide (CN) (available)	1.0
Iron (Fe)	1000.0
Lead (Pb)	1.0
Nickel (Ni)	5.0
Silver (Ag)	1.0
Zinc (Zn)	7.3
Total phenolic compounds	1.0 or see appendix B

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 C.F.R. Part 136.

a. The limitation for total PCB is non-detect. Total PCB shall not be discharged at detectable levels, based upon U.S. EPA Method 608, and the quantification level shall not exceed 0.2 ugm/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of total PCB, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the total PCB concentration is below the detection level, or submission of a BMP in accordance with 56-3-66.1(d).

b. The limitation of mercury (Hg) is non-detect. Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 ugm/1, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of mercury, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with 56-3-66.1(d).

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 C.F.R. Part 136.

(3) *Compliance period.* Within thirty (30) days of the effective date of this section, the department shall notify all industrial users operating under an effective wastewater discharge permit of the requirement to submit a compliance report within one hundred eighty (180) days after the effective date of this section. The compliance report shall demonstrate the user's compliance or non-compliance with these limitations, and, in the event of non-compliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed eighteen (18) months from the effective date of this section. An industrial user who does not demonstrate compliance may petition the department for a second extension as part of an administrative consent order. The department shall include appropriate monitoring, reporting, and penalties into an administrative consent order that relates to a second extension, and shall enter into such an agreement only upon a good-faith showing by the industrial user of the actions taken to achieve compliance with this provision.

(c) *National Categorical Pretreatment Standards.* All users shall comply with the applicable National Categorical Pretreatment Standards and requirements promulgated pursuant to the act as set forth in 40 C.F.R. Subchapter N, Effluent Guidelines and Standards, which are hereby incorporated by reference and with all other applicable standards and requirements, provided, however, that where a more stringent standard or requirement is applicable pursuant to state law or regulation, or to this division, then the more stringent standard or requirement shall be controlling. Affected dischargers shall comply with applicable reporting requirements under 40 C.F.R. part 403 and as established by the department. The National

Categorical Pretreatment Standards which have been promulgated as of the effective date of this section are delineated in appendix A.

(1) *Intake water adjustment.* Industrial users seeking adjustment of National Categorical Pretreatment Standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 C.F.R. 403.15. Upon notification of approval by the department, the adjustments shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial user's permit.

(2) *Modification of National Categorical Pretreatment Standards.* The department may apply to the U.S. Environmental Protection Agency, or to the S.E.A., whichever is appropriate, for authorization to grant removal credits in accordance with the requirements and procedures in 40 C.F.R. 403.7. Such authorization may be granted only when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought, provided, that any limitation of such pollutant(s) in the NPDES permit neither are being exceeded nor pose the prospect of being exceeded as a result of the removal credit being granted. Where such authorization is given to the department, any industrial user desiring to obtain such credit shall make an application to the department, consistent with the provisions of 40 C.F.R. 403.7 and of this division. Any credits which may be granted under this section may be subject to modifications or revocation as specified in 40 C.F.R. 403.7, or as determined by the department. A requisite to the granting of any removal credit may be that the industrial user pay a surcharge based upon the amounts of such pollutants removed by the POTW, such surcharge being based upon fees or rates which the Water Board may establish and, when appropriate, revise from time to time. Permits shall reflect, or be modified to reflect, any credit granted pursuant to this section.

(3) *New sources.* Industrial users who meet the new source criteria shall install, maintain in operating condition, and 'start-up' all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed ninety (90) days, new sources must meet all applicable pretreatment standards.

(4) *Concentration and mass limits.* When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the department may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to the individual industrial users. Equivalent limitations shall be calculated in accordance with Sections 40 C.F.R. 403.6(c)(3) and/or 40 C.F.R. 403.6(c)(4) and shall be deemed pretreatment standards for the purposes of 33 U.S.C. 1317(d) and of this division. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(5) *Reporting requirements for industrial users upon effective date of categorical pretreatment standards-baseline report.* Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under Section 40 C.F.R. 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the Detroit POTW shall submit to the department a report containing the information listed in 40 C.F.R. 403.12(b)(1)--(7). Where reports containing this information have already been submitted to the director or regional administrator in compliance with the requirement of 40 C.F.R. 128.140(b), the industrial user will not be required to resubmit this information. At least ninety (90) days before commencement of any discharge, each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the department a report which contains the information listed in 40 C.F.R. 403.12(b)(1)--(5). In such report, new sources shall include information concerning the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 C.F.R. 403.12(b)(4) and (5).

(d) *Dilution prohibited.* Except where expressly authorized to do so by an application pretreatment standard or requirement, no user shall increase the use of process water, or in any way dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical

pretreatment standards, or in any other pollutant specific limitation or requirement imposed by the Township, the City of Detroit or by the State.

(e) *Hauled in wastewater.* Any waste material or wastewater which is hauled into or within the service region for discharge to the POTW is subject to the requirements of this division including, but not limited to, permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the department for unloading such waste in accordance with the Water Board's rules pertaining thereto. The discharger shall be subject to applicable terms and conditions, surcharges, fees or rates as established by the Water Board. Hauled in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirement specified in this division. The department may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this division.

(f) *Centralized waste treatment.* It is unlawful for a centralized waste treatment (CWT) facility to discharge any industrial waste or wastewater into the POTW without a wastewater discharge permit from the department. Any authorization granted, or permit issued, by the department to a centralized waste treatment (CWT) facility shall specify the type of wastewater for which treatment is provided, and discharge approval is sought, from the POTW. Unless such industrial waste or wastewater is determined by the department to require further authorization, a centralized waste treatment (CWT) facility that has submitted an application to, and received previous approval from, the department to discharge wastewater is not required to obtain further authorization from the department before discharging such wastewater.

An industrial user, that provides centralized waste treatment services and files an application for the treatment and discharge of such types of wastewater to the POTW, shall provide the following minimum information in support thereof.

(1) The general nature, course and process(es) generating the type of wastewater. Any wastewater, which is generated from those processes and is subject to national categorical pretreatment standards as delineated in appendix A shall be so designated;
(2) The identity of the toxic pollutants known or suspected to be present in the wastewater;
(3) At least one (1) sample report showing the results of an analysis for the EPA priority pollutants for each type of wastewater for which application is made in subsection (f)(1) of this section;
(4) A statement, certified by a professional engineer, which addresses the treatability and compatibility of the wastewater, received or collected by the facility's treatment process(es);
(5) The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the State, or by any other governmental agency. Upon request, the centralized waste treatment (CWT) facility shall provide a copy of its permit and/or license to the department; and
(6) Other information requested by the department including, but not limited to, information required by this division or by rules adopted by the Water Board. The discharge from a centralized waste treatment (CWT) facility will be deemed approved for those specific types of wastewater delineated in a permit and, upon issuance of such permit in accordance with the procedures contained in this article, will be deemed approved for discharge into the POTW. The centralized waste treatment (CWT) facility shall comply with all applicable provisions contained in this article regarding permits. In furtherance of its obligations as control authority, the department may include in the permit a requirement to report as selected intervals the information mandated in subsections (1) through (6) of this section.

All users granted a permit under this section shall maintain records which, at a minimum, identify the source, volume, character, and constituents of the wastewater accepted for treatment and disposal. These records may be reviewed at any time by the department.

(g) *Groundwater discharges.* Unless authorization has been granted by the department, the discharge of any groundwater into the POTW is prohibited.

The department may authorize the discharge of groundwater resulting from maintenance and related activities of gas, steam, or electrical utilities through the use of general permits. Subject to appropriate reporting requirements, the general permit shall authorize discharge in accordance with the terms of the permit. Utilities shall comply with this provision within one hundred eighty (180) days after its adoption.

If a person who proposes to discharge groundwater resulting from purge, response activity, or UST projects, has applied for and received a permit from the department, the department may authorize the discharge of such wastewater. Permits shall be issued in accordance with the procedures contained in this article or in accordance with any rules adopted by the Water Board.

(h) *Township rights of revision.* The City of Detroit and the Township reserve the right to establish rules or regulations adopted by the Water Board, additional or more stringent limitations or requirements on discharges to the POTW. Ninety (90) days after adoption by the Water Board, industrial users shall comply with such rules and regulations.

(i) *Accidental discharges.*

(1) Each industrial user not in possession of a currently approved spill prevention plan or slug control plan, shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article, and all significant industrial users shall submit to the department detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided and maintained at the owner's or industrial user's cost or expense. Unless the significant industrial user has an approved spill prevention or slug control plan, all existing significant industrial users shall complete and submit such a plan within sixty (60) days of the effective date of this section. New significant industrial users shall submit such a plan prior to the time they commence discharging.

For purposes of this section, the information provided shall include the approximate average and maximum quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemicals and/or waste therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of five (50 percent or greater in the raw material, chemical solution or waste material, are required to be reported. Volumes of less than fifty-five (55) gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass through or cause interference with the POTW. The industrial user shall promptly notify the department of any significant changes or modifications to the plan including, but not limited to, a change in the contact person, or substance inventory.

(2) At least once every two (2) years, the department shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined at 40 C.F.R. 403.8(f)(2)(v). Unless otherwise provided, all significant users shall complete, implement, and submit such a plan within thirty (30) days of notification by the department.

(j) *Notification requirements.* Unless a different notice is provided by this division or applicable law, within one (1) hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state or Township laws, rules, regulations or permit requirements, or which could cause problems to the POTW, or which has the potential to cause the industrial user to implement its plan prepared in accordance with subsection (1) of this section, the industrial user shall telephone the department at its control center and notify the department of the discharge. The notification shall include the name of the caller, the location and time of discharge, the type of wastewater, the estimated concentration of excessive or prohibited pollutants and estimated volume, and the measures taken, or being taken, to abate the discharge into the POTW. Within five (5) calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences and when required by the department, the industrial user's wastewater discharge permit may be

(*CHAPTER 17, ARTICLE IV, DIVISION 4, SECTION 17-292* cont.)

modified to include additional measures to prevent such future occurrences. Such notification shall not relive the industrial user of any expense, cost of treatment, loss, damages, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other environmental impairment or any other damage to person or property.

(k) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board, or other prominent place, advising employees whom to contact in the department in the event of an actual or excessive or prohibited discharge.

(l) *Recovery of costs.* Any user discharging in violation of any of the provisions of this article, which produces a deposit or obstruction, or causes damage to or impairs the department's POTW, or causes the department to violate its NPDES permit, shall be liable to the department for any expense, loss, damage, penalty or fine incurred by the department because of said violation or discharge. Prior to assessing such costs, the department shall notify the user of its determination that the user's discharge was a proximate cause of such damage, obstruction, impairment, or violation of the city's NPDES permit and the department's intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of costs estimates. Failure to pay the assessed costs shall constitute a violation of this article. Such charge shall be in addition to, and not in lieu of, any penalties or remedies provided under this division, or this Code, or other statutes and regulations, or at law or in equity.

(m) *Hazardous waste notification.* All industrial users, who discharge into the Township collection system, shall notify the department in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 C.F.R. Part 261. Such notification must comply with the requirements of 40 C.F.R. 403.12(p).

(n) *Authorized representative.* The authorized representative, as defined in Section 17-223 may designate a duly authorized representative of the individual designated in Section 17-223 where:

(1) The authorization is made in writing by the individual defined in Section 17-223;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and responsibility, or having overall responsibility for environmental matters for the company; and

(3) The written authorization is submitted to the department.

(o) *Pollution prevention.* The department shall encourage and support industrial users to develop and implement pollution prevention programs which eliminate or reduce pollutant contributions beyond the levels required by this division. The department may require an industrial user to implement pollution prevention initiatives as part of an enforcement response, or as necessary to comply with its NPDES permit.

(Ord. of 12-9-2002; Ord. of 3-24-2008)

Sec. 17-293. Fees.

(a) The purpose of this section is to provide for the recovery of costs from users of the POTW. The applicable charges or fees established by the Water Board shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system, or as provided by law or by board action.

(b) The Water Board shall adopt charges and fees which shall include, but not limited to:

(1) Fees for reimbursement of costs of establishing, operating, maintaining, or improving the department's industrial waste control and pretreatment programs; and

(2) User fees based upon volume of waste and concentration or quantity of specific pollutants in the discharge, and treatment costs including sludge handling and disposal; and

(3) Reasonable fees for reimbursement of costs for hearings, including, but not limited to, expenses regarding hearings officers, court reporters, and transcriptions; and

(4) Other fees, which the Water Board may deem necessary, to carry out the requirements contained herein, or as may be required by law.

(Ord. of 12-9-2002)

Sec. 17-294. Wastewater discharge permits.

(a) Required. It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference or pass through, or otherwise not comply with the discharge prohibitions of this article. It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the Detroit Water and Sewerage Department. Unless otherwise expressly authorized by the department through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this article.

(1) All significant industrial users, which are in existence on the effective date of this division, shall apply for a wastewater discharge permit within thirty (30) days of the effective date of this article. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this section. These applications are to include all information specified in subsection 17-294(c) and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 C.F.R. 403.12(b).

(2) All new significant users shall apply for a wastewater discharge permit at least ninety (90) days prior to commencement of discharge. The application must include all information required by this article and, where applicable, any additional information that may be needed to satisfy the federal BMR requirements of 40 C.F.R. 403.12(b). Until a permit is issued and finalized by the department, no discharge shall be made into the POTW.

(3) Any user who proposes to discharge any wastewater other than sanitary or noncontact cooling water into the POTW shall request approval from the department for the discharge(s) at least thirty (30) days prior to the commencement of the article.

(b) Permit application or reapplication. The department may require any user to complete a questionnaire and/or a permit application and to submit the same to the department for determining whether the industrial user is a significant user, or to determine changes in the wastewater discharges from a user's facility. Within thirty (30) days of being so notified, a user shall comply with the department's request in the manner and form prescribed by the department. Failure of the department to so notify a user shall not relieve the user of the duty to obtain a permit as required by this article.

(1) A user, which become subject to a new or revised National Categorical Pretreatment Standard, shall apply for a wastewater discharge permit within ninety (90) days after the promulgation of the applicable National Categorical Pretreatment Standard, unless an earlier date is specified or required by 40 C.F.R. 403.12(b). The existing user shall provide a permit application which includes all the information specified in this article.

(2) A separate permit application shall be required for each separate facility.

(3) Existing permittees shall apply for permit re-issuance a minimum of ninety (90) days prior to the expiration of existing permits on a form prescribed by the department.

(c) Application or reapplication information. In support of an application or reapplication for a wastewater discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Corporate or individual name, any assumed name(s), federal employer identification number, address, and location of the discharging facility;

(2) Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;

(3) All SIC numbers of all processes at this location according to the Standard Industrial Classification manual, issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended;

(4) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in this article, those pollutants limited by national categorical pretreatment standards regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge, regulated in the previous permit, or specifically

requested by the Detroit Water and Sewerage Department. For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided. For industries subject to national categorical pretreatment standards or requirements, the data requested herein shall be separately shown for each categorical process wastestream. Combined wastestreams proposed to be regulated by the combined wastestream formula shall also be identified. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to 33 U.S.C. 1314(g) and contained in 40 C.F.R. Part 136, as amended. Where 40 C.F.R. Part 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.

(5) A listing and description of activities, facilities and plant processes on the premises. Those processes, which are subject to national categorical pretreatment standards or requirements, shall be so designated. As pertains to subsection (c)(4), of this section, identify which pollutants are associated with each process;

(6) Restricted to only those pollutants referred to in subsection (c)(4), of this section, a listing of raw materials and chemicals which are either used in the manufacturing process or could yield the pollutants referred to in subsection (c)(4). Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;

(7) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven (7) days of the week;

(8) Denote:

(i) The average and maximum twenty-four-hour wastewater flow rates including, if any, daily, monthly and seasonable variations;

(ii) Each national categorical process wastestream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW; and

(iii) Each combined wastestream;

(9) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive storm water, sanitary water or cooling water; also show which lines handle each combined wastestream. This schematic shall be cross-referenced to the information furnished in subsection (c)(8) of this section;

(10) Each product produced by type, amount, process or processes and rate of production as pertains to processes subject to production based limits under the national categorical pretreatment standards or requirements only;

(11) A statement regarding whether or not the requirements of this division and of the national categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements. This statement shall be reviewed and signed by the authorized representative and, as appropriate, certified by a qualified professional;

(12) Basic information on the program for the prevention of accidental discharges in accordance with the requirements of this article;

(13) Proposed or actual hours of operation of each pretreatment system for each production process;

(14) A schematic and description of each pretreatment facility which identifies whether each pretreatment facility is of the batch type or continuous process type;

(15) If other than Detroit Water and Sewerage Department potable water, the industrial user's source of intake water together with the types of usage and disposal method of each water source, and the estimated wastewater volumes from each source;

(16) If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this article and the national categorical pretreatment standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;

(17) Identify whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other waste at the facility; and
(18) Any other information as may reasonable be required to prepare and process a wastewater discharge permit.

(d) Permit issuance. Upon receipt of an application, the department shall review the application, determine, and so notify the industrial user in writing regarding any of the following:
(1) The industrial user does not meet the definition of a significant industrial user and is not required to have a wastewater discharge permit;
(2) The industrial user does not meet the definition of a significant industrial user but is found by the department to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement, and is not required to have a wastewater discharge permit. The department shall make such determination in accordance with the requirements of 40 C.F.R. 403.8(f)(6);
(3) The application is incomplete or the information only partially satisfies the information and data required by 40 C.F.R. 403.12 or by the department, and that additional information and data are required which shall be promptly furnished. Where appropriate, the industrial user is notified regarding specific information that is missing, or that the application is unacceptable;
(4) The industrial user is required to have a wastewater discharge permit. The department shall notify the industrial user of its determination and the basis of the determination.

The department may withhold issuance of a permit to a significant user who has not submitted an adequate or timely report, or permit application, to the department as the control authority in accordance with the reporting requirements of 40 C.F.R. 403.12, or whose discharge is in violation of this division. If the department determines that an industrial user is required to have a wastewater discharge permit and had evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the draft permit, so marked, for the industrial user's review. An industrial user has thirty (30) days from the date of mailing to file a response to the draft permit and, in accordance with the procedures contained in this article, twenty (20) days from the date of mailing to file an appeal regarding a permit issued as final. Upon disposition by the department of any contested terms or conditions, a permit shall be issued as final. Only one (1) facility location shall be included in each permit.

(e) Permit conditions. Wastewater discharge permits shall contain all requirements of 40 C.F.R. 403.8(f)(1)(iii) and shall be deemed to incorporate all provisions of this division, other applicable laws, rules, regulations, and user charges and fees established by the City of Detroit or the Township without repetition therein. In addition, permits may contain the following:
(1) Limits on the average and maximum wastewater constituents or characteristics which are equivalent, more restrictive than, or supplemental to the numeric limits enumerated in this article, or the applicable national categorical pretreatment standards;
(2) Limits on average, and maximum rate and time of discharge or requirements for flow regulation and equalization;
(3) Requirements for installation, operation, and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;
(4) Restrictions on which of the user's discharge wastestreams are to be allowed to be discharged at each point of connection to the POTW;
(5) Specifications for industrial user monitoring programs which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedules;
(6) Requirements for the prevention of accidental discharges and the containment of spills or slug discharges;
(7) Restrictions based on the information furnished in the application;
(8) Additional reporting requirements:
(i) All permittees shall submit a report on the form prescribed by the department, or on an alternative form approved by the department, indicating the status of compliance with all

(*CHAPTER 17, ARTICLE IV, DIVISION 4, SECTION 17-294 cont.*)

conditions enumerated or referred to in the wastewater discharge permit, or made applicable to the permit. Unless required more frequently, the reports shall be submitted at six-month intervals on a schedule to be established by the department. Analytical data generated by the department may not be submitted in lieu of the facility's own monitoring data as required by the wastewater discharge permit.

(ii) Permittees not subject to national categorical pretreatment standards or requirements shall submit a report in accordance with the requirements of this article. The report shall show the concentration of each substance for which there is a specific limitation in the permit, or which may be identified by the department.

(iii) Permittees subject to national categorical pretreatment standards or requirements shall submit compliance reports at the times and intervals specified by federal regulations and by the department. A compliance report shall be submitted to the department no later than ninety (90) days following the final compliance date for a standard, or in the case of a new source, no later than ninety (90) days, following commencement of the introduction of wastewater into the POTW, and in accordance with 40 C.F.R. 403.12(d). A report on continued compliance shall be submitted at six-month intervals thereafter on the schedule established by the department and incorporated into the industrial users discharge permit and in accordance with this article. The reports shall be either on a form prescribed by the department or on an alternative form approved by the department, and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by national categorical pretreatment standards, or which there is a specific limitation in the permit, or which may be identified by the department. The report shall include a report of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by the permit. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the department, provided there have been no changes to the elements composing the combined wastestream.

(iv) Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein, and, for significant industrial users subject to production based standards, shall be cross-referenced to the related flow or production and mass as required to determine compliance with the applicable pretreatment standards. The frequency of monitoring

shall be as prescribed in the applicable general pretreatment regulations, being40 C.F.R. Part 403, or by the department, but no less than is necessary to assess and assure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements. All sampling analysis shall be performed in accordance with applicable regulations contained in 40 C.F.R. Part 136 and amendments thereto. Where 40 C.F.R. Part 136 does not include sampling or analysis techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.

If an industrial user monitors any pollutant more frequently than required by the department using the procedures as prescribed in this section, the results of this monitoring shall be included in such report. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards.

(v) This report, and those required under Section 17-292 and Section 17-294, shall include the following certification statement: "I certify under penalty of the 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 gathered 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 a fine and/or imprisonment for knowing

(*CHAPTER 17, ARTICLE IV, DIVISION 4, SECTION 17-294* cont.)

violations." Said certification shall be signed by the facility's authorized representative. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the authorized representative definition must be submitted to the department prior to, or together with, any reports to be signed by an authorized representative.

(vi) If sampling performed by a permittee indicates a violation, the user shall notify the department within twenty-four (24) hours of the time said user becomes, or should have become, aware of the violation. In addition, the user shall repeat the sampling and analysis, and submit the results of the repeat analyses to the department within thirty (30) days after said user becomes, or should have become aware of the violation.

(9) In the event the director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW, or the receiving stream, the department has the authority to develop and enforce effluent limits applicable to the user. To the extent the department seeks to impose restrictions in a permit which are more restrictive than established in this article, the department shall provide written documentation to explain the greater restrictions for protection against pass through, interference, or violation of the NPDES permit;

(10) Requirement for pollution prevention initiatives; and

(11) Other requirements reasonably necessary to ensure compliance with this division.

(f) Permit duration. Permits shall be issued for a specific period of time. Except as deemed necessary by the department, or as otherwise provided for under this division, permits shall be issued for a specified period of not more than five (5) years nor less than one (1) year. The existing permit for significant industrial users, who timely submit an application for permit reissuance to the department, shall be automatically extended until a permit is issued as final.

(g) Permit modification. The terms and conditions of the permit may be subject to modification by the department during the term of the permit as limitations or pretreatment standards and requirements are amended, or other just cause exists. Just cause for a permit modification includes, but shall not be limited to, the following:

(1) Material or substantial changes to an industrial user's facility or operation, or changes in the characteristics of the industrial user's effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within thirty (30) calendar days of the change;

(2) Change(s) in the department NPDES permit;

(3) Embodiment of the provisions of a legal settlement or of a court order;

(4) Any changes necessary to fulfill the department's role as control authority;

(5) An industrial user's noncompliance with portion of an existing permit;

(6) A change of conditions within the POTW;

(7) A finding of interference or pass through attributable to the industrial user;

(8) Amendments to, or promulgation of, national categorical pretreatment standards or requirements including C.F.R. Part 403 and those delineated in appendix A of this division. Permittees shall request an application form and apply to the department for a modified permit within ninety (90) days after promulgation of a new or revised national categorical pretreatment standard to which the industrial user shall be subject. Information submitted pursuant to this subsection shall be confined to that information related to the newly promulgated or amended national categorical pretreatment standard or requirement. However, information previously submitted need not be duplicated, insofar as the previously submitted information continues to be current and applicable. In addition, the department may initiate this action;

(9) Changes in the monitoring locations;

(10) Typographical errors or omissions in permits;

(11) The department may modify the permit on it s own initiative based on its findings or reasonable belief of the above; or

(12) The user may request a modification of the permit.

When initiated by the department, the industrial user shall be informed of any proposed change in its permit. The department will issue a draft permit and an industrial user has thirty

(*CHAPTER 17, ARTICLE IV, DIVISION 4, SECTION 17-294 cont.*)

(30) days to file a response to the draft modified permit. Thereafter, the department will issue a final permit and, unless appealed in accordance with the procedures contained in this article, the permit shall become effective twenty (20) days after issuance.

(h) Permit custody and transfer. Wastestream discharge permits are issued to a specific person as defined herein for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises, or a new or changes operation without notice to and written approval of the department, and providing a copy of the existing permit to the new owner or operator. It shall be the permit holder's duty to notify the department of any such change at least thirty (30) days before the date of the change. Wastewater discharge permits, which do not receive the written approval of the department prior to the change, shall be null and void regardless of reassignment, or transfer, or sale. If it has occurred, the department may revoke a permit. If a change takes place, the department may require the application for a new or modified permit. Any succeeding person shall comply with the terms and conditions of any existing permit which the department allows to be retained.

(i) Permit notification requirements. All industrial users shall promptly notify the department in advance or any substantial change in volume or character of pollutants in their discharge, including the listed or characteristics hazardous waste for which initial notification under 40 C.F.R. 403.12(p) has been made, request a permit application form, and apply for a modification of the permit at least thirty (30) calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this article.

(Ord. of 12-9-2002)

Cross references: *Business regulations and Licensing, Ch. 10.*

Sec. 17-295. Monitoring facilities.

(a) Significant industrial users shall provide, operate and maintain at their own expense a sampling manhole or special structure or facilitate monitoring, inspection, sampling, and flow measurement of their discharge by the department and the industrial user, and to enable the department to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits and standards as provided for in this article. In the event the department determined that the monitoring facility identified in the permit application is inadequate, a new monitoring facility must be identified, or provided, which shall allow for collection of a representative sample of the wastewater discharged from the facility. Unless otherwise determined at the discretion of the department, said facility shall be provided within ninety (90) days of receipt of notification by the department. The industrial user shall provide the department with:

(1) A drawing showing all sewer connections and sampling manholes by the size, location, elevation, and points or places of discharges into the POTW;

(2) A flow schematic showing:

(i) Which connections receive each national categorical process wastestream;

(ii) Which connections receive stormwater, sanitary water or cooling water; and

(iii) Which lines handle each combined wastestream.

This report shall be certified by a professional engineer. If a significant industrial user fails to install the monitoring facilities within the prescribed time limits, then the department may install such structure or device and the significant user shall reimburse the department for any costs incurred therein.

(b) The sampling manhole should be situated on the industrial user's premises in a location readily accessible to the department. When such location would be impractical or cause undue hardship to the industrial user, the department may allow the facility to be constructed in the public street or sidewalk area when there is room and the location will not be obstructed by landscaping or parked vehicles. It shall be the responsibility of the industrial user to obtain any necessary approvals which may be required from other governmental

agencies for the location and construction of monitoring facilities. There shall be ample room in or near such sampling for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user. Whether constructed upon public or private property, the sampling and monitoring facilities shall be provided in accordance with the department's requirements and all applicable local construction standards and specifications.

(Ord. of 12-9-2002)

Sec. 17-296. Inspection, sampling and record-keeping

(a) For purposes of administering and enforcing this division, any other applicable provisions of this Code or applicable state or federal laws and regulations, the department may inspect the establishment, facility or other premises of the industrial user. The department's employees or authorized representative shall have access to the industrial user's premises for purpose of inspection, sampling, compliance monitoring and/or metering activities.

(b) Each inspection or sampling activity shall be commenced and completed at reasonable times, and in a reasonable manner. Upon arrival at the industrial user's premises, the department shall inform the industrial user, or the industrial user's employees, that sampling and/or inspection is commencing, and that facility's authorized representative has the right to observe the inspection and/or sampling. The department shall neither refrain from, nor be prevented or delayed from, carrying-out its inspection or sampling duties due to the unavailability of the authorized representative of the facility to observe or participate in the inspection or sampling activity.

(c) While performing work on private property, employees or authorized representatives of the department shall observe all reasonable safety, security and other reasonable rules applicable to the premises as established by the industrial user. Duly authorized employees or representatives of the department shall bear proper credentials and identification, and at the industrial user's option may be accompanied by a fully authorized representative of the industrial user. Duly authorized department representatives shall not be restricted from viewing any of the facility site. Department employees or representatives may take photographs of facilities, which photographs shall be maintained by the department as confidential.

(d) Where an industrial user has the security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that, upon presentation of appropriate credentials, personnel from the department will be permitted to enter for the purposes of performing their specific responsibilities.

(e) Significant industrial users shall sample and analyze their discharge in accordance with the provisions of their permit. The department may require such samples to be split with the department for the department's independent analysis.

(f) Industrial users shall maintain records of all information from monitoring activities required by this division, or by 40 C.F.R. 403.12(n). Industrial user's shall maintain the records for no less than three (3) years. This period of record retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user, or the operation of the City of Detroit's industrial waste program, or when requested by the department, by the State or by the EPA.

(g) Upon the request of the department, industrial users shall furnish information and record relating to discharges into the POTW. Industrial users shall make such records readily accessible to the department at all reasonable times, and allow the department to copy such records.

(h) In the event the department obtains samples, and analyses are made of such samples, a copy of the results of such analyses shall be promptly furnished upon written request by the industrial user's authorized representative. When requested by the industrial user, the

department employee or representative shall leave with the user, a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the department shall be controlling unless proven invalid.

(i) In addition to any other violation caused by the discharge described herein, in the event a single grab sample of the industrial user's discharge is obtained by the department, and then analyzed in accordance with 40 C.F.R. Part 136, and found to contain concentrations of pollutants which are two (2) or more times greater than the numeric limitations or as contained in the facility's wastewater discharge permit, the industrial user shall implement its slug control plan, and shall provide a written report to the department within fourteen (14) days which describes the cause of greater concentration and provides a description of the means by which future discharge concentrations will be held to values of less than two (2) times the limitation in the future.

(Ord. of 12-9-2002)

Sec. 17-297. Confidential information.

(a) Information and data on an industrial user obtained from written reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the department that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user. When submitted to the department, all information claimed to be confidential must be clearly marked 'confidential'. When requested by the person furnishing the report, the portions of a report determine by the department to disclose trade secrets or trade secret processes, and which are clearly labeled as confidential, shall not be made available for inspection to the public, but shall be made available upon request to governmental agencies for uses related to this division, to the National Pollutant Discharge Elimination System (NPDES) permit, and to the state disposal system permit and/or the pretreatment programs, provided, however that information shall be treated as confidential by the governmental agency, until such time as the information has been determined to be non-confidential by the governmental agency. Confidential information on industrial users which the department releases pursuant to a request of another governmental agency, should be handled by the other governmental agency pursuant to its own confidentiality procedures. The department cannot control how anther governmental agency handles such confidential information, and assumes no responsibility for the disposition of the information released to the governmental agency. The department will use sufficient care to inform the other governmental agency of the existence of the industrial user's confidentiality claim.

The department shall determine whether the information requested to be treated as confidential, in fact, satisfies the requirements of confidential information as defined herein. The decision of the department shall be made in writing.

Wastewater constituents and characteristics will not be recognized as confidential information.

(b) Except as otherwise determined by the department or provided for by applicable law, all information with respect to an industrial user on file shall be made available upon request by such user or the user's authorized representative during normal business hours.

(Ord. of 12-9-2002)

Sec. 17-298. Statutes, laws and regulations.

The National Categorical Pretreatment Standards defined in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471, shall be and are incorporated by reference herein and made a part hereof. Unless

otherwise provided, any reference in this article to a code, standard, rule, regulation, or law enacted, adopted, established, or promulgated by any private organization, or by any element or organization of government other than the Township shall be construed to apply to such code, standard, rule, regulation, or law in effect or as amended or promulgated, from the date of adoption of this article.

(Ord. of 12-9-2002)

Sec. 17-299. Enforcement.

(a) *Violations.* It shall be a violation of this division for any user to:

(1) Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;

(2) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in this article;

(3) Refuse reasonable access to the industrial user's premises, waste discharge, or sample location for the purpose of inspecting or monitoring;

(4) Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided that upon request, reasonable access to the facility is promptly provided to the department.

(5) Restrict, interfere, tamper with, or render inaccurate any of the department's monitoring devices including, but not limited to, samplers;

(6) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;

(7) Fail to comply with any limitation, prohibition, or requirement of this article including any rule, regulation, or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of this article shall be deemed to be in compliance with these requirements, and such permits shall remain in effect and be enforceable until a superseding permit is effective. Industrial users shall comply with application national categorical pretreatment standards and requirements on the date specified in the federal regulations, regardless of compliance schedules.

(b) *Upsets.* An upset shall constitute an affirmative defense to an action brought for noncompliance with national categorical pretreatment standards where the requirements of subsection (1) of this section are met.

(1) An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that;

(i) An upset occurred and the industrial user can identify the cause(s) of the upset;

(ii) At the time, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(iii) The industrial user has submitted the following information to the department, orally or in writing, within twenty-four (24) hours of becoming aware of the upset and where this information is provided orally, a written submission must be provided within five (5) days;

a. A description of the discharge and cause of noncompliance;

b. The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(2) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof;

(3) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this division upon reduction, loss, or failure of its treatment facility until the facility is restores or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(c) *Bypass.* Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements, but only if it is for essential maintenance to ensure efficient

operation of the treatment system. These bypasses are not subject to the provisions of the subsections (1) and (2) of this section.

(1) *Notice of anticipated bypass.* Industrial users anticipating a bypass shall submit notice to the department at least ten (10) days in advance.

(2) *Notice of unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds application pretreatment standards within twenty-four (24) from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five (5) days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description of the bypass including exacts dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.

(3) *Prohibition of bypass and enforcement.* Bypass is prohibited, and the department may take enforcement action against a user for a bypass, unless:

(i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) The industrial user properly notified the department as described in subsection (c)(2) of this section.

(4) *Bypass approval.* Where it meets all conditions in subsection (c)(3) of this section, the department may approve an anticipated bypass. Where one (1) or more of the measurements taken for any pollutant defined in this article during a six-[month] period exceed by any magnitude the daily maximum non-detect limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP, as part of its response. The department may, as part of an administrative order, also require development of a BMP as a part of the department's enforcement response. Upon approval of the department, these pollution prevention initiatives, or BMPs shall be made an enforceable part of the wastewater discharge permit. Industrial users shall provide, at six-month intervals, analytical results and certifications in support of its implementation of an approved pollution prevention initiative or BMPs. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

(d) *Emergency suspensions and orders.* The department may order suspension of the sewer or wastewater treatment service and/or wastewater discharge permit where, in the opinion of the department, such suspension is necessary to stop any actual or threatening discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW, or causes or may cause the City of Detroit to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event the department provides information notification under this section, written confirmation and an order shall be provided within twenty-four (24) hours. In the event of a failure of the person to comply voluntarily with any suspension or revocation order, the department shall take such steps as deemed necessary, including immediate severance of the sewer connection or services, to prevent or minimize damage to the POTW system or danger to any individual or the environment. In the event such steps are taken, the director shall notify the industrial user within twenty-four (24) hours in writing of such action and order, and the specific recourse available. In any event, the department shall provide the industrial user with an opportunity for a hearing before the director, or his designated representative, within ten (10) days of such action. The industrial user shall submit a detailed written statement to the department within

fifteen (15) days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Upon proof of elimination of the non-complying discharge, the department shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

(e) *Notice of violation.* Except in the case of an actual threatened discharge as specified in subsection (d) of this section, whenever the department has reason to believe that any industrial user has violated or is violating this article, the department shall serve a written notice stating the nature of the violation upon such industrial user. Where applicable, the department shall pursue appropriate escalating enforcement action as defined within its approved enforcement response plan. The failure of the department to issue a notice of violation shall not preclude the department from escalating its enforcement response.

(f) *Administrative actions.* Whenever the department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, or a pretreatment standard or requirement or any prohibition of this article, the department, except in the case of emergency or flagrant violation, may initiate appropriate administrative enforcement action in order to compel the industrial user to eliminate or to remedy such violation as soon as possible.

(1)

(i) *Conferences.* The department may order any person, who violated this division, to attend a conference wherein the department may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violation shall be served at least ten (10) days before the scheduled conference and shall set forth the date and time, and place thereof. The conference shall be conducted by a representative of the department. The industrial user shall present a plan and schedule for achieving compliance with this article. Nothing contained herein shall require the department to accept or agree to any proposed plan or schedule, or to prevent the department from proceeding with a show cause hearing as set forth in subsection (2) of this section. If the attendees agree upon a compliance schedule, the user and the department's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement. An industrial user must exhibit good faith and expeditious efforts to comply with this article and any procedures, requirements and agreements hereunder.

(ii) *Compliance schedules.* The user and the department may agree upon a schedule which sets forth the terms and conditions, and time periods or schedules for completion of actions to remedy or eliminate the causes of violation. These schedules may be developed as part of a compliance agreement, or an administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:

a. 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 upgraded or additional pretreatment facilities, or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards including, but not limited to, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, and completion construction;

b. No single increment referred to in subsection 1. of this section shall exceed nine (9) months;

c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reason(s) for delay, and the steps being taken by the industrial user to return to the established schedule; and

d. Any deviations from the compliance schedule may result in the industrial user being found in violation of this division.

(*CHAPTER 17, ARTICLE IV, DIVISION 4, SECTION 17-299* cont.)

(iii) *Administrative orders.* The department may order any industrial user, who violates or continues to violate this division or a duly issued permit, to install and to properly operate devices, treatment facilities, or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violation including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction, and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order, which is the result of an agreement, or a unilateral administrative order.

(2) *Show cause hearing.* The department may order any industrial user who violates this division or allows such violation to occur, to show cause before the department why a proposed enforcement action should not be taken. A notice shall be served upon the industrial user specifying the time and place of a hearing before the department regarding the violation, the reason(s) why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the department why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally, or by registered or certified mail with return receipt requested, at least ten (10) days before the hearing. Service may be made upon any agent or officer of a corporation, or its authorized representative.

(i) *Hearing proceeding.* The hearing shall be conducted in accordance with the procedures adopted by the Water Board. A hearings officer shall conduct the show cause hearing and take the evidence, and may:

a. In the name of the Water Board, issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;

b. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the director for action thereon.

(ii) *Transcript.* At any show cause hearing held pursuant to this division, testimony shall be recorded by a court reporter.

(3) *Actions.* After a show cause hearing has been conducted, the hearings officer shall issue an order to the industrial user directing any of the following actions:

(i) Immediate compliance with the industrial user's wastewater discharge permit or with any application limitation, condition, restriction or requirement of this article, or applicable local, state or federal law or regulation;

(ii) Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specific time period;

(iii) Submission of compliance reports on effluent quality and quantity as determined by self-monitoring and analysis during a specified time period;

(iv) Submission of periodic reports on effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;

(v) Control of discharge quantities;

(vi) Payment of costs for reasonable and necessary inspection, monitoring, and administration of the industrial user's activities by the department during compliance effort; and/or

(vii) Any such other orders as are appropriate including, but not limited to, immediate termination of sewer or wastewater treatment services, or revocation of a wastewater discharge permit, or orders directing that following a specified time period sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices, or operation and maintenance practices have been employed.

(viii) A finding the user has demonstrated by a preponderance of the evidence that a violation either of this article or of a duly issued permit, did not occur.

(4) *Public notification of significant noncompliance.* The department shall publish in the largest daily newspaper published in the City of Detroit and the Township a list of all industrial users which were in significant noncompliance with applicable pretreatment requirements at any time during the previous twelve (12) months. All industrial users identified in a proposed publication

shall be provided with a copy of the proposed notice at least thirty (30) days before publication and allowed an opportunity to comment as to its accuracy.

(g) *Legal actions.*

(1) Criminal action: Any user, who violated any provision of this article including the failure to pay any fees, fines, charges, or surcharges imposed hereby, or any condition or limitation of a permit issued pursuant thereto, or who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or wastewater discharge permit, or who tampers with or knowingly rendered inaccurate any monitoring devise required under this division, is guilty of a violation of this division and, upon conviction, shall be punished as provided in Section 1-010(a) of this Code. The department, consistent with the terms and conditions of the delegation agreement entered into with the Township is hereby authorized, through its counsel, to seek prosecution of criminal charges against any person violating any provision of this article.

(2) Civil action: Whenever the department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, a pretreatment standard or requirement or any requirement of this article, the director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and/or to obtain appropriate relief to remedy the violations. The department or Water Board may also seek additional legal and/or equitable relief. The commencement of suit does not constitute an exclusive election of remedies and does not prohibit the department, director, Water Board, City of Detroit or the Township from commencing action in federal court for discharges believed to be in violation of this division, state and federal requirements contained in the Clean Water Act, the City of Detroit's NPDES permit, or other applicable laws or requirements. In addition, the City of Detroit and/or the Township may recover the reasonable attorney fees, court costs, court reports' fees, and other unusual expenses related to enforcement activities or litigation against the person found to have violated this article, or the orders, rules, regulations and permits issued hereunder.

(3) All fines, costs, and penalties which are imposed by any court of competent jurisdiction shall be payable to the City of Detroit Water and Sewerage Department and the Township, where applicable.

(Ord. of 12-9-2002; Ord. of 3-24-2008)

Sec. 17-300. Reconsideration and appeal.

Through the procedures of reconsideration and appeal, a user may contest actions, determinations, or decisions of the department which result from its construction, application and enforcement of this article. The procedures contained within this section govern reconsideration and appeal with respect to construction, application and enforcement of this article.

(a) *Selection of reconsideration or of appeal.*

(1) Except for those actions, determinations, or decisions which are expressly identified as subject only to appeal, reconsideration may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger, who is adversely affected by any action, determination, or decision that is made by, or on behalf of, the department by the director, or an authorized representative, and that interprets, implements or enforces the provisions of this article.

(2) An appeal may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger, who is adversely affected:

a. By a permit issued as final by the department, or

b. By an administrative order entered after a show cause order and hearing, or after a hearing for reconsideration.

(3) Unless otherwise expressly provided for by this article, a request for reconsideration or appeal must be signed by an authorized representative, and received at the department's general officers within twenty (20) days from the date of the occurrence of the action, determination, or decision in dispute. A request for reconsideration shall contain the requester's name and address, a brief statement of the reason(s), and the factual basis underlying the request.

(4) A request for reconsideration shall be filed in triplicate either by hand delivery or by certified mail to the general offices of the department. Where a request for reconsideration or appeal

either is not filed within the time period provided for in this subsection or is improperly made, the action, determination or decision of the director, or the department's authorized representative, is final and any right to reconsideration or appeal may be deemed waived.

(b) *Reconsideration.* Within fifteen (15) days after the receipt of a timely and proper request for reconsideration, the department shall notify the applicant of the time and place for a hearing.

(1) A hearing for reconsideration shall be conducted by a hearings officer who is designated by the director and may be an employee of the department. The decision of the hearings officer shall be in the form of a recommendation to the director and embodied in an administrative order. Except for an administrative consent order that was negotiated and agreed to by both parties, an administrative order is appealable in accordance with subsection (c) of this section.

(2) Where improperly or untimely submitted, the department may reject a request for reconsideration. The department shall notify the requester in writing that the request has been rejected.

(3) Unless the date is mutually extended by both parties, the hearing shall be conducted neither less than ten (10) days nor more than thirty (30) days after mailing of the notice. For cause and at the discretion of the hearings officer, the hearing may be continued for a reasonable time.

(4) The hearing for reconsideration shall be an informal consultation and conference where the requester in person, or by counsel, shall present their argument, evidence, data, and proof in connection with the issue(s) being reconsidered. The parties shall not be bound by the state rules of evidence. The hearing shall be transcribed and the requester may obtain a copy of the hearing transcript, as appropriate, from the department or from the court reporter.

(5) Within thirty (30) days after the close of the hearing, the hearings officer shall issue a final decision which shall contain a recommendation to the director. The hearings officer shall send such decision to the requester by certified mail.

(6) Unless such action is necessary to prevent pass-through, interference or other harm to the POTW, to the public or to the waters of the State, the filing of a request for reconsideration in accordance with this section shall stay the action by the department that is the subject of the hearing for reconsideration.

(c) *Appeal.* Within thirty (30) days after the receipt of a timely and proper request for an appeal, the department shall notify the applicant in writing regarding the time and place for a hearing. The hearing shall be conducted in accordance with procedures set by the Water Board until rules are promulgated pursuant to Section 2-111 of the 1997 Detroit City Charter. In addition:

(1) Any request for an appeal must be made within twenty (20) days of the department's action, determination or decision regarding the request for reconsideration of any permit issued in accordance with this article.

(2) Where a request either is not filed within the time period contained in this subsection or it improperly made, the action, determination or decision of the director, or the department's authorized representative, is final and any right to appeal may be deemed waived. Where untimely or improperly submitted, the department may reject the request for an appeal, and shall notify the requester in writing that such request has been rejected.

(3) The department shall appoint a hearings officer. The hearings officer shall review the evidence, and within fifteen (15) days after the close of the hearing shall issue a written recommendation to uphold, modify or reverse the action, determination, or decision of the department.

(4) The written recommendation of the hearings officer shall be submitted to the Water Board which shall render a final decision within thirty (30) days of its next regularly scheduled meeting.

(5) In accordance with applicable law, the user or the department may appeal any final decision of the Water Board to a court of competent jurisdiction.

(6) Unless such action is necessary to prevent pass through, interference, or other harm to the POTW, to the public or to the waters of the State, the filing of a request for appeal in accordance with this section shall stay the action by the department that is the subject of the appeal.

(Ord. of 12-9-2002)

CHAPTER 17, ARTICLE IV, DIVISION 4, APPENDIX A	
Aluminum forming	40 C.F.R. Part 467

Asbestos manufacturing	40 C.F.R. Part 427
Battery manufacturing	40 C.F.R. Part 461
Builder's paper and board mills	40 C.F.R. Part 431
Canned and preserved fruits/vegetables	40 C.F.R. Part 407
Canned and preserved seafood proc.	40 C.F.R. Part 408
Carbon black manufacturing	40 C.F.R. Part 458
CHAPTER 17, ARTICLE IV, DIVISION 4, APPENDIX A cont.	
Cement manufacturing	40 C.F.R. Part 411
Centralized waste treatment	40 C.F.R. Part 437
Coal mining	40 C.F.R. Part 434
Coil coating	40 C.F.R. Part 465
Copper forming	40 C.F.R. Part 465
Dairy products processing	40 C.F.R. Part 405
Electrical and electronic components I	40 C.F.R. Part 469
Electroplating	40 C.F.R. Part 413
Explosives manufacturing	40 C.F.R. Part 457
Feed lots	40 C.F.R. Part 412
Ferroalloy manufacturing	40 C.F.R. Part 424
Fertilizer manufacturing	40 C.F.R. Part 418
Glass manufacturing	40 C.F.R. Part 426
Grass mills	40 C.F.R. Part 406
Gum and wood chemicals mtg.	40 C.F.R. Part 454
Hospital	40 C.F.R. Part 460
Ink formulating	40 C.F.R. Part 447
Inorganic chemicals manufacture (I & III)	40 C.F.R. Part 415
Iron and steel	40 C.F.R. Part 420
Landfills	40 C.F.R. Part 445
Leather tanning and finishing	40 C.F.R. Part 425
Meat products	40 C.F.R. Part 432
Metal finishing	40 C.F.R. Part 433
Metal molding and casting	40 C.F.R. Part 464
Metal products and machinery	40 C.F.R. Part 438
Mineral mining and processing	40 C.F.R. Part 436
Nonferrous metals forming	40 C.F.R. Part 471
Nonferrous metals mfg. I	40 C.F.R. Part 421

Nonferrous metals mfg. II	40 C.F.R. Part 421
Ore mining and dressing	40 C.F.R. Part 440
Organic chemicals, plastics, and synthetic fibers	40 C.F.R. Part 414
CHAPTER 17, ARTICLE IV, DIVISION 4, APPENDIX A cont.	
Paint formulating	40 C.F.R. Part 446
Paving and roofing material	40 C.F.R. Part 443
Pesticide chemicals	40 C.F.R. Part 455
Petroleum refining	40 C.F.R. Part 419
Pharmaceutical	40 C.F.R. Part 439
Phosphate manufacturing	40 C.F.R. Part 422
Photographic	40 C.F.R. Part 459
Plastics molding and forming	40 C.F.R. Part 463
Porcelain enameling	40 C.F.R. Part 466
Pulp, paper, and paperboard	40 C.F.R. Part 430 & 431
Rubber manufacturing	40 C.F.R. Part 428
Soap and detergent mfg.	40 C.F.R. Part 417
Steam electric	40 C.F.R. Part 423
Sugar processing	40 C.F.R. Part 409
Textile mills	40 C.F.R. Part 410
Timber products	40 C.F.R. Part 429
Transportation equipment cleaning	40 C.F.R. Part 442
Waste combusters	40 C.F.R. Part 444

Chapter 17, Article IV, Division 4, Appendix B

An industrial user may elect, in lieu of the total phenols limitation specified in this article, to substitute specific limitations for each of the eight (8) individual phenolic compounds identified under the total phenols limitation. The following specific limitations, expressed in mg/l, shall be applied in lieu of the total phenols limitation, upon election;

2-Chlorophenol	2.0 mg/l
4-Chlorophenol	2.0 mg/l
4-Chloro-3-methylophenol	1.0 mg/l
2,4-Dichlorophenol	5.5 mg/l
2,4-Dinitrophenol	2.0 mg/l
4-Methylphenol	5.0 mg/l
4-Nitrophenol	15.0 mg/l
Phenol	14.0 mg/l

Following election, the wastewater discharge permit shall be modified to incorporate these substituted parameters and an industrial user shall be responsible for monitoring and reporting compliance with these parameters.

Chapter 17, Article IV, Division 4, Appendix C, Interim Discharge Limitations

No user shall discharge wastewater containing any of the following pollutants in excess of the following interim pollutant discharge limitations:

(a) *Compatible pollutants:*

(1) Any fats, oil or grease (FOG) in concentrations greater than 1,500 mg/l based on an average of all samples collected within a twenty-four-hour period.

(2) Any total suspended solids (TSS) in concentrations greater than 7,500 mg/l.

(3) Any biochemical oxygen demand (BOD) in concentrations greater than 7,500 mg/l.

(4) Any phosphorus (P) in concentrations greater than 250 mg/l.

Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a user's discharge, and in accordance with 40 CFR Part 146.

(b) *Non-compatible pollutants:* Cadmium (Cd) 1.0 mg/l

(Ord. of 12-9-2002; Ord. of 3-24-2008)

Secs. 17-301--17-325. Reserved.

ARTICLE V WATER

Division 1. Generally

Sec. 17-326. Definitions.

In addition to those rules of construction and definitions contained in Sections 1-002, 17-208, and 17-053, 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:

Department of public works *or* ***DPW*** means the department of the Township encompassing the operation of the water and sewage division or department and the public works division or department.

Main and water main means those pipes, other than supply pipes and services pipes, used for conveying or distributing water.

Multiple occupancy means a structure or building containing separated units of occupancy where there are two (2) or more such separate occupants, users or residents, each of which has access to municipal water supplied to the structure or building.

Premises means the particular property connected to the system and includes appurtenant land and improvements.

Service pipe means that portion of the water pipe extending from the supply pipe from the point of the private property line into the building or structure being served with water, and shall include the water meter attached to the service pipe.

Supply pipe means a pipe tapped into a main and extending thence to and including the curb cock or valve at the property line.

Unit means that measure of potential water consumption equal to the quantity ordinarily consumed by occupants of a residence of a single family of average size. The number of units assigned to any premises or type of premises by the Township Board is designed to represent the potential water consumption thereof as a multiple of the quantity ordinarily consumed by occupancy of a residence by a single family of average size as determined from time to time by the Township Board.

Water department mean collectively those officials, employees and agents of the Township invested by the Township Board with authority over the system.

Waterford Water Supply System, water system and system mean collectively all plants, work, properties and instrumentalities, as the same shall from time to time exist, which are used or useful in connection with the obtaining of a water supply, the treatment of water, and/or the distribution of water by the Township.

(Comp. Ords. 1986, §§ 26.001--26.010; Ord. of 2-28-2005; Ord. of 11-26-2007)

(*CHAPTER 17, ARTICLE V, DIVISION 1 cont.*)

Sec. 17-327. Organization and management.

(a) In pursuance of and within the limits of applicable laws and the contract with the County, dated November 1, 1963, the operation, management, maintenance and repair of the system, including collection and disposition of the revenues thereof, shall be under the immediate supervision and control of the Public Works Official.

(b) All officers, employees and agents of the Township Board, insofar as their functions pertain to the system, shall be held strictly accountable for performance of the powers and duties delegated to them, and shall not vary from or exceed the authority conferred upon them.

(c) The Township Treasurer, in conjunction with the Public Works Official, shall consolidate all separate bank accounts and funds existing as of June 24, 1991, into a single bank account and fund to be managed by the Township Treasurer in accordance with the requirements of this article and with existing agreements with the County.

(Comp. Ords. 1986, §§ 26.021--26.023; Ord. of 6-24-1991)

Sec. 17-328. Extension of mains.

(a) Extension of or changes in water mains may be initiated by the Township Board or by petition from property owners. Petitions for the construction of new mains shall be addressed to the Township Board upon blank forms provided for that purpose. The Township Board may refuse to grant, or may grant the same, and may prescribe the terms and conditions upon which the petition will be granted and may require the written acceptance of such terms and conditions by the petitioners. If the petition be granted, the Township Board will proceed as promptly as practical with the proposed work under the terms and conditions named. The work will be done at the expense of the property owners unless otherwise stipulated, and any and all extensions shall be subject to the provisions of this article.

(b) The water mains of such system are under the exclusive control of the Township Board and all persons other than agents and employees of the Township Board are forbidden to disturb, tap, change, obstruct access to or interfere with them in any way.

(c) Any person installing mains at their own expense shall first submit complete plans and specifications, prepared by a registered civil engineer, for such work, to the Township Engineer and the Public Works Official for review and approval.

(d) Any person whose property lies outside of the Township desiring to connect to the water system will be subject to one and one-half (1 ½) times the normal connection fees and one and one-half (1 ½) times the normal quarterly billing rate. Such parties outside the Township interested in connecting to the water system shall provide a letter of no objection from the local governing body within which the building or property is located. The proposed connection shall thereafter be submitted to the Township Board by the Public Works Official for review and decision by the Township Board, in its sole discretion.

(e) If a builder or developer undertakes to install water mains in new construction projects, which mains shall become part of the water system of the Township, the capital charge assessable for such waterlines shall be reduced by fifty (50) percent of the effective rate or charge.

(f) All new construction of water main shall be served by a double source of water supply ("looped main") in accordance with the Township engineering Standards, or shall be designed so as to be served by a double source of water supply when adjacent properties are developed. Where water mains have previously been provided to the property limits of adjoining developments, they shall be extended by the Developer in like size, or larger as required, either to a circulating water main of at least equal size, or to the property limits of the present proposed development.

(g) Terminal dead-end water mains with water service connections are discouraged, and will not be allowed without the written approval of the Public Works Official. This approval will only be granted if supporting data indicating that the "average day demand" for the proposed main will result in a complete turnover of the water in the dead-end main within a 24-hour period; and that the proposed dead-end main size and length is in accordance with the Township Engineering

(*CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-328 cont.*)

Standards. All dead-end water mains shall terminate with a complete fire hydrant assembly and such fire hydrant assembly shall be the only fire hydrant assembly allowed on the dead-end main.

(Comp. Ords. 1986, §§ 26.031--26.033; Ord. of 6-24-1991)

Sec. 17-329. Service pipes and supply pipe connections.

(a) Before any connection shall be made to any water main, application for same shall be made in writing to the water department by the owner on the premises to be served and a tapping permit secured. Such applications shall be made on forms provided by the water department. The owner, user, and/or applicant for a water tapping permit by such application impliedly agrees to abide by all rules and regulations of the water department in all respects, but more especially with those regarding the responsibility for the payment of water and/or sewer billings.

(b) All supply and service pipes shall be of type "K" copper or polyethylene plastic pipe of size and quality as approved by the water department. All fittings and connections, underground, shall be approved by the water department.

(c) No water shall be passed through any service pipe, as defined herein, unless the installation of said pipe(s) is in conformance with the Code of Ordinances or other applicable regulations and has been installed under the supervision and inspection of Township staff or their designated representative. For each service pipe installed after January 1, 2008, only one (1) domestic master meter may be installed. Such meter can be installed inside the premises, or in a meter pit for commercial applications.

Any proposed connection through which water may pass from one (1) property or premise to another, or within multiple occupancies, shall be only as set forth in Section 17-344, or as may be specially approved by the director.

(d) Excessive or unnecessary use or waste of water, whether caused by carelessness or by defective or leaky plumbing or fixtures, is strictly prohibited. For disregard of, or repeated violation of this requirement, the water may be turned off by the water department.

(e) Service pipes shall be the responsibility of a licensed plumber, or a homeowner exercising his constitutional privilege as provided in Section 141 of the state plumbing code, and all the fixtures and attachments put in on the premises in connection therewith, must conform to character, design and quality to the laws of the state and the state plumbing code as adopted by the Township Board.

(f) All service pipes shall enter the building under the foundation with a minimum of five (5) feet of cover in yard areas, six (6) feet of cover in all drive and parking areas. All depths shall be measured from finish grade. Installation must be inspected before backfill by an inspector from the Township. No new connection will be made until written approval by the Township inspector is given to the DPW. A distance of ten (10) feet from all sewer or septic lines shall be maintained where possible.

(g) An approved valve the same size as the meter connections shall be placed on the service pipe on both sides of the meter. Such valves shall be equal to the service cock.

(h) No supply pipe of less than one-inch copper tube size is permitted. Supply pipes of larger size shall be determined by the water department.

(i) The charges for installation of supply pipes, supply lines in excess of one hundred (100) feet, and meters, referred to as "tapping charge," shall incur the fee(s) for installation as established in accordance with Section 17-001 of this Chapter.

(1) All new meter installations shall have a remote reading system as furnished by the DPW.

(2) For larger sizes than listed above, the charge shall be the actual cost of installation plus twenty-five (25) percent thereof. Upon receipt of the application for service requiring such larger sizes, an inspection of the premises shall be conducted in accordance with the procedures established by the Public Works Official and, unless service is rejected for cause, the applicant will be required to deposit with the Public Works Official an amount which, in the judgment of the Public Works Official is sufficient to cover the charge therefor. The DPW will then complete the installation and will keep or cause to be kept a detailed record of the cost, including labor and materials, and will add thereto the twenty-five (25) percent surcharge to cover the cost of administration, depreciation of equipment, and other related costs and expenses. If the deposit

(*CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-329 cont.*)

exceeds such total charge, the excess will be refunded, but if the total charge exceeds the deposit, the balance shall be paid by the applicant before service is commenced.

(j) At the time application is made for a water service connection to a building under construction, applicant must pay a flat rate for water usage as determined by the Public Works Official. Such fee for construction water shall entitle the applicant to water for construction purposes for a period of not more than three (3) months. Where water is provided, without a meter, for construction of a building, any wasting of water, whether caused by carelessness or by defective fixtures is strictly prohibited. For disregard of, or repeated violation of this requirement, the water may be turned off by the water department. The water service shall not be turned on again until an agreement is reached between the parties involved.

(k) No supply pipe shall be installed when the service pipe is in line with a driveway, tree, fire hydrant, catchbasin or other obstruction.

(l) All supply pipes from the main to the lot line shall be put in only by properly authorized employees of the water department. Before receiving a permit for a service connection, there must be paid such a sum, as required, to cover the expense of furnishing and installing the supply pipe, curbstop, stop box and meter.

(m) The water supply pipe, from the main to the property line, shall be maintained by the DPW, but this clause shall not apply to old services installed by private parties, i.e., Venice of the Lakes. The service pipe from the property line to the premises shall be considered private plumbing and be maintained by the owner of the premises. Failure to keep the service line in good repair will result in discontinuance of service.

(n) No person shall interfere in any way with the supply pipe installed by the DPW. No person is permitted to turn water on or off at the curbstop except for the purpose of testing his work, in which case the curbstop shall be left in the same condition and position as he found it.

(o) All Township water used on any premises where a meter is installed must pass through the meter. No bypassing of the meter will be permitted except as provided in Section 17-340.

(p) The water distribution system and plumbing fixtures of any new building or structure, and existing building or structure for which potable water was provided by a private well or water source that has failed or is no longer available, shall be connected to the Waterford Water Supply System if available at the property line of the premises upon which the building or structure is located and the connection can be provided at a cost that does not unreasonably exceed the cost to install or secure a well or other private source of potable water as determined by the Public Works Official.

(Comp. Ords. 1986, §§ 26.041--26.055; Ord. of 6-24-1991; Ord. of 12-11-1995; Ord. of 11-26-2007)

Sec. 17-330. Use of water restricted.

(a) No steam boiler shall be directly connected to the water service pipe. The owner shall provide a tank of sufficient capacity to afford a supply for at least ten (10) hours, into which the service pipe shall discharge.

(b) No person shall take or use water from premises other than his own, or of which he has possession.

(c) In cases where multiple occupancies are served by a single meter, the owner or entity contracting for service under that meter shall be responsible for payment of the water provided to that metered structure.

In existing multiple meter installations, no master meter will be allowed unless said master meter is maintained and read by the department of public work staff, and the multiple meters are read by the owners.

(d) Where a building, originally built as a single building or premises and fitted with one (1) service pipe, but capable of being divided by sale or otherwise, has been or may be hereafter subdivided and each subdivided section of the building shall be separately owned, the

(*CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-330 cont.*)

separate division so made must be connected to the main by separate service pipes no later than thirty (30) days after such division.

(e) In cases where water service has been terminated to a premise by an authorized agent or employee of the DPW, only such DPW personnel shall turn the water back on again. Any unauthorized resumption of water service shall be reversed by DPW personnel, and the cost and expense, in personnel time, equipment use and materials of the DPW shall be a charge upon the property, and collectible as a lien upon the property under the provisions of Section 17-349, and under the cost recovery provisions in the Waterford Code of Ordinances (Sections 16-300--16-306).

(f) It is a violation of this section for any interference or obstruction with a curb cock, valve or fixture connected with the system, including but not limited to the placing in, on or about it, building materials, rubbish, soil, shrubbery, flowers or other hindrances to easy and free access thereto.

(Comp. Ords. 1986, §§ 26.061--26.066; Ord. of 12-11-1995; Ord. of 2-28-2005; Ord. of 11-26-2007)

Sec. 17-331. Cross connections prohibited--Generally.

All cross connections between any type of water supply and municipal water supply are strictly prohibited. In the event a cross connection is discovered the water will be turned off at the curb cock until the cross connection is severed. No direct connection of any type to a sewer line shall be allowed.

(Comp. Ords. 1986, § 26.067)

Sec. 17-332. Water supply cross connection provisions; state regulations adopted.

(a) *Title.* This section shall be known and cited as the "Waterford (Charter) Township Water Supply Cross Connection Ordinance."

(b) *Purpose.* The purpose of this section shall be:

(1) To adopt by reference the water supply cross connection rules of the Michigan Department of Environmental Quality (MDEQ).

(2) To provide for inspection of water supply cross connection within the Township;

(3) To provide penalties for any and all violations of this section.

(c) *Adoption by reference*. The Michigan Department of Environment Quality (MDEQ) water supply cross connection rules, as contained in R325.11401 through R325.11407 of the Michigan Administrative Code, are hereby adopted by reference. Copies of these water supply cross connection rules shall be maintained on file at the office of the Township Clerk, and shall be available for public inspection.

(d) *Inspection.* The Public Works Official is hereby authorized and directed to cause inspections to be made of all properties served by the public water supply system where cross connections with the public water supply system are deemed possible. The frequency of inspections and re-inspections shall be based on potential health hazards and shall be as established by the Public Works Official and approved by the S.E.A.

(e) *Right of entry for inspection.* DPW employees, and its authorized contractors, shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply system of the Township for the purpose of inspecting the piping system or systems thereof to investigate potential cross connections. The owner, lessees or occupants of any property so served shall, on request, furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal to provide such information or the refusal of access to property, when requested, shall be deemed evidence of the presence of cross connections.

(f) *Discontinuance of service.* The DPW is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. The water service to such

property shall not be restored until any cross connection has been eliminated in compliance with the provisions of this section. The cost and expense to the DPW for investigating, terminating, and/or resuming water service, in personal time, equipment use and materials shall be a charge upon the property, and collectible as a lien upon the property under the provisions of Section 17-349.

(g) *Protection from contamination.* The potable water supply made available on any property served by the public water supply system of the Township shall be protected from possible contamination in accordance with the provisions of this section, the rules of the MDEQ or successor S.E.A., and the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system shall be labeled in a conspicuous manner as: Water Unsafe for Drinking.

(h) To insure backflow prevention assemblies are maintained in proper working order, all such assemblies, as listed in the state plumbing code, shall be tested at the following times:

(1) Upon initial installation;
(2) Immediately following repairs or relocation;
(3) Within a year following installation, repair or relocation, and annually thereafter.

Such testing shall be done in accordance with the MDEQ or successor S.E.A. requirements and the state plumbing code. Only individuals that are approved and state-certified shall be qualified to perform such testing. Such qualified individual(s) shall certify the results of his/her testing. It is the property owner's primary responsibility for arranging and completing the testing of backflow prevention assemblies, including the furnishing of tests results to the DPW upon demand, and paying all expenses in connection therewith.

(i) *Penalties.* Any persons or customer found guilty of violating any of the provisions of this section, or any written order of the water department, which is issued in pursuance thereof, shall be punished in accordance with Section 1-010(b) of this Code.

(Comp. Ords. 1986, §§ 26.161--26.185; Ord. of 2-28-2005; Ord. of 7-14-2008)

Sec. 17-333. Air conditioning units.

Only approved water conserving type air conditioning units will be allowed. An approved water conserving type shall be one (1):

(a) Which is equipped with cooling tower, atmospheric condenser, spray pond or other equipment which shall directly or indirectly cool refrigerant.

(b) Which can use water from the Township water system only for makeup water to replace water lost by evaporation or by flushing of the equipment.

(c) Which uses an average of less than twelve (12) gallons of water from the Township water system per hour per ton of cooling capacity when the unit is operating.

(d) Which has no piping connection to allow operation of the air-conditioning unit by direct use of water from the Township water system either in conjunction with or in place of such cooling tower, atmospheric condenser, spray pond or other recirculating and heat-exchanging equipment.

(Comp. Ords. 1986, § 26.068)

Sec. 17-334. Water scarcity regulations.

(a) Whenever the unrestricted use of water from the Township water supply system would, in the opinion of the Township Supervisor, or Supervisor's designee, endanger or be likely to endanger the health or safety of its citizens, the Township Supervisor, or Supervisor's designee, may declare a water usage emergency and impose such restrictions on the use of water from public and private sources as may be reasonably necessary.

(b) During a period of water usage restriction, the use of water from private wells for purposes other than for drinking and for sanitary purposes is hereby declared to be a matter of public concern, affecting the public health, safety and welfare.

(c) Whenever in the discretion of the Township Supervisor, or Supervisor's designee, the imposition of lawn sprinkling or surface watering restrictions or bans becomes necessary, and the difficulties of

(*CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-334* cont.)

enforcement of such restrictions require it, lawn sprinkling and surface use of water from the Township water supply system and private wells may be restricted or prohibited.

(d) Regulations imposed hereunder shall be for the purpose of restricting less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for firefighting.

(e) No declaration as provided in this section shall be effective until twenty-four (24) hours after the publication thereof in a newspaper of general circulation in the Township.

(f) Any persons violating any of the provisions of a water restriction regulation shall be subject to the following:

(1) Upon conviction thereof, by subject to the penalties as provided in Section 1-010 of this Code.

(2) Termination of water service to their property turned off by the water department as provided in subsection 17-329(d) and Section 13-351.

(3) Liable to re-payment to the DPW for the cost and expense to the DPW for investigating and enforcing this section in personnel time, equipment used and materials, and such cost shall be a charge upon the property and collectible as a lien upon the property under the provisions of Section 17-349, and shall be a debt to the Township from all responsible persons or entities under the cost recovery provisions in this Code (Sections 16-300 to 16-306).

(g) The Township Board shall have full authority to review and revise any water regulations or declarations issued under this section.

(Comp. Ords. 1986, § 26.069; Ord. of 7-25-1988, § 1.00; Ord. of 2-28-2005)

Sec. 17-335. Fire hydrants.

(a) Fire hydrants are provided for the use of the Fire Department and DPW of the Township or by such persons as may be specifically authorized by the Public Works Official.

(b) No person shall open or cause to be opened any fire hydrant, without first securing a permit to use a fire hydrant, at the DPW office. A deposit in such amount as established by the Public Works Official from time to time will be required. Such person must report to the Public Works Official when such use is terminated, at which time a hydrant inspection will be made and an inspection charge of such amount as established by the Public Works Official from time to time, the cost of the estimated amount of water used, and the cost of repairing the hydrant, if any, shall be deducted from the deposit and the difference (if any) refunded to the depositor. If the deposit is insufficient to cover such costs, the permit holder shall pay the deficit.

(c) The Public Works Official must approve the type, size of openings, and types of nozzle thread on all hydrants installed on private property serviced by Township water.

(d) No person shall in any manner obstruct or prevent free access to, or place or store temporarily, any object, material, snow, debris, vehicle, or structure of any kind within a distance of twenty (20) feet of any hydrant. Any such obstruction when discovered shall be subject to summary removal at the discretion of the Public Works Official. The cost and expenses thereof in personnel time, equipment used and material shall be debt to the DPW from all responsible persons or entitles under the cost recovery provisions of this Code (Sections 16-300 to 16-306).

(e) Hydrants are located within the road right-of-way or easement and any person desiring to have a hydrant moved to another location shall bear the complete cost of moving such hydrant.

(Comp. Ords. 1986, §§ 26.071--26.075; Ord. of 6-24-1991; Ord. of 2-28-2005; Ord. of 11-26-2007)

Sec. 17-336. Pipes provided for fire protection.

Where pipes are provided for fire protection in any premises or where hose connections for fire apparatus are provided on any pipe, each connection or opening on such pipes shall have not less than twenty-five (25) feet of firehose constantly attached thereto, and no water shall be taken or

(*CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-336 cont.*)

used through such openings or hose for any purpose other than for extinguishing fires, except for the purpose of testing such fire equipment. In such case the test must be conducted under a special permit and under the supervision of the water department.

(Comp. Ords. 1986, § 26.076)

Sec. 17-337. Quarterly charges.

Each premises to or for which a separate unmetered fire line connection is provided for sprinkler or hydrant service shall pay therefor a quarterly charge in such amount as established in accordance with Section 17-001 of this Chapter.

(Comp. Ords. 1986, § 26.077; Ord. of 12-11-1995)

Sec. 17-338. Annual rate charge.

The Township shall pay for all water used by it at the established rates for each hydrant connected to the system. Such rental may be paid in equal quarterly installments.

(Comp. Ords. 1986, § 26.078)

Sec. 17-339. Firelines; standby.

All standby firelines shall have an approved detector check installed, which shall have provisions for a five-eighths-inch by three-fourths-inch meter on the bypass. The required meter must be purchased from the water department. No domestic service shall be allowed on a standby fireline.

(Comp. Ords. 1986, § 26.079)

Sec. 17-340. Water meters.

(a) All service connections, except separate fire connections, shall be metered and shall be billed for water at the rate established by the Township Board. In no case will water be supplied, except for temporary use with water department approval, at other than the established water rate.

(b) The supply pipe and meter, installation charge for which provision is made in subsection 17-329(i) shall include the cost of the water meter assembly furnished by the DPW and the installation thereof, but such meter shall remain the property of the DPW and will at all times remain under its control. The meter couplings or flanges will be furnished by the DPW.

The Township shall have the option, for premises with metered water at the time of adoption of this provision, to install alternate or auxiliary meter-reading devices on the exterior of the structure enabling the water department staff to remotely read the water meter settings, without cost to the user. In the event the owner or occupant of a premises with existing service cannot or will not provide, or allow the placement of such remotely read equipment at a location on the exterior of the structure which allows for reasonable access and accommodation by DPW staff, then the DPW reserves the right assess a charge for an alternate installation, and to assess a reoccurring fee for meter reading each billing cycle, with all the extra expense and cost thereof to be collected from the owner under the provisions of Section 17-349.

The maintenance of the meter will be the obligation of the DPW provided, that where replacements, repairs or adjustments of the meter are made necessary by acts of misuse, neglect, tampering, or damage, including the exposure to cold or hot water, by the owner or occupant of any premises, the cost and expense to the DPW in personnel time, equipment and materials for inspections, investigation, monitoring and the repairs or replacements shall be a charge against the property, and be collectible as a lien upon the property under the provisions of Section 17-349 and shall be a debt to the Township by all responsible persons or entities under the cost recovery provisions (Sections 16-300 to 16-306).

(c) All meters shall be set in dry, clean, sanitary places, easily accessible within the house or structure, no less than twelve (12) inches from floor level or more than twenty-four (24) inches from floor level, with a minimum of six (6) inches from any wall, twelve (12) inches

(*CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-340* cont.)

from top, for reading purposes, to an immovable object, with an approved valve on both sides of the meter, and where a small leak or the spilling of water will not create a hazard or nuisance.

(d) All services one and one-half-inch and larger shall have a "dresser" type coupling installed on the discharge side of the meter. All services one and one-half-inch and larger shall also have a tee between the meter and outlet valve, to be used for testing the water meter without its removal. The size of the opening of this tee shall be one and one-half inch for one and one-half inch service pipes, two inch for all service pipes up to and including four inch, and three inch for all larger service pipes; the side opening of such tee shall be plugged.

(e) If a meter fails to function or to register, the consumer will be charged at the average quarterly consumption, as shown by the meter when in order. The accuracy of any meter installed in any premises will be tested by the DPW upon request of the customer, who shall pay in advance a fee of such amount as established by the Public Works Official from time to time to cover the cost of the test. If, on such test, the meter shall be found to register over five (5) percent more water than actually passes through it, another meter will be installed and the testing fee will be refunded to the customer, and the water bill may be adjusted as hereinafter provided.

(f) It is a violation of this ordinance to interfere with or tamper with a water meter in service, including but not limited to breaking or removing any seal on the by pass valves or meter, or to move a water meter from any service connection, or diverting water around or by passing the meter, or any other acts which disable or render the meter inaccurate.

In the event the Township determines a meter to be damaged, or not properly functioning, through no fault of the DPW or its agents or employees, the meter will be replaced by the DPW at the expense of the owner or occupant of the premises. The cost and expense thereof shall be a charge against the property, and a lien thereon, collectible under Section 17-349, and shall be a debt to the Township by all responsible persons or entities under the cost recovery provisions of the Waterford Code of Ordinances (Sections 16-300 to 16-306).

(Comp. Ords. 1986, §§ 26.081--26.083, 26.085--26.088; Ord. of 6-24-1991; Ord. of 2-28-2005)

Sec. 17-341. Inspection and inspectors.

(a) DPW agents and employees whose duty is to enter upon private premises to make inspection and examination of the pipes, fixtures or attachments used in connection with the water supply will be provided with a badge or such other credentials to identifying them as authorized agents of the DPW. No such person shall be entitled to enter upon any private premises unless such person carries and exhibits such badge or credentials. It is a violation of this code for unauthorized persons to pose as agents or employees of the DPW in an attempt to gain entry to any premise.

(b) Any agent or employee of the DPW shall, upon the presentation of the badge or other credentials provided for in subsection (a) above, have free access at all reasonable hours to any premises supplied with water for the purpose of making any inspection thereof, including the examination of the entire water supply and plumbing system upon such premises. No person shall refuse to admit any authorized inspector, for any such purpose. In case any authorized employee refused admittance to any premises, or being admitted shall be hindered or prevented in making such examination, the Township Supervisor, or his designate, may order water service terminated from such premises, after giving twenty-four (24) hours' notice to the owner or occupant of such premises.

(Comp. Ords. 1986, §§ 26.091--26.093; Ord. of 2-28-2005)

(*CHAPTER 17, ARTICLE V, DIVISION 1 cont.*)

Sec. 17-342. Water consumption rates.

Quarterly water bills shall be computed on the basis of meter size, which charge shall permit quarterly usage of a specified quantity of water without further charge, such charges and quantities to be in such amounts as established in accordance with Section 17-001 of this Chapter.

(Comp. Ords. 1986, § 26.101)

Sec. 17-343. Minimum quarterly charge.

A minimum quarterly charge shall be made to each premises connected to the system. In the event the service is discontinued, such charge shall not be applicable.

(Comp. Ords. 1986, § 26.102)

Sec. 17-344. Multiple occupancies; minimum quarterly charge.

(a) All applications filed with the department of public works for water service after December 31, 2007 to new commercial development with multiple occupancies shall have one (1) service line and meter for each separate building structure, except in cases of commercial services that require a compound meter.

(b) All residential developments constructed as attached condominiums of multiple occupancies shall be served by a separate supply pipe, service pipe, and meter to each such dwelling unit or occupancy.

(c) All residential developments constructed as rental units of multiple occupancies shall be served by one (1) service pipe and meter for each separate building or structure.

(d) In cases where a landscape sprinkling system is in place, for use of water solely for that purpose, a separate meter may be installed for service on that water line, subject to the rules of the department and the ordinances.

(e) In cases of premises served by one (1) service line and meter, there shall be a quarterly or other periodic charge of such amount as established by the Township Board from time to time.

(Comp. Ords. 1986, § 26.103; Ord. of 11-26-2007)

Sec. 17-345. Consumption in excess of minimum charge.

Should more water be consumed by any premises in a quarter than the quantity permitted for the minimum charge as specified in Section 17-342 then an additional water consumption charge of such amount as established in accordance with Section 17-001 of this Chapter shall be made for all water consumed in excess of those specified quantities.

(Comp. Ords. 1986, § 26.104)

Sec. 17-346. Capital equalization charges.

Each premises connecting to any of the Township water mains shall pay a capital equalization charge, in accordance with this division.

(Comp. Ords. 1986, § 26.111)

Sec. 17-347. Method of payment.

(a) Owners or occupants of existing structures requiring water service, upon being directly connected to water mains, shall pay a capital equalization charge computed upon the basis of meter size, in such amounts as established in accordance with Section 17-001 of this Chapter. If the owner elects to pay such charge in full, full payment shall be made prior to issuance of the permit.

(1) The owner may elect to defer the payment of such charge over forty (40) quarterly installments and in that event shall pay the required down payment prior to the issuance of the permit. The principal balance shall be payable in thirty-nine (39) quarterly installments plus interest on the unpaid balance at six and five-tenths (6.5) percent compounded annually in accordance with the schedule as adopted by the Township Board. In order to qualify for the deferral and installment payment method, the titleholder, and land contract vendee, if any, shall execute an installment

(*CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-347 cont.*)

payment agreement and lien form on the premises which shall be recorded with the Oakland County Register of Deeds.

(2) Any owner electing the deferred payment plan may, at any regular payment date, prepay additional principal payments in numerical order without interest as indicated on the applicable payment schedule. The complete principal balance may be paid at any time with accumulated monthly interest from the last payment date.

(b) Premises upon which residential or other water-using buildings or structures are hereafter constructed, upon being directly connected to water mains, shall pay prior to issuance of the permit a capital equalization charge established in accordance with Section 17-001 of this Chapter.

(c) Premises connected to water mains hereafter financed by land developers or property owners by special assessment or otherwise shall pay, prior to issuance of the permit, a capital equalization charge established in accordance with Section 17-001 of this Chapter.

(Comp. Ords. 1986, §§ 26.112--26.114; Ord. of 12-11-1995; Ord. of 2-28-2005)

Sec. 17-348. Bills; quarterly; delinquent; penalties.

Rates and charges shall be billed and collected at least quarterly, as determined by resolution of the Township Board. Failure to receive a bill shall not excuse failure to pay the bill when due. Bills shall be due and payable, without discount, at such time as the Township Board will determine, but not more than thirty (30) days after rendered, and such due date shall be indicated on the face of each bill. If any bill is not paid when due, a penalty of five (5) percent shall be added thereto. If a bill is not paid within thirty (30) days after due date, a shutoff notice may be sent to the premises by certified mail, or by posting on the structure and if the bill is not paid within the time states in the notice (which shall not be more than an additional thirty (30 days) then all water service to the premises may be discontinued.

Before water service is restored, an additional fee and penalty shall be chargeable to the property to reimburse the DPW for costs and expenses in personnel time, equipment used and materials, as determined by the Public Works Official. Such additional fees and costs shall be payable before service is restored.

(Comp. Ords. 1986, § 26.121; Ord. of 6-29-1991; Ord. of 2-28-2005)

Sec. 17-349. Delinquent charges for services, cost recovery; lien on premises; collected on taxes.

Except as provided in Section 17-173(b), all charges for services, fees, cost reimbursement provisions and penalties, as provided for in this chapter shall be a lien on the premises served as set forth herein. Any charges which, on August 15 of each year, have been delinquent for ninety (90) days or more shall be transferred to the next Township tax roll against the premises served, plus a surcharge of ten (10) percent to cover certain administrative expenses of the Township, which sums shall be collected and such lien enforced in the same manner provided in respect to Township taxes assessed on such roll under the general property tax law.

(Comp. Ords. 1986, § 26.122; Ord. of 2-28-2005)

Sec. 17-350. Emergency termination of service.

(a) In the event the DPW determines that, for reasons of system malfunction or other disruption to a portion of the water system, it is necessary to shut off water service to any users of the system to make repairs, or finalize construction, the Public Works Official shall endeavor to furnish prompt and timely notice to all affected users. The department shall attempt to minimize the loss of service necessitated by such events.

(b) Whenever notice is required to be given hereunder, the same may be given, either by personal service of a notice in writing to the person to be notified; or by sending an employee of the DPW to the premises with a written or printed notice, which shall be served on the person to be notified or in case it is impossible to make such service at that time, the same may be posted in some conspicuous place on the premises; or by enclosing a copy thereof in an envelope with postage

(*CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-350 cont.*)

prepaid, plainly addressed to the person to be notified, at the post office or residence address of such person, as the same appears on the books of the Township,

and depositing the same in any United States Post Office; such notice so given shall be conclusively deemed to have been given at the time of such depositing.

(c) Any person violating any of the provisions of this division, upon conviction thereof, shall be punished as provided in Section 1-010 of this Code.

(Comp. Ords. 1986, §§ 26.131, 26.132, 26.134; Ord. of 6-24-1991; Ord. of 2-28-2005)

Sec. 17-351. Termination of service; by-pass or tampering with meter.

In addition to the powers granted to the Public Works Official in this chapter, the Public Works Official is empowered to impose additional requirements and conditions, including termination of service, to persons who have repeatedly deliberately by-passed or interfered with the function of the water meter in order to defraud the Township of payment for water.

In such cases where, on more than one (1) occasion within the previous three (3) years, inspections of the water-metering facilities and apparatuses of a premise convincingly demonstrates that the owner or occupant has deliberately by-passed or interfered with the proper function of the meter, the Public Works Official may do one (1) or more of the following:

(a) Confiscate the meter and replace it at the owner's expense;
(b) Install a data-logger on the meter, at the owner's expense;
(c) Require regular, frequent and/or unannounced inspections of the meter and by-pass valves.
(d) Back-charge the premises on the basis of average usage for the period of time the metered usage was abnormally low.
(e) Terminate water service to the premises upon fourteen (14) days written notice by first class mail and posting on the property.

In the event any owner or occupant is aggrieved by a termination of service under this section, such person(s) may apply to the Township Clerk, in writing, stating the reasons and grounds therefore, for a hearing before the Township Board. The Board shall set a date for a hearing at a regularly scheduled meeting to determine if water service should be resumed, and under what circumstances. The Board shall request a report and recommendation from the Public Works Official, prior to the hearing. Any action of the Board shall be by vote in open session. Thereafter, the Public Works Official shall resume all authority over the administration of water service to the property. In the event that a service line is to be permanently terminated or disconnected from the public water supply system, the physical termination of the service is to be performed by the DPW. Temporary disconnections shall be performed per the township standard details, and shall be coordinated with the DPW so that DPW staff may witness the termination.

(Ord. of 2-28-2005)

Secs. 17-352--17-365. Reserved.

Division 2. Supply Wells

Sec. 17-366. Maintaining, etc., possible contamination sources.

It shall be unlawful for any person to construct or maintain, or permit to be constructed or maintained, within a radius of two hundred (200) feet from any of the municipal water wells within the Township from which the Township draws its water supplies, any source of possible contamination or pollution to such wells.

(Comp. Ords. 1986, § 26.151)

Sec. 17-367. Contaminating prohibited.

It shall be unlawful for any person to do any act, or to allow to be done any act, that may contaminate or pollute or contribute to the contamination or pollution of the water supply wells or water system of the Township.

(Comp. Ords. 1986, § 26.152)

(*CHAPTER 17, ARTICLE V, DIVISION 2 cont.*)

Sec. 17-368. Penalty.

Any person violating any of the provisions of this division shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1-010 of this Code.

(Comp. Ords. 1986, § 26.153)

CHAPTER 18 ELECTRIC AND GAS SUPPLY FRANCHISE ORDINANCE

***Editor's note:** The 2014 ordinance recodification amended the Code repealing Appendix B and transferred the Electric and Gas Supply Franchise Ordinance from Part II of Appendix B to Chapter18.*

Art. I. General, §§ 18-001—18-005 ..... Pages 18-1 through 18-2
Art. II. Franchise Application Requirements and Process, §§ 18-011—18-014 ..... Pages 18-2 through 18-3
Art. III. General Franchise Terms and Conditions, §§ 18-021—18-039 ..... Pages 18-3 through 18-6
Art. IV. Franchise Terms and Renewals, §§ 18-041—18-042 ..... Page 18-6
Art. V. Violations and Penalties, §§ 18-051—18-055 ..... Pages 18-6 through 18-7
Art. VI. Miscellaneous, §§ 18-061—18-065 ..... Page 18-7

ARTICLE I GENERAL

Sec. 18-001. Short title.

This ordinance shall be known and may be cited as the "Charter Township of Waterford Electric and Gas Supply Franchise Ordinance."

(Ord. of 6-26-2000)

Sec. 18-002. Purpose and findings.

(a) Pursuant to Section 29 of Article 7 of the Michigan Constitution of 1963, use of the highways, streets, alleys and other public places for operation of a public utility requires the consent of the Township and the transaction of local business in the Township by a public utility requires that a franchise first be obtained. This ordinance is adopted for the purpose of confirming and providing the process, terms and conditions for suppliers of electricity and natural gas to obtain the required consents and franchises and to fully exercise the Township's constitutional authority which includes the reasonable control of its highways, streets, alleys and public places.

(b) As a result of regulatory changes that have or may occur, and interpretations of existing laws, at the state and federal levels, specifically including the Michigan Public Service Commission (Deregulation), the persons that may be authorized to supply electricity and natural gas to customers in the Township are no longer limited to the public utility that owns and operates the facilities used to deliver electricity and natural gas to customers. This ordinance is adopted in recognition of the deregulation which has and may continue to occur, with the intent and purpose of confirming that all persons supplying electricity or natural gas to customers in the Township are required to have a franchise as provided in this ordinance, regardless of whether it is required as a condition of state or federal regulatory permits, approvals or certificates.

(c) The Township will incur costs and expenses in reviewing and acting on franchise requests, and upon granting a franchise, monitoring and enforcing its terms and conditions, the Township and such costs and expenses should be paid by franchise applicants and holders as provided in this ordinance.

(Ord. of 6-26-2000)

(*CHAPTER 18, ARTICLE I cont.*)

Sec. 18-003. Definitions.

When used in this ordinance, the following words, terms and phrases shall have the meanings indicated.

Clerk means the Township Clerk.

Customer means a residential, commercial or industrial end-user of electricity or natural gas in the Township.

Disruption means a physical change, modification, alteration, disturbance, injury and/or damage to or in a right-of-way, including but not limited to, construction, installation, location, maintenance, modification, alteration, replacement or repair of facilities, and the removal or alteration of a right-of-way surface grade or material, tree, sign, marker, hydrant or other material or object.

Facility or ***facilities*** means any overhead or underground cable, wire line, main, pipe, pole, building, structure, equipment and all other man-made or placed materials or objects or combinations thereof, for the transmission or distribution of electricity or natural gas to customers.

Franchise means a nonexclusive limited authorization to transact a local business and the right to incidental use of right-of-way under this ordinance.

Grantee means the holder of a valid and effective franchise granted by the Township.

MPSC means the Michigan Public Service Commission.

Person means a natural person, company, corporation, partnership, joint venture, voluntary association, organization or other form of legal entity.

Right-of-way means any and all public rights-of-way, streets, highways, roads, sidewalks, alleys, thoroughfares, public easements and public places located within the Township.

Supplier means a person that supplies electricity (electric generation) or natural gas to customers in the Township through facilities in the Township in which it has no ownership, operation, leasehold, repair or maintenance rights or responsibilities.

Township means the Charter Township of Waterford.

Utility means a person that owns, operates, and maintains facilities used to provide electricity or natural gas to customers in the Township.

(Ord. of 6-26-2000)

Sec. 18-004. Franchise requirement.

Being a supplier of electricity or natural gas to customers in the Township is the transaction of local business of a public utility, which shall not be done without a franchise.

(Ord. of 6-26-2000)

Sec. 18-005. Right-of-way limitations.

A franchise granted under this ordinance constitutes the Township's consent to grantee's limited and incidental use of right-of-way to the extent that facilities are located within it.

(Ord. of 6-26-2000)

Secs. 18-006--18-010. Reserved.

ARTICLE II FRANCHISE APPLICATION REQUIREMENTS AND PROCESS

Sec. 18-011. Application information.

Applications for franchises shall be made to the Clerk by providing the following written information and documents.

(a) A nonrefundable franchise application fee of three thousand five hundred dollars ($3,500.00).

(b) The name, age if an individual, and address of the applicant, and if the applicant is not a natural person, the date, state and form of business organization.

(*CHAPTER 18, ARTICLE II, SECTION 18-011 cont.*)

(c) A description of the local business the applicant proposes to transact.

(d) Copies or certificates, articles, permits, approvals, licenses, last annual report and other written documentation of applicant's lawful incorporation, organization, existence, authorization and good standing to conduct its proposed business in the state. If any of the listed items have not been received, documentation they have been applied for must be provided.

(e) If applicable, applicant's minimum quantity requirements of existing and potential customers.

(f) The length of the franchise term being requested, which shall have a duration of not longer than ten (10) years.

(g) An acknowledgment and agreement to accept and comply with a franchise in the form of an ordinance that contains and incorporates by reference all of the terms and conditions contained in Article III of this ordinance.

(Ord. of 6-26-2000)

Sec. 18-012. Application processing.

(a) Upon receipt of a franchise application, the Clerk shall schedule the application and a proposed ordinance that would grant the franchise requested, for introduction at the first available Township Board of Trustees meeting.

(b) The applicant or its representative shall receive notice and may appear at the meeting when its franchise request is introduced. If the application meets the requirements of this ordinance, the proposed ordinance will be accepted for introduction and scheduled for possible adoption at the first meeting thereafter that allows time to satisfy any publication and legal requirements for adoption of a valid franchise ordinance.

(c) After all publication and other legal requirements for adoption of a valid franchise ordinance have been satisfied, at a regular or special meeting, the Township Board of Trustees may adopt, reject or table adoption of a proposed franchise ordinance.

(Ord. of 6-26-2000)

Sec. 18-013. Franchise approvals.

After a franchise ordinance is adopted and all publication and other legal requirements for it to become effective are satisfied, a certified copy of the ordinance shall be delivered or mailed to the approved grantee together with a written acceptance for the approved grantee to sign under oath, confirming its acknowledgement, agreement and acceptance of the franchise and all of its terms and conditions. If the required signed and notarized acceptance is not delivered to the Clerk within thirty (30) days of the delivery or mailing of the franchise ordinance and agreement to grantee, the effectiveness of the ordinance will be automatically terminated. Upon the approved grantee's timely acceptance of the franchise ordinance, it shall constitute a contract between the Township and grantee.

(Ord. of 6-26-2000)

Sec. 18-014. Franchise terms and conditions.

Unless amended by the individual franchise ordinance, all of the definitions in Article II, terms and conditions in Articles III and IV and penalties and relief in Article VI of this ordinance shall apply and be incorporated by reference as part of every supplier's individual franchise ordinance. Any amendments to this ordinance shall be automatically included in every franchise.

(Ord. of 6-26-2000)

Secs. 18-014--18-021. Reserved.

ARTICLE III GENERAL FRANCHISE TERMS AND CONDITIONS

Sec. 18-021. Franchise rights.

Subject to all terms and conditions in this Article III and the individual franchise ordinance, a franchise grants the grantee the right to transact a local business of supplying electricity or gas, as designated in the individual franchise ordinance, to customers in the Township using facilities of an

(*CHAPTER 18, ARTICLE III, SECTION 18-021 cont.*)

identified utility to the extent that it is lawful under applicable legislation, administrative rules, including those of the MPSC, and express or implied contract or agreement with the utility. A franchise does not grant the right to own, construct, operate, maintain or repair facilities in the Township.

(Ord. of 6-26-2000)

Sec. 18-022. Term, revocation and termination.

The term of a franchise, which shall be stated in the individual franchise ordinance, is subject to revocation at the will of the Township and may be surrendered and terminated by the grantee on thirty (30) days' written notice to the Township. Any unsatisfied obligations of grantee to the Township shall survive revocation or termination and be enforceable by the Township as provided in the franchise, as amended.

(Ord. of 6-26-2000)

Sec. 18-023. Non-exclusive.

A franchise is non-exclusive and does not restrict the Township from approving additional franchises or establish any priority between grantees to transact local business and the incidental use of right-of-way.

Sec. 18-024. Assignment.

A franchise may not be sold, leased, assigned, transferred or used by any person other than the grantee without the written approval of the Township by ordinance amendment.

(Ord. of 6-26-2000)

Sec. 18-025. Compliance with laws and ordinances.

A franchise requires grantee compliance with all applicable current and future Township, state and federal ordinances, laws, rules and regulations and any permit, approval, certificate or license requirements and conditions under such laws and shall not be construed as a waiver by grantee of any of its rights under state or federal law.

(Ord. of 6-26-2000)

Sec. 18-026. No right-of-way disruption.

Disruption or obstruction of, and physical entry in or upon a right-of-way by a grantee, its personnel or equipment is prohibited.

(Ord. of 6-26-2000)

Sec. 18-027. Township rights paramount.

A franchise and the rights granted by it shall at all times be subject to the paramount rights of the Township in its right-of-way, and shall be subject to immediate suspension or termination by the Township in the interest of the public health, safety and welfare.

(Ord. of 6-26-2000)

Sec. 18-028. Vacation.

If a right-of-way is vacated, discontinued, abandoned, terminated or released, a grantee's incidental right to use the right-of-way shall immediately terminate.

(Ord. of 6-26-2000)

Sec. 18-029. Public emergencies.

Without prior notice, the Township has the right to remove, damage, destroy or otherwise disrupt and/or order a cessation of use of facilities used by grantee or its customers, when necessary due to a public emergency. Public emergency means any situation which, in the opinion of the Township official authorized to declare an emergency, presents an immediate threat to persons or property in

(*CHAPTER 18, ARTICLE III, SECTION 18-029 cont.*)

the Township. The Township shall have no liability or responsibility for repairing or restoring facilities damaged by actions taken under this section.

(Ord. of 6-26-2000)

Sec. 18-030. Interpretation.

A franchise shall not be construed in any manner as a waiver or limitation of the Township's discretion and authority or rights to regulate and control the use of right-of-way.

(Ord. of 6-26-2000)

Sec. 18-031. Assumption of risk.

A grantee assumes all risks of damages or injuries to its officers, employees, agents and contractors from dangerous right-of-way conditions, if any.

(Ord. of 6-26-2000)

Sec. 18-032. No Township liability.

The Township and its officials, employees, agents and contractors shall have no liability for damages or injuries to any person or property, including grantee, that arise from the granting, enforcement or exercise of rights under a franchise.

(Ord. of 6-26-2000)

Sec. 18-033. Indemnity.

A grantee shall, at its sole cost and expense, defend, indemnify and hold harmless the Township and its officials, employees, agents, contractors, right-of-way and property from all claims and liability for damages or injury to persons or property caused by or resulting from the actions or omissions of grantee and/or its officers, employees, agents and contractors. This obligation extends to all costs and expenses, including attorney fees that may be incurred by the beneficiaries of grantee's obligation. The Township shall notify grantee of any claim or liability that is covered by grantee's obligation, and shall not be prevented from participating in the defense of any claim by its own attorney, the cost of which shall be grantee's responsibility.

(Ord. of 6-26-2000)

Sec. 18-034. Insurance.

The Township reserves the right to require the grantee to have, maintain and provide specified liability insurance coverages.

(Ord. of 6-26-2000)

Sec. 18-035. Disclosures.

Grantee shall provide and update written disclosure to the Township of its contact person(s), address, telephone numbers, fax numbers, email addresses, if applicable, and procedures for service requests and complaints, together with a written disclosure of pricing, billing, warranty and contract rates, terms, policies and procedures.

(Ord. of 6-26-2000)

Sec. 18-036. Supply requirements.

Grantee shall supply electricity or natural gas in accordance with all applicable laws.

(Ord. of 6-26-2000)

Sec. 18-037. Franchise fees.

Every three (3) years commencing after December 31, 2001, the Township has the right, after providing prior notice and an opportunity to comment to grantee, to require the payment by grantee on a periodic basis, of a franchise fee, provided that any such fee is applied equally to all grantees under this ordinance that are supplying the same commodity (electricity or natural gas) as grantee. Such a franchise fee would be an additional franchise term and condition, to be adopted and presented to the grantee for acknowledgement, agreement and acceptance as an ordinance

(CHAPTER 18, ARTICLE III, SECTION 18-037 cont.)

amendment as provided in Section 2.003. In any such fee review, the grantee shall disclose and the Township may consider if grantee pays a franchise fee, charge or other periodic payment for a franchise to any other state municipalities and the manner in which such fees are computed. It is a condition of a franchise that the grantee notify the Township of any such fees that are paid and the Township shall have the right to inspect grantee's books and records to monitor, enforce and determine grantee's compliance and the accuracy of amounts paid or to be paid by grantee under this section.

(Ord. of 6-26-2000)

Sec. 18-038. Township costs.

Grantee shall reimburse the Township for any costs it incurs, including reasonable attorney fees, in enforcing franchise terms and conditions.

(Ord. of 6-26-2000)

Sec. 18-039. Reservation of Township rights.

A franchise shall at all times be subject to the rights of the Township, which are hereby reserved, to make all regulations, take all actions and do all things provided for in the Charter Township Act or by law.

(Ord. of 6-26-2000)

Sec. 18-040. Reserved.

ARTICLE IV FRANCHISE TERMS AND RENEWALS

Sec. 18-041. Franchise term.

No franchise granted under this ordinance shall be for longer than ten (10) years. The term of each franchise shall be stated in the individual franchise ordinance.

(Ord. of 6-26-2000)

Sec. 18-042. Renewals and extensions.

There is no right to a franchise renewal or extension. Franchise renewal or extension may be applied for and approved as provided in Article II.

(Ord. of 6-26-2000)

Secs. 18-041--18-050. Reserved.

ARTICLE V VIOLATIONS AND PENALTIES

Sec. 18-051. Transaction of business without franchise; Civil infraction.

Any person transacting business without a franchise required by this ordinance shall be responsible for a municipal civil infraction, and shall pay a fine in the following amount:

(a)	First offense	$3,500.00
(b)	Second or subsequent offense	5,000.00

(Ord. of 6-26-2000)

Sec. 18-052. Right-of-way restoration.

Any person in violation of the franchise requirement of this ordinance or a franchise issued under it who damages a right-of-way shall be responsible for restoration of the right-of-way to the condition that existed prior to the violation. If such person fails or refuses to restore the right-of-way after thirty (30) days' notice from the Township, and if the Township determines that the civil infraction remedy is inadequate under the circumstances, the Township may initiate proceedings in the appropriate court to recover the cost estimated to accomplish the restoration, or recover such costs as have been actually expended by the Township in achieving the restoration, as the case may be. Such costs shall include finance and reasonable administrative costs estimated or incurred.

(Ord. of 6-26-2000)

(*CHAPTER 18, ARTICLE V cont.*)

Sec. 18-053. Separate offenses.

Each occurrence of a violation, and each day a violation exists, shall constitute a separate offense.

(Ord. of 6-26-2000)

Sec. 18-054. Injunctive relief.

Violations of this ordinance or a franchise issued under it, are considered to be a nuisance per se with such violations and correction of any conditions resulting from violations subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.

(Ord. of 6-26-2000)

Sec. 18-055. Election of remedies.

Violations of this ordinance and franchises issued under it subject the violator to franchise revocation, if applicable, and Township enforcement through one or more of the remedies provided in this article, and the election by the Township to pursue one form of remedy does not waive or restrict the Township's option to pursue other remedies at the same or later time.

(Ord. of 6-26-2000)

Secs. 18-056--18-060. Reserved.

ARTICLE VI MISCELLANEOUS

Sec. 18-061. No waiver.

Nothing in this ordinance shall be construed as a waiver of any of the rights, remedies and/or authority of the Township pursuant to any laws, ordinances, codes or regulations of the Township, and the Township reserves the right to exercise all authority and take any and all action granted to it by any constitution, law, Township ordinance, code and/or regulation. Nothing is this article shall be construed to limit and/or preclude the Township from exercising its right of eminent domain.

(Ord. of 6-26-2000)

Sec. 18-062. Notices.

Any notices required to be sent to the grantee by this ordinance may be delivered, or may be sent by first-class mail to the grantee at the address listed in the franchise application or such other address as grantee has provided to the Clerk in writing.

(Ord. of 6-26-2000)

Sec. 18-063. Severability.

If any section, clause or provision of this ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this ordinance, but the remainder of this ordinance shall stand and be in full force and effect.

(Ord. of 6-26-2000)

Sec. 18-064. Repealer.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

(Ord. of 6-26-2000)

Sec. 18-065. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law when they were commenced.

(Ord. of 6-26-2000)

APPENDIX A ZONING

The Zoning Ordinance has been adopted in accordance with Public Act 110 of 2006, Michigan Zoning Enabling Act, as amended, for the purposes of establishing zoning districts and regulating land development within Waterford's municipal boundaries. *This appendix contains by reference the Zoning Ordinance of the Township, adopted February 22, 2010 as Ordinance No. 135-A, as amended.* A detailed description of the objectives of the Zoning Ordinance as well as links providing access to the full text of the Zoning Ordinance and Zoning Map can be found on the Community Planning and Development Department web page.

APPENDIX B FRANCHISES

1. Cable Television Franchises and Uniform Video Services Local Franchises under Chapter 5 of this Ordinance Code are on file with the Township Clerk's office.