

CHAPTER 14 PROPERTY, COST RECOVERY AND FINANCES

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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.

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, 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

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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 means an unexpected, unforeseen, or accidental situation or occurrence that does or may reasonably require prompt action or response by Township vehicles, equipment, and/or personnel to protect or preserve the public health, safety, or welfare.

Emergency Response means the dispatch, provision, or utilization of Township personnel and/or equipment, including resultant enforcement and prosecution efforts in any of the following situations:

- (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) 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) 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 need for the request was substantially induced or precipitated by the ingestion of alcohol or by abuse of drugs or controlled substances.
- (d) The use of police, fire, or other Township department vehicles, equipment or personnel at the scene of an emergency, including downed power lines 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.
 - (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.

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(CHAPTER 14, ARTICLE III, DIVISION 1, SECTION 14-101 cont.)

- (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 or other emergency, such as building collapse, cave-ins, water or ice rescues, and similar situations.
- (h) The use of police or fire department vehicles, equipment, resources, or personnel, including the "SRT Team", at the scene of an emergency or exigent conditions, including but not limited to harboring of vicious animals, animal rescue, hostage/suicide events, pursuits, and similar situations.
- (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 an emergency.
- (j) The use of police or fire department vehicles, equipment, or personnel for emergency runs requiring the use of vehicle lights and/or sirens to the scene of an actual or reported crime, apparent personal injury accident, or other accident that presents an immediate threat to the public health, safety, or welfare.
- (k) The use of police or fire department vehicles, equipment, or personnel to respond to a report of a crime, a property damage or other accident, or other situation that is not treated as an emergency requiring the use of vehicle lights and/or sirens.

Resident means:

- (a) An individual residing and with a residency address, or a business located, on real property in the Township for which the real property taxes are not delinquent; and
- (b) For emergency responses by the fire department, an individual residing and with a residency address, or a business located, on real property serviced by the Waterford Regional Fire Department for which the real property taxes are not delinquent.

Responsible person means any of the following:

- (a) A person whose careless, reckless, negligent, criminal, or intentional act or omission caused the need for the emergency response.
- (b) A person who falsely reports an emergency that results in an emergency response.
- (c) A person that without good cause, reports the need for and requests an emergency response that is provided and was not needed.
- (d) A person who receives emergency medical, transportation, or rescue service, or other benefit from an emergency response.
- (e) A person whose violation of the Michigan Vehicle Code caused the need for the emergency response.
- (f) If a minor under the age of 18 is a responsible person, that minor's parents, guardians, or other persons legally responsible for the minor.
- (g) For an emergency response involving a utility, a person that owns, operates, maintains, or is legally responsible for the operation and maintenance of that utility.

Utility means a building, structure, equipment, facility, line, wire, cable, pole, tower, track, conduit, main, pipe, tank, device, component, or other installation that is used to store, supply, distribute, or provide electricity, gas, or propane, to provide wired or wireless communication services, or to provide railroad or other transportation services.

(Ord. of 8-28-1995; Ord. of 5-12-2003; Ord. of 3-10-2008; Ord. of 4-11-17)

Sec. 14-102. Liability for expenses

A responsible person shall be liable and responsible to the Township for the expenses of an emergency response. If there is more than one (1) responsible person, the liability of those persons shall be joint and several. If a responsible person has an ownership interest in real property that was benefited by an emergency response that was necessitated by that person's criminal, reckless, or intentional act or omission, the liability and responsibility of that person shall be secured by a lien on that real property, enforceable as provided in Sections 14-105 and 14-106.

(Ord. of 8-28-1995; Ord. of 5-12-2003; Ord. of 4-11-2016)

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.

- (a) Once the expenses of an emergency response have been determined, the official responsible for the Township department that provided an emergency response, or agent of the Township as designated and provided for in a resolution or contract approved by the Township Board of Trustees, shall submit an itemized invoice/statement for such expenses by first class mail or personal service to each responsible person or their insurance company as provided in subsection (b), requiring payment within thirty (30) days from date of submission. If a responsible person's liability is secured by a lien on real property under Section 14-102, that claim and the affected property must be stated in or attached to the invoice/statement.
- (b) A responsible person that is a resident shall not be directly billed or responsible for the expenses of an emergency response not paid for by his or her insurance company if the emergency response was not necessitated by a criminal, reckless, or intentional act or omission by the responsible person.
- (c) Interest shall accrue and be payable for all expenses of an emergency response that are not timely paid at the annual rate of five (5%) percent, compounded annually.
- (d) If a responsible person has been charged, convicted, or found 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; Ord. of 4-11-16)

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.
- (c) Allows the Township to record notice with the Register of Deeds of any lien against real property under Section 14-102 that it has provided notice of under Section 14-105, and to place the unpaid amount on tax bills and the tax roll for collection as provided in Section 1-014 of the Waterford Charter Township Code.

(Ord. of 8-28-1995; Ord. of 5-12-2003; Ord. of 4-11-2016)

Secs. 14-107--14-120. Reserved

(CHAPTER 14, ARTICLE III, cont.)

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

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.

(CHAPTER 14, ARTICLE III, DIVISION 1 cont.)

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.

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.

(CHAPTER 14, ARTICLE IV, DIVISION 1 cont.)

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. 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.

(CHAPTER 14, ARTICLE IV, DIVISION 2, SECTION 14-153 cont.)

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.

- (d) A bond shall be forfeited to the Township if: (i) a condition of the bond, or the Code, permit, certificate, or approval that required the bond, is not satisfied and complied with within 7 days of the deadline for that compliance, or (ii) if a licensee or holder of a permit, certificate, or approval fails to timely request a required Township compliance inspection or review. Before forfeiting a bond, the Township will provide at least 30 days written notice of its intention to do so to the persons that provided the bond, the principal and any sureties on the bond, and the licensee or holder of the permit, certificate, or approval that required the bond. The proceeds of a forfeited bond shall be applied or held by the Township toward the cost of accomplishing or securing compliance with the conditions of the bond, Code, permit, certificate, or approval, with any portions not needed for that purpose to revert to the Township's general fund.

(Ord. 2017-02 §05-22-17)

Sec. 14-155. Default and use and disposition of bonds.

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 have the right, but not the obligation, to use the proceeds of a bond that has been forfeited, or subject to draw or collection under Section 14-154, 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. Prior to doing that, the Township shall provide a final written notice and opportunity to cure the default in a time and manner specified in the notice, to the persons that provided the bond and that obtained the Township permit, certificate, or approval. 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 proceeds are 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, which shall be paid within 30 days of the Township's written notice of the deficiency.
- (c) If the Township incurs actual costs in exercising its right to cure or satisfy a default and achieve compliance under subsection (a), any portion of the proceeds of a forfeited, drawn upon, or collected bond 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.

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(CHAPTER 14, ARTICLE IV, DIVISION 2, SEC. 14-155 cont.)

- (d) If defaults in compliance with requirements or conditions of a bond, Code, permit, certificate, or approval are cured or satisfied and compliance is achieved by persons other than the Township but after a bond that has been forfeited, or subject to draw or collection under Section 14-154, any bond proceeds that remain after payment of any actual attorney and consultant fees incurred by the Township and administrative costs equal to 5% of the bond amount, shall be refunded to the source of the forfeited, drawn upon, or collected bond proceeds held by the Township.

(Ord. 2017-02 §05-22-17)

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.