# CODE OF ORDINANCES

Charter Township of

DELTA, MICHIGAN

Codified through

Ordinance No. 03-20, enacted March 21, 2005.

Supplement No. 13

# CODE OF ORDINANCES
# OF
# DELTA CHARTER TOWNSHIP,
# MICHIGAN

_____

Published by Order of the Township Board

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OFFICIALS

of

DELTA CHARTER TOWNSHIP, MICHIGAN

AT THE TIME OF THIS CODIFICATION

_____vs>

Joseph Drolett

*Supervisor*

_____

Philip Chisholm

Teri Quimby

Susan Tabor

Gerald Winans

*Trustees*

_____

Janice Vedder

*Township Clerk*

_____

Gordon W. VanWieren, Jr.

*Township Attorney*

_____

Lyle Brown

*Treasurer*

CURRENT OFFICIALS

of

DELTA CHARTER TOWNSHIP, MICHIGAN

_____vs>

Joseph Drolett

*Supervisor*

_____

John Boles

Jan Cunningham

Sherry Freeman

Dorothy E. Maxwell

*Trustees*

_____

Janice Vedder

*Township Clerk*

_____

Gordon W. VanWieren, Jr.

*Township Attorney*

---

Philip Chisholm

*Treasurer*

# PREFACE

This Code constitutes a complete codification of the general and permanent ordinances of Delta Charter Township, Michigan.

Source materials used in the preparation of the Code were the ordinances adopted by the township board. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

## *Numbering System*

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of Chapter 1 is numbered 1-2, and the first section of Chapter 4 is 4-1. Under this system, each section is identified with its chapter, and at the same time new sections or even whole chapters can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 3-1 and 3-2 is desired to be added, such new section would be numbered 3-1.5. New chapters may be included in the same manner. If the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division.

## *Index*

The index has been prepared with the greatest of care. Each particular item has been placed under

several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

*Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

*Acknowledgments*

This publication was under the direct supervision of Allen Z. Paul, Supervising Editor, and Ron McLaughlin, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Janice Vedder, Township Clerk, and Gordon W. VanWieren, Jr., Township Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the charter township readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the charter township's affairs.

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| | MUNICIPAL CODE CORPORATION<br>Tallahassee, Florida |

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# CODE OF ORDINANCES

## Chapter 1

## GENERAL PROVISIONS

**Sec. 1-1. How Code designated and cited.**
**Sec. 1-2. Definitions and rules of construction.**
**Sec. 1-3. Section catchlines and other headings.**
**Sec. 1-4. References and notes.**
**Sec. 1-5. Certain ordinances not affected by Code.**
**Sec. 1-6. Code does not affect prior offenses, rights, etc.**
**Sec. 1-6.1. General code penalties--Penalties; injunctive relief; complicity.**
**Sec. 1-7. Amendments to Code.**
**Sec. 1-7.1. Effect of repeal of ordinances.**
**Sec. 1-8. Supplementation of Code.**
**Sec. 1-9. Severability.**
**Sec. 1-10. Fees and charges.**
**Sec. 1-11. General penalty for violation of Code; continuing violations.**

### Sec. 1-1. 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 Delta, Michigan," and may be so cited. Such Code may also be cited as the "Delta Charter Township Code."

**State Law References:** Codification authority, MCL 42.20, MSA 5.46(20).

### Sec. 1-2. Definitions and rules of construction.

It is the legislative intent of the township board, in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the township. In the construction of this Code and any amendment thereto, the following rules shall be observed, unless the context clearly indicates otherwise:

*Code.* The term "this Code" or "Code" shall mean the Code of Ordinances, Charter Township of Delta, Michigan, as designated in section 1-1.

*Computation of time.* The time within which an act is to be done, 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 is 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.

*County.* The term "the county" or "this county" shall mean the County of Eaton in the State of Michigan.

*Gender.* A word importing the masculine gender only shall extend and be applied to females and to

firms, partnerships and corporations as well as to males.

*Month.* The word "month" shall be construed to mean a calendar month.

*Municipal civil infraction*. The words "municipal civil infraction" shall mean an act or omission that is prohibited by this Code of Ordinances of the township, but which is not a crime under this Code of Ordinances, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of this Code that is a criminal offense.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

*Oath, affirmation, sworn, affirmed.* 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."

*Officer, department, etc.* 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 Delta, Michigan." Whenever, by the provisions of this Code, any officer of the township is assigned any 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 or any ordinance of the township, 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.

*Person.* The word "person" includes firms, joint ventures, partnerships, corporations, clubs and all associations or organizations of natural persons, 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 assignees thereof.

*Shall/may.* The word "shall" is mandatory and the word "may" is permissive.

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

*Superintendent.* The word "superintendent" shall be construed to mean "township manager" of Delta Charter Township."

*Tense.* Words used in the present or past tense include the future as well as the present and past.

*Township.* The word "township" shall mean Charter Township of Delta in Eaton County, Michigan.

*Township board* or *board.* The term "township board," "board of trustees" or "board" shall mean the township board of Delta Township, Michigan.

*Week.* The word "week" shall be construed to mean seven days.

*Written, in writing.* The words "written" or "in writing" may include any form of reproduction or expression of language.

*Year.* The word "year" shall be construed to mean a calendar year.
(Ord. No. 93-3, § 1, 5-17-93; Ord. No. 97-4(B), § 1, 12-1-97)

**Sec. 1-3. 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. 1-4. References and notes.**

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

**Sec. 1-5. 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:

(1) 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.

(2) Containing any administrative provisions of the township board.

(3) Granting any right or franchise.

(4) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the township.

(5) Making any appropriation.

(6) Levying or imposing annual taxes.

(7) Establishing or prescribing grades in the township.

(8) Providing for local improvements and assessing taxes therefor.

(9) Dedicating or accepting any plat or subdivision in the township.

(10) Prescribing the number, classification or compensation of any township officers or employees.

(11) Prescribing specific parking restrictions, no-parking zones, specific speed zones, parking meter zones, and specific stop or yield intersections or other traffic ordinances pertaining to specific streets.

(12) Pertaining to zoning.

(13) Ordinance number 236 and amendments to it, which pertain to cable television communication, are specifically not codified but are saved from repeal.

(14) Any other ordinance, or part thereof, which is not of a general and permanent nature.

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. 1-6. Code does not affect prior offenses, rights, etc.**

(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.

**Sec. 1-6.1. General code penalty--Penalties; injunctive relief; complicity.**

(a) Unless a violation of this Code of Ordinances of the township is specifically designated in the Code of Ordinances as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(b) The penalty for a misdemeanor violation shall be a fine not exceeding $500.00 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this Code of Ordinances.

(c) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Code of Ordinances, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

(1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this Code or any Ordinance, the civil fine for a violation shall be not less than $50.00, plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for repeated violations by a person or any requirement or provision of this Code of Ordinances. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 12 month period (unless some other period is specifically

provided by this Code of Ordinances) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Code of Ordinances for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

(i) The fine for any offense which is a first repeat offense shall be not less than $125.00, plus costs.

(ii) The fine for any offense which is a second repeat offense shall be not less than $250.00, plus costs.

(iii) The fine for any offense which is a third repeat offense or any subsequent repeat offense shall be not less than $400.00 plus costs.

(d) A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this Code of Ordinances; and any omission or failure to act where the act is required by this Code of Ordinances.

(e) Each day on which any violation of this Code of Ordinances continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(f) In addition to any remedies available at law, the township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Code of Ordinances.

(g) Surcharge; equitable remedies. The imposition of any penalty provided for in this section shall be in addition to any surcharge levied for a violation of or noncompliance with a provision of these Code of Ordinances, or a provision of a technical or other code adopted by reference in these Code of Ordinances, or a rule, regulation or order promulgated or made under authority of either, or of state law, and shall be in addition to any equitable remedy provided by a provision of these Code of Ordinances, or a provision of a technical or other code adopted by reference in these Code of Ordinances, or a rule, regulation or order promulgated or made under authority of either, or of state law, or provided by state law, including the enforced removal of prohibited conditions.

(h) Complicity. Every person who commits or procures, counsels, aids or abets the commission of any act declared in these Code of Ordinances to be an offense, whether individually or in connection with another person, or as principal, agent or accessory, shall be guilty of or responsible for such offense. Every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of these Code of Ordinances shall likewise be guilty of or responsible for such offense.
(Ord. No. 97-4(B), § 2, 12-1-97)

**Sec. 1-7. 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 Delta, Michigan (or Delta 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 Delta, Michigan (or Delta Charter Township Code), is hereby amended by adding a section, to be numbered _____, which such section reads as follows: . . . ." The new section shall then be set out in full as desired.

(c) If a section is to be repealed, the following language shall be used: "That the Code of Ordinances, Charter Township of Delta, Michigan (or Delta Charter Township Code), is hereby amended by deleting section _____."

**Sec. 1-7.1. Effect of repeal of ordinances.**

The repeal of any prior ordinance of the township by any subsequent ordinance shall not operate to revive the provisions of any ordinance which may have been repealed by such prior ordinance, unless such revival shall be expressly provided for. Ordinances repealed remain in force for the trial and punishment of all past violations of them, and for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and remedies existing by them and so far as they apply, to any office, trust, proceeding, right, contract or event, already affected by them.

**Sec. 1-8. 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, nonsubstantive 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 nonsubstantive 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. 1-9. 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.

**Sec. 1-10. Fees and charges.**

All fees and charges provided for in this Code may be changed by resolution of the township board. Such resolutions shall be on file in the office of the township clerk.

**Sec. 1-11. General penalty for violation of Code; continuing violations.**

(a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code, or any rule or regulation adopted or issued pursuant thereto, shall be punished by a fine of not more than $500.00, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. Such limitation on fine and imprisonment shall change as the maximum allowed by state law is changed. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

(b) In addition to the penalties provided in subsection (a), the township may enjoin or abate any violation of this Code by appropriate action or revoke any permit or license.

**State Law References:** Limitation on penalties, MCL 42.21, MSA 5.46(21).

# Chapter 2

# ADMINISTRATION*

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* **Cross References:** Community development, Ch. 6; signs, Ch. 15; utilities, Ch. 18.

**State Law References:** Townships generally, MCL 41.1 et seq.; Charter Townships, MCL 42.1 et seq.; freedom of information act, MCL 15.231 et seq.

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## ARTICLE I.

## IN GENERAL

### Secs. 2-1--2-25. Reserved.

## ARTICLE II.

## TOWNSHIP BOARD*

* **State Law References:** Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

### Secs. 2-26--2-45. Reserved.

## ARTICLE III.

## OFFICERS AND EMPLOYEES

### Secs. 2-46--2-65. Reserved.

## ARTICLE IV.

## BOARDS AND COMMISSIONS

### Secs. 2-66--2-85. Reserved.

## ARTICLE V.

## EMPLOYEE BENEFITS*

* **State Law References:** Retirement systems and insurance for township personnel, MCL 41.901 et seq., MSA 5.48(1) et seq.

## DIVISION 1.

## GENERALLY

**Secs. 2-86--2-95. Reserved.**

## DIVISION 2.

## PENSION PLAN

**Sec. 2-96. Title.**

This division shall be known and cited as the "Employee Benefit Ordinance."

**Sec. 2-97. Plan--Created; established.**

Pursuant to Act No. 77 of the Public Acts of 1989 (MCL 41.110b, MSA 5.159(2)), the charter township hereby creates and establishes a pension plan to provide for retirement income of certain of its officers and employees, and does hereby ratify and confirm the validity of the pension plan in existence before adoption of this Code.

**Sec. 2-98. Same--Terms.**

The board of trustees of the charter township shall, by resolution, determine the precise terms of the pension plan, including but not limited to:

(1) The definition and classes of employees and officers eligible to participate in the plan.

(2) The age, length of service and any other requirements for eligibility under the pension plan.

(3) The formula, percentage share, amounts or limitations by which the charter township shall contribute to such plan and the method by which earnings and/or losses under the plan are allocated to plan participants.

(4) The normal retirement age under the plan.

(5) Any early or late retirement ages or dates as the board may desire under the plan.

(6) Any formula, percentage share, amounts and/or limitations on amounts which eligible officers and employees may contribute under the plan.

(7) Time and methods of payment of benefits under the plan.

(8) A method for voluntary nonparticipation for otherwise eligible officers and employees under the plan.

(9) The schedule of vesting of benefits under the plan.

(10) The trustee, administrator and all other fiduciaries of the plan.

(11) The handling of forfeitures under the plan.

(12) The appropriate township personnel who shall be responsible for daily administration, accounting, reporting and/or supervisory functions for the plan on the township's behalf.

**Sec. 2-99. Same--Authority to modify or terminate plan.**

The board of trustees of the charter township shall have authority, by resolution, to amend, modify or even terminate the pension plan at any future time as may be needed or desired to conform with applicable federal and state statutes, regulations and common law, or otherwise as the board may determine.

**Sec. 2-100. Deferred compensation program--Created and established.**

Pursuant to Act No. 77 of the Public Acts of 1989 (MCL 41.110b, MSA 5.159(2)), the charter township hereby creates and establishes a program of deferred compensation for certain of its officers and employees, the assets of which shall be subject to the general creditors of the charter township, and does hereby ratify and confirm the validity of all programs of deferred compensation in existence on adoption of this Code.

**Sec. 2-101. Same--Terms.**

The board of trustees of the charter township shall, by resolution, determine the precise terms of all programs and plans of deferred compensation, including but not limited to:

(1) The definition and classes of employees and officers eligible to participate in the plan or program.

(2) The age, length of service and any other requirements for eligibility and enrollment under the plan or program.

(3) Any formula, percentage share, amounts, or limitation on the amounts of compensation which eligible officers and employees may elect to defer under the plan or program.

(4) The normal retirement age under the plan or program.

(5) Any early or late retirement ages or dates as the board may desire under the plan or program.

(6) The contractual obligation of the charter township for the payment of benefits to participating employees under the plan or program including, but not limited to, time and methods of payment of benefits under the plan or program and the purchase of annuity contract(s) on the lives of participants and/or beneficiaries of participants.

(7) The administrator and all other fiduciaries of the plan or program.

(8) The appropriate township personnel who shall be responsible for daily administration, accounting, reporting and/or supervisory functions for the plan or program on the township's behalf.

**Sec. 2-102. Same--Authority to modify or terminate.**

The board of trustees of the charter township shall have authority, by resolution, to amend, modify or even terminate any program of deferred compensation at any future time as may be needed or desired to conform with applicable federal and state statutes, regulations and common law, or otherwise as the board may determine.

**Sec. 2-103. Employee benefit programs--Ratification.**

Pursuant to Act No. 77 of the Public Acts of 1989 (MCL 41.110b, MSA 5.159(2)), the charter township hereby ratifies and confirms the validity of all other employee benefit programs for the benefit of certain of its officers and employees, and their dependents, as in existence on the adoption of this Code, including but not limited to life, accident, health, hospitalization, and medical insurance programs.

**Sec. 2-104. Same--Determination.**

The board of trustees of the charter township shall, by resolution, determine all employee benefit programs to be offered to certain of the township's officers and employees, including but not limited to:

(1) The type, term and circumstances of any particular benefit program.

(2) The definition and classes of employees and officers, and their dependents, eligible to receive such benefit(s).

(3) The age, length of service, and any other requirements for eligibility for such benefit(s).

(4) The amounts, if any, which the charter township will expend to procure such benefit(s).

(5) The formula, amounts, and/or limitations on amounts which may be deducted from the compensation of eligible officers and employees in payment of any portion of the premiums or charges established by the board of trustees as being payable by the officers or employees for such benefit(s).

(6) A method for voluntary nonparticipation for officers and employees otherwise eligible for any such benefit(s).

(7) The appropriate township personnel who shall be responsible for daily administration, accounting, reporting, and/or supervisory functions for such benefit(s) on the township's behalf.

**Sec. 2-105. Same--Authority to modify or terminate programs.**

The board of trustees of the charter township shall have authority, by resolution, to amend, modify or even terminate any such employee benefit programs at any future time as may be needed or desired to conform with applicable federal and state statutes, regulations and common law, or otherwise as the board may determine.

**Secs. 2-106--2-125. Reserved.**

## ARTICLE VI.

## FINANCES*

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* **State Law References:** Power of inhabitants to tax or vote money, MCL 41.3, MSA 5.3; budget, MCL 42.24 et seq., MSA 5.46(24) et seq.

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## DIVISION 1.

## GENERALLY

**Secs. 2-126--2-135. Reserved.**

## DIVISION 2.

## BUDGET STABILIZATION FUND*

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* **State Law References:** Budget stabilization funds, MCL 141.441 et seq., MSA 5.3230(1) et seq.

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**Sec. 2-136. Purpose.**

The purpose of this division is to provide for the creation and administration of a budget stabilization fund as authorized by Act No. 30 of the Public Acts of Michigan of 1978 (MCL 141.441 et seq., MSA 5.3230(1) et seq.), as amended.
(Ord. No. 272, § 1, 12-1-80)

**Sec. 2-137. Creation.**

A budget stabilization fund is hereby created to be administered by the township treasurer.
(Ord. No. 272, § 3, 12-1-80)

**Sec. 2-138. Amount funded.**

The amount of money in the fund created under this division shall not exceed either 15 percent of the township's most recent general fund budget, as originally adopted, or 15 percent of the average of the township's five most recent general budget funds, as amended, whichever is less.
(Ord. No. 272, § 4, 12-1-80)

**Sec. 2-139. Excess funds.**

If the amount of money in the fund exceeds that permitted in section 2-138, the excess money shall be appropriated in the township's next general fund budget, but shall not be appropriated to the fund.
(Ord. No. 272, § 5, 12-1-80)

**Sec. 2-140. Appropriations.**

The township board may appropriate to the fund established by this division, by an ordinance or resolution adopted by a two-thirds vote of the members elected and serving, all or part of a surplus in the general fund resulting from an excess of revenue in comparison to expenses.
(Ord. No. 272, § 6, 12-1-80)

**Sec. 2-141. Investment.**

The money in the fund may be invested as provided by law with the earnings of the fund to be returned to the township's general fund.
(Ord. No. 272, § 7, 12-1-80)

**Sec. 2-142. Disbursements.**

Money in the fund may be appropriated by an ordinance or resolution adopted by a two-thirds vote of the township board for the following purposes:

(1) To cover a general fund deficit, when the township's annual audit reveals such a deficit.

(2) To prevent a reduction in the level of public services or in the number of employees at any time in a fiscal year when the township's budget or revenue is not being collected in an amount sufficient to cover budgeted expenses.

(3) To prevent a reduction in the level of public services or in the number of employees when in preparing a budget for the next fiscal year the township's estimated revenue does not appear sufficient to cover estimated expenses. In determining whether the township's revenue is not sufficient to cover its expenses, a reduction in the amount of money received for the fiscal year from any source in comparison to the amount of money received for the previous fiscal year, including a reduction in the allocation of state money, should be considered.

(4) To cover expenses arising because of a natural disaster, including a flood, fire or tornado. If federal or state funds are received to offset such appropriations from the fund, that money shall be returned to the fund.

(Ord. No. 272, § 8, 12-1-80)

**Sec. 2-143. Prohibited use.**

Money in the fund shall not be appropriated for the acquisition, construction, or alteration of a facility as part of a general capital improvements program.

(Ord. No. 272, § 9, 12-1-80)

**Secs. 2-144--2-155. Reserved.**

## DIVISION 3.

## TAXES

**Sec. 2-156. Tax abatement.**

The charter township shall not grant any municipal tax abatement to any class of housing projects within its boundaries to which section 15a(1) of Act No. 346 of the Public Acts of Michigan of 1966 (MCL 125.1401 et seq., MSA 16.114(1) et seq.) as amended, shall apply.
(Ord. No. 254, § 2, 2-22-77)

**State Law References:** State housing development authority act, MCL 125.1401 et seq., MSA 16.114(1) et seq.

## ARTICLE VII.

## MUNICIPAL CIVIL INFRACTIONS

**Sec. 2-176. Definitions.**

As used in this chapter:

*Act* means Act No. 236 of the Public Acts of 1961, as amended.

*Authorized township official* means the chief building inspector, the fire chief, a designee of either official, or other personnel of the township authorized by this Code of Ordinances to issue municipal civil infraction citations or municipal civil infraction violation notices.

*Bureau* means the Charter Township of Delta Municipal Ordinance Violations Bureau as established by this article.

*Municipal civil infraction action* means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

*Municipal civil infraction citation* means a written complaint or notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

*Municipal civil infraction violation notice* means a written notice prepared by an authorized township official, directing a person to appear at the township municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the township, as authorized under Sections 8396 and 8707(6) of the Act.
(Ord. No. 97-4(A), § 1, 12-1-97; Ord. No. 99-4, § 1, 7-6-99)

**Sec. 2-177. Municipal civil infraction action; commencement.**

A municipal civil infraction action may be commenced upon the issuance by an authorized township official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the township municipal ordinance violations bureau.
(Ord. No. 97-4(A), § 1, 12-1-97)

**Sec. 2-178. Municipal civil infraction citations; issuance and service.**

Municipal civil infraction citations shall be issued and served by authorized township officials as follows:

(a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

(b) The place for appearance specified in a citation shall be the district court.

(c) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the township and issued to the alleged violator as provided by Section 8705 of the Act.

(d) A citation for a municipal civil infraction signed by an authorized township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

(e) An authorized township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as completely as possible, an original and required copies of a citation.

(f) An authorized township official may issue a citation to a person if:

(1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

(2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the township attorney approves in writing the issuance of the citation.

(g) Municipal civil infraction citations shall be served by an authorized township official as follows:

(1) Except as provided by section 2-178(g)(2), an authorized township official shall personally serve a copy of the citation upon the alleged violator.

(2) If the municipal civil infraction involves the use or occupancy of land, a building or other

structure, a copy of the citation does not need to 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 citation shall be sent by first class mail to the last known owner of record of the land, building, or structure at the owner's last known address.

(Ord. No. 97-4(A), § 1, 12-1-97)

**Sec. 2-179. Municipal civil infraction citations; contents.**

(a) A municipal ordinance citation shall contain:

(1) A description of the violation;

(2) The time within which the person must contact the bureau for purposes of admitting or denying responsibility for the violation;

(3) The amount of the scheduled fines/costs for the violation;

(4) The address and telephone number of bureau;

(5) The days and hours that the bureau is open;

(b) Further, the citation shall inform the alleged violator that he or she may do one of the following:

(1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

(2) Admit responsibility for the municipal civil infraction "with explanation" within the time specified for appearance by mail or in person, or by representation.

(3) Deny responsibility for the municipal civil infraction by doing either of the following:

a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the township.

b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

c. The citation shall also inform the alleged violator of all of the following:

1. That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

2. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

3. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.

4. That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

5. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(c) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.
(Ord. No. 97-4(A), § 1, 12-1-97)

**Sec. 2-180. Municipal ordinance violations bureau.**

(a) *Bureau established.* The township hereby establishes a municipal ordinance violations bureau ("bureau") as authorized under the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized township officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.

(b) *Location; supervision; employees; rules and regulations.* The bureau shall be located at township/offices, and shall be under the supervision and control of the township controller. The township controller, subject to the approval of the township board, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified township employees to administer the bureau.

(c) *Disposition of violations.* The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this chapter shall prevent or restrict the township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

(d) *Bureau limited to accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any

person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(e) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized township officials under the same circumstances and upon the same persons as provided for citations as provided in sections 2-178 and 2-179 of this article. In addition to any other information required by this Code of Ordinances, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized township official issues and serves a municipal ordinance violation notice, and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by sections 2-159 and 2-160 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.
(Ord. No. 97-4(A), § 1, 12-1-97)

**Sec. 2-181. Records and accounting.**

The bureau clerk or other designated township official/employee shall retain a copy of all municipal ordinance violation notices, and shall account to the township board once a month or at such other intervals as the township board may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the bureau and the amount of fines/costs collected with respect to such violations. The civil fines/costs collected shall be delivered to the treasurer at such intervals as the treasurer shall require, and shall be deposited in the general fund of the township.
(Ord. No. 97-4(A), § 1, 12-1-97)

**Sec. 2-182. Availability of other enforcement options.**

Nothing in this ordinance shall be deemed to require the township to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction the township may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

(Ord. No. 97-4(A), § 1, 12-1-97)

**Sec. 2-183. Nonpayment and lien.**

(a) Pursuant to the Act, if a defendant in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure does not pay a civil fine, costs, civil sanctions, damages, expenses and/or an installment within 30 days after the date on which payment is due, the township may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order or judgment requiring payment of the fine and costs with the Eaton County Register of Deeds. A legal description of the property must be incorporated in or attached to the court order or judgment for recording. The lien is effective immediately upon recording of the court order or judgment with the Eaton County Register of Deeds.

(b) The court order or judgment recorded with the Eaton County Register of Deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by a township official by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

(c) The lien for the civil fine, costs, civil sanctions, damages, expenses and/or an installment shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, as amended.

(d) The township may institute an action in a court of competent jurisdiction for the collection of the civil fine, costs, civil sanctions, damages, expenses and/or an installment imposed by a court order or judgment for a municipal civil infraction. However, an attempt by the township to collect the civil fine, costs, civil sanctions, damages, expenses and/or an installment by any process does not invalidate or waive the lien upon the land, building, or structure.
(Ord. No. 03-13, 11-17-03)

# Chapter 2.5

# ALCOHOLIC BEVERAGES

**Article I. In General**

**Sec. 2.5-1. Short title.**
**Sec. 2.5-2. General.**
**Sec. 2.5-3. Application for new license.**
**Sec. 2.5-4. Criteria for nonrenewal or revocation of licenses.**
**Sec. 2.5-5. Objections to renewal and request for revocation.**
**Sec. 2.5-6. Non-refundable application fee.**

## ARTICLE I.

## IN GENERAL

### Sec. 2.5-1. Short title.

This ordinance shall be known as the "Charter Township of Delta Alcoholic Beverage Ordinance."
(Ord. No. 93-7, § 1, 8-16-93)

## ARTICLE II.

## LIQUOR LICENSES

### Sec. 2.5-2. General.

(a) Except, where the context denotes otherwise, words are to have both singular and plural meaning.

(b) Words shall be considered to have their common and customary meanings, except as further defined by the Michigan Liquor Control Act (Act No. 8, Public Acts of 1933, as amended) or by the Liquor Control Commission.
(Ord. No. 93-7, § 1, 8-16-93)

### Sec. 2.5-3. Application for new license.

(a) *Application.* An application for a license to sell beer or wine and/or spirits on premises by the glass shall be made to the township board via the clerk, in writing, signed by the applicant, if an individual; or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:

(1) The name, age, and address of the applicant in the case of an individual; or, in the case of a co-partnership, the person entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the

name and address of such person.

(2) The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.

(3) The character of business of the applicant.

(4) The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its Charter was issued.

(5) The location and description of the premises or place of business which is to be operated under such license.

(6) A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.

(7) A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason for any matter or thing contained in this ordinance or the laws of the State of Michigan.

(8) A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the township in the conduct of its business.

(9) The application shall be accompanied by building and plat plans showing the entire structure and premises and, in particular, the specific areas where the license is to be utilized. The plans and specifications shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.

(b) *Receiving applications.* The clerk shall refuse to accept an application which does not contain all the required information listed in section 2.5-3(A). The clerk may also refuse to accept an application if aware the applicant does not meet the requirements of section 2.5-3(C), subparagraphs (1), (6), (7), (8), (12) or (13). Applications which do not meet section 2.5-3(C)(14) shall be accepted by the clerk only if the proper petitions for rezoning and/or conditional use permit(s), as applicable, have been filed.

(c) *Restrictions on granting new licenses.* No new licenses shall be issued to:

(1) A person whose license has previously been revoked.

(2) A person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.

(3) A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.

(4) A corporation, if any officer, manager or director thereof, or a stock owner or stockholder owning in the aggregate more than five percent of the stock of such corporation would not be

eligible to receive a license hereunder for any reason.

(5) A person whose place of business is conducted by a manager or agent, unless such manager or agent possess the same qualifications required of the licenses.

(6) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor.

(7) A person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is issued.

(8) For premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, or applicable public health regulations.

(9) For any premises unless the sale of beer, wine, or spirits is shown to be incidental and subordinate to other permitted business uses upon the site, such as but not limited to food sales, motel operations, or recreational activities.

(10) For premises where it is determined by a majority of the board that the premises do not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control.

(11) Where the board determines that the proposed location is inappropriate, considering any one or more of the following factors: the desirability of establishing a location in developed, commercial areas, in preference to isolated undeveloped areas, the attitude of residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of an inconsistent zoning classification; and accessibility for primary roads or state highways.

(12) For premises where any real or personal property taxes, special assessments, sewer charges or water charges are delinquent and remain unpaid.

(13) For premises lacking public water supply, public sanitary sewer, or adequate stormwater control, unless the applicant has signed agreements with the appropriate governmental agencies to provide said facilities. (Stormwater control must also be acceptable to the Delta Township Board).

(14) For premises lacking the proper zoning and/or conditional use permits as may be applicable.

(15) For premises and/or proposed licensees who are in violation of any provisions of the Township Code of Ordinances.

(16) For any premises unless it contains a full service restaurant, which is open to the public, having dining facilities that seat no less than 50 persons, wherein food is prepared and consumed on the premises, and whereby at least 50 percent of the gross receipts of the premises are derived from

the sale of the food consumed on the premises.

(17) For any premises where applicant or license suffers or allow or intends to allow in or upon the premises a person who exposes to public view any pubic region, whole or part of the anus, whole or part of the buttocks, whole or part of the genitals, the breast area exposing any portion of the breast below a line immediately above the top of the areola, either directly or indirectly, including but not limited to see through clothing articles, as well as other types of nudity prohibited by statute or local ordinance.

(d) *Terms and licenses.* Approval of a license shall be for a period of one year, subject to annual renewal by the township board upon continued compliance with the regulations of this ordinance. Approval of a license shall be with the understanding that any necessary remodeling or new construction (including utilities) for the use of the license shall be commenced within six months of the action of the township board or the Michigan Liquor Control Commission approving such license, whichever last occurs. Any unreasonable delay in the completion of such remodeling or construction may subject the license to revocation.

(e) *License hearing.* The township board shall conduct a public hearing before granting or denying the license application. Following such hearing, the board shall submit to the applicant a written statement of its finding and determination. The board's determination shall be based upon satisfactory compliance with the restrictions set forth in section 2.5-3(C).

(f) *Non-granting of new licenses.* Nothing in this ordinance shall be construed to dictate that new licenses must be granted if available even though qualified applicants have applied. The township board may reserve licenses for classes of facilities it believes would especially benefit the community. The board may refuse to grant licenses based upon its perception of the best interest of the community.
(Ord. No. 93-7, § 1, 8-16-93; Ord. No. 02-07, § 1, 9-3-02)

**Sec. 2.5-4. Criteria for non-renewal or revocation of licenses.**

The township board may recommend revocation or non-renewal of a license upon a determination by it that, based upon a preponderance of the evidence presented at hearing, any of the following exist:

(1) The license was originally obtained or previously renewed by fraud.

(2) A person's license was previously revoked.

(3) A person, at the time of renewal of any license issued hereunder, would not be eligible for such license upon a first application.

(4) A member of a co-partnership would not qualify to retain a license under section 2.5-4(3).

(5) A corporation, if any officer, manager, or director thereof, or a stock owner or stockholder owning in the aggregate more than five percent of the stock of such corporation would not be eligible to receive a license hereunder for any reason.

(6) A person's business is conducted by a manager or agent, unless such manager or agent possesses

the same qualifications required of the licensee.

(7) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of wine, beer, or spirits.

(8) A person who does not own the licensed premises or does not have a lease therefor for the full period for which the license would be renewed.

(9) There exists a violation on the licensed premises of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, or applicable public health regulations.

(10) The sale of beer, wine, or spirits is not shown to be incidental and subordinate to other permitted business uses upon the site, such as but not limited to food sales, motel operations, or recreational activities.

(11) Any real or personal property taxes, special assessments, sewer charges or water charges on the licensed premises, are delinquent and remain unpaid.

(12) It is determined by a majority of the board that the premises have been allowed to fall into a state of disrepair, off-street parking has become inadequate, lighting deteriorated, refuse accumulated, noise increased, screening has deteriorated or nuisances developed upon the premises.

(13) The licensee, its employees or agents, have caused, suffered, permitted, committed or allowed a violation of the state liquor laws of any penal statute of the State of Michigan to occur on the licensed premises.

(14) There occurs on the premises a violation of the administrative rules of the Michigan Liquor Control Commission or of such rules or regulations of such agency as may supersede the Liquor Control Commission.

(15) Fighting has occurred on the premises.

(16) The premises and/or licensees are in violation of any provisions of the Township Code of Ordinances.

(Ord. No. 93-7, § 1, 8-16-93)

**Sec. 2.5-5. Objections to renewal and request for revocation.**

(a) *Procedures.* Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the township board shall serve the license holder, by first class mail, to holder's last known address, mailed not less than ten days prior to hearing with notice of a hearing, which notice shall contain the following:

(1) Notice of proposed action.

(2) Reasons for proposed hearing.

(3) Date, time, and place of hearing.

(4) A statement that the licensee may present evidence and testimony and confront adverse witnesses.

Following the hearing, the township board shall submit to the license holder and the commission a written statement of its findings and determinations.

(b) *Criteria for non-renewal or revocation.* The township board shall recommend non-renewal or revocation of a license upon a determination by it that, based on a preponderance of the evidence presented at hearing, any of the following exists:

(1) Violation of any of the restrictions on licenses set forth in section 2.5-4, except that free-standing bar buildings established prior to this ordinance shall not be refused a license renewal on the grounds they may not meet the requirements or section 2.5-4(10).

(2) Maintenance of a nuisance upon the premises; or,

(3) Discontinuance or termination of the sale of beer and wine or spirits under the license at the premises for 12 consecutive months.

(Ord. No. 937, § 1, 8-16-93)

**Sec. 2.5-6. Non-refundable application fee.**

Before considering any application submitted in accordance with the requirements of section 2.5-3, a non-refundable fee shall be collected by the township clerk in order to defray the cost of the investigation of the applicant as mandated. The application fee shall apply to new and transfer liquor license applications.

(Ord. No. 02-09, § 1, 12-30-02)

# Chapter 3

## AMUSEMENTS AND ENTERTAINMENTS*

* **State Law References:** Crimes relating to public exhibitions and entertainment, MCL 750.463 et seq., MSA 28.718 et seq.


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## ARTICLE I.

## IN GENERAL

### Sec. 3-1. Sheriff's certification; investigation of applicant's character.

(a) In all cases where the certification of the sheriff is required prior to the issuance of any license by the township clerk, such certification shall be based upon a finding that the person making application for such license is of good moral character.

(b) The phrase "good moral character," when used in this Code for the purpose of licensing, shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner.

(c) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself, as proof of a person's lack of good moral character. It may be used as evidence in the determination, and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that at the current time he has the ability and is likely to serve the public in a fair, honest and open manner, that he is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks to be licensed.

(d) The following criminal records shall not be used, examined or requested by the township in a determination of good moral character:

(1) Records of an arrest not followed by a conviction.

(2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.

(3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest and open manner.

(4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

(e) When a person is found to be unqualified for a license because of a lack of good moral character, or similar criteria, the person shall be furnished by the township clerk with a statement to that effect. The statement shall contain a complete record of the evidence upon which the determination was based. The person shall be entitled, as of right, to a rehearing on the issue before the township board if he has relevant evidence not previously considered regarding his qualifications.

**State Law References:** Similar provisions, MCL 338.41 et seq., MSA 18.1208(1) et seq.

**Sec. 3-2. Conditions prerequisite to license issuance.**

The township clerk shall not issue a new license, nor issue a renewed license, nor submit a license application to the township board for approval (new or renewal) until the applicant has met all applicable conditions of this chapter. Applicant must continue to meet all conditions of a new license as a minimum to qualifying for a license renewal. No licenses shall be issued (new or renewed) under this chapter until the applicant has met all applicable township regulations and ordinances and has paid all required township fees, utility bills, and taxes when due.
(Ord. No. 93-8, § 1, 10-4-93)

**Secs. 3-3--3-25. Reserved.**

## ARTICLE II.

## BOWLING ALLEYS AND POOL TABLES

**Sec. 3-26. License required.**

It shall be unlawful for any person to keep for hire any bowling alley or pool table within the limits of the charter township without first obtaining a license therefor.
(Ord. No. 245, § 1, 12-16-74)

**Sec. 3-27. Exceptions to license requirement.**

This article shall not apply to bowling alleys or pool tables kept in the home, clubhouse or lodge rooms of any legally incorporated association, organization or society, the use of which is confined or limited to members only of such association, organization or society.
(Ord. No. 245, § 6, 12-16-74)

**Sec. 3-28. License application.**

Before any license shall be granted under this article, application therefor shall be made in writing to the township clerk. Such application shall state the name of the person, the place of location of the premises and the number of bowling alleys or pool tables. The application shall be signed by all of the owners thereof, and shall give in addition to the names of the owners, the addresses and telephone numbers of all owners of such establishment.
(Ord. No. 245, § 2, 12-16-74)

**Sec. 3-29. Fees prerequisite to license issuance.**

Before any license is issued under this article, the applicant shall pay to the township clerk the sum of $15.00 for one bowling alley or pool table so to be kept, operated or maintained, and the sum of $10.00 for each additional bowling alley or pool table.
(Ord. No. 245, § 2, 12-16-74)

**Sec. 3-30. Approval of license application.**

Before any license shall be issued or renewed under this article, the application must be approved by the township board, the county sheriff's department, the fire chief, and township treasurer.
(Ord. No. 245, § 2, 12-16-74; Ord. No. 93-8, § 2, 10-4-93)

**Sec. 3-31. License term; renewal; fees.**

A bowling alley or pool table license, when granted, shall be for one year and will be, at the discretion of the township, renewable from April 1 of one year to March 31 of the following year upon the payment of an annual renewal fee of $15.00 for one bowling alley or pool table so to be kept, operated or maintained, and the sum of $10.00 for each additional bowling alley or pool table.
(Ord. No. 245.1, § 1, 6-15-87)

**Sec. 3-32. Display of license.**

Each license issued under this article shall be displayed in a prominent place in the establishment at all times.
(Ord. No. 245.1, § 1, 6-15-87)

**Sec. 3-33. Forfeiture of license for violations.**

If any licensee under this article shall be convicted a second time of a violation of any of the provisions of this article or as a disorderly person, he shall upon such second conviction, forfeit any and all rights or privileges granted or conferred by any license issued by virtue of this article.
(Ord. No. 245, § 5, 12-16-74)

**Secs. 3-34--3-55. Reserved.**

## ARTICLE III.

## COIN-OPERATED AMUSEMENT DEVICES

### DIVISION 1.

### GENERALLY

**Sec. 3-56. 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:

*Electronic amusement device* shall mean any machine electronically displaying a pattern for playing a game which is operated or projected electronically, which, upon insertion of a coin, slug, token, plate, disc, key or other device, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score.

*Exhibitor* shall include any person who operates or exhibits one or more boxes, mechanical amusement devices or electronic amusement devices, for public patronage, within the charter township at any one location.

*Mechanical amusement devices* shall mean any machine, which, upon the insertion of a coin, slug, token, plate, disc, key or other device, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. Provided, however, that machines designed exclusively for the use of children as amusements wherein such children ride upon or are placed within the machines for a period of time, and for which no skill or use of levers or other devices are necessary for manipulation of the device to obtain a score or other return, shall not be included within this definition.

*Person* means, as used herein, any person, firm, corporation, or association in whose place of business any such box, table or device as above defined is placed for use by the public.
(Ord. No. 246, § 1, 12-16-74)

**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 3-57. Gambling devices prohibited.**

Nothing in this article shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been or may be judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the state. If any such gambling device is inadvertently licensed under this article, such licensing shall not be construed as legalizing such gambling device.
(Ord. No. 246, § 8, 12-16-74)

**Sec. 3-58. Seizure and destruction of gambling devices.**

If the county sheriff shall have reason to believe any mechanical amusement device or electronic amusement device is used as a gambling device, such machine may be seized by the county sheriff and impounded and if, upon trial of the licensee for allowing it to be used as a gambling device, such licensee is found guilty, such machine shall be destroyed by the county sheriff.
(Ord. No. 246, § 9, 12-16-74)

**Sec. 3-59. Cartridge or explosive dispensing machines.**

It is unlawful for any person to display for public patronage or keep for operation any machine or device which shall dispense or vend cartridges, bullets, shotgun shells or any similar article of any explosive nature and capable of being used in firearms.
(Ord. No. 246, § 10, 12-16-74)

**Sec. 3-60. Prohibited devices.**

No person holding a license under this article shall display or exhibit in any mechanical amusement device or electronic amusement device, any picture of a suggestive or debasing nature.
(Ord. No. 246, § 11, 12-16-74)

**Sec. 3-61. Penalty, forfeiture of license.**

(a) Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, punishable as prescribed in section 1-11 of this Code.

(b) In addition to any other penalty provided by this article, any licensee hereunder who shall be second time convicted of any of the provisions in this article shall, upon such second conviction, forfeit any and all rights or privileges granted or conferred by any license issued by virtue of this article.
(Ord. No. 246, § 12, 12-16-74)

**Secs. 3-62--3-70. Reserved.**

## DIVISION 2.

## LICENSE

**Sec. 3-71. Required.**

Any person displaying for public patronage or keeping for operation any table, mechanical amusement device or electronic amusement device shall be required to obtain a license from the township clerk upon payment of the prescribed license fee. Application for such license shall be made to the township clerk upon a form to be supplied by the township clerk for that person. When an application has been approved by the county sheriff's department, township fire marshal, township treasurer, and the township board, a license shall be granted. It is hereby declared to be unlawful for any person to display for public patronage or keep for operation any table, mechanical amusement device or electronic amusement device without first obtaining a license as herein provided.
(Ord. No. 246, § 2, 12-16-74; Ord. No. 93-8, § 3, 10-4-93)

**Sec. 3-72. Exception.**

No license shall be required of, nor shall this division apply to, any device or table operated solely by the owner thereof or operated by others with the owner's consent without payment of any charge, fee or the insertion of any money, slug, token, plate, disc, key or other device.
(Ord. No. 246, § 2, 12-16-74)

**Sec. 3-73. Contents of application.**

(a) The application for a license required by this division shall be in duplicate and contain the following information:

(1) Name and address of the licensee, the name and address of the owner of the table, mechanical amusement device or electronic amusement device. If a partnership, the name and address of each partner thereof. If a corporation, the name and address of the local officer or resident agent of such corporation.

(2) Any prior conviction by the applicant of violations of this article.

(3) Place where table or device is to be displayed or operated and the business conducted at that

place, type and number of devices.

(4) Description of instrument, whether mechanical amusement device or electronic amusement device; if a mechanical amusement device or electronic amusement device a description of the contents or of the game to be displayed.

(b) In the event of any change in the information furnished above, pursuant to subsections (a)(1) through (4), it shall be the duty of the licensee to inform the township clerk, township fire marshal and the county sheriff of such change.

(c) Separate application shall be made for each instrument.
(Ord. No. 246, § 3, 12-16-74)

**Sec. 3-74. Age restriction.**

No license shall be issued under this division to any applicant under the age of 18.
(Ord. No. 246, § 3, 12-16-74)

**Sec. 3-75. License fees.**

Every exhibitor shall pay the following annual license fee to the township clerk for the privilege of operating or maintaining for operation each box, table, mechanical amusement device or electronic amusement device coming under this article:

(1) First mechanical or electronic device or table licensed under this division . . . . . $15.00

(2) Each additional device or table . . . . . 10.00
(Ord. No. 246, § 5, 12-16-74; Ord. No. 246.1, § 1, 6-15-87)

**Sec. 3-76. Expiration.**

Each license issued under this division shall expire at 12:00 midnight on March 31 following the date of issuance.
(Ord. No. 246, § 5, 12-16-74; Ord. No. 246.1, § 1, 6-15-87)

**Sec. 3-77. Investigation procedures.**

Application for a license or renewal thereof under this division shall be filed with the township clerk who shall investigate the same and cause the county sheriff and township marshal and township treasurer to investigate the location wherein it is proposed to operate such instrument, ascertain if the applicant is a person of good moral character, and cooperate with sheriff, fire marshal and township treasurer and either approve or disapprove the application. One copy thereof shall be delivered by the township clerk to the township board for approval or disapproval.
(Ord. No. 246, § 4, 12-16-74; Ord. No. 93-8, § 4, 10-4-93)

**Sec. 3-78. Transfer of location or to new owner.**

(a) If the licensee shall move his place of business to another location within the township, the license may be transferred to such new location upon application to the township clerk, giving street and number of new location, and approval therefor being given by the county sheriff and township fire marshal.

(b) When the business of a licensee is sold or transferred, the license or licenses or such licensee may be transferred to the new owner or transferee with the consent of the county sheriff and township fire marshal upon application to the township clerk.
(Ord. No. 246, § 6, 12-16-74)

**Sec. 3-79. Revocation.**

Each license issued under this division is subject to the right, which is hereby expressly reserved, to revoke the same should the licensee, directly or indirectly, permit the operation of any table, mechanical amusement device or electronic amusement device contrary to the provisions of this article or any other ordinances of this township, or the law of the state. Such license may be revoked by the township board after written notice to the licensee, which notice shall specify the violations with which the licensee is charged, if at the hearing conducted by the township board the licensee is found to be guilty of such violations. Five days' notice of the hearing shall be given the licensee. The licensee and/or his attorney may be present at the hearing and submit evidence in the defense of the licensee.
(Ord. No. 246, § 7, 12-16-74)

**Secs. 3-80--3-100. Reserved.**

## ARTICLE IV.

## ENTERTAINMENTS AND PERFORMANCES

**Sec. 3-101. License required.**

It shall be unlawful for any person to sponsor, operate, exhibit, perform or cause to be operated, exhibited or performed any public amusement, entertainment, bingo game, exhibition, circus, carnival, sporting event or religious service under canvas or in the open air, within the charter township without first obtaining a license therefor from the township clerk. The listing is illustrative only and is not meant to be all inclusive. The township clerk is hereby authorized to grant such license for the aforesaid purposes subject to the approvals and requirements contained within the ordinances, code, laws, and regulations of Delta Charter Township, the county of Eaton and the state of Michigan.
(Ord. No. 243, § 3.00, 10-21-74; Ord. No. 93-8, § 5, 10-4-93)

**Sec. 3-102. Exceptions to license requirement.**

(a) No license shall be required under this article where the sponsor, operator, exhibitor or performer of such show is the state or a political subdivision thereof.

(b) This article shall not require a license for any exhibition, entertainment, amusement or performance conducted by established businesses in the charter township for the purpose of stimulating

business or sales.
(Ord. No. 123, § 1, 7-6-71; Ord. No. 243, § 3.00, 10-21-74)

**Sec. 3-103. Zoning provision not affected.**

This article does not repeal or suspend the provisions of section six of the zoning ordinance of the charter township relating to temporary use permits or circuses, carnivals, or activities where rides, concessions, and amusements are provided in the nature of a circus or carnival.
(Ord. No. 123, § 1, 7-6-71; Ord. No. 243, § 3.00, 10-21-74)

**Sec. 3-104. Application for license.**

(a) Applications for a license to operate any activity regulated by this article shall be made by the owner, manager, sponsor or operator thereof on forms to be furnished by the township clerk and shall be sworn to and filed with the township clerk not less than 30 days prior to the date upon which the license applied for shall become effective; provided, however, that the township clerk may, upon good cause shown, allow the filing of an application less than 30 days prior to the effective date.

(b) The application shall contain the following information:

(1) The name and address of the person applying for the permit; the full name and address of the owner, operator and sponsor of such show.

(2) The proposed location and dates of operation of such show, or a statement that operation will be on a continuous basis and the hours of such operation.

(3) A brief description of the type of activity.

(4) A statement setting forth all admission charges.

(5) Such other information as the township clerk shall deem reasonably necessary and proper for the full protection of the charter township, as well as the applicant in order to effectuate the purposes of this article and determine whether the terms of this article and state statutes have been complied with.

(Ord. No. 243, § 4.00, 10-21-74)

**Sec. 3-105. License fees.**

(a) A fee for each license required by this article shall be in an amount determined by the township board, not less than $5.00 and not more than $200.00, except and in all cases where a circus and/or a carnival, or activity where rides, concessions and amusements are provided and are in the nature of a circus or carnival, the fee for the license shall be $200.00 per day. The fee, as determined by the township board, must be paid prior to the time that the license is issued.

(b) In the case of the circus and/or a carnival or activity where rides, concessions and amusements are provided that are in the nature of a circus or carnival operated or sponsored by a person who is classified as

a nonprofit organization for federal internal revenue purposes, the township board may designate such fees for the license as it deems necessary in an amount less than the sum of $200.00, but not less than $5.00 per day.
(Ord. No. 243, § 5.00, 10-21-74)

**Sec. 3-106. Insurance and bond prerequisite to license issuance.**

(a) Prior to issuance by the township clerk of any license under this article, each person applying for a license shall file with the township clerk a public liability and property damage insurance policy, insuring such persons and the charter township against any liability imposed on such person and/or the charter township arising out of the operation of such show in the charter township by such persons. Such policy shall provide for payment up to $300,000.00 in the event of injury or death of any one person, and for the payment up to $500,000.00 in the event of injury or death of more than one person, and for the payment up to $100,000.00 for property damage. Such policy shall bear an endorsement to the effect that the insurance company shall notify the township clerk at least ten days prior to the expiration of such policy, whether by way of cancellation or limitation of term.

(b) Prior to issuance by the township clerk of any license under this article, each person applying for a license shall file with the township clerk a bond in the penal sum of $10,000.00 indemnifying the charter township against any and all violations of any ordinance, regulation or rule of the charter township, to indemnify the charter township for any and all damage to public property of any kind or nature, and conditioned that such licensee will pay to the charter township all fines or penalties which may be assessed against the licensee for breach of any ordinance relating to the show carried on by such person and conditioned further that such licensee will fulfill any obligation to a resident of the state, which obligation is incurred as a result of the operation of such show by the licensee within the charter township.

(c) It shall be unlawful for any person required to have a license under this article, to sponsor, operate, exhibit, perform or cause to be operated, exhibited or performed such show within the township unless a policy of insurance and a bond as required by this section are in force at the time of such operation, exhibition or performance.
(Ord. No. 123, § 4, 7-6-71; Ord. No. 243, § 6.00, 10-21-74)

**Sec. 3-107. License approval, issuance.**

Prior to issuance of any license under this article, the township board shall approve the license application, insurance policy and bond required by this article and establish the fee. Upon approval by the township board and when the township clerk is satisfied that the licensee has complied with all provisions of this article and state statutes, the township clerk shall immediately issue the license provided for in this article. The township board may require as a condition to the issuance of the license approval by the chief of the fire department, by the county sheriff's department and by the township treasurer.
(Ord. No. 243, § 7.00, 10-21-74; Ord. No. 93-8, § 6, 10-4-93)

**Sec. 3-108. Operational requirements.**

After issuance of a license under this article, the licensee shall meet the following requirements:

(1) The insurance and bond required shall continue in full force and effect until expiration or

termination of the license.

(2) Licensee shall permit township, county and state officials to enter upon the licensed premises at all reasonable times to determine compliance with the requirements of this article and other applicable township, county and state ordinances and statutes.

(3) Licensee shall not knowingly permit violations of any township ordinance, county ordinance or state statute by any of his patrons.

(4) Licensee shall provide off-street parking facilities sufficient to accommodate all persons to be admitted to his place of business.

(5) Licensee shall not admit to his premises any person who is then under the influence of intoxicating beverages or of drugs, nor shall he knowingly permit the possession, sale or consumption of intoxicating beverages or controlled substances on his business premises.

(6) Licensee shall provide sufficient fences or barriers or shall so patrol the boundaries of his business premises as to efficiently prevent his patrons from directly trespassing on neighboring premises.

(7) Licensee shall so conduct his business that it shall not give rise to a nuisance by reason of noise, vibration, smoke, odor or dust.

(8) Licensee shall limit his business activities to the hours specified in his license.

(9) Licensee shall post a copy of this article and a copy of his license in his place of business in a location where they can be read easily by his patrons.

(10) License shall pay all required fees, utility bills, and taxes by the due date(s).
(Ord. No. 123, § 5, 7-6-71; Ord. No. 93-8, § 7, 10-4-93)

**Sec. 3-109. Penalty.**

(a) It shall be unlawful for any licensee to knowingly advertise, produce, operate, exhibit or cause to be advertised, produced, operated or exhibited, in the township, any activity regulated in this article without first having obtained a license.

(b) Every person found guilty of violating any of the provisions of this article shall, upon conviction, be fined as prescribed in section 1-11 of this Code.
(Ord. No. 243, § 8.00, 10-21-74)

# Chapter 4

## BUILDINGS AND BUILDING REGULATIONS*

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* **Cross References:** Fire prevention and protection, Ch. 7; mobile homes, Ch. 10; planning, Ch. 14; signs, Ch. 15; utilities, Ch. 18.

**State Law References:** State construction code act, MCL 125.1501 et seq.; licensed contractors, MCL 338.881 et seq.

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**Article I. In General**

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## ARTICLE I.

## IN GENERAL

### Secs. 4-1--4-25. Reserved.

## ARTICLE II.

## BUILDING CODE*

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* **Editors Note:** Ord. No. R-01-01, § 1, 2, adopted Aug. 6, 2001, repealed the former Art. II, §§ 4-26--4-32 and enacted a new § 4-26 as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 98-3, § 1, adopted April 6, 1998. See the Code Comparative Table for further information.

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### Sec. 4-26. Enforcement of building code.

In accordance with Section 8b(6) of Public Act 230 of 1972 (MCL 125.1508b(6)), the Building, Electrical, Mechanical and Plumbing Code Official of the township is hereby designated as the enforcing agency to discharge the responsibility of the township under Public Act 230 of 1972 (MCL 125.1501 et seq.), to enforce the state building code. The township assumes responsibility for the administration and enforcement of such code throughout its corporate limits.
(Ord. No. R-01-01, § 1, 8-6-01)

### Secs. 4-27--4-55. Reserved.

## ARTICLE III.

## MECHANICAL REGULATIONS

### DIVISION 1.

### GENERALLY

**Secs. 4-56--4-65. Reserved.**

### DIVISION 2.

### CONTRACTOR'S LICENSE

**Sec. 4-66. Definition.**

For the purposes of this division, the term mechanical contractor shall mean any person doing mechanical work as outlined in Act No. 192 of the Public Acts of Michigan of 1984 (MCL 338.971 et seq.), as amended, and shall include all classifications as contained therein.
(Ord. No. 287, § 2, 8-5-85)

**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 4-67. Authority.**

This article is hereby adopted pursuant to Act No. 192 of the Public Acts of Michigan of 1984 (MCL 338.971 et seq.), as amended.
(Ord. No. 287, § 3, 8-5-85)

**Sec. 4-68. Registration.**

Mechanical contractors licensed under the state and who intend to perform such work in this charter township shall register their license with the charter township prior to performing such work and prior to applying for permits covering such work. Registration shall be valid until the expiration date of the state mechanical contractors license, at which time the registrations must be renewed.
(Ord. No. 287, § 4, 8-5-85)

**Sec. 4-69. Registration fees.**

The fees for registrations under this division shall be $15.00 for each license registration or renewal of such registration.
(Ord. No. 287, § 5, 8-5-85)

**Secs. 4-70--4-80. Reserved.**

### DIVISION 3.

### RESERVED*

* **Editors Note:** Ord. No. R-01-01, §§ 1, 2, adopted Aug. 6, 2001, repealed the former Div. 3, §§ 4-81--4-84 which pertained to mechanical code and derived from Ord. No. 298, arts. 1--4, adopted Sept. 18, 1989; Ord. No. 298.1, art. 4, adopted Sept. 18, 1989; Ord. No. 308, arts. 1, 2, adopted Oct. 19, 1992; Ord. No. 308.1, arts. 1--4, adopted Oct. 19, 1992; Ord. No. 95-4, § 1, adopted July 17, 1995; and Ord. No. 98-2, § 1, adopted April 6, 1998. See the Code Comparative Table for further information.

**Secs. 4-81--4-110. Reserved.**

## ARTICLE IV.

## PROPERTY MAINTENANCE CODE*

* **Editors Note:** Ord. No. R-01-01, §§ 1, 2, adopted Aug. 6, 2001, repealed the former Div. 4, §§ 4-111--4-115 which pertained to plumbing code and derived from Ord. No. 98-4, § 1, adopted April 6, 1998. Ord. No. 02-04, §§ 1, 2, adopted April 15, 2002 was codified as Art. IV, §§ at the editor's discretion. See the Code Comparative Table for further information.

**Sec. 4-111. Adoption.**

A certain document, three copies of which are on file in the office of the Clerk of Delta Township, being marked and designated as the International Property Maintenance Code, 2003 Edition, as published by the International Code Council, Inc., is hereby adopted as the Property Maintenance Code of Delta Charter Township, in the State of Michigan; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any prescribed in section 4-112.
(Ord. No. 02-04, § 1, 4-15-02; Ord. No. 03-19.5, § 1, 1-18-05)

**Sec. 4-112. Amendments.**

The following sections are hereby revised:

Throughout the document delete International Zoning Code and replace International Building Code, International Plumbing Code, International Mechanical Code and ICC Electrical Code with Michigan Building Code, Michigan Residential Code, Michigan Rehabilitation Code for Existing Buildings 2003, Michigan Plumbing Code, Michigan Electrical Code, and Michigan Mechanical Code.

*Section 101.1 Title.*

Insert: Delta Charter Township

*Section 101.3. Intent.*

Delete: "Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide minimum level of health safety as required herein."

Insert: "The legal occupancy of any building existing on the date of adoption of this code shall be permitted to continue without change, except as is deemed necessary by the code official for the general safety and welfare of the occupants and the public."

*Section 103.2. Appointment.*

Delete: The code official shall be appointed by the chief appointing authority to the jurisdiction; and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

Insert: The code official(s) shall be appointed by resolution of the Delta Township Board of Trustees.

*Section 103.3. Deputies.*

Insert: "Such employees shall have powers as granted to the authorized code official(s) by this code, as delegated by the Building Official."

*Section 103.5. Fees.*

Delete: The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be indicated in the following schedule.

Insert: Any fees for services and activities associated with enforcement of this ordinance shall be established by resolution of the Delta Township Board of Trustees.

*Section 106.3. Prosecution of violation.*

Delete: "shall be deemed guilty of a misdemeanor"

Insert: "shall be found responsible of a civil infraction"

*Section 108.1.4. Unlawful structure.*

Delete: "occupied by more persons than permitted under this code, or was"

*Section 111.1: Application for appeal.*

Insert: "calendar" after 20.

*Section 302.2. Grading and drainage.*

Delete: the entire section.

*Section 302.4 Weeds.*

Delete: Entire section

*Section [F]304.3. Premises identification.*

Delete: "These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inch."

*Section 304.14. Insect screens.*

Delete: "During the period from ___ to ___ ."

*Section 602.3. Heat supply.*

Delete: "during the period from ___ to ___."
(Ord. No. 02-04, § 2, 4-15-02; Ord. No. 03-19.5, § 2, 1-18-05)

**Secs. 4-113--4-135. Reserved.**

## ARTICLE V.

## SMOKE DETECTORS

**Sec. 4-136. 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:

*Apartment building* shall mean any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the building, and shall include flats, apartments and condominiums.

*Hotel sleeping rooms* shall mean guest rooms located in a building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

*Owner* shall mean the owner of the freehold of the premises or lessor estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, firm, or corporation directly or indirectly in control of a building, structure, or real property or his duly authorized agent.
(Ord. No. 278, § 2, 7-19-82)
**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 4-137. Authority.**

This article is hereby adopted pursuant to Act No. 359 of the Public Acts of Michigan of 1947 (MCL 42.1 et seq.), as amended.
(Ord. No. 278, § 3, 7-19-82)

**Sec. 4-138. Where required.**

Every dwelling unit of all apartment buildings in the charter township and all hotel sleeping rooms shall be provided with UL (Underwriter Laboratory) approved smoke detectors equipped with an audible alarm system.
(Ord. No. 278, § 4, 7-19-82)

**Sec. 4-139. Location.**

(a) All smoke detectors shall be located in accordance with approved manufacturers instructions.

(b) In apartment building dwelling units, the smoke detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes. Where sleeping rooms are located on an upper level, the detector shall be placed at the center of the ceiling directly above the stairway.

(c) In hotel sleeping rooms, the smoke detector shall be located on the wall or ceiling in the sleeping area.
(Ord. No. 278, § 5, 7-19-82)

**Sec. 4-140. Power source.**

(a) Smoke detectors required under this article shall receive this primary source of power from the building wiring. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.

(b) Smoke detectors required under this article installed in buildings of which had building permits issued prior to August 28, 1980, may be battery operated.
(Ord. No. 278, § 6, 7-19-82)

**Sec. 4-141. Time period for compliance.**

The owners of all existing apartment buildings and existing hotels located in the charter township not presently properly equipped with smoke detectors as required by this article shall, upon notification from the township, install such smoke detectors within a period of 120 days from the date of notification.
(Ord. No. 278, § 7, 7-19-82)

**Sec. 4-142. Inspection.**

(a) The owner shall cause notice to be given to the charter township building department or fire department when such installations are completed so that the building department or fire department may make onsite inspections to determine proof of compliance.

(b) Alternate methods of proof of compliance may be used in lieu of onsite inspection provided such methods are acceptable to the building official and fire chief of the charter township.

(Ord. No. 278, § 8, 7-19-82)

**Sec. 4-143. Maintenance.**

The owners of buildings regulated under this article shall be responsible for maintenance of all smoke detector units installed under this article.
(Ord. No. 278, § 9, 7-19-82)

**Secs. 4-144--4-165. Reserved.**

## ARTICLE VI.

## SWIMMING POOLS

**Sec. 4-166. Authority.**

This article is hereby adopted pursuant to the authority vested in the charter township by Act No. 359 of the Public Acts of Michigan of 1947 (MCL 42.1 et seq., MSA 5.46(1) et seq.), as amended.
(Ord. No. 286, § 2, 10-20-84)

**Sec. 4-167. Definition.**

For the purposes of this article the term "swimming pool" is hereby defined as an exterior manmade body of water over 18 inches in depth, not located within a building, and intended to be used for private or public swimming.
(Ord. No. 286, § 3, 10-20-84)
**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 4-168. Enclosures.**

(a) Every swimming pool shall be completely surrounded by a fence or wall not less than four feet high, which shall be so constructed as to have no openings with a horizontal dimension of over four inches except for doors and gates. The doors and gates shall likewise have no openings with a horizontal dimension of over four inches. All gates or doors shall be equipped with self-latching devices to keep the gate or door securely closed at all times when not in actual use. A building or dwelling may be used as part of the fence around a swimming pool.

(b) The requirements of subsection (a) of this section shall apply to all swimming pools, subject to the following exceptions:

(1) Aboveground swimming pools that have sides at least 46 inches above grade level need not have a fence if they are equipped with a safety ladder or steps that are removable or are designed to fold upwards, therefore, barring access to the pool when such pool is not in use. Such ladder or safety features shall be constructed in such a fashion as to be acceptable to the township building official, and shall be in a raised position when the pool is not attended, or removed entirely from the pool.

(2) In-ground swimming pools installed prior to July 27, 1966 need not comply with the fencing requirement contained within this section.

(3) Swimming pools installed for residential use and that are totally surrounded by existing buildings or fences that are not less than three feet six inches in height and with such fences having been installed prior to April 23, 1972.

(Ord. No. 286, § 4, 10-20-84)

**Sec. 4-169. Swimming pool permits.**

A permit shall be obtained from the building official prior to starting construction or excavating for all swimming pools. The fee for such permit shall be set by resolution of the charter township board of trustees.
(Ord. No. 286, § 5, 10-20-84; Ord. No. 286.1, art. 4, 5-21-90)

**Sec. 4-170. County permission.**

The building official may require that permission for the pool installation and/or location be obtained from the county health department prior to the issuance of a swimming pool permit if such pool is to be located on a lot served by a septic system.
(Ord. No. 286, § 6, 10-20-84)

**Sec. 4-171. Application of mechanical code.**

Pool heating systems shall be installed according to the current mechanical code of the city.
(Ord. No. 286, § 7, 10-20-84)

**Sec. 4-172. Electrical wiring, power.**

There shall be no wires or electrical power lines above swimming pools that would constitute a health or safety hazard.
(Ord. No. 286, § 8, 10-20-84)

**Sec. 4-173. Setbacks.**

Swimming pools, cabanas and/or accessory buildings shall observe the same set back requirements as detached garages as required under the charter township zoning ordinance.
(Ord. No. 286, § 9, 10-20-84)

**Sec. 4-174. Enforcement.**

The provisions of this article shall be enforced by the building official.
(Ord. No. 286, § 10, 10-20-84)

**Sec. 4-175. Reserved.**

**Sec. 4-176. Notice of violations.**

The building official may cause adjudged violations of this article to be recorded at the county register of deeds office for the purpose of giving constructive notice to buyers of property that have known violations of this article.
(Ord. No. 286, § 11, 10-20-84)

**Sec. 4-177. Notice of compliance.**

The building official shall cause a notice of compliance to be recorded at such time as such property is brought into compliance with this article, on such properties where there had in fact been an adjudged violation recorded.
(Ord. No. 286, § 11, 10-20-84)

**Secs. 4-178--4-200. Reserved.**

## ARTICLE VII.

## SANITARY BUILDING SEWERS

**Sec. 4-201. Short title.**

This article shall be known as "The Charter Township of Delta Sanitary Building Ordinance".
(Ord. No. 269, § I, 5-5-80; Ord. No. 269.1, art. 1, 12-7-92)
**State Law References:** Authority to adopt technical code by reference, MCL 42.23, MSA 5.46(23).

**Sec. 4-202. Purpose.**

This article is hereby adopted by the charter township for the purpose of regulating standards for the installation of sanitary building sewers, establishment of licensing requirements for sanitary sewer installers, establishment of sanitary building sewer permits and fees for such permits and licenses, and providing for penalties for violations of this article.
(Ord. No. 269, § II, 5-5-80; Ord. No. 269.1, art. 2, 12-7-92)

**Sec. 4-203. 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:

*Building drain* shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.

*Building sewer* shall mean that part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage-disposal system or other point of disposal.

*Building sewer, sanitary,* shall mean a building sewer which conveys sewage only.

*Public sewer* shall mean a common sewer directly controlled by public authority.

*Sanitary building sewer installer* shall mean a person who engages in the business of installing sanitary building sewers and are not licensed by the state as master plumbers.

All other term definitions shall be those as contained in the state plumbing code.
(Ord. No. 269, § III, 5-5-80)
**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 4-204. Licensing requirements.**

An application for a license under this article shall be made to the charter township and after the application has been submitted the license shall be issued to the applicant providing that the following requirements and conditions are complied with:

(1) The applicant shall pay a fee as set by resolution by the township board which fee will be presented with the application at the time it is submitted to the township building department.

(2) The applicant shall furnish proof that he has obtained a public liability and property damage insurance policy in the minimum amount of $50,000.00 for public liability and $10,000.00 for property damage.

(3) The license, if granted, shall be effective for a period of one year and shall be renewable from year to year on the date of July 1 of each year.

(4) The license, when granted, may be revoked by the township board at the discretion of the township board if the licensee fails to comply with the requirements of any of the township's ordinances, rules or regulations.

(Ord. No. 269, § IV, 5-5-80)

**Sec. 4-205. Permit requirements.**

(a) No building sewer shall be installed or repaired in the charter township until a permit for the installation or repair of such sewer has been obtained from the township. Application for this permit shall be submitted to the charter township. Application for the permit shall be made on a form to be approved by the township and a fee shall be paid at the time the application is made for such permit.

(b) The permit issued by the township on a form to be approved by the township shall be dated and shall expire 30 days from the date of its issuance but shall be renewable at the discretion of the township.

(c) Permits for the installation of sanitary building sewers or repair to such sewers shall be issued only to those that conform to the following:

(1) Persons who are currently licensed under section 4-203.

(2) Master plumbers licensed by the state.

(3) Home owners doing their own installation of sewers serving single-family dwellings that they occupy or intend to occupy.

(Ord. No. 269, § V, 5-5-80)

**Sec. 4-206. Fees.**

The sewer permit fees shall be set by resolution of the charter township board of trustees.

(Ord. No. 269, § VI, 5-5-80; Ord. No. 269.1, art. 3, 12-7-92)

**Sec. 4-207. Installation regulations.**

(a) All costs and expense incidental to the construction of a sanitary building sewer shall be borne by the owner. A separate sanitary building sewer shall be provided for each building.

(b) The sanitary building sewer shall be constructed of materials and methods as regulated by this article and the state plumbing code.

(c) That portion of the sanitary building sewer lying in the area of a public street, alley or right-of-way shall be not less than six inches in diameter. That part of the sanitary building sewer between the street boundary and the building shall be not less than four inches in diameter.

(d) The slope of the pipe shall be not less than one-eighth inch per foot.

(e) Sanitary building sewer shall be laid at a uniform grade and in a straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

(f) All excavations required for the installation shall be open trench, unless otherwise approved. The site of the construction shall at all times be barricaded and lighted in such a manner as to protect the owner and the public.

(g) Connection to the public sewer shall be through a wye or tee fitting in the sewer line. If the owner wishes to make connection to the public sewer at a point other than the location of a wye or tee, such connection must be approved by the township engineering department.

(h) When the pipe has been installed, but before backfilling, the applicant for the sewer permit shall request and receive an inspection of the work by an authorized representative of the township. Approval of this township inspector must be obtained before backfilling.

(i) The township and its duly authorized representative shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this article at any time during the reasonable or usual business hours.

(Ord. No. 269, § VII, 5-5-80)

**Secs. 4-208, 4-209. Reserved.**

**Sec. 4-210. Notice of violations.**

The building official may cause adjudged violations of this article to be recorded at the county register of deeds office for the purpose of giving construction notice to buyers of property that have known violations.
(Ord. No. 269, § VIII, 5-5-80)

**Sec. 4-211. Notice of compliance.**

The building official shall cause a notice of compliance to be recorded at such time as such property is brought into compliance with this article, on such properties where there had in fact been an adjudged violation recorded.
(Ord. No. 269, § VIII, 5-5-80)

**Secs. 4-212--4-299. Reserved.**

## ARTICLE VIII.

## RESERVED*

* **Editors Note:** Ord. No. R-01-01, §§ 1, 2, adopted Aug. 6, 2001, repealed the former Art. VIII, §§ 4-300--4-307, 4-310--4-317, 4-320--4-328, 4-330, 4-331, 4-340--4-345, 4-350--4-355, 4-360--4-364, which pertained to electrical code and derived from Ord. No. 99-3, § 1, adopted June 21, 1999. Prior to the adoption of Ord. No. R-01-01, Ord. No. 99-3, § 1, adopted June 21, 1999, amended Art. VIII in its entirety to read as herein set out. At the editor's discretion and to preserve the style of this Code, Art. IX, which was formerly § 4-321 has been renumbered as § 4-365.

**Secs. 4-300--4-364. Reserved.**

## ARTICLE IX.

## VIOLATIONS AND PENALTIES

**Sec. 4-365. Violations and penalties.**

(a) Failure to comply with the provisions of this chapter shall constitute a violation of the Code and shall be punishable as a municipal civil infraction as prescribed by chapter 1 of the Code.

(b) This chapter shall be enforced by the chief building inspector or designees who are hereby designated as the authorized township official to issue municipal civil infraction citations, directing alleged violators to appear in court, or issue municipal civil infraction violation notices, directing alleged violators to appear at the Township of Delta Municipal Violations Bureau as provided by this Code.

(c) The issuance of municipal civil infraction citations shall be pursuant to chapter 2, article VII of this Code.
(Ord. No. 98-7, 8-3-98)

# Chapter 5

# CEMETERIES*

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* **Cross References:** Administration, Ch. 2.
**State Law References:** Township cemeteries, MCL 128.61 et seq., MSA 5.3121 et seq.

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**Sec. 5-1. Definitions.**
**Sec. 5-2. Rules and regulations.**
**Sec. 5-3. Operation and maintenance.**
**Sec. 5-4. Procedures for purchasing burial rights.**
**Sec. 5-5. Conditions upon burial rights.**
**Sec. 5-6. Perpetual care fund.**
**Sec. 5-7. Penalties.**

## Sec. 5-1. Definitions.

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:

*Burial space* shall mean a single plot, group of plots or lot under the ownership of one person or family.

*Cemetery lot* shall mean an area of two or more cemetery plots.

*Cemetery plot* shall mean an area of sufficient size to accommodate an interment.

*Cemetery supervisor* shall mean the person appointed by and under the supervision of the director who is responsible for day to day operations of the cemeteries, including but not limited to, lot sales, grave openings and closings, enforcement of rules and regulations, contact with funeral directors, installation of monument/marker foundations, cemetery maintenance and public relations.

*Commission* shall mean the township parks, recreation and cemeteries commission appointed by the board of trustees to oversee and recommend policy concerning the township's parks, recreation programs and cemeteries.

*Director* shall mean the parks, recreation and cemeteries department director, responsible for the overall operation of the department. This person, within his duties, has the responsibilities associated with cemetery sexton.

*Immediate family* shall mean the spouse, parent, grandparent, children, and grandchildren of the original lot owner. The term is also to include "great" to the above where applicable.

*Marker* shall mean a stone or placque either flush or above the ground indicating the given and/or family

name of the deceased. It is located on the west side of the plot.

*Monument* shall mean a stone extending above the ground inscribed with the family name only. It is placed at a location approved by the cemetery supervisor or director.

**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 5-2. Rules and regulations.**

The commission shall recommend to the board rules and regulations governing the operation, maintenance and use of cemeteries located within the charter township and owned by the charter township. Such rules and regulations as proposed by the commission shall become effective when approved by resolution by the township board and publication of notice of adoption of rules with the minutes of the charter township board and filing of the same in the office of the township clerk, notice of which filing shall be included in the publication of notice of adoption of the rules.

(Ord. No. 293, § 3, 4-7-86)

**Sec. 5-3. Operation and maintenance.**

The parks, recreation and cemetery commission of the charter township shall be responsible for the development of policy and operating procedures which shall be carried out under the general management and day to day supervision of the director of parks, recreation and cemeteries department.

(Ord. No. 293, § 4, 4-7-86)

**Sec. 5-4. Procedures for purchasing burial rights.**

Burial rights shall be evidenced by certificates to be issued through the township's clerk's office which shall be responsible for the maintenance of records concerning ownership of burial space within the cemeteries. The issuance of a certificate of ownership of burial space shall not constitute a right in land, but rather a right to burial within the township cemetery subject to the rules and regulations of the township and the laws of the state.

(Ord. No. 293, § 5, 4-7-86)

**Sec. 5-5. Conditions upon burial rights.**

Burial rights purchased through the office of the township clerk shall be subject to the following conditions which may be further defined in the rules and regulations to be adopted hereunder:

(1) No burial shall take place unless lot purchase price has been paid in full. The cost of any services required to open or close the lot have been paid to the township and all other fees and charges have been satisfied in full.

(2) Burial rights may revert to the township for any cemetery plot, lot or burial space which may remain unused for a period of 50 years.

(3) Cemetery lots shall not be purchased for speculative purposes or for resale to third parties not defined as immediate family members.

(Ord. No. 293, § 6, 4-7-86)

**Sec. 5-6. Perpetual care fund.**

The perpetual care fund is a separate trust and agency account of the charter township. It is established to receive such funds as are generated by fees and charges established by the rules and regulations to be adopted hereunder shall be deposited and be maintained by the township treasurer or controller, the interest from which and shall be applied to offset the cost of cemetery operation and maintenance, improvement and development of township cemeteries.
(Ord. No. 293, § 7, 4-7-86)

**State Law References:** Authority to operate trust for cemetery purposes, MCL 128.72, MSA 5.3132.

**Sec. 5-7. Penalties.**

A violation of this chapter shall be punishable as prescribed in section 1-11 of this Code.
(Ord. No. 293, § 11, 4-7-86)

# Chapter 6

# COMMUNITY DEVELOPMENT*

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* **Cross References:** Administration, Ch. 2.

**State Law References:** Downtown development authority, MCL 125.1651 et seq., MSA 5.3010(1) et seq.; housing and slum clearance projects, MCL 125.651 et seq., MSA 5.3011 et seq.; housing corporations law, MCL 125.601 et seq., MSA 5.3057(1) et seq.; urban redevelopment corporations, MCL 125.901 et seq., MSA 5.3058(1) et seq.; rehabilitation of blighted areas, MCL 125.71 et seq., MSA 5.3501 et seq.; economic development corporations, MCL 125.1601 et seq., MSA 5.3520(1) et seq.

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**Article I. In General**

**Secs. 6-1--6-25. Reserved.**

**Article II. Economic Development Corporation**

**Sec. 6-26. Approval, adoption of documents.**
**Sec. 6-27. Copy of ordinance filed; incorporation.**

## ARTICLE I.

## IN GENERAL

### Secs. 6-1--6-25. Reserved.

## ARTICLE II.

## ECONOMIC DEVELOPMENT CORPORATION

### Sec. 6-26. Approval, adoption of documents.

The application dated October 20, 1975, and the articles of incorporation for the economic development corporation of the charter township are hereby approved and adopted.
(Ord. No. 252, § 1, 1-19-76)

### Sec. 6-27. Copy of ordinance filed; incorporation.

A copy of the ordinance from which this article was derived is directed to be filed with the corporation division of the state department of commerce in accordance with section 5, subparagraph 1(1) of Act No. 338 of the Public Acts of Michigan of 1974 (MCL 125.1601 et seq., MSA 5.3520(1) et seq.), as amended, and the applicants in such application dated October 20, 1975, are therefore authorized to incorporate the Economic Development Corporation of the charter township as a nonprofit corporation pursuant to Act No. 327 of the Public Acts of Michigan of 1931 (MCL 450.62 et seq., MSA 21.62 et seq.), as amended.
(Ord. No. 252, § 2, 1-19-76)

# Chapter 6.5

# EMERGENCY SERVICES

**Article I. In General**

**Secs. 6.5-1--6.5-20. Reserved.**

**Article II. Emergency Medical Services System**

**Sec. 6.5-21. Short title.**
**Sec. 6.5-22. Purpose.**
**Sec. 6.5-23. Definitions.**
**Sec. 6.5-24. Charges for service.**
**Sec. 6.5-25. User fee.**
**Sec. 6.5-26. Fee schedule.**
**Sec. 6.5-27. Disposition of funds.**
**Sec. 6.5-28. Contract with third parties.**
**Sec. 6.5-29. Settlement or compromise of fees.**
**Sec. 6.5-30. Litigation.**
**Sec. 6.5-31. Service not to be refused for nonpayment.**

## ARTICLE I.

## IN GENERAL

### Secs. 6.5-1--6.5-20. Reserved.

## ARTICLE II.

## EMERGENCY MEDICAL SERVICES SYSTEM

### Sec. 6.5-21. Short title.

This article shall be known as the "Charter Township of Delta Fee for Ambulance Service Ordinance."
(Ord. No. 304, § 1, 3-2-92)

### Sec. 6.5-22. Purpose.

This article is adopted for the purpose of authorizing the township to charge fees for the provision of an emergency medical services system providing advanced life support, to more nearly equalize payments of users for operation and maintenance of the emergency medical services system, and to authorize the township, through the fire chief and township superintendent, subject to approval of township board, to enter into agreements with third parties for administration of a billing system to collect such fees.
(Ord. No. 304, § 2, 3-2-92)

### Sec. 6.5-23. Definitions.

Unless the context of this article specifically indicates otherwise, the meanings of terms used in this

article shall be as follows:

*Advanced life support* means patient care that may include any care a paramedic is qualified to provide by paramedic education that meets the educational requirements established by the state department of public health under MCL 333.20912, MSA 14.15(20912) or is authorized to provide by the protocols established by the local medical control authority under MCL 333.20919, MSA 14.15(20919) for a paramedic.

*Ambulance* means a motor vehicle or rotary aircraft that is primarily used or designated as available to provide transportation and basic life support, limited advanced life support, or advanced life support.

*Approval of the township board* means a majority vote of the full board of the township.

*Emergency medical services personnel* means a medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator.

*Emergency medical services system* means a comprehensive and integrated arrangement of the personnel, facilities, equipment, services, communications, and organizations necessary to provide emergency medical services within a particular geographic region.

*Fire chief* means the individual whose job title is "fire chief" or, in the absence of a classification of "fire chief," the individual who performs the top supervisory and administrative functions of the fire department.

*Nonresident* means a person who neither resides in nor pays property taxes to the charter township.

*Resident* means an individual who is personally a property taxpayer or who lives within the geographical boundaries of the township and is subject directly, or indirectly, to the specific tax for the provision of an emergency medical services system. The fire chief and the township superintendent, subject to the approval of the township board, may formulate guidelines and shall make final residency determinations.

*Township superintendent* means the individual whose title is "township superintendent" or, in the absence of a "township superintendent," the individual who is responsible for overseeing the fiscal budget of the township.
(Ord. No. 304, § 3, 3-2-92)

**Sec. 6.5-24. Charges for service.**

On behalf of the township, the fire chief and the township superintendent, subject to the approval of the township board, are responsible for and have the authority to charge fees for the costs of an emergency medical services system. The fees shall be binding upon all persons receiving such services as well as their successors in interest, assigns, estates and heirs.
(Ord. No. 304, § 4, 3-2-92)

**Sec. 6.5-25. User fee.**

All users of an emergency medical services system shall be responsible for payment of user fees. For so long as the township has a specific tax for the provision of an emergency medical services system; however, the

township shall pay on behalf of all residents all noninsured amounts assessed for their use of emergency medical services. The township shall submit the above described payment on behalf of all township residents as follows:

(1) The township shall require that it be provided monthly emergency medical services system line item bills for emergency medical services system use, identifying:

a. Those individuals using the emergency medical services system who are township residents;

b. Whether the individual carries insurance coverage for emergency medical services; and

c. Each resident's emergency medical services system charges for which insurance coverage is unavailable, including but not limited to copays, deductibles, and amounts assessed over the insurance carrier's limiting charge.

(2) The township superintendent or the superintendent's designee shall pay on behalf of township residents all uninsured amounts charged for their use of emergency medical services system use within the township from tax funds allocated for the emergency medical services system.

(3) Such payments shall be made on the residents' behalf on a monthly basis.

(Ord. No. 304, § 5, 3-2-92; Ord. No. 01-03, § 1, 5-7-01)

**Sec. 6.5-26. Fee schedule.**

The fees as provided under this article shall be based on actual costs and the fire chief shall annually present to the township for approval a fee schedule based on the approved emergency medical services system budget. The fee schedule will encompass personnel, equipment, material and maintenance costs in such a form as to insure proper charges for services rendered.

(Ord. No. 304, § 6, 3-2-92)

**Sec. 6.5-27. Disposition of funds.**

All monies received under the provisions of this article shall be placed in an account set up for the express purpose of funding expenses necessary to furnish an emergency medical services system.

(Ord. No. 304, § 7, 3-2-92)

**Sec. 6.5-28. Contract with third parties.**

To facilitate the collection of fees to pay the costs of an emergency medical services system, the fire chief and township superintendent, subject to the approval of the township board, may contract with third parties.

(Ord. No. 304, § 8, 3-2-92)

**Sec. 6.5-29. Settlement or compromise of fees.**

To facilitate the collection of fees to pay the costs of an emergency medical services system, the fire chief and township superintendent, subject to the approval of the township board, may authorize the settlement or compromise of fees when such is deemed to be in the best interest of the parties.
(Ord. No. 304, § 9, 3-2-92)

**Sec. 6.5-30. Litigation.**

The township may enforce the provisions of this article by civil actions in court, for the collection of amounts due or other appropriate relief.
(Ord. No. 304, § 10, 3-2-92)

**Sec. 6.5-31. Service not to be refused for nonpayment.**

Nothing in this article shall authorize any township department or township personnel to refuse or delay any service to any person, firm or corporation that has not paid for service or that owes for previous services or owes any money.
(Ord. No. 304, § 11, 3-2-92)

# Chapter 7

# FIRE PREVENTION AND PROTECTION*

* **Cross References:** Administration, Ch. 2; buildings and building regulations, Ch. 4.

**State Law References:** State fire prevention act, MCL 29.1 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.; crimes related to fires, MCL 750.240 et seq.


**Article I. In General**

**Secs. 7-1--7-25. Reserved.**

**Article II. Fire Prevention Code**

**Sec. 7-26. Adoption.**
**Sec. 7-27. Amendments.**
**Secs. 7-28--7-45. Reserved.**

**Article III. Regulation of Open Burning**

**Sec. 7-46. Purpose.**
**Sec. 7-47. Definitions.**
**Sec. 7-48. Prohibited activities.**
**Sec. 7-49. Regulated activities.**
**Sec. 7-49.5. Supplemental rules and regulations.**
**Sec. 7-50. Discretion of fire chief regarding burning.**
**Sec. 7-51. Violations and penalties.**


## ARTICLE I.

## IN GENERAL

### Secs. 7-1--7-25. Reserved.

## ARTICLE II.

## FIRE PREVENTION CODE*

* **Editors Note:** Ord. No. 01-04, §§ 1--3, adopted Dec. 17, 2001, repealed the former Art. II, §§ 7-26, 7-27, 7-31--7-43, and enacted a new Art. II, §§ 7-26, 7-27, as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 299.1, arts. 1, 2, 6, 7, 9, 11, 13, 14, adopted Jan. 16, 1990; Ord. No. 306, arts. 1, 2, 6--12, 14, 15, adopted July 20, 1992; Ord. No. 94-4, adopted April 18, 1994; Ord. No. 95.8, adopted Dec. 4, 1995; Ord. No. 96-1, adopted Feb. 5, 1996; Ord. No. 98-6, adopted May 18, 1998; and Ord. No. 99-1, adopted Feb. 15, 1999.

### Sec. 7-26. Adoption.

A certain document, three copies of which are on file in the office of the clerk of Delta Charter Township, being marked and designated as the Fire Prevention Code, including Appendix chapters A, B, C, D, E, F, and G, as published by the International Code Council, is hereby adopted as the Code of Delta Charter Township for regulating and governing the safeguarding of life and property from fire and explosion hazards

arising form the storage, handing, and use [of] hazardous substances, materials and devices; and from conditions hazardous to life or property in the occupancy of buildings and premises in Delta Charter Township and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provision, conditions and terms of such International Fire Code, 2003 Edition, on file in the office of the Clerk of Delta Charter Township are hereby referred to, adopted and made part hereof as if fully set out in this article. (Ord. No. 01-04, § 1, 12-17-01; Ord. No. 03-16, § 1, 9-7-04)

**State Law References:** Authority to adopt technical codes by reference, MCL 42.23, MSA 5.46(23).

**Sec. 7-27. Amendments.**

(a) The following sections are hereby revised:

*Section 101.1.* Insert: Delta Charter Township

*Section 109.3.* Insert: Misdemeanor; $500.00; ninety (90) days

*Section 111.4.* Insert: $500.00; $500.00

(b) The following Delta Charter Township amendments shall be in effect:

*302.1 Definitions*. New definitions added as follows:

Domestic Fire: Domestic fire shall mean any fire in the vicinity of a residence within the curtilage of a dwelling, where the material to be burned has been placed in a fireproof container constructed of metal or masonry, with an approved spark arrestor with openings not larger than three-fourths of an inch.

Training Burn: Training burn shall mean any fire set by the fire chief or his/her designee for the purpose of training members of the fire department in the techniques of fire control, management or prevention.

Yard Waste: Yard waste shall mean lawn clippings, leaves, twigs and branches (excluding stumps) not more than three inches in diameter and not more than four feet in length; weeds, brush, shrub clippings and other plant matter which does not emit a foul or offensive odor when burned.

*307.2.1 Authorization* is hereby amended to read as follows:

Section 307.2.1 Authorization. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the fire chief or his/her designee, provided that all conditions specified in the authorization are followed.

*307.3.1 Bonfires* is hereby amended to read as follows:

Section 307.3.1 Bonfires and Recreational Fires. A bonfire or recreational fire shall not be conducted within 25 feet of a structure or combustible materials. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition. The

size of the bonfire or recreational fire shall be limited to three feet by three feet by three feet.

*307.3.2 Recreational Fires* is hereby deleted.

*307.5 Regulated Activities* is a new section added as follows:

Section 307.5 Regulated Activities. The fire chief is authorized to regulate all burning within the Township.

*307.5.1 Open Burning of Yard Waste*.

Section 307.5.1 Open Burning of Yard Waste shall be permitted in all areas zoned A-1 or A-2 anytime during the calendar year with a permit.

*307.5.2 Bonfires and Recreational Fires*

Section 307.5.2 Bonfires and Recreational fires may be permitted anytime during the calendar year with a permit.

*307.5.3 Training Burns*

Section 307.5.3 Training Burns. Training burns may be permitted anytime during the calendar year at the discretion of the fire chief or his/her designee.

*307.5.4 Domestic Fires.*

Section 307.5.4 Domestic Fires. Domestic fires may be permitted in all areas zoned A-1 or A-2 anytime during the calendar year only during the hours between sunrise and sunset.

*307.5.5 Open Burning for Development*.

Section 307.5.5 Open Burning for Development. The fire chief or his/her designee may issue a permit for open burning on public or private property being cleared for the purpose of development or in cases deemed emergencies.

*906.2 General Requirements.* Section 906.2 is hereby amended to read as follows:

Section 906.2. General Requirements. Fire Extinguishers shall be selected, installed and maintained in accordance with this section and NFPA 10, or as may be required by the fire chief or his/her designee.

*906.3 Exceptions* is a new section added as follows:

Section 906.3. EXCEPTIONS: Occupancy classifications Group A divisions 1-5; Group B; Group M and Group R divisions 1-4 shall be as follows:

1. Portable fire extinguisher(s) in occupancies not equipped with automatic fire protection systems shall have a minimum rating of 4A-60BC or equivalent with the maximum travel distance not to exceed 50 feet in any direction to an extinguisher.

2. Portable fire extinguisher(s) in occupancies equipped with automatic fire protection systems shall have a minimum rating of 4A-60BC or equivalent with the maximum travel distance not to exceed 75 feet in any direction to an extinguisher.

*906.9 Height Above Floor.* Section 906.9 is hereby amended to read as follows:

Section 906.9. Height Above Floor. Portable fire extinguishers having a gross weight not exceeding 40 pounds shall be installed so that its top is five (5) feet above the floor. Hand-held portable fire extinguishers having a gross weight exceeding forty pounds shall be installed so that its top is not more than three and one half (3 1/2) feet above the floor. The clearance between the floor and the bottom of the installed hand-held extinguishers shall not be less than four (4) inches.

*3309. Section 3309. Division 1.4G Fireworks* is a new section as follows:

Section 3309. Division 1.4G Fireworks. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks shall be in accordance with Section 3309 and Act 358, Public Acts of Michigan, 1968, as amended, which is incorporated herein by reference. This retail sale of fireworks shall comply with the additional requirements of this section.

*3309.1 Definition of Division 1.4G Fireworks*

3309.1.1. Definition of Division 1.4G Fireworks General. For the definition of fireworks, Class C Common, see Act 328, Public Acts of Michigan, 1931, as amended.

*3309.2 Division 1.4G Fireworks for Consumer Consumption*

3309.2. Division 1.4G Fireworks for Consumer Consumption. Division 1.4G Fireworks for Consumer Consumption shall require a permit for retail sale of fireworks.

3309.2.1. Prior to the retail sale of fireworks, the seller shall contact the township fire chief or his/her designee, and request an inspection of the premises where the fireworks are to be sold and/or kept. Sales of fireworks shall not be permitted until the premises where the fireworks are to be sold and/or kept are inspected and approved by the township fire chief or his/her designee.

3309.2.3 It shall be unlawful to sell fireworks to any person(s) under the age of eighteen (18) years.

3309.2.4 It shall be unlawful to allow smoking on the premises where fireworks are to be sold and/or kept; the seller shall comply with all other provisions of this Section and the Township Code of Ordinances.

3309.2.4 Prior to the retail sale of fireworks, the premises where fireworks are to be sold and/or kept shall comply with all other provisions of this Section and Chapter 33, Explosives and Fireworks; the 2003 Edition of the International Fire Code; and the Township Code of Ordinances.

3309.2.4 The Township Fire Chief or his/her designee shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for display or sale, stored or held in violation of this Section.

3309.2.4 The retail sale of fireworks shall be allowed as per Section 3301.2.2 of this code and pursuant to the Township Zoning Ordinance.

3309.2.4 The retail sale of fireworks from a fixed place not within a building, from a trailer or from a fixed place within a temporary structure or shelter is not permitted within seven hundred and fifty (750) feet of a parcel on which fireworks are offered for retail sale.

*Appendix C.* Appendix C is hereby amended to read as follows:

Section C105. Distribution of Fire Hydrants

C105.1 Hydrant Spacing. The average spacing between fire hydrants shall not exceed 300 feet. Exception: The fire chief is authorized to accept a deficiency of up to 10 percent where existing fire hydrants provide all or a portion of the required fire hydrant service. Regardless of the average spacing, fire hydrants shall be located such that all points on streets and access roads adjacent to a building are within 200 feet.

(c) State regulations prevail whenever state law or regulations provide a higher standard or requirement than is provided in the Fire Prevention Code, the higher requirement or standard of this state law shall be followed in lieu of the requirement or standard of the Fire Prevention Code. Said state standard(s) or requirement(s) shall be construed as part of this chapter as if fully set forth herein, and shall be enforceable as a part of this chapter.
(Ord. No. 01-04, § 2, 3, 12-17-01)

**Secs. 7-28--7-45. Reserved.**

## ARTICLE III.

## REGULATION OF OPEN BURNING*

* **Editors Note:** Ord. No. 95-1, adopted Mar. 20, 1995, purported to add a new Art. I, §§ 7-1--7-9 to this chapter. Art. I has been reserved for general use; therefore, the editor has codified §§ 7-1--7-6 of this ordinance as a new Art. III, §§ 7-46--7-51. Sections 7-7--7-9 of Ord. No. 95-1, relative to severability, repeal and effective date, were omitted from codification at the editor's discretion.

**Sec. 7-46. Purpose.**

The purpose of this article is to provide for the regulation of open burning within the township.
(Ord. No. 95-1, 3-20-95; Ord. No. 99-1, 2-15-99)

**Sec. 7-47. Definitions.**

For the purpose of this chapter, the words and phrases shall have the following meanings:

*Domestic fire* shall mean any fire in the vicinity of a residence, within the curtilage of the dwelling, where the material to be burned has been placed in a fire-proof container constructed of metal or masonry, with an approved spark arrestor, and with openings not larger than three-fourths of an inch. Such burners shall be located not less than 15 feet from any building and not less than five feet from any adjoining property line. Domestic fires shall not emit any foul, offensive odor.

*Open burning* shall mean the outdoor burning of any type of combustible materials, except for such burning which is contained within outdoor grills or barbecues, and is intended and commonly used for purposes of food preparation.

*Permit* shall mean the authorization granted by the fire chief, or his/her designee, pursuant to the criteria established in this article, consideration of weather conditions, and any other basis relative to health, safety and welfare of township residents.

*Recreational fire* shall mean an open fire set on the ground and fueled only by wood, brush or charcoal. The materials fueling such a fire are limited to an area of three feet by three feet by three feet.

*Training burn* shall mean any fire set by the fire chief, or his/her designee, for the purpose of training members of the fire department in techniques of fire control, management or prevention.

*Yard waste* shall mean lawn clippings, leaves, twigs and branches (excluding stumps) not more than three inches in diameter and not more than four feet in length, weeds, brush, shrub clippings, and other plant matter which do not emit a foul or offensive odor when burned.
(Ord. No. 95-1, 3-20-95; Ord. No. 99-1, 2-15-99)

**Sec. 7-48. Prohibited activities.**

(a) Burning of garbage or solid waste shall not be permitted any where in the township.

(b) Burning of construction materials and/or any finished lumber shall not be permitted anywhere in the township.

(c) Burning of yard waste (i.e., lawn clippings, leaves, twigs and branches) not grown or originated on the property of the township property owner shall not be permitted anywhere in the township.

(d) It shall be unlawful for any person to cause or have open burning on property within the township that is not owned by that person without the permission of the property owner.

(e) It shall be unlawful for any person or entity to engage in open burning in the township except as permitted in section 7-49.
(Ord. No. 95-1, 3-20-95; Ord. No. 99-1, 2-15-99; Ord. No. 99-2, 3-15-99)

**Sec. 7-49. Regulated activities.**

(a) Open burning of yard waste shall be permitted in all areas zoned A-1 or A-2 anytime during the calendar year with a permit.

(b) Open burning of yard waste shall be permitted in all other areas only during specific times in the spring and fall with a permit. The specific dates in the spring shall be from March 15 to April 15. The specific dates in the fall shall be from October 15 to November 30.

The fire chief, at his /her discretion, may extend each of the designated time periods for open burning of yard waste for a period not to exceed 14 days.

(c) Recreational fires may be permitted any time during the calendar year with a permit.

(d) Training burns may be permitted any time during the calendar year at the discretion of the fire chief, or his/her designee.

(e) Domestic fires shall be permitted in all areas zoned A-1 or A-2 any time during the calendar year only between the hours of sunrise and sunset.

(f) The fire chief may issue a permit for open burning on any public or private property being cleared for the purpose of development, or in cases deemed emergencies by the fire chief or his/her designee.
(Ord. No. 95-1, 3-20-95; Ord. No. 99-1, 2-15-99)

**Sec. 7-49.5. Supplemental rules and regulations.**

The chief is authorized to render interpretations of this code and to make and enforce rules and supplemental regulations in order to carry out the application and intent of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of his code and shall be available to the public during normal business hours.
(Ord. No. 99-1, 2-15-99)

**Sec. 7-50. Discretion of fire chief regarding burning.**

All burning of any kind may be curtailed under extreme conditions as determined by the fire chief.
(Ord. No. 95-1, 3-20-95; Ord. No. 99-1, 2-15-99)

**Sec. 7-51. Violations and penalties.**

(a) The fire chief and the fire marshals may issue and cause the serving of appearance tickets with respect to any violation of the Delta Charter Township Open Burning Regulation Ordinance pursuant to section 9(c) of Michigan Public Act No. 147 of 1968 as amended, being MCLA 764.9 (c).

(b) Any person violating any of the provisions of this article may be punished by a fine in an amount not exceeding $50.00. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. No. 95-1, 3-20-95; Ord. No. 99-1, 2-15-99)

## Chapter 7.5

## LAND DIVISION

### Sec. 7.5-1. Short title.

This ordinance shall be known and cited as the "Delta Township Land Division Ordinance."
(Ord. No. 98-1, 3-16-98)

### Sec. 7.5-2. Purpose.

The purpose of this ordinance is to carry out the provisions of the state land division act (PA 288 of 1967, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with the Act by establishing standards for prior review and approval of land divisions within the township.
(Ord. No. 98-1, 3-16-98)

### Sec. 7.5-3. Definitions.

For the purposes of this ordinance certain terms and words used herein shall have the following meaning:

*Accessible* in reference to a parcel, means the parcel meets one or both of the following requirements:

(1) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or the Eaton County Road Commission under Act No. 200 of the Public Acts of 1969, as amended, or has an area where a driveway can provide vehicular access to an existing road or street and meet all applicable location standards.

(2) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or the Eaton County Road Commission under Act No. 200 of the Public Acts of 1969, as amended, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable standards.

*Applicant* A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

*Assessor* The township assessor or his/her designee.

*Board* The township board of trustees.

*Divide* or *Division* The partitioning or splitting of a parcel or tract of land by its proprietor or by his or

her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of the state land division act. Divide and division does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the state land division act, or the requirements of other applicable local ordinances.

*Exempt split* The partitioning or splitting of a parcel or tract of land by its proprietor or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent. Exempt split does not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the state land division act, or the requirements of an applicable local ordinance.

*Forty acres or the equivalent* Either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
(Ord. No. 98-1, 3-16-98)

**Sec. 7.5-4. Prior approval requirements for land divisions.**

Land in the township shall not be divided without the prior review and approval of the assessor or designee in accordance with this ordinance and the state land division act; provided that the following shall be exempted from this requirement:

(1) A parcel proposed for subdivision through a recorded plat pursuant to the state land division act.

(2) A lot in a recorded plat proposed to be divided in accordance with the state land division act.

(3) An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size that are not accessible and one of the following applies:

a. The parcel or tract was in existence on March 31, 1997.

b. The parcel or tract resulted from an exempt split or other partitioning or splitting under this section.

(Ord. No. 98-1, 3-16-98)

**Sec. 7.5-5. Application for land division approval.**

An applicant shall file all of the following with the planning department for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development. A completed application with the following information:

(1) Ownership of the land to be divided.

(2) A tentative parcel map drawn to scale including an accurate legal description of each proposed

division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for vehicles and, if the parcel is a development site, for public utilities.

(3) All standards of the state land division act and this ordinance have been met.

(4) A fee, the amount of which shall be set by the board from time to time by resolution, shall be paid at the time of filing the application.

(Ord. No. 98-1, 3-16-98)

**Sec. 7.5-6. Procedure for review of applications for land division approval.**

(a) The assessor or designee shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to the ordinance's requirements and the state land division act, shall promptly notify the applicant in writing of the decision, and if denied, all of the reasons for denial.

(b) The assessor or designee shall maintain an official record of all approved land divisions or transfers.

(c) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations. Approval of a division is not a determination that the resulting parcels have public water and sewer or have approval for on-site water supply or sewage disposal facilities and any notice of approval of a division shall include a statement to this effect.

(Ord. No. 98-1, 3-16-98)

**Sec. 7.5-7. Standards for approval of land divisions.**

A proposed land division reviewable by the township shall be approved if the following criteria are met:

(1) The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio except for the remainder of the parent parcel or parent tract retained by the proprietor. The depth of a parcel shall be the horizontal distance between the front and rear lot lines, measured along the midpoint between side lot lines. The width of a parcel shall be measured as the horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

(2) It is recognized that occasionally parcels which were originally divided on a section line basis are not true when surveyed. Thus, parcels which only exceed the four to one depth to width ratio by 2 percent or less shall be considered a conforming parcel.

(3) The ratio of depth to width requirement does not apply to any parcel resulting from a division if it is 10 acres or larger.

(4) Each resulting parcel is accessible.

(5) The number of parcels created does not exceed the number permitted by the state land division act.

(6) For resulting parcels that are development sites, each resulting parcel has adequate easements for public utilities from the parcel to existing public utility facilities by public right-of-way or by easements.

(Ord. No. 98-1, 3-16-98)

# Chapter 8

# LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS


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## ARTICLE I.

## IN GENERAL

**Secs. 8-1--8-25. Reserved.**

## ARTICLE II.

## LICENSES

## DIVISION 1.

## GENERALLY

**Secs. 8-26--8-35. Reserved.**

## DIVISION 2.

## VIOLATIONS

**Sec. 8-36. Violations; violation report.**

(a) Alleged violations of a township licensing ordinance shall be stated on a violation report form and shall be submitted to the township clerk.

(b) The township clerk shall submit the violation report form to the township board of trustees within three working days.

(c) After a review of the alleged violations, the township board may issue a complaint specifying the particular ordinance allegedly violated by the licensee and a short and plain statement of the alleged violations.

(d) The complaint shall be served on the licensee in person or by mail to the license address, return receipt requested, not less than 14 days before the scheduled hearing. A license address shall be the address of the licensed establishment unless the licensee has submitted, in writing, to the township clerk a different address for the receipt of mail.

(e) A notice of hearing shall be served along with the complaint and such notice shall advise the licensee of the licensee's following rights:

(1) The right to be present and submit evidence.

(2) The right to be represented by an attorney.

(3) The right to call witnesses.

(4) The right to cross-examine witnesses presented by the township.

(f) The notice of hearing shall state the date, hour and place of the hearing.

(g) The notice of hearing shall also state the name of the hearings officer who will preside at the hearing.
(Ord. No. 292, § I, 1-30-86)

**Sec. 8-37. Hearing officer; qualifications.**

(a) A hearing officer shall be appointed by the township board to preside over the hearing.

(b) The hearing officer shall have the following minimum qualifications:

(1) Be impartial (see section 8-47); and

(2) An attorney licensed by the state and currently in good standing with the state bar association.
(Ord. No. 292, § II, 1-30-86)

**Sec. 8-38. Waiver of hearing; acknowledgment of violation.**

(a) A licensee who is cited in a complaint for an alleged violation of a township-licensing ordinance may waive the right to hearing on the complaint and acknowledge the violation or violations specified in the complaint.

(b) The waiver and acknowledgment constitute an authorization to the township board to enter, without a hearing, an order which imposes any of the penalty or forfeiture provisions as provided in that particular ordinance.

(c) The waiver of the right to hearing and acknowledgment of a violation shall be on the reverse side of the complaint form. The waiver and acknowledgment form shall provide that the licensee may explain, on a separate sheet of paper, if necessary, any mitigating circumstances which a licensee believes should be considered in disposing of the violation.
(Ord. No. 292, § III, 1-30-86)

**Sec. 8-39. Hearing procedure.**

(a) A hearing officer shall conduct the violation hearing on the complaint.

(b) A party who has been served with a notice of hearing may file a written answer with the township clerk not less than three days before the date scheduled for the hearing.

(c) The licensee shall be given an opportunity to present oral and written arguments on issues of law and policy and an opportunity to present evidence and argument on issues of fact.

(d) Both the township and the licensee may cross-examine a witness, including the author of a

document prepared by, on behalf of, or for the use of the licensee or township and offered in evidence. Both the township and the licensee may submit rebuttal evidence.

(e) Findings of fact and conclusions of law shall be mailed, registered delivery, return receipt requested, and delivery restricted to the addressee, to the licensee and the licensee's attorney within 20 days after the completion of the hearing, except upon written order of the township extending the time period.

(f) In violation hearings where the licensee is not represented by an attorney at law, the hearings officer shall open the hearing by advising the licensee of the following rights:

(1) Right to present evidence.

(2) Right to cross-examine township witnesses.
(Ord. No. 292, § IV, 1-30-86)

**Sec. 8-40. Decision; exceptions to findings of fact and law.**

(a) The decision of the hearing officer shall be acted upon by the township board within 30 days after the time for submitting exceptions to the findings of fact and conclusions of law has expired (see subsection (b) of this section).

(b) The licensee or the licensee's attorney may, within ten days of receipt of the findings of fact and conclusions of law, submit exceptions to the findings of fact and conclusions of law. Such exceptions shall be filed with the township clerk for review by the township board.

(c) If the licensee or the licensee's attorney submits exceptions to the findings of fact and conclusions of law as provided in subsection (b) of this section, then the township board shall review the record of the hearing prior to entering a decision.

(d) The township board's decision shall be mailed to the licensee and the licensee's attorney, registered delivery, return receipt requested, and delivery restricted to the addressee, within seven days after the board meeting at which the decision was rendered by the board.
(Ord. No. 292, § V, 1-30-86)

**Sec. 8-41. Failure to appear.**

If a licensee fails to appear at a hearing after proper service of notice, the presiding hearing officer may:

(1) Grant an adjournment without testimony being taken;

(2) Order testimony taken and then adjourn proceedings until rescheduled;

(3) Order that the license not be suspended, not be renewed, or that the license be revoked until proper appearance is made at a rescheduled hearing; or

(4) Proceed with the hearing and render a decision.

(Ord. No. 292, § VI, 1-30-86)

**Sec. 8-42. Violation rehearing.**

(a) After a violation hearing, a licensee who alleges new evidence may request a new hearing before the hearing officer who issued the original order. The request for a rehearing shall be submitted, in writing, to the township clerk within 20 days after the date of the mailing of the original order. The request for a new hearing shall summarize the alleged new evidence.

(b) If a request for a rehearing in a violation matter is granted by the hearing officer, the licensee or the licensee's attorney shall be notified of the hearing not less than ten days prior to the date of the rehearing.
(Ord. No. 292, § VII, 1-30-86)

**Sec. 8-43. Rules of evidence.**

In a hearing, the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Affect shall be given to the rules of privilege recognized by law. Objections of offers of evidence may be made and shall be noted on the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interest of the parties will not be substantially prejudiced thereby, may provide for submission of all or part of the evidence in written form.
(Ord. No. 292, § VIII, 1-30-86)

**Sec. 8-44. Transcripts.**

(a) A record of the hearing shall be made by a certified court reporter.

(b) Documentary evidence may be received in the form of a copy or excerpt, if the original is not readily available, or may be incorporated by reference, if the materials so incorporated are available for examination by the parties.

(c) Upon timely request, both parties shall be given an opportunity to compare the copy with the original when available.
(Ord. No. 292, § IX, 1-30-86)

**Sec. 8-45. Official notice of facts; evaluation of evidence.**

(a) The hearing officer may take official notice of judicially cognizable facts, and may take notice of general, technical or scientific facts within the hearing officer's specialized knowledge.

(b) A hearing officer may use his experience, technical competence, and specialized knowledge in the evaluation of evidence presented to him.
(Ord. No. 292, § XI, 1-30-86)

**Sec. 8-46. Stipulation as to facts; disposition by stipulation.**

(a) The parties by a stipulation in writing filed with the hearing officer may agree upon any fact involved in a controversy, which stipulation shall be used as evidence at the hearing and be binding on the parties hereto.

(b) Except as otherwise provided by these rules, disposition may be made of a contested case by stipulation, settlement, consent order, waiver, default or other method agreed upon by the parties.
(Ord. No. 292, § XII, 1-30-86)

**Sec. 8-47. Impartiality of hearings.**

(a) Hearings shall be conducted in an impartial manner.

(b) On the filing in good faith by a licensee of a timely and sufficient affidavit of personal bias or disqualification of the presiding hearing officer, the township board shall determine the matter as a part of the record of the hearing, and its determination shall be subject to judicial review at the conclusion of the proceedings.

(c) When a presiding hearing officer is disqualified or it is impracticable for him to continue the hearing, another presiding officer may be assigned to continue with the hearing unless it is shown that substantial prejudice to the party will result therefrom.
(Ord. No. 292, § XIII, 1-30-86)

**Sec. 8-48. Costs.**

Where the hearing officer renders a decision that a violation occurred, the hearing officer may assess actual costs, including the township's reasonable attorneys' fees, of the proceeding against a licensee.
(Ord. No. 292, § XIV, 1-30-86)

**Sec. 8-49. Personal appearance of licensee.**

(a) At a hearing, depending on to whom the license is or is proposed to be issued, there shall personally appear one of the following:

(1) The individual licensee.

(2) At least one colicensee.

(3) At least one partner of a partnership license.

(4) At least one officer of a corporate license.

(b) Subsection (a)(1) of this section may be waived by the hearing officer where a formal appearance has been filed by an attorney at law in good standing with the state.
(Ord. No. 292, § XV, 1-30-86)

**Sec. 8-50. Postponements; continuances.**

(a) Request for a postponement shall be made in writing not less than ten days before the scheduled hearing date unless waived by the township. The written request may be granted by the township clerk after a consultation with other board members.

(b) Request for continuance for cause may be granted by the presiding hearing officer at the hearing.
(Ord. No. 292, § XVI, 1-30-86)

**Sec. 8-51. Legal representation.**

(a) In addition to the appearance required by section 8-49, a licensee or an aggrieved license applicant may be represented at a hearing by a licensed attorney at law in good standing in the state.

(b) The attorney shall file a written appearance with the township clerk before or at the time of the hearing.
(Ord. No. 292, § XVII, 1-30-86)

**Sec. 8-52. Appeals.**

A party aggrieved by any finding or decision of the hearing officer shall have the right of direct appeal to the county circuit court.
(Ord. No. 292, § XVIII, 1-30-86)

**Secs. 8-53--8-75. Reserved.**

## ARTICLE III.

## BUS TRANSPORTATION

### DIVISION 1.

### GENERALLY

**Sec. 8-76. Penalty for violation.**

Any violation of this article shall be a misdemeanor punishable as prescribed in section 1-11 of this Code, and shall further constitute grounds for suspension or revocation of the license issued pursuant to this article.
(Ord. No. 288, § 4, 11-4-85)

**Sec. 8-77. Establishment of routes, schedules.**

Upon consideration of the recommendations of the township transportation committee, the charter township shall adopt and fix routes and schedules as will best serve the public interest, convenience and necessity for mass transportation bus systems operating or seeking to operate within the township.

(Ord. No. 288, § 1, 11-4-85)

**Secs. 8-78--8-90. Reserved.**

## DIVISION 2.

## LICENSE

**Sec. 8-91. Required.**

No person shall operate a mass transportation bus system within the township without a license as provided by this division nor operate any such system contrary to the schedules and routes as authorized by the board.
(Ord. No. 288, § 3, 11-4-85)

**Sec. 8-92. Issuance, duration.**

(a) Upon adoption of the routes and schedules, a license shall be issued pursuant to such schedules to each transportation service permitting the operation of such transportation system within the charter township.

(b) A copy of the routes and schedules shall be filed with the township clerk, and such license will be valid for a period of one year from the date of issue, subject to renewal upon timely application.
(Ord. No. 288, § 2, 11-4-85)

**Sec. 8-93. Suspension, revocation.**

A license issued under this division during its term may be amended, suspended or revoked upon vote of the township board, but any such action shall not occur until the licensee is given 14-day notice to appear for a hearing before the transportation committee of the township board and that subsequent to the transportation committee hearing, the licensee shall be given an opportunity to be heard before the township board at the next regularly scheduled meeting.
(Ord. No. 288, § 2, 11-4-85)

**Secs. 8-94--8-115. Reserved.**

# ARTICLE IV.

# VENDORS

## DIVISION 1.

## GENERALLY

**Sec. 8-116. Short title.**

This article shall be known as the "Delta Township Vending Ordinance of 1991."
(Ord. No. 303, § 1, 10-7-91)

**Sec. 8-117. Purpose.**

It is the purpose of this article to regulate vendors, peddlers, solicitors, etc., as defined herein; to require and provide licensing for same; and to provide a penalty for violations in order to protect the public health, safety and welfare.
(Ord. No. 303, § 2, 10-7-91)

**Sec. 8-118. Definitions.**

For the purpose of this article, the following words and terms shall have the meanings respectively ascribed:

*Sales activity* means the act of offering merchandise for immediate sale, or for sale by sample, description or otherwise for delivery or sale at a future time, by going door to door, house to house, person to person, or car to car, or the exchange of goods or services in any other manner related to the vending activity.

*Thirty-day license* means a license which allows a person to conduct an approved vending activity within the charter township, as permitted under this article, for 30 consecutive days or less within one calendar year.

*Vending* means the act of offering merchandise for sale from a fixed place not within a building, from a vehicle or from a fixed place in a temporary structure or shelter, not including merchants offering merchandise for sale upon commercial premises permanently occupied by them; and the act of offering merchandise for immediate sale, or for sale by sample, description or otherwise for delivery or sale at a future time, by going from door to door, house to house, person to person, or car to car; not including the act of offering merchandise for wholesale to retailers or for resale to manufacturers for use in their processes; also not including regular route delivery persons delivering products.

*Vendor* means any person engaged in the act of vending as defined herein. For the purposes of this article, the terms "canvasser," "drummer," "hawker," "huckster," "itinerant merchant," "itinerant vendor," "peddler," "solicitor" and "transient merchant" shall be included as persons herein defined as "vendors."
(Ord. No. 303, § 3, 10-7-91; Ord. No. 03-01, § 1, 2-3-03)

**Sec. 8-119. Rules of conduct.**

(a) Identification shall be presented by the vendor upon request of any citizen, law enforcement officer, representative of the township or the county.

(b) The vendor's township vending license and state sales tax license shall be displayed at all times by the vendor so as to be conspicuous during the time of the vending operation.

(c) Vending, soliciting or peddling, as defined herein, is prohibited at a private residence prior to 9:00 a.m. and after 9:00 p.m.

(d) Vending is not permitted on property where the owner or occupant thereof has displayed a "no soliciting" or similar sign on such premises.

(e) The proposed vending activity shall not create a fire hazard and may be subject to approval by the township fire marshal.

(f) The proposed vending activity shall not create a structural safety hazard and may be subject to approval by the township building official.

(g) The proposed vending activity shall not create traffic circulation and/or parking problems, and may be subject to approval by the township zoning administrator.

(h) Upon termination of the vending activity, which shall mean cessation of sales activity or expiration of vendor permit, whichever shall come first, all items generated or used by the vending activity shall be removed from the site, including any and all liter, debris, refuse, signs, structures, temporary buildings, display tables, etc., which were related to the vending activity on the site.

(i) The vendor shall comply with any special conditions which may be imposed upon the license by the township board pursuant to section 8-137(d).

(j) The display of goods, merchandise, vehicles, services or other items permitted by this article are prohibited within the public road right-of-way. Tents, canopies, trailers, sales stands and other similar structures relating to the vending activity are also prohibited within the public road right-of-way.

(k) The use of any sign, banner, flag, or similar device intended to attract attention to the vending activity shall be prohibited within the road right-of-way, and shall be in compliance with the township sign ordinance.

(l) The display of goods, merchandise, vehicles, services or any other items permitted by this article shall be conducted at a minimum of 20 feet setback from the edge of any roadway curb or outmost edge of any roadway including roadway shoulder in the absence of a curb, and in all instances not within any road right-of-way. This section shall apply to tents, canopies, trailers, sales stands or any manner whatsoever of display relating to vending activity.

(m) If the proposed vending activity intends to use a tent, canopy or similar structure, vendors shall be in compliance with the township fire code. The vendor may be required to obtain a permit for said tent, canopy or similar structure and allow for an inspection by the township fire department official. Any permit fee associated with this section shall be in addition to the vending permit fee of this article.
(Ord. No. 303, § 15, 10-7-91; Ord. No. 03-01, §§ 2--4, 2-3-03)

**Cross References:** Signs, Ch. 15.

**Sec. 8-120. Vending in township parks.**

No vending license shall be issued for vendors in any area controlled by the township parks commission, unless first authorized in writing by the parks commission, its authorized agent or the appropriate governmental agency.

(Ord. No. 303, § 17, 10-7-91)
**Cross References:** Parks and recreation, Ch. 13.

**Sec. 8-121. Administration.**

It shall be the responsibility of the township clerk to administer the terms of this article.
(Ord. No. 303, § 8, 10-7-91)

**Sec. 8-122. Enforcement.**

It shall be the responsibility of the county sheriff's department, the township manager or a township official appointed by the township manager, to enforce the terms of this article. The sheriff's department, township manager, or township official appointed by [the] township manager shall have the authority to issue cease and desist orders immediately upon evidence that a vending activity is being conducted within the charter township prior to the issuance of a vending license by the township clerk or that licensed vending activities are occurring in violation of any of the terms of this article. In all arrests and prosecutions for violation of this article, appearance tickets and the appropriate procedures set forth in Act No. 147, Michigan Public Act of 1968, as amended, may be used.
(Ord. No. 303, § 9, 10-7-91; Ord. No. 03-01, § 5, 2-3-03)

**Sec. 8-123. Violations and penalties.**

(a) Violation of the provisions of this article shall be punishable, upon conviction, by the state's current misdemeanor penalties. The imposition of any fine, jail sentence, or both, shall not cause the licensee to be exempt from compliance with the provisions of this article.

(b) The charter township shall hold the legal property owner responsible for the cleanup and/or repair of any property within the township due to debris or damage caused by a vending activity. The property owner shall be notified by certified mail of the township's concerns regarding the cleanup and/or repair of any property due to a vending activity, and shall be given 14 days to clean up and/or repair the property to its original condition as documented in the photographs kept on file by the clerk. If the clerk determines that sufficient cleanup and/or repair has not commenced within the allotted time, the clerk shall cause the cleanup and/or repair of the property to commence and shall pay for the cost of same out of the township's contingency fund. The property owner shall be billed for the cost of the cleanup and/or repair. The township may use any means necessary to recover the cost of the cleanup and/or repair from the property owner.
(Ord. No. 303, § 18, 10-7-91)
**Cross References:** General penalty for Code violations, § 1-11.

**Secs. 8-124--8-130. Reserved.**

## DIVISION 2.

## LICENSE

**Sec. 8-131. Required.**

No person, either as principal, agent or representative, shall engage in vending as defined in this article

within the charter township without first having obtained a vending license in compliance with the provisions of this article, except those persons identified under section 8-132.
(Ord. No. 303, § 4, 10-7-91)

**Sec. 8-132. Exceptions from license requirement.**

Persons identified under this section shall not be required to obtain a vending license under the terms of this article. In addition, all fees associated with the granting of such license shall also be waived. It is expected that persons operating in the capacities listed below shall respect the terms of this article in good faith, and shall otherwise comply with the regulations outlined herein.

(1) No vending license shall be required for those persons operating yard sales, garage sales, bake sales or other similar types of activities on property that they own or reside.

(2) No vending license shall be required to sell produce on the same property on which it was grown.

(3) No vending license shall be required for any person under 18 years of age.

(4) No vending license shall be required for regular route delivery persons.

(Ord. No. 303, § 5, 10-7-91; Ord. No. 03-19, 10-18-04)

**Sec. 8-133. Application.**

Applicants for a license under this article shall submit a verified written application on a form to be provided by the township clerk containing the following information:

(1) The applicant's name, date of birth, social security number, driver's license number, address, vehicle description, license plate number, home and work phone number.

(2) If the applicant intends to have persons other than himself participate in the proposed vending activity, a list of such persons, including the information listed above, shall also be submitted to the township clerk prior to the approval of the vending license.

(3) The name of the business represented, if different than the applicant, together with the address of the business, phone number, and name of the owner or representative for the service of legal process.

(4) A description of the nature of the business represented, indicating the goods to be sold, method of delivery, structure to be used, parking available, date the permit is desired, hours of operation, location, and the name and phone number of the property owner.

(5) If a lot, building or structure is to be used, or if a cart, stand, booth or vehicle is to be placed upon property that is not owned by the applicant, the name, phone number and signature of the legal owner of the property shall be provided on the application.

(6) The names, addresses and phone numbers of three local references. If the applicant has never lived or done business within the charter township, then references from where the applicant lives or has done business may be used.

(7) A statement as to whether or not the applicant has ever had any occupational license revoked by any other municipal authority. If so, the name of the municipality and the circumstances of the revocation shall be submitted.

(8) The signature of the applicant acknowledging his understanding of the regulations contained within this article, and acknowledging that failure by the applicant to comply with any of these regulations may result in revocation of the vending license.

(9) The signature of the property owner granting permission for the proposed vending activity and acknowledging his understanding that the charter township shall hold the property owner responsible for the cleanup and/or repair of the site to its original condition prior to the commencement of the vending activity, as established in section 8-123(b).

(10) The applicant shall also submit a copy of his valid current state sales tax license or, if exempt, a copy of a current exemption certificate, for all goods or services sold other than nonprepared food for human consumption.

(11) If prepared food for human consumption is to be sold, the applicant shall submit a copy of the certificate of approval issued by the Barry-Eaton County Health Department.

(Ord. No. 303, § 10, 10-7-91)

**Sec. 8-134. Investigation of applicant.**

(a) Upon receipt of an application, the township clerk shall cause an investigation of the applicant to be made, which is intended to ensure the protection of the public health, safety and welfare.

(b) The investigation of the applicant may include the following:

(1) Verification of the applicant's identification, driving record and criminal history by the sheriff's department.

(2) Contact with the references listed on the application for background information regarding the applicant.

(3) Review of the proposed vending activity by the township fire marshal, building official and zoning administrator.

(4) Verification of the property owner's consent for the applicant to operate the proposed vending activity.

(c) The township clerk may contact any other source deemed necessary by the clerk to help determine the applicant's business responsibility and/or criminal history.

(d) The township clerk or his designee shall photograph the location of the proposed vending activity. The photograph is for the purpose of documenting the condition and appearance of the subject property prior to the establishment of the vending activity.
(Ord. No. 303, § 11, 10-7-91)

**Sec. 8-135. Nonrefundable application fee; renewal fee.**

Before considering any application submitted in accordance with the requirements of this article, a nonrefundable fee shall be collected by the township clerk, except from those persons exempt from the license fee as identified by section 8-132, in order to defray the cost of the investigation of the applicant as mandated by section 8-134. The application fee shall be set from time to time by the township board by resolution. There shall be two fees established, one being an application fee and the other being a renewal fee. The renewal fee shall be charged to renew any vending license for the same applicant to conduct the same activity at the same site within six months of the issue of the original license. In all other instances, the full application fee shall be charged for the investigation of the applicant as mandated by section 8-134.
(Ord. No. 303, § 6, 10-7-91)

**Sec. 8-136. Exemptions from license fee requirements.**

Persons identified under this section shall be required to obtain a vending license under the terms of this article. However, all fees associated with the granting of such license shall be waived.

(1) Any person operating a vending activity, as defined herein, by attempting to solicit sales of goods, wares or merchandise thereafter to be transported to the customer in interstate commerce.

(2) Any person obtaining a vending license as the duly authorized representative or agent of any church, charitable, educational, fraternal or nonprofit organization; or of any political group seeking funds or membership.

(3) Veterans who have been issued a vending license under State of Michigan Act 359 of 1921, as amended.
(Ord. No. 303, § 7.0, 10-7-91)

**Sec. 8-137. Issuance; display; denial; appeal process.**

(a) If, as a result of the clerk's investigation, the business responsibility and/or criminal history of the applicant are satisfactory, the clerk shall approve the license and issue a certificate bearing the words "licensed vendor" having the signature of the township clerk or deputy township clerk. The license and certificate shall be issued within ten business days from the day the application was originally filed. The certificate shall also stipulate the period for which the license is valid and the license number. The certificate shall be displayed by the vendor so as to be conspicuous during the time of the vending operation.

(b) If, as a result of the clerk's investigation, the business responsibility and/or criminal history of the applicant are unsatisfactory, the clerk shall deny the application within ten business days from the day the application was originally filed. The clerk shall notify the applicant in writing of the specific reason(s) why the

application was denied. The notice shall be sent by certified mail, return receipt requested, postage prepaid, to the address as stated on the application.

(c) The denial of the license by the clerk may be appealed to the township board, if so desired by the applicant. If the applicant desires to appeal the denial of the license to the township board, the clerk shall take the appropriate steps necessary to place the applicant's appeal on the next township board agenda. The township board shall deny, approve, or approve with conditions the application as determined by the board to be in the best interests of the public health, safety and welfare.

(d) If after an appeal to the township board the application is approved, the clerk shall issue a certificate bearing the words "licensed vendor" and the signature of the township clerk or deputy township clerk. The license and certificate shall be issued on the next business day following the township board meeting. The certificate shall stipulate the period for which the license is valid, the number of the license, and shall note any special conditions the board may have attached to the issuance of the license. The certificate shall be displayed by the vendor so as to be conspicuous during the time of the vending operation.

(e) If the township boards denies the application, the township clerk shall notify the applicant thereof in writing by certified mail, return receipt requested, postage prepaid, sent to the address as stated on the application with a statement of the specific reason(s) for denial.
(Ord. No. 303, § 12, 10-7-91; Ord. No. 03-01, § 6, 2-3-03)

**Sec. 8-138. Transferability.**

No vending license issued to any person under the provisions of this article shall be used by any person other than the person to whom it was issued.
(Ord. No. 303, § 13, 10-7-91)

**Sec. 8-139. General conditions.**

(a) *Term.* Vending licenses shall be valid for a maximum of 30 consecutive days from the day the license was originally issued, except as provided by section 8-140(g).

(b) *Number per person.* No more than two 30-day vending licenses shall be issued to the same person within a one-year time period. The prescribed fee shall be required to be paid for each license, as determined by section 8-135.

(c) *Number per site.* No more than one license may be issued for the same site for the same time period by the township clerk. The issuance of more than one license for a site shall be as determined by the township board. The following criteria shall be used by the township board to reach its decision:

(1) Size and location of site.

(2) Availability of parking.

(3) Type of vending activity.

(4) Hours of operation of the vending activity.

(d) *Copies to be filed.* A copy of the vending license application and a copy of the state sales tax license issued by the county treasurer shall be mailed to the registration section of the state department of treasury by the township clerk within ten days of the issuance of the vending license.
(Ord. No. 303, § 14, 10-7-91)

**Sec. 8-140. Suspension and revocation.**

(a) The township clerk may suspend any license issued under the provisions of this article upon evidence being presented to the clerk alleging any of the following:

(1) A violation of any of the regulations or provisions outlined within this article.

(2) Fraud, misrepresentation or false statement contained in the application for the license.

(3) Fraud, misrepresentation or false statement made in the course of carrying on the vending activity.

(4) Conviction of a felony.

(5) Operation of the vending activity in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the public health, safety and welfare.

(b) The township clerk shall notify the sheriff's department of the suspension and request that a certified letter drafted by the clerk notifying the licensee of his license suspension with a statement of the specific reason(s) for same be immediately hand delivered to the licensee by the sheriff's department.

(c) Upon notice of license suspension by the township clerk, all vending activity on the site must cease immediately. If the person aggrieved by such action fails to contact the township clerk within five days from the day of license suspension, the vending license shall be revoked.

(d) The person aggrieved by the suspension of the license shall have the right to a hearing before the township board, provided that a written request thereof is filed with the township clerk within five days of the receipt of the notice of license suspension. The hearing shall be conducted at the next township board meeting.

(e) The township board shall, after the holding of a hearing, reinstate, reinstate with conditions, or revoke the vending license. Any decision made by the township board shall be final.

(f) Upon revocation of the license, the fee therefor shall not be refunded.

(g) If the license is reinstated by the township board, the aggrieved licensee shall be credited with the number of days during which the license was suspended, such that the licensee will not lose any business days permitted by the issuance of the original 30-day license.

(h) No person whose vending license has been revoked shall be eligible to receive another vending

license to do business within the charter township for two years from the date of license revocation.
(Ord. No. 303, § 16, 10-7-91)

## ARTICLE V.

## EXOTIC CABARETS

## DIVISION 1.

## GENERALLY

### Sec. 8-141. Short title.

This article shall be known as the "Delta Township Exotic Cabaret Ordinance."
(Ord. No. 94-1, 2-21-94)

### Sec. 8-142. Definitions.

For the purpose of this article, the following words and terms shall have the meanings respectively ascribed:

*Exotic cabaret.* An establishment which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers. Any establishment which attempts to engage in activities prohibited by this article shall also fall under this definition for enforcement purposes.

*Operator or owner.* As used in this ordinance shall mean any corporation, partnership, association, owner, agent, operator, employee, firm, person, group, or other party who is responsible for the establishment and/or operation or control of an exotic cabaret.

*Person.* Shall mean all parties included in the definition of "operator or owner" plus any other persons, customers, patrons, employees, individuals, groups, or parties present on the premises of the exotic cabaret at any time.
(Ord. No. 94-1, 2-21-94)

### Sec. 8-143. Grammatical usage.

(a) The singular number shall include the plural and the plural the singular.

(b) Terms not herein defined shall have the meaning customarily assigned to them.
(Ord. No. 94-1, 2-21-94)

## DIVISION 2.

## LICENSE

### Sec. 8-144. Required, application to township clerk.

Any operator operating or proposing to operate an exotic cabaret, as herein defined by section 8-142, shall be required to obtain a license from the township clerk upon payment of the prescribed license fee. Application for such license shall be made to the township clerk upon a form to be supplied by the township clerk for that person. When an application has been reviewed by the township clerk, township Treasurer, the Eaton County Sheriff's Department, the Delta Township Building Official, and the Delta Township Fire Marshal, and when the township board has approved the application, a license shall be granted. It is hereby declared to be unlawful for any operator to conduct the business of an exotic cabaret as defined in section 8-142, without first obtaining a license as herein provided.
(Ord. No. 94-1, 2-21-94)

**Sec. 8-145. Contents of application, age restrictions, separate application for each exotic cabaret.**

(a) The application for such license shall contain the following information:

(1) Name and address of the licensee, and the name and address of the owner of the exotic cabaret. If a partnership, the name and address of each partner thereof. If a corporation, the name and address of the local officer or resident agent of such corporation.

(2) Whether applicant has ever been convicted of violations of this article or has ever been convicted of any felony.

(3) Place where exotic cabaret is to be established, and the type of entertainment to be provided.

(b) No license shall be issued to any applicant unless he shall be over 18 years of age and a citizen of the United States. A separate application shall be made for each exotic cabaret.

(c) In the event of any change in the information furnished pursuant to subsection 8-145 (a)1-3. above, it shall be the duty of the licensee to inform the township clerk, township Treasurer, Delta Township Fire Marshal, Delta Township Building Official and the Eaton County Sheriff of such change.
(Ord. No. 94-1, 2-21-94)

**Sec. 8-146. Application to be in duplicate, investigation and forwarding to township board.**

Application for license shall be made in duplicate, both copies of which shall be filed with the township clerk who shall investigate same and cause: 1) the township treasurer to determine if all applicable fees such as taxes, special assessments, and utility bills have been paid on the proposed location; 2) the Eaton County Sheriff to ascertain if the applicant has a criminal record; 3) the township building official to ascertain from an investigation of the location where it is proposed to operate such exotic cabaret whether such operation would violate any building or zoning ordinances, or statutes; and 4) the Delta Township Fire Marshal to determine from an investigation of the location where it is proposed to operate such exotic cabaret whether such operation would violate any fire safety ordinance or statute. Upon the township clerk's determination that the applicant meets the requirements contained in this article, and upon receipt of approvals from the township treasurer, Eaton County Sheriff, the township building official, and the Delta Township Fire Marshal, the township clerk shall submit one copy of the application to the township board with a recommendation of approval. The township board, upon receipt of an application with the township clerk's recommendation of approval, may

approve such application.
(Ord. No. 94-1, 2-21-94)

**Sec. 8-147. Fees and expiration date.**

Every operator shall pay the following annual license fee to the township clerk for the privilege of operating or maintaining an exotic cabaret as defined in section 8-142 hereof:

(1) $100.00 for each exotic cabaret.

(2) Each license shall expire at midnight on the following 31st of March.
(Ord. No. 94-1, 2-21-94)

**Sec. 8-148. Display license, transfer of location or to new owner.**

(a) If the licensee shall move his place of business to another location within the Township of Delta, the license may be transferred to such new location upon application to the township clerk, giving street and number of new location, and approval being given by the township treasurer, Eaton County Sheriff, Delta Township Building Official, Delta Township Fire Marshal, and township board.

(b) When the business of a licensee is sold or transferred, the license or licenses or such licensee may be transferred to the new owner or transferee with the consent of the township treasurer, Eaton County Sheriff, Delta Township Building Official and Delta Township Fire Marshal upon application to the township clerk, and upon approval by the township board.

(c) The license granted by the Charter Township of Delta shall be displayed together with the text of section 8-150 of this article next to the documents required by subsection 8-150d.2.
(Ord. No. 94-1, 2-21-94)

**Sec. 8-149. Revocation of license.**

Each license issued under this article is subject to the right which is hereby expressly reserved, to revoke the same, should the licensee, directly or indirectly, permit any violation of the provisions of this article or any other provisions of the Township Code of Ordinances, or the law of the State of Michigan. Such license may be revoked by the township board as provided in Article II of Chapter 8 of the Township Code of Ordinances.
(Ord. No. 94-1, 2-21-94)

**Sec. 8-150. Rules and regulations.**

The following rules and regulations shall govern all exotic cabarets licensed under this article.

(1) It shall be unlawful for any operator, his agent or employee, or any person on the premises to:

a. Engage in or permit any disorderly conduct in or on the premises, or permit such place to become a resort for thieves, prostitutes, or other disorderly persons.

b. Engage in or permit, in or upon the premises, the inviting, annoying, molesting, or accosting and soliciting for sexual intercourse, fellatio, cunnilingus, masturbation, sodomy, bestiality, flagellation, or for any other act by a person involving the touching or contacting of the genitals of another, whether the act is to be performed on or off the premises.

(2) Engage in or permit on the licensed premises any of the following conduct:

a. The performance of acts, or simulated acts, of sexual intercourse, fellatio, cunnilingus, masturbation, sodomy, bestiality, flagellation, or any other act by a person involving the touching or contacting of the genitals of another.

b. The erotic caressing or fondling of the breast, buttocks, pubic region or genitals.

c. The actual or simulated displaying of the pubic hair, pubic region, anus, vulva or genitals.

d. The exposure of the postpubertal female breast by any person other than an entertainer while appearing on stage. For the purpose of this subsection, a female breast is considered exposed if any portion of the breast, below a line immediately above the top of the areola, is exposed.

e. Permit any person to smoke or hold a lighted cigar, cigarette or pipe on the dance floor while dancing is permitted or to engage in such activity himself.

(3) It shall be unlawful for any operator, or his agent or employer, to:

a. Employ any entertainers except under written contract, and secured from booking agencies licensed by the State of Michigan. A copy of the contract signed by the booking agent and the operator or his authorized agent, specifying the names of the entertainers to be provided, shall be kept on the premises where the entertainment is provided, and shall be made available for inspection at the request of any officer of the law having jurisdiction, by the operator or by the person designated by the operator to be in charge of the licensed premises. Such entertainers shall comply with the labor laws of the state. Booking agents and booking agencies shall be responsible for and shall, upon demand of any officer of the law having jurisdiction, furnish a validated certificate of birth as proof of the age of any entertainer thus employed. It shall be unlawful for any entertainer to engage in any activity prohibited by this ordinance or to arrange a contract with any operator or agent of an exotic cabaret for the services of an entertainer knowing that it is the practice of such exotic cabaret to permit or allow such prohibited activities.

b. Fail to provide separate and adequate dressing rooms for male and female entertainers, if entertainment is provided.

c. Permit or allow any patron to take any active part in any entertainment; except, that patrons may engage or participate in group or community singing.

d. Permit overcrowding of the dance floor, or provide less than 200 square feet of dance space in establishments which have a seating capacity of less than 100 persons, or less than 400 square feet in establishments which have a seating capacity of 100 or more persons. Such dance space shall be plainly indicated by floor markings and shall be kept free of tables, chairs or any other obstacles during the time that dancing is permitted.

e. Permit any intoxicated person to be sold or served any alcoholic beverages, or permit such person to dance, loiter or be employed on the premises.

f. Permit employees, including entertainers, to eat, drink, solicit drinks or otherwise mingle with the patrons. Entertainers under 18 years of age shall not be permitted to remain in that portion of the licensed premises that is open to the public excepting during periods of actual performance or when accompanied by a parent, legal guardian or spouse over 18 years of age.

g. Engage in or permit any illegal act or occupation on or adjacent to the premises.

h. Engage in, permit or allow gambling or the use, possession or presence of gambling apparatus or paraphernalia. Only those amusement devices which have been licensed by Delta Township shall be permitted.

i. Permit any person to remain in or on the license premises who engages in conduct prohibited in subsections 8-150b.1. or b.2., or who exposes to public view any portion of his or her private parts as described in subsections 8-150b.3. or b.4.

j. Permit the exhibition of pictures or films depicting any of the conduct prohibited in section 8-150b.

(4) It shall be unlawful for any person to own, operate or manage an exotic cabaret unless:

a. He, or an employee designated by him to be temporarily in charge of operations, is on the premises whenever patrons are present on the premises; and

b. His name, and the name of the employee designated by him to be temporarily in charge of operations, together with photographs of such persons clearly identifying their facial features, shall be prominently displayed in full view of the licensed premises together with any license issued by the Michigan Liquor Control Commission.

c. The names and addresses of the owners, operators, and managers are registered with the township clerk.

5. It shall be unlawful for any licensee of any exotic cabaret, his agent or employee, to employ any person as a dancer or entertainer unless such person possesses a valid entertainer's identification card from the Charter Township of Delta.

6. It shall be unlawful for any person to provide his or her services as a dancer or entertainer in an

exotic cabaret unless such person possesses at the place of employment a valid entertainer's identification card issued by the Charter Township of Delta.

7. The clerk of the Charter Township of Delta shall issue or renew an entertainer's identification card to an applicant after having completed a criminal record check through the Eaton County Sheriff's Department and the Michigan State Police Identification Bureau, provided that the clerk may issue a temporary or probationary card pending the determination of the applicant's eligibility for a permanent identification card. A record of conviction for an offense involving gambling, narcotics, prostitution, pandering or pornography, or a violation of any provision of ordinance within the preceding two years, shall constitute grounds for refusal to issue or renew an entertainer's identification card. The entertainer's identification card shall be renewed annually. Such identification card shall remain the property of the Charter Township of Delta and shall be surrendered on demand upon proof being submitted to the township clerk of any violation of any of the conditions of issuance.

(Ord. No. 94-1, 2-21-94)

**Sec. 8-151. Validity and severalty clause.**

If any court of competent jurisdiction shall declare any part of this article to be invalid, such ruling shall not affect any other provisions of this article not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this article to a particular exotic cabaret, such ruling shall not affect the application of said provision to any other exotic cabaret not specifically included in said ruling.

(Ord. No. 94-1, 2-21-94)

**Sec. 8-152. Conflict with other ordinances or laws.**

Where any condition imposed by any provision of this article is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this article or by the provision of any other provision of the township code of ordinances, state or federal law, the provision which is more restrictive or which imposes the higher standard or requirement shall govern.

(Ord. No. 94-1, 2-21-94)

**Sec. 8-153. Penalty and forfeiture of license.**

(a) Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, punishable by imprisonment in the Eaton County Jail for not more than 90 days or a fine of not more than $500.00 dollars, or both, in the discretion of the court.

(b) In addition to any other penalty provided hereunder, any licensee hereunder who shall be second time convicted of any of the provisions in this article, shall ipso facto, upon such second conviction, forfeit any and all rights or privileges granted or conferred by any license issued by virtue of this article.

(Ord. No. 94-1, 2-21-94)

**Secs. 8-154--8-170. Reserved.**

## ARTICLE VI.

## TELECOMMUNICATIONS*

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* **Editors Note:** Ord. No. 03-06, adopted April 21, 2003, set out provisions intended for use as Art. VI, §§ 8-154--8-186. In order to preserve the style of this Code, and at the editor's discretion, these provisions have been included as Art. VI, §§ 8-171--8-191.

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### Sec. 8-171. Title.

This article shall be known and may be cited as the "Charter Township of Delta Telecommunications Ordinance."
(Ord. No. 03-06, 4-21-03)

### Sec. 8-172. Purpose.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunication Rights-of-Way Oversight Act (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. No. 03-06, 4-21-03)

### Sec. 8-173. Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the act, other township ordinance, or other applicable law.
(Ord. No. 03-06, 4-21-03)

### Sec. 8-174. Definitions.

For the purposes of this article, the following words and terms shall have the following meanings:

*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.

*Permit* means a non-exclusive permit issued pursuant to the act and this article to a telecommunications provider to use the public rights-of-way in the township for its telecommunications facilities.

*Township* means the Charter Township of Delta, Michigan.

*Township board* means the Charter Township of Delta Board of Trustees or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the Charter Township of Delta Board of Trustees.

*Township manager* means the township manager or his or her designee.

All other terms used in this article shall have the same meaning as defined or as provided in the act, including without limitation the following:

*Authority* means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the act.

*MPSC* means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "commission" in the act.

*Person* means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

*Public right-of-way* means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

*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.

*Telecommunication provider, provider and telecommunication 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 article only, a provider also includes all of the following:

(1) A cable television operator that provides a telecommunication service.

(2) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way.

(3) A person providing broadband Internet transport access service.

(Ord. No. 03-06, 4-21-03)

**Sec. 8-175. Permit.**

(a) *Required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the township for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.

(b) *Application.* Telecommunications providers shall apply for a permit on an application form to be provided by the township clerk, and which has been approved by the MPSC in accordance with Section 6(1) of the act. A telecommunications provider shall file one copy of the application with the township clerk, and two copies with the township manager. Upon receipt, the township clerk shall make copies of the application and distribute them to the appropriate township departments. 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.

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the 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.

(d) *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 $500.00.

(e) *Additional information.* The township manager may request an applicant to submit such additional information which the township manager 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 manager. If the township and the applicant cannot agree on the requirement of additional information requested by the township, the township or the applicant shall notify the MPSC as provided in Section 6(2) of the act.

(f) *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 article.

(g) *Existing providers.* Pursuant to Section 5(3) of the act, within 180 days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the township as of such date, that 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. Pursuant to Section 5(3) of the act, a telecommunications provider submitting an application under this subsection is not required to pay the $500.00 application fee required under subsection (d) above. A provider under this subsection shall be given an additional 180 days to submit the permit application if allowed by the authority, as provided in Section 5(4) of the act.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-176. Issuance of permit.**

(a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the township manager. Pursuant to Section 15(3) of the act, the township manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an

application for a permit under subsection 8-175(b) for access to a public right-of-way within the township. Pursuant to Section 6(6) of the act, the township manager shall notify the MPSC when the township manager 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 manager shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the township manager 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 manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond requirement.* Pursuant to Section 15(3) of the act, and without limitation on subsection (c) above, the township manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-177. Right-of-way permit.**

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the township without first obtaining a right-of-way permit from the engineering department as required for construction within the public rights-of-way. No fee shall be charged for said permit.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-178. 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 article does not give a telecommunications provider a right to use conduit or utility poles.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-179. Route maps.**

Pursuant to Section 6(7) of the act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the township, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the township. The route maps should be in electronic format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the act.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-180. 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 public right-of-way or temporarily obstructing a public right-of-way in the township, as authorized by permit, shall promptly repair all damage done to the street surface and all installation under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-181. Establishment and payment of maintenance fee.**

In addition to the non-refundable application fee paid to the township set forth in subsection 8-175(d) above, a telecommunications provider with telecommunications facilities in the township's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to Section 8 of the act.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-182. 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 public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of Section 13(4) of the act, the township also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the township's boundaries, so that those providers pay only those fees required under Section 8 of the act. The township shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of Section 13(4) 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. No. 03-06, 4-21-03)

**Sec. 8-183. Savings clause.**

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 8-182 above shall be void from the date the modification was made.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-184. 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 rights-of-way related purposes.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-185. Annual report.**

Pursuant to Section 10(5) of the act, the township manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-186. 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. No. 03-06, 4-21-03)

**Sec. 8-187. Existing rights.**

Pursuant to Section 4(2) of the act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunication provider or the township may have under a permit issued by the township or under a contract or franchise except as indicated in section 8-186, between the township and a telecommunications provider related to the use of the public rights-of-way.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-188. Compliance.**

The township hereby declares that its policy and intent in adopting this article 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 aspects with the requirements of the act, including but not limited to the following:

(1) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in subsection 8-175(c) herein;

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with subsection 8-175(f) herein;

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the application fee, in accordance with subsection 8-175(g) herein;

(4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the township, in accordance with subsection 8-176(a) of this article;

(5) Notifying the MPSC when the township has granted or denied a permit, in accordance with subsection 8-176(a);

(6) Not unreasonably denying an application for a permit, in accordance with subsection 8-176(a);

(7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in subsection 8-176(b);

(8) Limiting the conditions imposed on the issuance of a permit to the telecommunications

provider's access and usage of the public right-of-way, in accordance with subsection 8-176(c);

(9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with subsection 8-176(d);

(10) Not charging any telecommunications providers any additional fees for right-of-way permits, in accordance with section 8-177.

(11) Submitting an annual report to the authority, in accordance with section 8-185; and

(12) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 8-186.

(Ord. No. 03-06, 4-21-03)

**Sec. 8-189. 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 or deny 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. No. 03-06, 4-21-03)

**Sec. 8-190. Authorized township officials.**

The township manager or his or her designee is hereby designated as the authorized township official to enforce the terms of this article and to issue and serve municipal civil infraction citations with respect to violation of any provision of this article.
(Ord. No. 03-06, 4-21-03)

**Sec. 8-191. Municipal civil infraction.**

A person who violates any provision of this article or the terms or conditions of a permit is responsible for a municipal civil infraction in accordance with Article VII of Chapter 2 of the Code of Ordinances. Nothing in this section shall be construed to limit the remedies available to the township in the event of a violation by a person of this article or a permit.

If any fines and or costs associated with this article are not paid, the civil infraction citation may be filed with the district court in accordance with subsection 2-188(g) of this Code.
(Ord. No. 03-06, 4-21-03)

# Chapter 9

# MASSAGE PARLORS AND SCHOOLS*

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* **Cross References:** Licenses and miscellaneous business regulations, Ch. 8.

**State Law References:** Regulation of massage establishments and myomassologists, MCL 339.1701 et seq., MSA 18.425(1701) et seq.

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## ARTICLE I.

## IN GENERAL

### Sec. 9-1. Exceptions.

This chapter shall not apply to licensed individuals engaged in the personal performance of the duties of

their respective professions, including physicians, surgeons, chiropractors, osteopaths, physical therapists, registered nurses, athletic trainers of any organized athletic team or an individual operating under the direct personal supervision of such licensed person, or a massage therapist, who meets one or more of the following criteria:

(1) Proof of graduation from a school of massage licensed by the state.

(2) Official certified transcripts verifying completion of at least 300 hours of massage training from an American college or university, plus three references from massage therapists who are professional members of a recognized massage association.

(3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation or any other recognized massage association with equivalent professional membership standards.

(Ord. No. 301, § 1.0, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-2. Definitions.**

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:

*Apprentice* or *student* shall mean any person who, under the guidance of an instructor in a massage school or in a massage parlor, is being trained or instructed in the theory, method or practice of massage.

*Employee* shall mean any individual who is paid by the operator or customer for performing any service for the operator or customer at the licensed location.

*Instructor* shall mean any person who gives lessons or teaches the theory, method or practice of massage.

*Massage* shall mean the performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking, or tapping with the hands or with any mechanical or bathing device with or without supplementary aids.

*Massage parlor* shall mean any place or establishment where a massage is offered or performed, whether as the primary or secondary purpose of a business.

*Massage school* shall mean a school which is recognized by the state board of massage, which requires for admission students with a tenth grade education or its equivalent, which employs one or more competent licensed masseuses as instructors, and which has minimum requirements or a continuous course of study and training and consisting of study in physiology, anatomy, massage theory, hydrotherapy, hygiene, ethics and practical massage. For the purposes of this chapter, a correspondence school shall not be construed to be a recognized school.

*Masseuse* or *masseur* shall mean any person who engages in the practice or performs or assists in performing a massage.

*Operator* shall mean any person who owns, manages, supervises or is in any way in charge of the operation of a massage parlor or massage school.
(Ord. No. 301, § 2.0, 10-16-89; Ord. No. 301.1, § 1, 4-2-90; Ord. No. 95-5, 9-18-95)

**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 9-3. Enforcement provisions.**

(a) The township clerk shall have the authority to request the assistance of any department listed in section 9-40 in order to enforce these rules and regulations.

(b) Every establishment ostensibly being operated as a massage parlor or massage school shall be open for inspection by duly authorized representatives of any township department concerned with the licensing and supervising of such establishment during operating hours for the purpose of enforcing any of the provisions of this chapter or other ordinance or regulation of the township relating to the public health, safety and welfare.

(c) The hours of operation shall be set by the township board and shall be listed on the license granted to any applicant. The hours of operation may be modified by the board on its own motion, or subject to the board's discretion in response to a request by the applicant or licensee.

(d) It shall be unlawful for any person to refuse entry to premises in which a massage parlor or massage school is ostensibly being operated, by duly authorized township, county and state representatives for the purpose of making lawful inspections.
(Ord. No. 301, §§ 10.1, 10.4, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-4. Maintenance of premises.**

(a) Every establishment shall be kept clean and in a sanitary condition at all times. All tables and surfaces on which massages are performed shall be covered by a permanent, washable material.

(b) The premises used for a massage parlor shall be well lighted and ventilated. They shall be kept clean, and the furniture and equipment shall be maintained in a safe and sanitary condition. There shall be an adequate supply of running hot and cold water during business hours. Bathing devices shall be thoroughly cleaned before the use of each patron. Any shower facility shall be intended for individual use only and shall be in stall form limited to a size of no greater than 36 inches by 36 inches.
(Ord. No. 301, §§ 10.2.3, 10.8.6, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-5. Advertising restricted.**

It shall be unlawful for any person to advertise the offering of massage services unless the advertised establishment is duly licensed.
(Ord. No. 301, § 10.3, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-6. Scope of service.**

(a) No apprentice or student shall practice massage unless in the presence and under the supervision of an instructor.

(b) Service in massage parlors licensed under this chapter shall be limited to exercise, baths and massage. Medical treatment of any kind shall not be given to any patron without a prescription from a licensed physician. The use of any mechanical or electrical devices other than heat lamps and sunray lamps is prohibited.

(c) The private parts of patrons must be covered when in the presence of an employee, masseuse/masseur. Any contact with a patron's genital area is prohibited.
(Ord. No. 301, §§ 10.7, 10.8, 10.8.11, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-7. Disease control.**

(a) No person who has any visible symptoms of a communicable disease, such as a rash, discharge, or fever may be attended by any licensee under this chapter or any person engaged in the practice of massage.

(b) Each applicant for an apprentice's or student's certificate of registration, employee or applicant for an instructor's or operator's license under this chapter or a renewal thereof, shall present to the township clerk a certificate from a registered physician, certifying that he is free from communicable disease. A current certificate shall also be provided prior to the renewal of any license. If the township board receives information that any individual defined in section 9-2 may no longer be free of a communicable disease then the board may in its discretion direct that such individual terminate his presence at the licensed establishment until a new or updated certificate is provided. Failure to provide a new or updated certificate when requested shall be a basis for the immediate suspension of the license and closure of the business until compliance is obtained.

(c) The skin of the hands of those attending patrons shall be clean and in healthful condition, and the nails shall be kept short. The hands shall be washed thoroughly before providing the patron any service. A minimum of one separate wash basin shall be provided in each massage parlor for the use of employees of any such establishment. There shall be provided, at each wash basin, sanitary towels placed in permanently installed dispensers.
(Ord. No. 301, §§ 10.8.1, 10.8.3, 10.8.9, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-8. Minors generally.**

(a) No massages shall be performed on any individual under the age of 18 years, and it shall be the obligation of the operator and its employees to ascertain the age of any individual requesting massage therapy, and if such individual is unable to provide proof of age of 18 or older, it shall be a violation of this chapter to provide any massage services for or on behalf of this individual.

(b) No person operating a massage school or massage parlor, nor any instructor, shall permit training of an apprentice or student who has not attained the age of 18 years.

(c) It shall be unlawful for any person to falsify his age in order to obtain training as an apprentice or student in a massage school or massage parlor.
(Ord. No. 301, §§ 10.2.4, 10.5, 10.6, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-9. Linens, wearing apparel, etc.**

(a) All robes, towels, blankets and linens furnished for the use of one patron shall be thoroughly laundered before being offered to another.

(b) Nontransparent uniforms or garments covering the torso shall be worn by instructor, operator, masseuse, employee, or apprentice while attending patrons, which shall be of washable material, and shall be kept in clean condition. The sleeves shall not reach below the elbow.
(Ord. No. 301, §§ 10.8.7, 10.8.8, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-10. Attending persons of opposite sex.**

Serving or attending in a massage parlor or massage school of patrons of the opposite sex is prohibited; provided, that this provision shall not apply in cases in which such service or attending is under the supervision of any person licensed to practice medicine under MCL 333.17001 et seq., MSA 14.15(17001 et seq.).
(Ord. No. 301, § 10.8.2, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-11. Massage areas restricted.**

(a) No massage shall be performed in a massage parlor or massage school in a private room which is closed to other persons by means of a door containing any latch or locking device. However, reasonable measures may be used to offer privacy to patrons such as partitions, stalls, curtains and the like.

(b) No massage parlor shall be conducted in direct connection with living quarters.
(Ord. No. 301, §§ 10.8.5, 10.8.10, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-12. Massage of students prohibited.**

Students at a massage school shall be prohibited from performing massages on each other.
(Ord. No. 301, § 10.8.12, 10-16-89; Ord. No. 301.1, § 2, 4-2-90; Ord. No. 95-5, 9-18-95)

**Sec. 9-13. Protection of patron.**

Any person providing any service to a patron shall exercise every precaution for the safety of such patron. They shall watch for early signs of fatigue or weakness and immediately discontinue whatever form of service is being given upon the appearance of such signs.
(Ord. No. 301, § 10.8.4, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-14. Violations, penalties and forfeiture of license.**

(a) It shall be unlawful for any person to knowingly allow the use of any place, business, establishment, or premises owned, operated, leased or managed by him to be used in violation of any provisions of this chapter or any other ordinance of the township or any state law.

(b) It shall be a misdemeanor for any person to violate any provision of this chapter or to aid, assist or abet another to violate such provision, rules or regulations.

(c) Any person who shall violate any of the provisions of this chapter shall be guilty of a

misdemeanor, punishable as prescribed in section 1-11 of this Code.

(d) In addition to any other penalty provided under this section, any licensee hereunder who shall be second time convicted of any of the provisions in this chapter shall upon such second conviction forfeit any and all rights or privileges granted or conferred by any license issued by virtue of this chapter.
(Ord. No. 301, § 11.0, 10-16-89; Ord. No. 95-5, 9-18-95)

**Secs. 9-15--9-35. Reserved.**

## ARTICLE II.

## LICENSES

**Sec. 9-36. Required.**

Any person who is an operator of a massage parlor or massage school shall be required to obtain a license from the township clerk pursuant to the procedures set forth in this article. It is hereby declared to be unlawful for any operator to engage in the business of a massage parlor or massage school, without first obtaining a license as herein provided, or for any person to provide or perform any service customarily associated with a massage parlor or school in any unlicensed facility.
(Ord. No. 301, § 4.0, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-37. License required.**

No person either individually or with others shall own, establish or maintain a massage parlor or massage school unless the massage parlor or school is duly licensed except as provided in section 9-1.
(Ord. No. 301, § 10.2, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-38. Application.**

(a) The application for a license required by this article shall be made, in duplicate, on forms provided by the township clerk which shall contain the following information:

(1) Name and address of the applicant and the name and address of the owner of the massage parlor or massage school. If a partnership, the name and address of each partner thereof. If a corporation, the name and address of each officer, director, and any shareholder owning more than ten percent of the common stock of the corporation, and the name and address of the resident agent of such corporation.

(2) A statement as to whether the applicant has ever been convicted of a violation of this chapter, or any similar ordinance, or has been convicted of any felony or any offense dealing with sexual misconduct or violation of any narcotic drug statute.

(3) Location and address where the massage parlor or massage school is to be established.

(4) A statement as to whether the applicant has been known by another name, and if so, what name.

(b) Upon any change in the information furnished above, it shall be the duty of the licensee to inform the township clerk, township fire chief, township building official, township zoning administrator and the county sheriff's department of such change.

(c) A separate application shall be made for each location of a massage parlor or massage school.
(Ord. No. 301, § 5, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-39. Age restriction.**

No license shall be issued under this article to any applicant unless the applicant is 18 years of age or older.
(Ord. No. 301, § 5.2, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-40. Investigation; referral to board.**

(a) Both copies of the application for a license under this article shall be filed with the township clerk who shall investigate same and cause:

(1) The county sheriff to ascertain if there are any outstanding warrants against the applicant;

(2) The township building official to ascertain from an investigation of the location where it is proposed to operate such massage parlor or school whether such operation would violate any building ordinances;

(3) The township fire chief to determine from an investigation of the location where it is proposed to operate such massage parlor or school whether such operation would violate any fire safety ordinance or statute; and

(4) The township zoning administrator to assure compliance with all zoning ordinances and regulations.

(b) Upon the township clerk's determination that all investigations and inspections referenced herein have been conducted, and approvals received by such officials, the township clerk shall prepare and file with the township board a statement establishing that the clerk has received a completed application, the required filing fee, the physician's certificate, the copies of investigations and the approvals by all of the officials listed herein. The township board shall then consider the application at the next regularly scheduled township meeting.
(Ord. No. 301, § 6.0, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-41. Granted upon approval.**

When an application and the proposed location have been reviewed by the township clerk, the county sheriff's department, the township building official, the township zoning administrator and the township fire chief, and when the township board has approved the application, a license shall be granted.
(Ord. No. 301, § 4.0, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-42. Fees; prorations; expiration date.**

Every operator under this article shall pay an annual administration fee as set by resolution of the township board, which is nonrefundable and which fee is limited to one location. The amount of this fee may be amended by township resolution. The fee will be for a 12-month period with the license expiring on December 31 of each year. For the first year the applicant will only be required to pay a pro rata amount of the fee based upon the date of issuance of the license to December 31 of that year.
(Ord. No. 301, § 7.0, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-43. Transfer of location or to new owner.**

(a) Prior to the operator moving the location of the operation of the licensed business within the township, the new location shall be first inspected and approved by the county sheriff, the township building official, the township fire chief and the township zoning administrator. After such approvals are obtained, the clerk of the township shall so notify the township board, and if there have been no violations of this chapter at the original licensed location, the township board shall approve the transfer.

(b) If upon the sale of such business, whether in whole or in part, the new operator or part-operator, prior to commencement of business, shall first obtain approval of the township board as required by this article for an original application of a license.
(Ord. No. 301, §§ 8.1, 8.2, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-44. Display.**

The license granted under this article shall be displayed in plain view of all patrons of the licensed premises, together with the text of sections 9-3 through 9-13.
(Ord. No. 301, § 8.3, 10-16-89; Ord. No. 95-5, 9-18-95)

**Sec. 9-45. Revocation.**

(a) Each license issued under this article is subject to revocation by the township board. Revocation may result in the township board's sole discretion for any violation of this chapter or any conviction of any state's criminal statutes.

(b) Prior to revoking a license, the township board shall first provide the operator with written notice of a hearing to be held by the township board on whether the license is to be revoked, which notice of hearing shall list those reasons to be considered by the township board for the revocation of such license. The operator shall be given two weeks' notice of this hearing and the operator and/or operator's attorney may appear at the hearing for the purpose of contesting any or all of the reasons that the township board is to consider for the revocation of such license.
(Ord. No. 301, § 9.0, 10-16-89; Ord. No. 95-5, 9-18-95)

**Secs. 9-46--9-65. Reserved.**

## ARTICLE III.

## CERTIFICATE OF REGISTRATION

**Sec. 9-66. Required.**

No person shall act as an operator or masseuse without first complying with all applicable provisions of this chapter and obtaining a certificate of registration under this article.
(Ord. No. 301.1, § 2(10.2.1A), 4-2-90; Ord. No. 95-5, 9-18-95)

**Sec. 9-67. Application.**

Any apprentice, student, masseuse or employee prior to performing or assisting in performing any massage shall first register with the township clerk by submittal of an application for a certificate of registration. Such application shall include the following information:

(1) The individual applicant's name, address, height, weight, sex, color of eyes, hair color, date of birth, location of birth, social security number and any name used by such individual in the five years preceding this application.

(2) A statement as to whether the apprentice, student or employee has been known by another name, and if so, what name.

(3) Written proof (birth certificate or sworn affidavit) that the applicant is at least 18 years of age.

(4) One photograph of at least two inches by two inches.

(5) Business, occupation or employment of the applicant for the three years immediately preceding the date of the application, including the name and address of the employers.

(6) A list of all felony or misdemeanor convictions, other than traffic violations, including guilty pleas, pleas of nolo contendere, the date of the conviction or plea, the court where the conviction or plea occurred, and the docket number of the case.

(7) A certificate from a medical or osteopathic doctor stating that the applicant has, within 30 days immediately prior thereto, been examined and found to be free of any contagious or communicable disease.

(8) Such other identification and information including any necessary releases or authorizations necessary to confirm the information set forth in the application.

(Ord. No. 301, § 10.2.2, 10-16-89; Ord. No. 301.1, § 2(10.2.1A), 4-2-90; Ord. No. 95-5, 9-18-95)

**Sec. 9-68. Filing fee.**

Each application filed under this article shall be accompanied by a filing fee of $50.00, no part of which is refundable.
(Ord. No. 301.1, § 2(10.2.1B), 4-2-90; Ord. No. 95-5, 9-18-95)

**Sec. 9-69. Action on application.**

Following receipt of the application under this article the clerk shall determine whether the apprentice, student masseuse or employee complies with the terms of this chapter and, if so, approve the application and issue the certificate of registration.
(Ord. No. 301.1, § 2(10.2.1C), 4-2-90; Ord. No. 95-5, 9-18-95)

**Sec. 9-70. Display.**

Each certificate of registration issued under this article shall be displayed in plain view of the public at the massage parlor or massage school.
(Ord. No. 301.1, § 2(10.2.1D), 10-16-89; Ord. No. 95-5, 9-18-95)

# Chapter 10

# MOBILE HOMES*

* **State Law References:** Mobile home commission act, MCL 125.1101 et seq., MSA 19.855.


**Article I. In General**

**Sec. 10-1. Definitions.**
**Secs. 10-2--10-25. Reserved.**

**Article II. Installation**

**Sec. 10-26. Intent.**
**Sec. 10-27. Penalty.**
**Sec. 10-28. Variance.**
**Sec. 10-29. Installer's license.**
**Sec. 10-30. Removal of wheels.**
**Sec. 10-31. Additions to a mobile home.**
**Sec. 10-32. Number per lot.**
**Sec. 10-33. Mobile homes on individual lots.**
**Sec. 10-34. Permitted mobile homes.**
**Sec. 10-35. Installation of pillars.**
**Sec. 10-36. Utility connections.**
**Sec. 10-37. Skirting.**
**Sec. 10-38. Anchoring system.**


## ARTICLE I.

## IN GENERAL

### Sec. 10-1. Definitions.

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:

*Manufactured housing* shall mean a mobile home, residential building, dwelling unit, a dwelling room or rooms, or a building component which is designed for long-term residential use and is wholly or substantially constructed at an off-site location.

*Mobile home* shall mean a structure, transportable in one or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days, but not including a recreational vehicle.
(Ord. No. 277, § 3, 7-19-82)

**Cross References:** Definitions and rules of construction generally, § 1-2.

### Secs. 10-2--10-25. Reserved.

## ARTICLE II.

## INSTALLATION

### Sec. 10-26. Intent.

It is the intent of this article to establish minimum standards for the installation of mobile homes on individual lots outside of a mobile home park. Such standards are intended to insure that the mobile home is anchored to protect against wind damage, connected to utility facilities, properly mounted on a foundation, constructed to nationally accepted standards and compatible in appearance with existing residential development in the vicinity.
(Ord. No. 277, § 2, 7-19-82)

### Sec. 10-27. Penalty.

Any person violating any of the provisions of this article shall upon conviction thereof be punished as prescribed in section 1-11 of this Code.
(Ord. No. 277, § 8, 7-19-82)

### Sec. 10-28. Variance.

The township zoning board of appeals shall have the power and duty to authorize upon appeal in specific cases such variance from the provisions of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this article would result in unnecessary hardship or practical difficulty. A variance shall be granted as per the provisions of chapter 23 of the township zoning ordinance, as amended.
(Ord. No. 277, § 7, 7-19-82)

### Sec. 10-29. Installer's license.

A person who installs or repairs mobile homes within the township for compensation shall be licensed as a mobile home installer and repairer with the state mobile home commission.
(Ord. No. 277, § 6(A), 7-19-82)

### Sec. 10-30. Removal of wheels.

The towing mechanism, wheels, tires and running lights shall be removed from a mobile home after it is placed on the pillars.
(Ord. No. 277, § 6(B), 7-19-82)

### Sec. 10-31. Additions to a mobile home.

(a) Any structural addition to a mobile home shall be constructed in compliance with the Uniform Building Code provisions for one-family dwellings if the addition is site built. If the addition is a premanufactured expando, add-a-room or similar construction, it shall comply with the provisions of the United States Department of Housing and Urban Development's Mobile Home Construction and Safety Standards.

(b) The addition shall not cover any exterior bathroom or bedroom window of the mobile home. No bathroom, except where mechanical ventilation is provided, or bedroom window shall exit, vent or open into an addition.

(c) A building permit shall not be issued for an addition which necessitates or results in structural alterations, such as the removal of a portion of a roof or wall, which invalidates the mobile home's compliance with the provisions of the United States Department of Housing and Urban Development's Mobile Home Construction and Safety Standards.
(Ord. No. 277, § 6(C), 7-19-82)

**Sec. 10-32. Number per lot.**

A lot or parcel shall contain no more than one mobile home. This section shall not apply to mobile homes located within a planned unit development or multifamily development.
(Ord. No. 277, § 6(D), 7-19-82)

**Sec. 10-33. Mobile homes on individual lots.**

The regulations contained in this article shall not apply to mobile homes located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required herein.
(Ord. No. 277, § 6(E), 7-19-82)

**Sec. 10-34. Permitted mobile homes.**

As required by the provisions of the township zoning ordinance, as amended, the mobile home shall meet the following standards.

(1) The mobile home, and the lot on which it is situated, shall comply with the minimum development standards contained within schedules A, B and D, as amended, of the zoning ordinance.

(2) Any one floor of a mobile home shall contain a dwelling area which is a minimum of 20 feet square exclusive of garage, basement or porch.

(3) A mobile home's construction, plumbing, electrical apparatus and insulation within and connected to a mobile home shall comply with the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development (HUD), being 24 CFR 3280 as amended. In addition, all mobile homes shall comply with applicable roof snow load and strength requirements.

(Ord. No. 277, § 4, 7-19-82)

**Sec. 10-35. Installation of pillars.**

(a) For all new mobile homes, the manufacturer shall provide express written instructions for the installation specifying the location and required minimum imposed load capacity of pillars and the location and

the required minimum imposed load capacity of any other recommended stabilizing devices.

(b) The installation of mobile homes shall, at a minimum, comply with the following specifications:

(1) Pillars shall be installed directly under each main frame beam. If the distance between the main frame beams does not conform to the pillars that are permanently installed on the mobile home site, cross beams shall be used. These cross beams may be of steel, or pressure-treated wood which resists decay, and has an imposed load capacity of 3,000 pounds per square foot (PSF). The cross beams shall extend a minimum of six inches beyond each main frame beam, but shall not extend beyond the sides of the mobile home. A wood beam shall not rest on the ground, but shall rest on the cap. If the cross beam interferes with a utility to the mobile home, the cross beam placement may be between blocks. If a cross beam is used between blocks, it shall be a minimum of six inches by eight inches.

(2) Pillars shall be placed on ten-foot centers along the length of each main frame beam, but may be placed at less than ten-foot centers. If the pillars interfere with the axle area, they may be placed to a maximum of 13-foot centers, but the pillar placement shall not be less in number than if placed on ten-foot centers.

(3) The pillars nearest each end of the mobile home shall be within three feet of either end.

(4) All grass and organic material shall be removed and the pillar shall be placed on stable soil a minimum of 42 inches below grade.

(5) All pillars shall be backfilled with a suitable material.

(6) That portion of a mobile home pillar installed below ground shall be constructed of solid concrete with a minimum diameter of 18 inches for its entire length. A cap shall be placed on top of the pillar. A wood plate one inch by eight inches by 16 inches may be placed on top of the cap for leveling. Shims may be fitted and driven tight between the wood plate or cap and the main frame and shall not take up more than one inch of vertical height.

(7) Pillars shall be installed perpendicular to the main frame of the mobile home.

(c) If the manufacturer's recommended installation specifications exceed the minimum specifications stated herein, the manufacturer's specifications shall in all cases be complied with.

(d) Mobile homes may be installed on a basement or crawl space-type foundation, provided the foundation complies with the township's building code, as amended, and meets the manufacturer's specifications for pillar placement and imposed load capacity.
(Ord. No. 277, § 5(A), 7-19-82)

**Sec. 10-36. Utility connections.**

(a) Water and sewer line connections to a mobile home shall be in compliance with the applicable township ordinance or resolution.

(b) The mobile home shall be connected to a public sanitary sewer and water supply or to such private facilities as approved by the Barry-Eaton District Health Department.

(c) Mobile homes served by the township water service shall use a water meter. A proper location for each meter shall be provided by the customer at the end of the service line. The location shall be readily accessible, well-ventilated, and have a drain of sufficient capacity to allow for drainage of the maximum possible flow rate through the meter. Such space shall be kept free of all obstructions, fixtures, etc., within a distance of three feet from the meter, and shall be in a heated area or other approved location. Where an approved location is not available for a meter-setting at the end of the customer's service connection, the meter shall be located as determined by the township water department.
(Ord. No. 277, § 5(B), 7-19-82)

**Sec. 10-37. Skirting.**

(a) Skirting shall be installed around the entire perimeter of a mobile home prior to the occupancy of the home.

(b) Mobile home skirting shall consist of an opaque material and shall be vented. Louvered or similar vents shall be at a minimum of 600 square inches per 1,000 square feet of living space. A minimum of one vent shall be placed at the front and rear of the mobile home and two to each exposed side. An access panel of sufficient size to allow full access to utility hookups located beneath the mobile home shall be installed.

(c) Skirting shall be manufactured of fire resistant material and certified as such by the manufacturer. Tarpaper, rolled felt, straw or hay shall not be allowed to be placed around the perimeter of the mobile home in lieu of or in addition to skirting.

(d) Skirting shall be installed in a manner so as to resist damage under normal weather conditions to include, but not be limited to, damage caused by freezing and frost, wind, snow and rain.
(Ord. No. 277, § 5(C), 7-19-82)

**Sec. 10-38. Anchoring system.**

(a) A mobile home shall be anchored to protect against wind damage.

(b) A mobile home anchoring system installed in the township shall comply with the following regulations:

(1) The anchoring system shall be designed and constructed in compliance with the United States Department of Housing and Urban Development (HUD) Regulations entitled Mobile Home Construction and Safety Standards, which are adopted herein by reference.

(2) The system shall be installed in compliance with the manufacturer's specifications.

(3) The system shall be approved for sale and use within this state by the state construction code commission.

(4) A manufacturer shall furnish and ship with each approved anchor system information pertaining to the type or types of soil the system has been tested and certified to be installed in, and instructions as to the method of installation and periodic maintenance required.

(5) A model number shall be permanently marked on each anchor system.

(Ord. No. 277, § 5(D), 7-19-82)

# Chapter 11

# NUISANCES*

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* **State Law References:** Air pollution act, MCL 336.11 et seq., MSA 14.58(1) et seq.; environmental protection act, MCL 691.1201 et seq., MSA 14.528(201) et seq.

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# ARTICLE I.

# IN GENERAL

## Sec. 11-1. Generally.

Whatever injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this chapter. No person shall commit, create or maintain any nuisance.

## Sec. 11-2. Remedial rights of township.

Any action taken by the township to abate any nuisance shall not affect the right of the township to institute proceedings against the person committing, creating or maintaining any nuisance for violation of this Code, nor affect the imposition of the penalty prescribed for such violation. As an additional remedy, upon application by the township to any court of competent jurisdiction, the court may order the nuisance abated and/or the violation or threatened violation restrained and enjoined.

## Sec. 11-3. Nuisances enumerated.

The following acts, services, apparatus and structures are declared to be public nuisances and are unlawful and prohibited:

(1) The maintenance of any pond, pool of water or vessel holding stagnant water.

(2) The throwing, placing, depositing or leaving in any street, highway, lane, alley, public place, square or sidewalk, or in any private place or premises where such throwing, placing, depositing or leaving is in the opinion of the health officer dangerous or detrimental to public health, or likely to cause sickness or attract flies, insects, rodents and/or vermin, by any person, of any animal or vegetable substance, dead animal, fish, shell, tin cans, bottles, glass or other rubbish, dirt, excrement, filth, rot, unclean or nauseous water, liquid or gaseous fluids, hay, straw, soot, garbage, swill or animal bones, hides or horns, rotten soap, grease or tallow, offal or any other offensive article or substance whatever.

(3) The pollution of any stream, lake or body of water by, or the depositing into or upon any highway, street, lane, alleys, public street or square, or into any adjacent lot or grounds of, or depositing or permitting to be deposited any refuse, foul or nauseous liquid or water, creamery or industrial waste, or forcing or discharging into any public or private sewer or drain any steam, vapor or gas.

(4) The emission of noxious fumes or gas in such quantities as to render occupancy of property uncomfortable to a person of ordinary sensibilities.

(5) The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person.

(6) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount contrary to the provisions of this Code or statutes of the state.

(7) All buildings, walls and other structures which have been damaged by fire, decay or otherwise and all excavations remaining unfilled or uncovered for a period of 30 days or longer, and which are so situated so as to endanger the safety of the public.

(8) All dangerous, unguarded excavations or machinery in any public place, or so situated, left or operated on private property as to attract the public.

(9) The owning, driving or moving upon a public street or alley of a truck or other motor vehicle which is constructed or loaded so as to permit any part of its load or contents to blow, fall or be deposited upon any street or alley, sidewalk or other public or private place, or which deposits from its wheels, tires or other parts on to the street, alley, sidewalk or other public or private place, dirt, grease, sticky substances or foreign matter of any kind; provided, however, that under circumstances determined by the township supervisor to be in the public interest, the township supervisor may grant persons temporary exemptions from the provisions of this subsection conditioned upon cleaning and correcting the violating condition at least once daily and execution of an agreement by such person to reimburse the township for any extraordinary maintenance expenses incurred by the township in connection with such violation. Any person who shall violate this subsection (9) shall be responsible for a civil infraction and shall pay a fine not to exceed $500.00. Each day a violation exists may be considered a separate violation and a fine so imposed.

(10) No person shall cast, place, sweep, rake or deposit in any manner whatsoever, or allow to accumulate, in or upon any street, highway, road, cul-de-sac, sidewalk, drain, sewer, gutter or receiving basin adjacent to a lot or parcel occupied by them, any rubbish, litter, leaves, yard waste or debris.

(11) Garage sales, rummage sales, yard sales, estate sales and similar activities shall not be conducted on residentially zoned properties for more than three consecutive days nor more than twice per calendar year on the same property.

(Ord. No. 02-08, § 1, 9-16-02; Ord. No. 03-19, 10-18-04)

**Secs. 11-4--11-30. Reserved.**

## ARTICLE II.

## GRASS AND NOXIOUS WEEDS*

* **State Law References:** Control and eradication of noxious weeds, MCL 247.61 et seq.

**Sec. 11-31. Definition.**

The definition of noxious weeds shall be contained in section 2 of the Act No. 359 of the Public Acts of Michigan of 1941 (MCL 247.62), as amended.

*Margin* means the property outside a property owner's lot and property lines and inside the curb lines upon the public streets, or in the absence of a curb, from the traveled portion of the public street to the lot or property line.
(Ord. No. 296, § 4, 3-20-72; Ord. No. 03-18, 9-7-04)

**Sec. 11-32. Growing prohibited.**

No person owning or occupying any premises in platted subdivisions or property on which single family and two dwellings are permitted by right of two acres of less, being within 200 feet of platted subdivisions or commercial lots and on improved streets shall permit or maintain on any such premises or the abutting margin, or on any portion of any such premises or the abutting margin, any growth of noxious weeds, nor any growth of grass or other rank vegetation, to a greater height than 12 inches on the average; nor permit any accumulation of dead weeds, grasses or brush to a height greater than 12 inches on the average. In addition, no person owning or occupying any developed commercial property, office zoned property on improved streets, or property on which multiple property dwellings and/or condominiums are permitted by right shall permit or maintain on any such premises or the abutting margin, or on any portion of any such premises or the abutting margin, any growth of noxious weeds, nor any growth of grass or other rank vegetation, to a greater height than 12 inches on the average; nor permit any accumulation of dead weeds, grasses or brush to a height greater than 12 inches on the average.
(Ord. No. 296, § 1, 3-20-72; Ord. No. 97-3, § 1, 11-17-97; Ord. No. 03-05, 3-17-03; Ord. No. 03-18, 9-7-04)

**Sec. 11-33. Duty of occupant or owner.**

It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the township to cut and remove or destroy by lawful means all such noxious weeds and grass, as above described, as often as may be necessary throughout the growing season, which shall be April 15 through October 31 of each year, to remain in compliance with the provisions herein.
(Ord. No. 296, § 2, 3-20-72; Ord. No. 03-05, 3-17-03; Ord. No. 03-18, 9-7-04)

**Sec. 11-34. Commissioner of noxious weeds.**

There shall be appointed by the township board a commissioner of noxious weeds who shall take an oath required of the township officers and shall hold office for the term of two years and until a successor is appointed and qualified who shall receive for compensation such sum as may be fixed by the township board. The commissioner of noxious weeds as herein provided for shall have duties and responsibilities and be subject to the provisions of Act No. 359 of the Public Acts of Michigan of 1941 (MCL 247.61 et seq.), as amended. The commissioner of noxious weeds shall also have the duty of enforcement of this article.

(Ord. No. 296, § 3, 3-20-72; Ord. No. 03-18, 9-7-04)

**Sec. 11-35. Cutting by township.**

If any person shall fail to comply with the provisions of section 11-33 within the specified time, the township shall cause all such grass and noxious weeds to be cut or destroyed upon the lands owned and/or occupied by the person not complying with the provisions hereof and any abutting margin, and the cost thereof plus ten percent for overhead shall be assessed against the property of the taxpayer as shown on the tax roll. The township may cause the weeds to be cut as many times as is necessary.
(Ord. No. 296, § 5, 3-20-72; Ord. No. 03-18, 9-7-04)

**Sec. 11-36. Notice to owner.**

The township shall publish a notice in a newspaper of general circulation in the county during the month of March that weeds not cut by April 15, of that year, and, and further maintained as often as necessary to remain in compliance with the provisions herein, will be cut by the township and the owner of the property charged with the costs. The publication shall contain such information as required in the provisions of Section 4 of Act No. 359 of the Public Acts of Michigan of 1941 (MCL 247.64), as amended.
(Ord. No. 296, § 6, 3-20-72; Ord. No. 03-05, 3-17-03; Ord. No. 03-18, 9-7-04)

**Secs. 11-37--11-55. Reserved.**

## ARTICLE III.

## BLIGHT

**Sec. 11-56. Authority.**

This article is adopted pursuant to Act No. 359 of the Public Acts of Michigan of 1947 (MCL 42.1 et seq.), as amended.
(Ord. No. 262, § 1, 3-5-79)

**Sec. 11-57. Purpose.**

It is the purpose of this article to prevent, reduce or eliminate blight or potential blight in the charter township by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist in the township, and to provide the penalties for violations and to provide for the issuance of court appearance tickets.
(Ord. No. 262, § 3, 3-5-79)

**Sec. 11-58. Cause of blight or blighting factors.**

It has been determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods. No person shall create or permit to be maintained any of these causes of blight or blighting factors upon any property in the township owned, controlled, rented or occupied by such a person.

(1) In any area of the township, the parking upon any property of junk vehicles, except in a completely enclosed building. For the purpose of this provision the term "junk vehicles" shall include any motor vehicle that:

a. Is not currently licensed for use upon the highways of the State of Michigan;

b. Does not display a current, valid license plate; or

c. Is inoperable for any reason.

This provision shall not apply to commercial garages, automobile dealerships, body shops, and similar establishments that provide for storage of such vehicles within fences that completely obscure such vehicles from view.

(2) In any area of the township, the storage or accumulation of junk:

For the purpose of this provision, the term "junk" shall include, but not limited to: dismantled motor vehicles, or parts of motor vehicles; dismantled machinery or parts of machinery, unlicensed or inoperable trailers, discarded stoves, refrigerators, water heaters or other appliances; scrap metal; building materials, unless there is in force a valid building permit issued by the township for construction upon such property and such materials are intended for use in connection with such construction, garbage, trash or other miscellaneous cast-off items; organic refuse, exterior display or shelving units; racks; food wastes, food containers or wrappings, cans, bottles, jars, or crockery; discarded furniture; cartons, boxes, or crates; rags; discarded clothing, bedding, floor covering or wallpaper; sweepings; waste paper, newspapers or magazines; excrement; rot; yard debris or rubbish (including, but not limited to, grass clippings, clippings from hedges or shrubs, or detached tree branches); industrial waste; unclean or nauseous fluids or gases; and other junk, trash or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance.

This provision shall not apply to the outside storage of farm machinery or parts thereof on agricultural zoned properties, provided that the machinery is owned by the occupant of such premises for use on that owner's or occupants properties, is not stored or maintained for purpose of salvage or resale, and is operable.

(Ord. No. 262, § 4, 3-5-79; Ord. No. 02-06, § 1, 12-30-02)

**Sec. 11-59. Reserved.**

**Sec. 11-60. Appearance tickets.**

The building official shall be authorized to cause the issuance and the serving of appearance tickets with respect to any violations of this article pursuant to section 9c(2) of Act No. 147 of the Public Acts of Michigan of 1968 (MCL 764.9a et seq.), as amended.

(Ord. No. 262, § 6, 3-5-79)

**Secs. 11-61--11-80. Reserved.**

## ARTICLE IV.

## NOISE CONTROL

**Sec. 11-81. Short title.**

This ordinance shall be known as "The Delta Charter Township Noise Control Ordinance".
(Ord. No. 305, § 1, 6-1-92)

**Sec. 11-82. Purpose.**

An ordinance to control sound and noise; to prohibit specific noise; and to provide for penalties for violation thereof.
(Ord. No. 305, § 2, 6-1-92)

**Sec. 11-83. Scope.**

This article shall apply to the control of specific sounds, originating from property within the limits of charter township, unless an exception is set forth in section 11-86 of this Code.
(Ord. No. 305, § 3, 6-1-92)

**Sec. 11-84. Definitions.**

*Audible* means being heard or the capability of being heard by a person(s) with ordinary hearing.

*Construction* means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excludes demolition for or of public right-of-way, structures, utilities, or similar property.

*Demolition* means any dismantling, intentional destruction, or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

*Emergency* means any situation or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Emergency work* means any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an emergency following a public or private calamity or accident.

*Industrial property* means land, land improvements, buildings, structures, and other real property and machinery, equipment and fixtures, or any part thereof whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is the manufacture of goods or materials or the processing of goods and materials by physical or chemical change and shall include agricultural processing facilities. Industrial property shall include facilities related to the manufacturing operation and under the same ownership or control, provided such property is contiguous to the manufacturing operation. Such

property shall include, but not be limited to, manufacturing, warehousing, grain elevators, sewer treatment plants, and electrical producing facilities.

*Muffler* means a device used for lessening the sound of escaping gasses of an internal combustion engine.

*Noise or noise disturbance* means any sound that is loud, unnecessary, unusual, or unreasonable and which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of persons with normal sensitivities.

*Agricultural areas* mean those areas that allow the possession and keeping of animals such as, but not limited to, horses, cows, sheep, chickens, and other animals commonly found on agricultural use properties.

*Noise sensitive zone* means an area of potential noise disturbance, including but not limited to any area where a school, institution of learning, hospital, house of worship, daycare center, nursing home, public library, senior citizen center, residence, or residential area is located.

*Person* means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency, or instrumentality of the state or any political subdivision thereof.

*Public service department* means any public agency or department operated under the supervision or authorization of the state or a political subdivision thereof, or a private agency performing emergency work, which shall include but not be limited to ambulances, police vehicles, and fire department vehicles.

*Public space* means any publicly or privately owned properties that are available to the public in general.

*Residence or residential area* means any areas used for living purposes, such as one- and two-family homes, apartments, condominiums, and hotels or motels.
(Ord. No. 305, § 4, 6-1-92)

**Sec. 11-85. Specific prohibited acts.**

No person shall make, continue, or cause or permit to be made, any noise disturbance prohibited by this article. Making, continuing, causing or permitting to be made the following acts are declared to be in violation of this article. Each such act which either continues or is repeated more than one-half ( 1/2) hour beyond its inception shall be considered and may be prosecuted as a separate violation of this article.

(1) *Sound producing equipment.* Radios, televisions, stereos, musical instruments, loud speakers, etc., amplified or unamplified: The use, operation, or permitting to be played, used, or operated any television radio receiving set, musical instrument, stereos or other machine or device for the producing or reproducing of sound in such manner as to create a noise disturbance in a noise sensitive zone or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, chamber or on private or public space, where such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in

such a manner as to be audible at a distance of 50 feet from the source of such sound, or building or structure in which it is located shall be *prima facie* evidence of a violation of this article.

(2) *Horns, signaling devices, squealing tires.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street or public place of the city for an unnecessary and unreasonable period of time, and the use of any such device when traffic is for any reason held up. The operation of any motor vehicles in a manner so as to cause intentional squealing of tires.

(3) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place (including private property) so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(4) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or other excessive noise.

(5) *Construction or repairing of buildings.* The erection (including excavation), demolition, alteration, or repair of any building other than between the hours of 7:00 a.m. and 7:00 p.m., except in case of emergencies or emergency work.

(6) *Exhausts.* The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle, except through a muffler. The provisions of this section shall not apply to motor vehicles operated on a highway or public street and subject to the noise regulations of the State Motor Vehicle Code or comparable provisions of the Uniform Traffic Code, and in such case, violations shall be enforced under the procedures set forth therein for civil infractions.

(7) *Removal of solid waste.* The removal of solid waste from any premises, except between the hours of 7:00 a.m. and 10:00 p.m., which creates a noise disturbance.

(Ord. No. 274, § 3, 4-20-81; Ord. No. 305, § 5, 6-1-92)

**Sec. 11-86. Exceptions.**

None of the terms or prohibitions of the previous sections shall apply to or be enforced against:

(1) Noises usually created by industrial, manufacturing, assembly, electrical power plants and similar uses when located in proper use areas.

(2) Noises usually created by agricultural operations, including animals, birds, etc., usually kept in such use areas.

(3) Noises of public or governmental safety signals, warning devices, and emergency devices when used as intended for warnings in case of emergency or danger or when tested, and also noises of all fire alarms.

(4) Noises resulting from any authorized public service department responding to an emergency or acting in an emergency or while performing emergency work.

(5) Noise resulting from [the] operation of snow removal equipment either public or private.

(6) Any vehicle of the township while engaged upon necessary public business.

(7) Lawn mowing and garden equipment with mufflers.

(8) Churches, schools, and colleges.

(9) Public parks and public recreational areas.

(10) Any aircraft operated in conformity with or pursuant to federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations.

(11) Legal firework displays.

(12) All railroad operations.

(Ord. No. 274, § 4, 4-20-81; Ord. No. 305, § 6, 6-1-92)

**Sec. 11-87. Application for special permit.**

(a) Applications for a permit for relief from the noise level designated in this ordinance on the basis of undue hardship may be made to the township board or its duly authorized representative. Any permit granted by the township board hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The township board, or its duly authorized representative, may grant the relief as applied for if it finds:

(1) That additional time is necessary for the applicant to alter or modify his/her activity or operation to comply with this article; or

(2) The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and

(3) That no other reasonable alternative is available to the applicant.

(b) The township board may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood;

(c) Property owners who own property within 300 feet of the property where the noise for which the special permit is requested shall be notified by first-class mail.

(d) The fees shall be set by resolution of the township board of trustees.

(Ord. No. 305, § 7, 6-1-92; Ord. No. 94-5, § 1, 6-6-94; Ord. No. 94-8, § 2, 11-21-94)

**Sec. 11-88. Retaliation.**

If there is any evidence of retaliation by any offender against any complainant or witnesses, such evidence shall be communicated to the district court magistrate. In sentencing any violator, the district court or magistrate shall first examine the evidence of retaliation, and if such be shown, shall consider such acts and sentence the violator accordingly.
(Ord. No. 305, § 8, 6-1-92)

**Secs. 11-89--11-110. Reserved.**

## ARTICLE V.

## DANGEROUS BUILDINGS

**Sec. 11-111. Purpose.**

The purpose of this article is to provide a just, equitable, and practical method whereby buildings or structures which from any cause, endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.
(Ord. No. 283, § 1(B), 11-21-83)

**Sec. 11-112. Administration.**

The building official is hereby authorized to enforce the provisions of this article.
(Ord. No. 283, § 2(A), 11-21-83)

**Sec. 11-113. Inspections.**

The building official is hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this article.
(Ord. No. 283, § 2(B), 11-21-83)

**Sec. 11-114. Right of entry.**

(a) Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building or premises unsafe, dangerous, or hazardous, the building official may enter such building or premises at all reasonable times to inspect the same, to perform any duty imposed upon the building official by this article, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

(b) When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of

any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the building official for the purpose of inspection and examination pursuant to this article. (Ord. No. 283, § 2(C), 11-21-83)

**Sec. 11-115. 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:

*Building official* shall mean the individual who has been duly appointed by the township, or his authorized representative, to administer the charter township building code.

*Hearing officer* shall mean a person appointed for a designated term of office by the board to hold office at the pleasure of the board, for the purpose of conducting hearings and taking testimony of the building official or other officials, property owners, and interested persons as to the alleged unsafe and dangerous conditions of buildings and structures.

*Owner* shall mean the owner of the freehold of the premises or lessor estate therein, a mortgagee or vendee in possession, an assignee of rent, receiver, executor, trustee, lessee or any other person directly or indirectly in control of a building, structure or real property, or his duly authorized agent.

*Unsafe building* shall mean any building or structure which has any of the following defects or is in any of the following conditions:

(1) Whenever it is determined by the building official that any door, aisle, passageway, stairway or other means of exit located in a building at any time does not conform to any officially adopted fire code, or does not conform to any officially adopted housing code or building code in existence at the time of the building's construction or at the time the building came into the owner's possession.

(2) 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 materially less than it was before such occurrence, and is less than the minimum requirements of this article or any building code of the township for a new building of similar structure, purpose or location.

(3) 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.

(4) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the township building code.

(5) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal of some portion of ground necessary for the purpose of support of such building or portion thereof, or for some other reason is likely to partially or completely collapse; or some portion of the foundation or underpinning is likely to

fall or give way.

(6) Whenever, for any reason whatsoever, the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

(7) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated so as to become an attractive nuisance to children who might play there and to their danger; or as to afford a harbor for vagrants or criminals; or as to enable a person to resort thereto for the purpose of committing a nuisance or unlawful acts.

(8) 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 county health officer; or is likely to work injury to the health, safety or general welfare of those living within or nearby.

(9) 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.

(10) Whenever any building or structure is in such a condition as to constitute a public nuisance known at common law or equity jurisprudence.

(Ord. No. 283, § 4, 11-21-83)

**Sec. 11-116. Commencement of proceedings.**

(a) Whenever the whole or any part of any building or structure is found by the building official to be unsafe, the building official shall commence proceedings to cause repair, vacation, or demolition of the building by issuing a notice of the unsafe condition.

(b) Such notice shall be directed to the owner.

(c) The notice shall be in writing and shall set forth to the owner the conditions of such building or structure which shall be found by the building official to constitute an unsafe building or structure within the standards set forth in this article.

(d) The notice shall also set forth a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure unsafe and a legal description, parcel number or address of the property on which the building or structure is located.

(e) The notice shall instruct the person to whom the notice is directed to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

(f) The notice shall be given in writing to the owner or other party in interest and shall be given by personal service or certified mail, or may be sent by regular mail if certified mail is refused or undeliverable, to such owner or party in interest at the address shown on the tax records.

(g) The failure of the building official to give notice to any person required to be given notice by this article shall not invalidate any proceedings hereunder as to any other person duly given notice or relieve any such person from any duty or obligation imposed on him by the provisions of this article.

(h) If, in fact, compliance with this article or arrangements satisfactory to the building official to bring about compliance within a reasonable time have not been made within 30 days of the date of the notice, then the building official shall issue a notice of a hearing to be held by the hearing officer on the condition of the building or structure at which time and place the person or persons to whom the hearing notice is directed shall have the opportunity to be heard, as well as any other interested party. This hearing notice shall be given in writing to the owner or party in interest and shall be given by personal service or certified mail or may be sent by regular mail if certified mail is refused or undeliverable. The hearing notice shall be sent at least ten days before the date of the hearing. The hearing notice shall set forth a description of the building or structure deemed unsafe, a statement of particulars which make the building or structure unsafe and the legal description, parcel number or address of the property on which such building is located.

(i) The failure of the building official to give notice to any person required herein to be given notice shall not invalidate any proceedings hereunder as to any other person duly given notice or relieve any such person from any duty or obligation imposed on him by the provisions of this article.
(Ord. No. 283, § 5, 11-21-83)

**Sec. 11-117. Duties of a hearing officer.**

(a) The hearing officer shall receive a report and a copy of the notice of the building official that the owner or any other interested party has a dangerous or unsafe building or structure in the township, and such notice shall set forth the date, time, and place for a hearing before the hearing officer.

(b) The hearing officer at this scheduled hearing shall take the testimony of the building official, the owner of the property (if present) and any other interested party. The hearing officer shall render his decision, either closing the proceedings or finding the building to be an unsafe structure and ordering the building to be vacated, demolished, or otherwise made safe.

(c) If it is determined by the hearing officer that the building or structure should be vacated, demolished or otherwise made safe, the hearing officer shall state his justifications in writing within three days after the hearing; and furthermore, he shall fix a reasonable time, not to exceed 30 days after such hearing date for the owner to comply therewith.

(d) If the owner fails to appear at the hearing, the hearing officer shall within the same three-day period, serve a copy of his findings and order on the owner by personal service, or by certified mail, return receipt requested, or if refused or undeliverable, then by regular mail addressed to such owner or party in interest at the address shown on the tax records.
(Ord. No. 283, § 6, 11-21-83)

**Sec. 11-118. Noncompliance by owner.**

If the hearing officer has determined that the building or structure should be vacated, demolished or otherwise made safe and within a reasonable time not to exceed 30 days from the date of the hearing the owner

has failed, neglected, or refused to comply with his findings and order, then the hearing officer shall file a report of his findings and a copy of his order with the township clerk and request the necessary legal action be taken to vacate, demolish or otherwise make safe the building or structure as has been recommended by the hearing officer.
(Ord. No. 283, § 7, 11-21-83)

**Sec. 11-119. Township board hearing; notice and opportunity to be heard.**

(a) Upon receipt of report of the hearing officer that the owner or any other interested party has failed to demolish or make safe a building in the township upon order of the hearing officer, the township clerk shall fix a date for a hearing for the purpose of reviewing the findings and order of the hearing officer and shall also give notice of such hearing before the board to the property owner thereby stating the time and place of such hearing.

(b) The notice regarding the hearing before the board shall be in writing and shall be given to the owner or other parties of interest and shall be given either by personal service or certified mail, return receipt requested; or if refused or undeliverable, may be sent by regular mail, addressed to such owner or party in interest at the address shown on the tax records. Such notice shall be given at least ten days before the date of the hearing described in the notice.

(c) The failure of the township clerk to give notice to any person required herein to be given notice shall not invalidate any proceedings hereunder as to any other person duly given notice or relieve any such person from any duty or obligation imposed upon him by the provisions of this article.

(d) The hearing shall be conducted by the board. At the hearing, the owner or any other interested party in such property, shall be given the opportunity to show cause why the building shall not be vacated, demolished, or otherwise made safe, and the board shall determine, after receiving testimony, whether or not the building or structure, the subject matter of the hearing, shall be vacated, demolished or made safe within the provisions of this article or the township building code. The board shall then either approve, disapprove, or modify the order of the hearing officer for the vacation, demolition, or making safe of the building or structure. The findings made by the board shall be in writing.

(e) If the board either approves or modifies the order of the hearing officer finding the building to be an unsafe building under this article, the board shall file with the county register of deeds a certificate describing the property and certifying that the building is an unsafe building. Whenever the corrections ordered have been completed or the building demolished so that it no longer exists as an unsafe building on the property described in the certificate, the board shall file a new certificate with the county register certifying that the building has been demolished, or that all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.
(Ord. No. 283, § 8, 11-21-83)

**Sec. 11-120. Unsafe buildings declared nuisances.**

All unsafe buildings and structures which are determined to be in violation of the terms of this article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as provided by this article.
(Ord. No. 283, § 9, 11-21-83)

**Sec. 11-121. Assessment of costs.**

The owner or other interested party responsible for the existing nuisance shall bear all costs relating to the abatement of the nuisance, including court costs and reasonable township attorney fees incurred in the enforcement of this article.
(Ord. No. 283, § 10, 11-21-83)

**Sec. 11-122. Enforcement, criminal and civil.**

If the owner or other interested party fails to comply with the order of the board as outlined in section 11-119 within a period of 15 days from receipt of their notice in writing:

(1) The violation shall be referred to the township attorney for legal action in county circuit court in order to secure an abatement of the nuisance; and

(2) The owner or other interested party responsible for the existing unsafe building shall be guilty of a misdemeanor, punishable as prescribed in section 1-11 of this Code.

(Ord. No. 283, § 11, 11-21-83)

**Secs. 11-123--11-130. Reserved.**

## ARTICLE VI.

## CIVIL INFRACTIONS

**Sec. 11-131. Civil infractions.**

(a) Failure to comply with article I, section 11-3; article II, section 11-32; article III, section 11-58; or article IV, section 11-85 shall constitute a violation of the Code and shall be punishable as a municipal civil infraction as prescribed by chapter 1 of the Code of Ordinances.

(b) This chapter shall be enforced by the chief building inspector or his designees who is hereby designated as the authorized township official to issue municipal civil infraction citations, directing alleged violators to appear in court, or issue municipal civil infraction violation notices, directing alleged violators to appear at the township municipal violations bureau as provided by this Code.

(c) The issuance of municipal civil infraction citations shall be pursuant to sections 2-159 and 2-160 of this Code of Ordinances.

(d) Misdemeanor. A person who violates any provision of chapter 11, except sections 11-3, 11-32; 11-58 or 11-85 is responsible for a misdemeanor, subject to penalties as provided by section 1-11 of this Code of Ordinances.
(Ord. No. 97-4(C), 12-1-97)

# Chapter 12

# OFFENSES

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## ARTICLE I.

## IN GENERAL

### Sec. 12-1. Penalties.

Any person found guilty of the violation of any of the provisions of this chapter shall be guilty of a misdemeanor punishable as prescribed in section 1-11 of this Code.
(Ord. No. 250, § V, 9-11-75)

### Sec. 12-2. Accessorial liability.

Every person concerned in the commission of an offense, whether such person directly commits the act constituting the offense or procures, counsels, aids or abets in its commission, may be prosecuted, indicted and tried and, on conviction, shall be punished as if such person had directly committed the offense.
**State Law References:** Similar provisions, MCL 767.39.

### Sec. 12-3. Cruelty to animals.

It shall be unlawful for any person to intentionally beat, kick, injure, torture or cruelly strike any animal or assist another in so doing.
(Ord. No. 108, § 1(3), 8-21-72; Ord. No. 03-11, 10-6-03)
**State Law References:** Similar provisions, MCL 750.50 et seq.

### Sec. 12-4. Window peeping.

It shall be unlawful for any person within the township to look into the windows or doors of any house, apartment or other residence in the township in such a manner that would be likely to interfere with the occupant's reasonable expectation of privacy and without the occupant's express or implied consent.
(Ord. No. 108, § 1(5), 8-21-72)

**State Law References:** Such person defined as a disorderly person, MCL 750.167(1)(c).

### Sec. 12-5. Begging.

It shall be unlawful for any person to beg in any public place either by vocal solicitation by sound, by printed or written sign, or by posture or placement of the body, except for a recognized charitable organization.
(Ord. No. 183, § 1(11), 8-21-72)

**State Law References:** Such person defined as a disorderly person, MCL 750.167(1)(h).

### Sec. 12-6. Spitting.

No person shall spit on any sidewalk, or in any public passenger conveyance, public place, or place of public assemblage, except into receptacles placed there for such purpose.
(Ord. No. 183, § 1(18), 8-21-72)

### Sec. 12-7. Reserved.

**Editors Note:** Ord. No. 03-11, adopted Oct. 6, 2003, repealed § 12-7, which pertained to accosting or molesting people in public places and derived from Ord. No. 183, § 1(17), adopted Aug. 21, 1972.

### Secs. 12-8--12-35. Reserved.

## ARTICLE II.

## OFFENSES AGAINST GOVERNMENTAL FUNCTIONS

### Sec. 12-36. False alarms generally.

It shall be unlawful for any person to knowingly summon, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, the police or the fire department or any public or private ambulance to go to any address where the service called for is not needed.
(Ord. No. 183, § 1(32), 8-21-72)

**Cross References:** Fire prevention and protection, Ch. 7.
**State Law References:** False fire alarms, MCL 750.240.

### Sec. 12-37. False fire alarms.

It shall be unlawful for any person within the township to knowingly and willfully commit any one or more of the following actions:

(1) Raise a false alarm of fire at any gathering or in any public place.

(2) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof for the purpose of creating a false alarm of fire.

(3) Raise a false alarm of fire orally by telephone or in person.
(Ord. No. 183, § 1(32), 8-21-72)

**State Law References:** Similar provisions, MCL 750.240.

**Sec. 12-38. Fire alarm systems; false fire alarms; purpose.**

Sections 12-38 through 12-44 are intended to provide the township with a means of applying reasonable regulations to reduce false fire alarm activity. False fire alarms pose a detriment to the public health, safety and welfare of residents, businesses, and all persons within the township through the misallocation of fire department resources. A reduction of false fire alarms will allow fire department personnel to be more available and to respond more readily to actual fire alarms and emergency situations which require immediate attention. The prohibition of false fire alarms and the regulation of fire systems are also necessary to preserve peace and tranquility within the township and to reduce the frequency and to defray the cost of response to false alarms by fire department personnel.
(Ord. No. 03-08, 6-2-03)

**Sec. 12-39. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings hereafter defined:

*False alarm* means the activation of a fire alarm system for the purpose of summoning the fire department, not including fire alarm systems within inhabited single family residential premises, which causes notification of such to be registered by the fire department which necessitates a response by the fire department, when that alarm is activated for a reason other than a fire, potential fire, or other emergency.

*Fire alarm system* means a detection device or assembly of equipment and devices arranged to signal the presence of any hazard requiring urgent attention and to which fire department personnel are expected to respond.

*Fire department* means the Delta Charter Township Fire Department.
(Ord. No. 03-08, 6-2-03)

**Sec. 12-40. Generally.**

Whenever the fire department responds to a false alarm, the property owner whose property is served by the fire alarm system shall be in violation of a civil infraction and shall be subject to a civil fine in the form of a false alarm fine. Each instance shall be considered a separate offense and punishable as such.
(Ord. No. 03-08, 6-2-03)

**Sec. 12-41. False alarm fines.**

The false alarm fines shall be as follow:

(1) First occurrence. There shall be no fine imposed for the first occurrence of a false alarm during a calendar year, but notice shall be given of the false alarm and the existence of this article.

(2) Second occurrence. There shall be a $50.00 fine imposed for the second occurrence of a false alarm during a calendar year.

(3) Subsequent occurrences. There shall be a $100.00 fine imposed for the third and all subsequent occurrences of false alarms during a calendar year.

(4) Payment due. Payment of all fines and or costs associated with this article shall be due within ten days of the issuance of a citation. A late payment may incur additional cost.

(5) If any fines and or costs associated with this article are not paid, the civil infraction citation may be filed with the district court in accordance with subsection 2-188(g) of this Code.

(6) The fines associated with this section may be set from time to time by the township board by resolution.

(Ord. No. 03-08, 6-2-03)

**Sec. 12-42. Enforcement.**

This article shall be enforceable by the chief of the fire department, and those fire department personnel so appointed by the fire chief, who shall have the authority to issue and serve civil infraction citations. Civil infraction citations shall be issued and served to the owner of the property upon which the violation has occurred.

(Ord. No. 03-08, 6-2-03)

**Sec. 12-43. Exceptions.**

The following circumstances shall not constitute a false alarm:

(1) An alarm condition activated by damage to public utility lines, when the affected public utility corroborates that the damage to such lines caused the alarm.

(2) An alarm condition caused by storm, tornado, or other violent condition beyond the control of the property owner whose property is served by the fire alarm system.

(Ord. No. 03-08, 6-2-03)

**Sec. 12-44. Application.**

Sections 12-38 through 12-44 shall apply only to fire alarm system false alarms as described herein.

(Ord. No. 03-08, 6-2-03)

**Secs. 12-45--12-60. Reserved.**

## ARTICLE III.

## OFFENSES AGAINST PROPERTY

**Sec. 12-61. Littering.**

It shall be unlawful for a person knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on public or private property or water other than property designated and set aside for such purposes. The phrase "public or private property or water" includes, but is not limited to, the right-of-way of a road or highway, a body of water or watercourse, or the shore or beach thereof, including the ice above the water; a park, playground, building, refuse or conservation or recreation area; and residential or farm properties or timberlands. It shall be unlawful for a person who removes a vehicle wrecked or damaged in an accident on a highway, road or street to fail to remove all glass and other injurious substances dropped on a highway, road or street as a result of the accident; and to knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of any vehicle wrecked or damaged in an accident, on any highway, road or street, on public or private property other than property designed and set aside for such purposes.
(Ord. No. 108, § 1(1), 8-21-72; Ord. No. 183, § 1(7), 8-21-72; Ord. No. 03-11, 10-6-03)

**State Law References:** Littering, MCL 324.8901 et seq.

**Sec. 12-62. Reserved.**

**Editors Note:** Ord. No. 03-11, adopted Oct. 6, 2003, repealed § 12-62, which pertained to prowling and derived from Ord. No. 183, § 1(29), adopted Aug. 21, 1972.

**Sec. 12-63. Tampering with, damaging property.**

It shall be unlawful for any person to willfully destroy, remove, damage, alter or in any manner deface any property not his own or any public school building, bridge, fire hydrant, alarm box, streetlight, or street sign; or mark or post handbills on, or in any manner mar the walls of, any public building, tree or pole within the township; or destroy, take or meddle with any property belonging to the township or remove the same from the building or place where it may be kept, placed or stored, without proper authority; or disturb, tamper with, disconnect or damage any township water meter without proper authority.
(Ord. No. 108, § 1(2), 8-21-72)

**Sec. 12-64. Malicious destruction of real or personal property.**

It shall be unlawful for any person to willfully and maliciously destroy or injure the real or personal property of another by any means not particularly mentioned or described in this article if the resulting damages shall be $100.00 or less or to make or post handbills on, or in any manner mar the walls of any public building or any fence, tree, or pole within the township or take or meddle with any property belonging to the township, or remove the same from the street, alley, building or place where it may be kept, placed, standing or stored, without authority from the superintendent, fire chief or other official custodian of such property.
(Ord. No. 183, § 1(16), 8-21-72)

**State Law References:** Similar provisions, MCL 750.377a.

**Sec. 12-65. Malicious destruction of buildings.**

It shall be unlawful for any person to willfully and maliciously destroy or injure any house, barn or other

building of another, or the appurtenances thereof if the resulting damages shall be $100.00 or less.
(Ord. No. 183, § 1(16), 8-21-72)

**State Law References:** Similar provisions, MCL 750.380.

### Sec. 12-66. Reserved.

**Editors Note:** Ord. No. 03-11, adopted Oct. 6, 2003, repealed § 12-66, which pertained to fortuntelling and derived from Ord. No. 183, § 1(14), adopted Aug. 21, 1972.

### Sec. 12-67. Disturbance of assemblies.

No person shall disturb any service of worship or any other assembly gathered for a lawful purpose.
(Ord. No. 183, § 1, 8-21-72)

**State Law References:** Disturbance of religious worship, MCL 750.169, 752.525; disturbing public places, MCL 750.170.

### Sec. 12-68. Damage to gardens, orchards.

No person shall enter any garden or orchard, located within the township without the consent of the owner or tenant, or his agent, and there cut down, damage, destroy, eat, or carry away any portion of such garden or orchard, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any other protective device or any other thing used for the development, cultivation, maintenance, and use of the aforesaid gardens or orchards.
(Ord. No. 183, § 1(30), 8-21-72; Ord. 03-11, 10-6-03)

**State Law References:** Trespass, MCL 750.546.

### Secs. 12-69--12-90. Reserved.

## ARTICLE IV.

## OFFENSES AGAINST PUBLIC PEACE

### Sec. 12-91. Disturbing the peace.

It shall be unlawful for any person to disturb the public peace and quiet by shouting, whistling, loud, boisterous or vulgar conduct, the playing of musical instruments, phonographs, radios, televisions, tape players or any other means of sound amplification at any time or place so as to unreasonably annoy or disturb the quiet, comfort and repose of persons in the vicinity.
(Ord. No. 183, § 1(6), 8-21-72)

### Sec. 12-92. Disturbance in public place.

It shall be unlawful for any person to make or excite any disturbance or contention in any public place which shall cause or aid or abet the institution or maintenance of a riot, or to do an act or engage in conduct that urges others to commit unlawful acts or acts of unlawful force or violence, or to do an act or engage in conduct which shall cause or has the purpose to cause public danger, alarm, disorder or nuisance.
(Ord. No. 183, § 1(6), 8-21-72; Ord. No. 03-11, 10-6-03)

**State Law References:** Inciting to riot, MCL 752.542.

**Sec. 12-93. Reserved.**

**Editors Note:** Ord. No. 03-11, adopted Oct. 6, 2003, repealed § 12-93, which pertained to language or gestures causing public disorder and derived from Ord. No. 183, § 1(6), (13), adopted Aug. 21, 1972.

**Sec. 12-94. Disorderly persons.**

It shall be unlawful for any person to permit or suffer any place occupied or controlled by such person to be a resort of noisy, boisterous or disorderly persons.
(Ord. No. 183, § 1(27), 8-21-72)

**Sec. 12-95. Disorderly intoxication.**

It shall be unlawful for any person to be intoxicated in a public place who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.
(Ord. No. 183, § 1(8), 8-21-72)

**State Law References:** Disorderly person, MCL 750.167(1)(e).

**Sec. 12-96. Jostling, crowding.**

It shall be unlawful for any person to be found jostling or roughly crowding people unnecessarily in a public place.
(Ord. No. 183, § 1(21), 8-21-72)

**State Law References:** Disorderly person, MCL 750.167(1)(l).

**Sec. 12-97. Fighting.**

It shall be unlawful for any person to engage in any disturbance, fight or quarrel in a public place.
(Ord. No. 183, § 1(9), 8-21-72)

**Sec. 12-98. Obstructing public passage.**

It shall be unlawful for any person to loiter in any public place so as to obstruct the free and uninterrupted passage of the public, or in such a way as to prevent other members of the public from going on or making use of the premises after having been requested to leave by a duly authorized police officer.
(Ord. No. 183, § 1(22), 8-21-72)

**Sec. 12-99. Loitering.**

(a) It shall be unlawful for any person to be found standing or idling in or about any store, shop or business or commercial establishment and/or its premises, if such standing and/or idling in or about the above-described locations causes interference or disorder of the normal course of business of the store, shop, business or commercial establishment or in any way tends to hinder or impede the passage of pedestrians or vehicles en route to or from the establishment or premises. No person shall be issued a citation under this section unless the person fails to leave any of the above-described locations after having been requested to leave by the lawful owner or occupant or by a representative of the owner or occupant or a duly authorized police officer.

(b) Any person who violates this section shall be liable to pay a civil fine of not more than $500.00.

(c) Following the issuance of a civil fine citation under subsection (b) of this section, a person failing to leave the premises within a reasonable time after the request of a police officer shall be guilty of a misdemeanor and shall be subject to a fine of up to $500.00 or imprisonment in the county jail for a term not to exceed 90 days or by both such fine and imprisonment.
(Ord. No. 183, § 1(20), 8-21-72)

**State Law References:** Certain loiterers defined as disorderly persons, MCL 750.167.

**Secs. 12-100--12-120. Reserved.**

## ARTICLE V.

## OFFENSES AGAINST PUBLIC MORALS

### Sec. 12-121. Indecent or obscene conduct.

It shall be unlawful for any person to engage in any indecent or obscene conduct in any public place.
(Ord. No. 183, § 1(9), 8-21-72)

**State Law References:** Such person defined as a disorderly person, MCL 750.167(1)(f).

### Sec. 12-122. Indecent exposure.

It shall be unlawful for any person to knowingly make any open or indecent exposure of his person or of the person of another.
(Ord. No. 183, § 1(12), 8-21-72)

**State Law References:** Similar provisions, MCL 750.335a.

### Sec. 12-123. Prostitution generally.

(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 or moral perversion.

(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 or moral perversion.

(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 or moral perversion.

(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 or moral perversion.

(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 moral perversion 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 or moral perversion.
(Ord. No. 183, § 1(23), (25), 8-21-72)

**State Law References:** Common prostitute deemed a disorderly person, MCL 750.167(1)(b); prostitution generally, MCL 750.448 et seq.

**Sec. 12-124. Gambling prohibited.**

It shall be unlawful for any person within the township to deal in, play or engage in gambling 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 attend or be found frequenting any place where gambling is permitted or allowed or is taking place unless the activity is permitted by the township.
(Ord. No. 183, § 1(23), 8-21-72)

**Sec. 12-125. Keeping, occupying building for gambling; using gambling apparatus.**

It shall be unlawful for any person within the township 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 place where gaming is permitted or suffered; to suffer or permit on any premises owned, occupied or controlled by him any apparatus used for gaming or gambling or to use such apparatus for gaming or gambling in any place within the township.
(Ord. No. 183, § 1(26), 8-21-72)

**State Law References:** Similar provisions, MCL 750.302.

**Sec. 12-126. Keeping, maintaining gaming room, table for hire.**

It shall be unlawful for any person within the township for hire, gain or reward to keep or maintain a gaming room, a gaming table or any game of skill or chance or partly of skill and partly of chance for gaming or to knowingly suffer a gaming room, gaming table or any such game to be kept, maintained or played on any premises occupied or controlled by him.
(Ord. No. 183, § 1(26), 8-21-72)

**State Law References:** Similar provisions, MCL 750.303.

**Sec. 12-127. Keeping, maintaining building, room for registering bets, selling pools.**

It shall be unlawful for any person within the township or his agent or employee to directly or indirectly keep, maintain, operate or occupy any building or room or any part thereof or any place with apparatus, books or any device for registering bets or buying or selling pools upon the result of a game, competition, political competition, appointment, election or any purported event of like character. It shall be unlawful for any person within the township to register bets, buy or sell pools, to be concerned in buying or selling pools or to knowingly permit any grounds or premises owned, occupied or controlled by him to be used for any of such purposes.
(Ord. No. 183, § 1(26), 8-21-72)

**State Law References:** Similar provisions, MCL 750.304.

**Sec. 12-128. Frequenting or attending gaming places.**

It shall be unlawful for any person within the township to knowingly attend or frequent any place where gaming or gambling is suffered or permitted or any place operated or occupied as a common gaming or gambling house or room.
(Ord. No. 183, § 1(25), 8-21-72)

**State Law References:** Similar provisions, MCL 750.309.

**Secs. 12-129--12-150. Reserved.**

## ARTICLE VI.

## OFFENSES AGAINST PUBLIC SAFETY

**Sec. 12-151. Definitions.**

All words and phrases used in this article shall be construed and have the same meaning as those words and phrases defined in Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.41901 et seq.), as amended.
(Ord. No. 250, § I, 9-11-75; Ord. No. 03-11, 10-6-03)

**Sec. 12-152. Authority.**

This article is enacted under the authority of Act No. 451 of the Public Acts of Michigan of 1995 (MCL 324.41901 et seq.), as amended, and pursuant to the recommendations of the special committee established in accordance with such statute following public hearing.
(Ord. No. 250, § III, 9-11-75; Ord. No. 03-11, 10-6-03)

**Sec. 12-153. Areas closed to hunting.**

(a) Hunting with, or the discharge of, a firearm other than a shotgun loaded with shot not larger than No. 2, is unlawful in the following areas in the township:

(1) That portion of the township located east of Interstate Highway 96 (I-96), except Section 11, T4N, R3W, which is bounded on the north by Willow Highway, on the south by Saginaw Highway, on the east by Elmwood Road, and on the west by Creyts Road;

(2) Those areas of Sections 21, 22, 27, and 28 bounded on the north by St. Joseph Highway, on the south by Millett Highway, on the east by Creyts Road, and on the west by I-96;

(3) The administration building site located in the SW 1/4 of Section 25, T4N, R3W;

(4) The Campus and Colt sites located in Sections 13 and 14, T4N, R3W;

(5) The Bretton Woods site located in Section 12, T4N, R3W;

except at target ranges recognized and approved by the township board.

(b) Hunting with, or the discharge of, a firearm is unlawful in all of Section 11, T4N, R3W, bounded on the north by Willow Highway, on the south by Saginaw Highway, on the east by Elmwood Road, and on the west by Creyts Road, Delta Township, Eaton County.

(c) Hunting with, or the discharge of, a rifle is unlawful in that portion of Delta Township, Eaton County, described as follows: beginning at a point where St. Joseph Highway intersects with I-96; thence east on St. Joseph Highway to Creyts Road; thence south on Creyts Road to Millett Highway; thence west on Millett Highway to I-96, thence north on I-96 to point of beginning.
(Ord. No. 250, §§ I, III, IV, 9-11-75)

**Secs. 12-154--12-175. Reserved.**

## ARTICLE VII.

## OFFENSES ON SCHOOL PROPERTY

### Sec. 12-176. Damaging, destroying school property.

No person shall damage, deface or destroy, or aid in the damage, destruction or defacement of any public, private or parochial school building, grounds, trees, shrubs, plants, fences, buses, equipment, appurtenances or fixtures of the school property.
(Ord. No. 154, § 1, 11-15-71)

### Sec. 12-177. Creating a disturbance.

No person shall willfully or maliciously make or assist in making any noise, disturbances or improper diversions by which the peace, quietude or good order of any public, private or parochial school is disturbed.
(Ord. No. 154, § 2, 11-15-71)
**State Law References:** Disturbing public places, MCL 750.170.

### Sec. 12-178. Indecent conduct.

No person shall indulge in any indecent or obscene conduct in any building or on any grounds of a public, private or parochial school.
(Ord. No. 154, § 3, 11-15-71; Ord. No. 03-11, 10-6-03)
**State Law References:** Disorderly persons, MCL 750.167.

### Sec. 12-179. Unauthorized persons in school building.

No person who is not a regularly enrolled student, teacher, parent or other employee, school supply salesman or any person engaged in legitimate school business or pursuits, shall enter and remain in any school building, whether public, private or parochial, in the township for any reason whatever, unless such person has received permission from the school principal or the principal's duly authorized representative to be in any such public, private or parochial school building.
(Ord. No. 154, § 4, 11-15-71; Ord. No. 03-11, 10-6-03)
**State Law References:** Trespass, MCL 750.552.

**Sec. 12-180. Discharge of firearms.**

It shall be unlawful to hunt with or discharge any firearm within 150 yards of properties belonging and under the control of any school district which has an agreement with the township.
(Ord. No. 154, § 2, 11-15-71)

**Sec. 12-181. Unauthorized entrance.**

(a) No person shall willfully enter upon the lands or premises of any public, private or parochial school, in the township without lawful authority, after having been forbidden to do so by the principal, or his designated agent. No person being upon such lands or premises may refuse or neglect to depart therefrom upon being requested to do so by the principal or his designated agent. Where signs at each school building entrance direct persons to any office or any place to obtain permission to enter and remain in such building, entry into the building by any person without complying with such directions shall be deemed prima facia violation of this section; provided, however that this requirement shall not apply in the case of students who are regularly enrolled and attending at such school, parents or guardians of such students, teachers or other employees.

(b) For the purpose of this section, "students who are regularly enrolled and attending" shall not include students who are expelled or suspended from the public, private or parochial school.
(Ord. No. 154, § 5, 11-15-71)

**Sec. 12-182. Borrowing from students.**

It shall be unlawful for any person to borrow or attempt to borrow any money or thing of value from any student in any public, private or parochial school or on any public, private or parochial school property in the township or during any time when any such student is going to or returning from any regularly scheduled session of any such school without first obtaining the written approval of the principal of such school or other person designated by the principal to issue such written approval.
(Ord. No. 154, § 6, 11-15-71)

**Secs. 12-183--12-205. Reserved.**

## ARTICLE VIII.

## HAZARDOUS SUBSTANCE/WASTE*

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* **Editors Note:** Ord. No. 95-2, adopted May 15, 1995, purported to add §§ 12-69.1--12-69.6. The editor, however, has added such provisions as a new art. VIII, §§ 12-206--12-211 in order to maintain consistency in this Code.

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**Sec. 12-206. Findings and purpose.**

The Charter Township of Delta finds that a significant potential exists for responses to incidents involving the release or threatened release of hazardous materials. Such incidents create a great likelihood of personal injury or property damage. The control and abatement of such incidents places a significant financial and operational burden upon a township's fire fighting, rescue and emergency medical services and other township resources. The township finds that this chapter is necessary to establish the liability for such incidents

and to establish a policy and methods which will allow the township to seek recovery of township costs associated with emergency responses to hazardous material incidents.
(Ord. No. 95-2, 5-15-95)

**Sec. 12-207. Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application:

*Compressed gas* shall mean any material regulated as a compressed gas by the United States Department of Transportation through regulations found in 49 CFR § 173.300.

*Emergency response* means the providing, sending and/or utilizing of police, fire fighting, emergency medical and rescue services by the township, or by a private industrial entity, corporation or other assisting government agency operating at the request or direction of the Township or State of Michigan, for an incident resulting in a hazardous materials release or threatened release or the clean-up or abatement of same.

*Expenses of an emergency response* means the direct and reasonable costs incurred by the township, or by a private person, corporation or other assisting government agency, which is operating at the request or direction of the township, when making an emergency response to the hazardous materials incident, including the costs of providing police, fire fighting, rescue services, emergency medical services, containment, storage, clean-up and abatement of all hazardous materials and conditions at the scene of the incident. The costs further include all salaries, wages, or fringe benefits of township personnel responding to the incident, salaries and wages of township personnel engaged in the investigation, supervision and report preparation regarding the incident, all salaries, wages or fringe benefits of personnel of assisting government agencies operating at the request or direction of the township, and all costs connected with the administration of the incident relating to any prosecution of the person(s) responsible, including those relating to the production and appearance of witnesses at any court proceedings in relation thereto. Costs shall also include such items as disposable materials and supplies used during the response to said incident, the rental or leasing of equipment including protective equipment and clothing, used for the specific response, replacement of equipment which is contaminated beyond reuse or repair during the response to said incident, special technical services and equipment, laboratory costs and equipment, services and supplies purchased for any specific evacuation relating to the incident. Additional costs may include decontamination of equipment contaminated during the response; other special services required for the emergency response; costs associated with the services; medical expenses incurred as a result of response activities; legal expenses that may be incurred as a result of the emergency response, including efforts to recover expenses pursuant to this chapter.

*Explosive* shall mean any material regulated as a class A or class B explosive by the United States Department of Transportation through regulations found in 49 CFR § 173.53 and 173.88.

*Flammable liquid* shall mean any material regulated as a flammable liquid by the United States Department of Transportation through regulations found in 49 CFR § 173.115.

*Flammable solid* shall mean any material regulated as a flammable solid by the United States Department of Transportation through regulations found in 49 CFR § 173.150.

*Hazardous material* means explosives, pyrotechnics, compressed gas, flammable liquid, flammable solid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, etiological material, radioactive material, corrosive material or liquified petroleum gas and also including, but not limited to, any of the following:

(1) Any material listed in the list of toxic pollutants found in 40 CFR § 401.15, as amended, or in any other federal law or regulation;

(2) Any material designated as hazardous material by state or federal law or regulation, or township ordinance; or,

(3) Any otherwise nonhazardous material released is a hazardous material for the purposes of this article if its presence causes a potential hazard to vehicular or pedestrian traffic.

*Owner* means any person having a vested or contingent interest in the premises, real property, personal property, container or vehicle involved in the hazardous materials incident, including but not limited to any duly authorized agent or attorney, purchaser, devisee or fiduciary of said person having said vested or contingent interest.

*Oxidizing material* shall mean any material regulated as an oxidizing material by the United States Department of Transportation through regulations found in 49 CFR § 173.151.

*Person* shall mean individuals, firms, joint ventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, contractor, employee, agent or fiduciary, and includes all legal representatives, heirs, successors and assignees thereof.

*Poison* shall mean any liquid or gas that is life threatening when mixed with air in small amounts, and shall also include all those materials regulated as poison class A by the United States Department of Transportation through regulations found in 49 CFR § 172.101 App. A.

*Premises* means any lot or parcel of land, exclusive of building, and includes a parking lot, tourist camp, trailer camp, airport, stockyard, junkyard, wharf, pier, public roadway and any other place or enclosure, however owned, used or occupied.

*Radioactive material* shall mean any material required by the United States Department of Transportation to have type A packaging or other special protection or closed transport vehicles, under regulations found in 49 CFR § 173.425.

*Release* shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing which causes damage or harm to person(s), property, natural resources, the public health or the environment.

*Threatened release* shall mean any imminent or impending event potentially causing but not resulting in a release which causes the township to undertake emergency response.

*Township* shall mean the Charter Township of Delta.

*Vehicle* shall mean any mode which is used as an instrument of conveyance, including but not limited to motor vehicles, railroads, boats, aircraft, etc.
(Ord. No. 95-2, 5-15-95; Ord. No. 03-11, 10-6-03)

**Sec. 12-208. Liability for costs.**

Any person causing or contributing to the causing of a release or threatened release shall be liable to the township for the expenses of emergency response.

The following persons shall be jointly and severally liable to the township for the payment of all costs and expenses incurred by the township as a result of emergency response, clean-up or abatement activity:

(1) Any person whose negligent or willful act or omission proximately causes such release or threatened release;

(2) The owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle;

(3) The person who owned or had custody or control of the hazardous material or the material at the time of such release or threatened release without regard to fault or proximate cause; and,

(4) The person who owned or had custody or control of the container which held hazardous material at the time of or immediately prior to such release or threatened release without regard to fault or proximate cause.

(Ord. No. 95-2, 5-15-95)

**Sec. 12-209. Recovery of costs.**

(a) The expense of an emergency response shall be a charge against the person(s) liable for the expenses under this chapter. The charge constitutes a debt of the person(s) and is collectible by the township in the same manner as an obligation under contract, express or implied.

(b) The township personnel and departments involved in an emergency response shall keep an itemized record of recoverable costs resulting from a release or threatened release including an emergency action/response. Promptly after completion of any emergency response, the appropriate township department shall certify those expenses to the township manager.

(c) Costs of the township shall not include costs of actual fire suppression services which are normally or usually provided by the fire department in situations not involving hazardous materials.

(d) The township may, within ten days of receiving itemized costs, or any part thereof incurred for an emergency response, submit a bill for those costs by first class mail or personal service to the person(s) liable for the expenses as enumerated under this chapter. The bill(s) shall require full payment within 30 days from the date of mailing or service of said bill upon the responsible person.

(e) Any failure by the person described in this chapter as liable or responsible for expenses of an emergency response to pay said bill within 30 days of mailing or service of the bill shall constitute a default on said bill. In case of default, the township, by resolution of the township board, shall have the right and power to add all emergency response costs to the tax roll of such property involved in the hazardous materials incident, and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property or premises. The township shall also have the right to bring action in a court of competent jurisdiction to collect said costs if the township deems such action to be necessary.

(f) The township board may, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available at the office of the township clerk for inspection by the public during regular business hours.
(Ord. No. 95-2, 5-15-95)

**Sec. 12-210. Conflict with state or federal law.**

Nothing in this chapter shall be construed to conflict with state or federal laws requiring persons responsible for or causing a release or threatened release from engaging in remediation activities or paying the cost thereof, or both.
(Ord. No. 95-2, 5-15-95)

**Sec. 12-211. Nonexclusive remedy.**

The remedies provided by this chapter shall be in addition to any other remedies available in equity or at law and such penalties as provided by law or ordinance.
(Ord. No. 95-2, 5-15-95)

# Chapter 13

## PARKS AND RECREATION*

* **Cross References:** Fire prevention and protection, Ch. 7; vending in township parks, § 8-120; offenses, Ch. 12.
**State Law References:** Authority to operate recreation areas and playgrounds, MCL 123.51 et seq., MSA 5.2421 et seq.


**Sec. 13-1. Definitions.**
**Sec. 13-2. Public use generally.**
**Sec. 13-3. Permits generally.**
**Sec. 13-4. Fees and charges.**
**Sec. 13-5. Hours.**
**Sec. 13-6. Protection of property.**
**Sec. 13-7. Protection of environment.**
**Sec. 13-8. Fire control.**
**Sec. 13-9. Protection of wildlife.**
**Sec. 13-10. Swimming, bathing and wading.**
**Sec. 13-11. Boating.**
**Sec. 13-12. Camping.**
**Sec. 13-13. Operation of motor vehicles.**
**Sec. 13-14. Stopping, standing, parking vehicles generally.**
**Sec. 13-15. Use of parking lots.**
**Sec. 13-16. Operation of bicycles.**
**Sec. 13-17. Horses.**
**Sec. 13-18. Trespass by livestock.**
**Sec. 13-19. Peddling and soliciting in township parks.**
**Sec. 13-20. Unlawful obstruction.**
**Sec. 13-21. Hindering or impersonating employees.**
**Sec. 13-22. Alcoholic beverages and drugs.**
**Sec. 13-23. Skating and coasting.**
**Sec. 13-24. Balloons, airplanes and parachutes.**
**Sec. 13-25. Public exhibition.**


### Sec. 13-1. Definitions.

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:

*Appropriate governmental entity* shall mean that agency of the state or that state municipal corporation administering or having jurisdiction over public park property.

*Authorized agent* shall mean that person who may be designated by the commission to act in its behalf; such person shall be vested with such authority as granted by the commission.

*Camping* shall mean the overnight lodging or sleeping of a person on the ground or in any other manner, or in any sleeping bag, tent, trailer-tent, trailer coach, vehicle camper, motor vehicle, boat or in any other conveyance erected, parked or placed on the premises or waters within any public park property.

*Commission* shall mean the parks, recreation and cemeteries commission of the charter township, which shall act in behalf and at the direction of the board of trustees.

*Director* shall mean the township parks, recreation and cemeteries director, an agent of the board of trustees of the charter township.

*Public park property* shall mean all park lands, waters, and property administered by or under the jurisdiction of the board of trustees of the charter township or located within the charter township and administered by or under the jurisdiction of an agency of the state or a state municipal corporation.

*Rules* shall mean the rules adopted by the commission applicable to all property administered by or under the jurisdiction of the board of trustees and all amendments thereto.
(Ord. No. 234.2, § 2, 2-15-82)

**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 13-2. Public use generally.**

Any group or gathering of 25 or more persons may use certain areas within the public parks in the township to the exclusion of others by making application and being granted a permit by the township parks, recreation and cemeteries director or the authorized agent of the commission or, in the case of public parks not owned by the township, by the designated representative of the governmental entity owning such public park.
(Ord. No. 234.2, § 3.1, 2-15-82)

**Sec. 13-3. Permits generally.**

(a) Applications for permits for reserved park space shall be made upon forms to be furnished by the township parks, recreation and cemeteries department as approved by the commission.

(b) The commission or its authorized agent may, upon written application, grant specific use permits for special uses when in the opinion of the commission or its authorized agent special consideration is warranted.

(c) Application shall be made in advance of the time of the reservation request sufficient to allow at least 12 hours' posted notice of reservation of space, if such notice is deemed necessary by the commission or its authorized agent.

(d) If more applications for reserved space are received than spaces available, such applications shall be considered in chronological order received.

(e) Nothing contained in this section shall operate to exempt the users of reserved space from full compliance with this chapter and all rules of the commission relating to use of and conduct on township park property.
(Ord. No. 234.2, § 3.2, 2-15-82)

**Sec. 13-4. Fees and charges.**

(a) Fees and charges may be assessed by the commission for the use of any facility, land, area or

program on township park property.

(b) It shall be unlawful for any person to use any facility, land or area for which a fee or charge has been established by the commission or an agency of a governmental entity owning park land within the township without payment of such fee or charge.

(c) It shall be unlawful for any person using a public park or any portion thereof to charge a fee, accept a donation, or charge admission in connection with the use of such public park, or conduct any raffle (including any raffle authorized by proper state authorities) without written authorization from the commission or its authorized agent.
(Ord. No. 234.2, § 3.3, 2-15-82)

**Sec. 13-5. Hours.**

No person or vehicle shall remain upon public park property between posted closing times and sunrise excepting at designated fishing sites, camp areas and other special use areas; provided, however, that such hours may be extended by permit. It shall be unlawful for any person to enter upon any portion of park lands or waters which have been designated as closed to public use or entry.
(Ord. No. 234.2, § 3.4, 2-15-82)

**Sec. 13-6. Protection of property.**

Destruction of buildings, markers, monuments and other properties shall be prohibited, and no person shall, on property within a public park in the township:

(1) Willfully destroy, deface, alter, change or remove any monument, stone marker, benchmark, stake, post or blaze marking or designating any boundary line, survey line or reference point.

(2) Cut, break, mark upon or otherwise injure any building, equipment, bridge, drain, wall, fountain, lamppost, fence, gate, hedge or other structure.

(3) Deface, destroy, or remove any placard, notice or sign, whether permanent or temporary, posted or exhibited within or upon park property by the commission or its authorized agent.

(4) Appropriate, excavate, injure or destroy any historical or prehistorical ruin or any object of antiquity, without permission of the commission or its authorized agent or an agent of the governmental entity owning the public park.

(Ord. No. 234.2, § 4.1, 2-15-82)

**State Law References:** Malicious mischief, MCL 750.377 et seq., MSA 28.609 et seq.

**Sec. 13-7. Protection of environment.**

Destruction of plant life and natural surroundings shall be prohibited, and no person within a public park in the township shall:

(1) Cut, remove or destroy any tree, sapling, seedling, bush or shrub, whether alive or dead, or chip, blaze, box, girdle, trim or otherwise deface or injure any tree or shrub or break or remove any

branch, foliage, flower or any tree or shrub, or pick, gather, uproot, remove or destroy any flower, plant or grass.

(2) Remove or cause to be removed any sod, earth, humus, peat, boulders, gravel or sand, without written permission of the commission or its authorized agent or an agent of the governmental entity owning the public park.

(Ord. No. 234.2, § 4.2, 2-15-82)

**State Law References:** Malicious mischief, MCL 750.377 et seq., MSA 28.609 et seq.

**Sec. 13-8. Fire control.**

The following rules shall apply to fires on property within a public park in the township:

(1) No person shall willfully set or cause to be set on fire any tree, woodland, brushland, grassland or meadow within or upon the park property.

(2) No person shall build any fire except within the fireplaces, receptacles or open spaces approved and designated by the commission or appropriate governmental entity for such purpose.

(3) No person shall drop, throw or otherwise scatter lighted matches, burning cigars, cigarettes, tobacco paper or other inflammable materials within or upon any park property.

(4) Fires shall not be left unattended. All fires shall be extinguished upon leaving the immediate vicinity.

(Ord. No. 234.2, § 4.3, 2-15-82)

**Cross References:** Fire prevention and protection generally, Ch. 7.

**Sec. 13-9. Protection of wildlife.**

(a) It shall be unlawful for any person while within a public park located within the township to:

(1) Cause any animal or fowl to run at large.

(2) Bring, drive or lead any animal onto public park property; excepting that horses and other beasts of burden and draft animals may be ridden by persons in charge thereof or driven before a vehicle attached thereto, on such portions of park property as may be designated for riding or driving by the commission or appropriate governmental entity.

(3) Bring, drive, lead or carry any dog or other small animal or pet which is unleashed, or upon a leash more than six feet in length, upon public park property, except for animals used in designated waterfowl hunting, dog shows or field trial areas. All animals, large or small, must be under the immediate control of a competent person at all times.

(4) Suffer a dog or pet to enter any public building or to be upon any designated beach, except a trained and working leader or hearing dog.

(5) Torture, ill-treat or neglect any animal or fowl.

(6) No person shall hunt, trap, catch, wound, kill, treat cruelly, attempt to trap, catch, wound or kill any bird or animal; molest or rob any nest of any bird or any lair, den or burrow of any animal in or upon any public park, land or waters. Provided, however, the commission or appropriate governmental entity may from time to time designate limited areas in which waterfowl hunting will be allowed.

a. All hunting blinds of any sort or construction shall have attached thereto the name and address of the owner or person responsible therefor, in letters not less than two inches in height. All such blinds shall be removed by the owner or person responsible therefor within five days after the close of the hunting season. Provided further, however, fishing will be permitted within or upon public park property in accordance with the laws of the state and the rules of the state department of natural resources in such areas designated for such purposes.

b. The commission or its authorized representative shall have the right and power, upon the posting of notice, to:

1. Close to all fishing any pond located upon public park property for any length of time;

2. Limit the number of fish which may be taken from ponds located upon the public park property;

3. Limit the hours during any day during which fishing will be permitted at any pond located upon public park property;

4. Set an appropriate age limit for persons who may fish at any pond located upon public park property.

c. The commission or its authorized representative may grant special fishing permits to any person upon application therefor.

d. All ice shanties, houses, structures and shelters placed or used on ice must be identified on all sides with the owner's name and address in waterproof letters not less than two inches high and must be removed before ice becomes unsafe and, in any event, shall be removed from public park property, water, ice, or land, no later than March 7 of each year. It shall be unlawful to violate any of the laws of the state relating to hunting and/or fishing while on public park property.

(b) All game, animals, fowl, birds, fish, and other aquatic life hunted, killed, taken or destroyed, bought, sold, bartered, or had in possession contrary to any of the provisions hereof, shall be and the same are declared to be contraband and the same shall be turned over to the state department of natural resources for disposal. Provided further that any weapon or object carried or used by any person in violation of these rules shall be subject to seizure by the commission or its agents and disposed of according to law.
(Ord. No. 234.2, § 5, 2-15-82)

**State Law References:** Cruelty to animals, MCL 752.21 et seq., MSA 28.161 et seq.

**Sec. 13-10. Swimming, bathing and wading.**

No person within a public park in the township shall:

(1) Swim, bathe or wade between sunset and sunrise, in any of the watercourses, lakes, ponds, or sloughs located within or upon the properties administered by or under the jurisdiction of the board of trustees.

(2) Swim, bathe, or wade except at such times and places as may be provided or designated for such purpose.

(3) Carry or consume any food or beverage of any kind, nor have in their possession any glass or metal container, on any beach or in the water adjacent thereto. Air mattresses, inner tubes or any other device, inflatable or otherwise, used in aid of swimming are prohibited.

(Ord. No. 234.2, § 6.1, 2-15-82)

**Sec. 13-11. Boating.**

No person shall bring into, use or navigate any boat, yacht, canoe, raft or other watercraft upon any watercourse, lagoon, lake, pond or slough located within or upon the public park properties except at such time or places as may be provided or designated for such purpose. All watercraft shall comply with and be used in compliance with Act No. 303 of the Public Acts of Michigan of 1967 (MCL 281.1001 et seq., MSA 18.1287(1) et seq.), as amended, and such regulations as may be adopted under the authority of the act.

(Ord. No. 234.2, § 7.1, 2-15-82)

**Sec. 13-12. Camping.**

(a) It shall be unlawful to camp except in such areas as may be provided and designated for such purposes. No person shall camp without written permit issued by the commission or its authorized agent, or by the appropriate governmental entity.

(b) No camping permit shall be issued by the commission or its authorized agent to any person for a continuous period exceeding nine nights. Periods in excess of the aforementioned time limitation may be extended to groups upon written application to and at the sole discretion of the commission; provided further, however, that no permit shall be issued to any person under the age of 17 years.

(c) It shall be unlawful:

(1) For any group, unrelated to each other by affinity or consanguinity, in excess of eight persons to occupy a single campsite; provided further, however, that the commission may restrict the number of persons occupying a single campsite, whether related to each other or not, to provide for the general peace and quiet or general health and welfare of all others in the general area of such campsite.

(2) For more than two cars, two tents or one house trailer to occupy any individual campsite; each

car must be registered on the camp permit.

(3) For any person between the hours of 10:00 p.m. and 7:00 a.m. of the following day, to cause, create, or make any noise or disturbance which is a hindrance to the peace, quiet and tranquility of the camping area.

(4) For any person to wash dishes at pumps or drinking fountains; to fail to clean campsites daily, or to discharge wastewaters or any other wastes, except into designated containers, drains or dumping stations.

(5) To dig a trench or make any excavation on any campsite.

(6) To occupy a campsite after checkout time, i.e., 3:00 p.m. on the last day covered by the permit.

(7) To occupy campsites contrary to assignments as may be made by the commission's authorized agent or the representative of the governmental entity owning the public park.

(Ord. No. 234.2, § 8.3, 2-15-82)

**Sec. 13-13. Operation of motor vehicles.**

It shall be unlawful within a public park in the township for any person to:

(1) Operate a motor-driven vehicle of any kind or nature except on roads or designated parking areas.

(2) Operate any motor-driven sled, toboggan or snowmobile on any public park property except where permitted by posted notice.

(3) Drive any vehicle upon public park property while under the influence of intoxicating liquor or narcotic, drug, barbital or any derivative of barbital.

(4) Drive any vehicle upon public park property while his ability to do so has been impaired by the use of intoxicating liquor or by the use of drugs or narcotics.

(5) Operate any motor vehicle upon public park property while his license to so operate has been suspended or revoked by the state.

(6) Operate any vehicle upon public park property contrary to posted traffic signs, symbols, rules or regulations or marked roadways.

(7) Operate any motor vehicle in any manner upon public park property which results in excessive noise or disturbs the peace, quiet or tranquility of the area.

(8) Leave, or cause to be left, any vehicle upon public park property between the posted park closing time and 9:00 a.m. excepting at designated fishing sites, camp areas and other special use areas.

(9) Continuously cruise in any motor-driven vehicle in, through and around campgrounds or through or on any park property with the intent of attracting or distracting persons or visitors.
(Ord. No. 234.2, § 9.4, 2-15-82)

**Sec. 13-14. Stopping, standing, parking vehicles generally.**

(a) It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle in any parking area in such manner as to form an obstruction to traffic thereon.

(b) It shall be unlawful to park any vehicle in any area which is not designated as a parking area.

(c) It shall be unlawful to drive or park any motor vehicle in or upon public park property which is used for recreational purposes, unless otherwise allowed by these rules.
(Ord. No. 234.2, § 9.1, 2-15-82)

**Sec. 13-15. Use of parking lots.**

(a) Designated parking areas shall be used only for the purpose of parking, driving to and from parking spaces and loading or unloading vehicles. Where lines have been placed designating individual parking spaces, each vehicle must be parked within an individual space and it shall be unlawful for any vehicle to intrude into two or more designated parking spaces. It shall be unlawful for any person to be part of a gathering or congregation of persons not for the above-listed purposes which takes place on or within 20 feet of any designated parking area or travelled roadway or which obstructs or impedes the flow of vehicles or the line of sight of persons driving vehicles lawfully on designated parking areas or travelled roadways.

(b) The commission or its authorized representative may use designated parking areas for purposes other than those prescribed in the foregoing section and may authorize any person or persons to use designated parking areas for purposes other than those prescribed in section 13-14.
(Ord. No. 234.2, § 9.2, 2-15-82)
**State Law References:** Michigan Vehicle Code, MCL 257.1 et seq., MSA 9.1801 et seq.

**Sec. 13-16. Operation of bicycles.**

(a) Bicycles shall be operated as closely to the right-hand curb or right-hand side of the path, trail or roadway as conditions will permit and not more than two bicycles shall be operated abreast.

(b) It shall be unlawful for the operator of any bicycle, upon any path, trail, or roadway, to carry any person upon the handlebar or frame of any bicycle, or for any person to so ride upon such bicycle.

(c) Bicycles may be operated upon such paths, trails, or roadways as may be posted allowing such use; provided however, no such use shall be allowed between sunset and sunrise.
(Ord. No. 234.2, § 9.5, 2-15-82)

**Sec. 13-17. Horses.**

(a) It shall be unlawful for any person to ride, lead or cause or suffer a horse to be upon any public park property except on specifically designated and posted areas or bridle paths or by permit on field trial areas.

(b) It shall be unlawful for any person to ride a horse in a careless, negligent or reckless manner so as to create a nuisance or to endanger the life, property or person of the rider or others on any public park lands.

(c) The driver of any vehicle shall yield the right-of-way to any person riding a horse on marked bridle paths where such bridle paths cross streets or roadways.
(Ord. No. 234.2, § 9.3, 2-15-82)

**Sec. 13-18. Trespass by livestock.**

No person shall drive or cause to be driven any horse, cattle, sheep, goats, swine or other livestock upon or across any public park property without the written permission of the commission or its authorized agent or the representative of the appropriate governmental entity.
(Ord. No. 234.2, § 10.1, 2-15-82)

**Sec. 13-19. Peddling and soliciting in township parks.**

It shall be unlawful for any person to distribute handbills or other advertising material or to post unauthorized signs on any lands, water, structures, or property in a public park or to use such lands, water, structures, or property unless first authorized in writing by the commission or its authorized agent or the representative of the appropriate government entity.
(Ord. No. 93-4, § 1, 5-17-93)

**Editors Note:** Ord. No. 93-4, § 1, adopted May 17, 1993 amended the Code with the addition of §§ 13-19--13-25. At the discretion of the editor former § 13-19, pertaining to alcoholic beverages and drugs, has been deleted as superceded by new § 13-22. Former § 13-19 derived from Ord. No. 234.2, § 10.7 adopted Feb. 15, 1982.

**Sec. 13-20. Unlawful obstruction.**

No private person, firm, or corporation shall by force, threats, intimidations, unlawful fencing, enclosing, or by any other means, prevent or obstruct any person from entering, leaving, or making full use of any public park property.
(Ord. No. 93-4, § 1, 5-17-93)

**Sec. 13-21. Hindering or impersonating employees.**

(a) No person shall interfere with, hinder, or fail to obey any lawful command of a parkranger, employee, or agent of Delta Township who are performing their official duties.

(b) No person shall impersonate any member of the parkranger force for any reason whatsoever.

ORDINANCE NO. 93-4 TO AMEND THE CODE OF ORDINANCES PAGE OF 3 Amendment to add sections to Parks and Recreation Chapter
(Ord. No. 93-4, § 1, 5-17-93)

**Sec. 13-22. Alcoholic beverages and drugs.**

No person shall have in their possession any intoxicating beverage while in or upon public park property

except by written permit. No person shall sell, use, or have in their possession any drug, narcotic, or controlled substance for which the sale, use, or possession of is prohibited by state law.
(Ord. No. 93-4, § 1, 5-17-93)

**Sec. 13-23. Skating and coasting.**

(a) No person shall skate, sled, walk, or go upon any ice or snowshoe or ski except at such times and upon such places as may be designated or maintained thereof.

(b) No person shall within or upon public park property coast with handsleds, bobs, carts, or other vehicles on wheels or runners except at such times and upon such places as may be designated or maintained therefore.
(Ord. No. 93-4, § 1, 5-17-93)

**Sec. 13-24. Balloons, airplanes and parachutes.**

No person shall make any ascent in any balloon or airplane or any descent in or from any balloon or airplane or parachute on any public park lands or waters without first having written permission from the commission or its authorized agent or an appropriate government entity.
(Ord. No. 93-4, § 1, 5-17-93)

**Sec. 13-25. Public exhibition.**

No person shall exhibit any machine, show, or animal or indulge in any acrobatic exhibitions in or upon any public park property. Nor shall any person carry on any performance or do anything whatsoever which shall cause persons to congregate so as to interfere with the proper use of such property by the general public or to obstruct the passage of vehicles or persons without first having obtained written permission from the commission, its authorized agent, or an appropriate governmental entity.
(Ord. No. 93-4, § 1, 5-17-93)

# Chapter 14

# PLANNING*

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* **Cross References:** Administration, Ch. 2.

**State Law References:** Township planning, MCL 125.321 et seq., MSA 5.2963(101); city, village and municipal planning, MCL 125.31 et seq., MSA 5.2991 et seq.

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**Article I. In General**

**Secs. 14-1--14-25. Reserved.**

**Article II. Planning Commission**

**Sec. 14-26. Authorization.**
**Sec. 14-27. Membership.**
**Sec. 14-28. Functions.**
**Sec. 14-29. Staffing.**


## ARTICLE I.

## IN GENERAL

### Secs. 14-1--14-25. Reserved.

## ARTICLE II.

## PLANNING COMMISSION

### Sec. 14-26. Authorization.

This article is enacted under the authority of the City and Village Planning Act, being Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq., MSA 5.2991 et seq.), as amended, the Township Rural Zoning Act, being Act No. 184 of the Public Acts of Michigan of 1943 (MCL 125.271 et seq., MSA 5.2963(1) et seq.), as amended, and the Charter Township Act, Act No. 359 of the Public Acts of Michigan of 1947 (MCL 42.1 et seq., MSA 5.46(1) et seq.), as amended.
(Ord. No. 265, § 1, 7-16-79)

### Sec. 14-27. Membership.

The planning commission shall consist of nine members who shall represent insofar as possible different professions and occupations. All members shall be residents of the township. They shall be appointed by the township supervisor but such appointment shall be subject to approval by a majority of the members of the township board. Members may be compensated at a rate to be determined by the township board, and shall hold no other township office except that one of such members shall be a member of the zoning board of appeals, and shall be appointed thereto by majority vote of the commission. Members shall serve for a term of three years, except any member appointed to fill a vacancy created other than by expiration of term shall serve for the

remainder of the three-year term. All members shall hold office until their successors are appointed. Members may, after public hearing, be removed by the township supervisor for inefficiency, neglect of duty or malfeasance in office.
(Ord. No. 265, § 3, 7-16-79)

**Sec. 14-28. Functions.**

The planning commission shall serve in an advisory capacity to the township board and shall exercise all the functions, duties and powers of planning commissions under the provisions of Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq., MSA 5.2991 et seq.), as amended, and so long as not inconsistent therewith, carry out such other duties, obligations and responsibilities as may be from time to time directed by the township board or any duly enacted township ordinance or resolution.
(Ord. No. 265, § 4, 7-16-79)

**Sec. 14-29. Staffing.**

(a) The township board shall employ a planning director and other planning personnel, whose appointment, promotion, demotion and removal shall be subject to the same provisions as govern other corresponding nonelected employees of the township. The planning commission shall make recommendations to the township board as to the appointment of the planning director and other planning personnel.

(b) The township board may contract for the part-time or full-time services of planning or other technicians, and pay or authorize the payment of expenses within the funds budgeted and provided for planning purposes.
(Ord. No. 265, § 5, 7-16-79)

# Chapter 15

# SIGNS*

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* **Editors Note:** Ord. No. 03-15, adopted Mar. 1, 2004, reenacted ch. 15 as set out herein. The former ch. 15 pertained to similar subject matter and derived from Ord. No. 00-01, §§ 1, 3, adopted Feb. 21, 2000. See the Code Comparative Table for further information.

**Cross References:** Buildings and building regulations, ch. 4; signs designating truck routes, § 17-50; vending signs, banners, etc. to comply with sign ordinance, § 8-119; planning, ch. 14.

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**Sec. 15-2. Purpose.**
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**Sec. 15-4. Definitions.**
**Secs. 15-5--15-10. Reserved.**

**Article II. Administration and Enforcement**

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**Sec. 15-69. Binding effect.**

## ARTICLE I.

## GENERAL PROVISIONS

### Sec. 15-1. Short title.

This chapter shall be known as the "Charter Township of Delta Sign Ordinance."
(Ord. No. 03-15, 3-1-04)

### Sec. 15-2. Purpose.

This article is intended to apply reasonable regulations concerning the use of signs and outdoor advertising structures, in order to achieve the following objectives:

(1) Prevent excessive visual clutter and degradation of the visual environment in the Township, which is likely to occur in the absence of reasonable regulations regarding the use of signs.

(2) Provide adequate opportunity for various types of land uses to identify their location, the nature of the use and manage the use of signs as a means of communication to the general public.

(3) To ensure that the size, design, type and placement of signs does not conflict with safe and efficient movement of vehicular traffic in the township.

(4) To ensure that signs and sign structures are designed, constructed, installed and operated and maintained so as not to constitute a safety hazard.

(5) To protect and promote the health, safety and general welfare of the township and its residents.
(Ord. No. 03-15, 3-1-04)

### Sec. 15-3. Authority.

This chapter is enacted pursuant to Act No. 359 of the Public Acts of Michigan of 1947 (MCL 42.1 et seq.), as amended.
(Ord. No. 03-15, 3-1-04)

### Sec. 15-4. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings hereinafter defined:

*Abandoned sign* shall mean a sign which no longer correctly advertises or directs a person to a bona fide business, person, goods, product, activity or service.

*Awning/canopy sign* shall mean a sign which is part of or located on a canopy or awning which is attached to and projects from a building wall.

*Balloon sign* shall mean a tethered sign consisting of an envelope inflated with pressurized or heated air, or a lighter-than-air gas, and displayed for the purpose of advertising or attracting attention.

*Banners* shall mean a sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any institution shall not be considered banners for the purpose of this chapter.

*Bench sign* shall mean a sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

*Billboard sign* shall mean a sign which advertises an establishment, service, merchandise, use, entertainment, activity, product or message which is not conducted, sold, produced, manufactured, or furnished upon the parcel or lot on which the sign is located, and additionally shall include those signs as regulated by the state pursuant to Act No. 106 of the Public Acts of Michigan of 1972 (MCL 252.301 et seq.), as amended.

*Building(s)* shall mean any fully enclosed structure which has a permanent roof, is not a temporary structure, is not a pavilion, is not a pole type building, is not a building used strictly for storage purposes, and is not an amusement device.

*Business center* shall mean a single building containing two or more business establishments. Lodging uses with on-premises restaurants shall be included within this definition.

*Business complex* shall mean a land parcel containing two or more buildings, each containing one or more individual business establishments.

*Business establishment* shall mean a business operating independently of any other business on the same parcel or in the same building, separated from other businesses by walls, and with one or more doors which provide exclusive ingress and egress to that business.

*Construction sign* shall mean a sign containing identifying information concerning construction activity in progress on the premises on which the sign is located, such as the name of the future occupant or business, development name, type of development, name of the developer, and names of architects, engineers, contractors and lenders involved in the construction activity.

*Corner locations* shall mean those properties with frontage on two or more public streets.

*Directional sign, on-premises* shall mean a sign whose primary purpose is to direct the movement or parking of vehicles within the premises. Examples of signs which are included in this definition include directional signs at driveway entries from the public road, signs directing the movement of traffic within a parking area or driveway, signs identifying barrier-free parking spaces, signs identifying rear access doors in a multi-business establishment, signs prohibiting parking in loading areas or signs identifying loading dock names or numbers at a product distribution facility.

*Display area* shall mean the entire area within a circle, triangle or parallelogram enclosing the extreme limits or writing, lighting, representation, emblem or any figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign; except that where two such faces are placed back to back and are at no point more than three feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

GRAPHIC UNAVAILABLE: Figure 1 - Illustration, Measurement of "Display Area."

GRAPHIC UNAVAILABLE: Figure 2 - Illustration, Measurement of "Display Area."

(1) *Exception 1.* The display area of signs painted directly on building wall surfaces shall be that area within the circle, triangle or parallelogram enclosing the extreme limits of writing, letters or numbers.

(2) *Exception 2.* Time and temperature displays including clock facings shall not herein be defined as sign display area.

(3) *Exception 3.* The area of an awning/canopy sign shall be measured as provided in the main body of this definition, and the sign shall be treated as if it were a wall sign attached to the same wall to which the awning or canopy is attached, for purposes of determining maximum allowed sign area.

*Electronic changeable message sign* shall mean a sign whose informational content can be changed or altered by means of electronically-controlled electronic impulses.

*Encroaching sign* shall mean a sign that projects beyond the private property line into and over public right-of-way.

*Expressway business* shall mean a motel, hotel, service station or restaurant that lies 2,000 feet or less from an expressway on-ramp or off-ramp.

*Flag, business* shall mean a flag displaying the name, insignia, emblem, or logo of a profit making entity.

*Flag, public* shall mean a flag displaying the name, insignia, emblem, or logo of any nation, state,

municipality, educational institution, civic/religious/fraternal organization or branch of the U.S. military.

*Frontage* shall mean the side of the property facing a thoroughfare.

*Grading:* Average grade shall be determined by measuring the horizontal distance 20 feet in all directions from the base of the sign, and then calculating the average of those measurements.

*Ground sign* shall mean a sign which is supported by one or more uprights in or upon the ground, where any part of the display surface is less than eight feet above the grade at the base of the sign.

GRAPHIC UNAVAILABLE: Figure 3 - Illustration, "Ground Sign."

*Height of sign* shall mean the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign.

*Home occupation sign* shall mean any sign used for the purpose of advertising services in conjunction with a lawful home occupation.

*Identification sign* shall mean a sign that identifies the name of the property owner, resident, or business on the property, with or without the street address.

*Industrial park* shall mean a grouping of several industrial businesses on contiguous parcels, accessed by the same public or private street and sharing a common location identity.

*Institutional sign* shall mean a sign containing a surface area upon which is displayed the name of a church, school, library, museum, day care center, cemetery, community center and similar institutions and the announcement of its services or activities.

*Marquee sign* shall mean a sign that is attached to the underside of a marquee, or other covered structure and projecting at a right angle from and supported by a building or marquee and does not project horizontally beyond the marquee or covered structure.

*Mobile sign* shall mean a sign supported on a mobile chassis other than a motor vehicle.

*Nonconforming sign* shall mean any sign that does not conform to the requirements of this chapter.

*Off-premises sign* shall mean a sign which advertises a business, product, service, event, person or subject which is not sold, produced, manufactured or furnished at the property on which said sign is located.

*On-premises sign* shall mean a sign that advertises a business, product, service, event, person or subject which is located on the same premises as the business, product, service, event, person or subject being advertised.

*Pole sign* shall mean a sign having a sign face that is elevated above the ground by one or more uprights or poles, with all parts of the display surface of the sign eight feet or more above the grade at the base of the sign.

GRAPHIC UNAVAILABLE: Figure 4 - Illustration, "Pole Sign."

*Political sign* shall mean a sign which contains a message or graphic related to an election conducted by a governmental entity in the township.

*Projecting sign* shall mean a sign attached to and projecting perpendicularly from a building wall, excluding awning/canopy signs, as defined herein. One face only shall be used for computation of the display area of a projecting sign.

*Real estate sign* shall mean a sign announcing or advertising the availability of an improved or unimproved lot, parcel or building, or portion thereof, for sale, lease or rent.

*Roof sign* shall mean a sign that is erected, constructed and maintained upon or above the roof of a building, or parapet wall and that is wholly or partially supported by such building.

> *Exception.* For the purpose of this definition of roof sign, a sign that is mounted on a mansard roof, roof overhang, parapet wall, above a marquee, or on a wall with a roof below, shall not be considered as a roof sign but shall instead be considered as a wall sign for that side of the building, provided that no part of such sign extends above the uppermost building line not including chimneys, flagpoles, electrical/mechanical equipment, TV antennas and other similar equipment and extensions.

*Setback, required* shall mean the minimum required horizontal separation distance between a public or private road right-of-way to any part of a sign, including any above-ground portions of a sign which project beyond the point of attachment of the sign to the ground.

GRAPHIC UNAVAILABLE: Figure 5 - Illustration "Sign Setback."

*Signs* shall mean and include every individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person. This definition shall include billboard signs and signs painted directly on walls of structures.

*Supports and uprights* shall mean those members necessary for the structural support of the sign. Decorative trim applied to such members for aesthetic purposes shall be considered as a part of the supports and uprights.

*Temporary sign* shall mean a sign intended to be displayed for a limited period of time, and which is not permanently attached to a building wall or to the ground.

*Unified business development* shall mean a commercial development planned as a coordinated project in accordance with an approved signage plan.

*Uppermost building line* shall mean the uppermost horizontal line of a building formed by a roof, wall or parapet wall.

*Wall sign* shall mean a sign that is attached directly to a wall, mansard roof, roof overhang, parapet wall, or above a marquee of a building with the exposed face of the sign in a plane parallel to the building wall or to the surface on which it is mounted, and which projects not more than 18 inches from the building or structure wall, and which does not have any part of such sign or sign supports extending above the uppermost building line not including chimneys, flagpoles, electrical or mechanical equipment, TV antennas or any other similar equipment or extensions. This definition shall include writing, letters or numbers placed or painted directly on a building wall surface.

*Window sign* shall mean a sign attached to the inside or outside surface of a window on a building wall or door, or placed within six inches of the inside face of a window and intended to be viewed from outside the building.
(Ord. No. 03-15, 3-1-04)

**Cross References:** Definitions and rules of construction generally, § 1-2.

**Secs. 15-5--15-10. Reserved.**

## ARTICLE II.

## ADMINISTRATION AND ENFORCEMENT

### Sec. 15-11. Administration.

The provisions of this chapter shall be administered by the township building official or his/her designee(s), who shall have the authority to issue sign permits.
(Ord. No. 03-15, 3-1-04)

### Sec. 15-12. Sign permits.

(a) *Sign permit required.* No person shall erect, replace, apply, structurally alter, or add to any sign without first obtaining a permit as hereinafter provided.

(b) *Application procedure.* Application for a permit to erect, replace, apply, structurally alter or add to a sign shall be made to the township building official, by submission of the required forms, fees, exhibits and information by the owner of the property on which the sign is to be located, or by his agent or lessee. The application shall contain the following information:

(1) The property owner's name and address.

(2) The applicant's name and address.

(3) Address and permanent parcel number of the property on which the sign is or will be located.

(4) Identification of the type of sign (ground, pole, wall, etc.)

(5) Name of business or name of premises to which the sign belongs or relates.

(6) Plans drawn to an accurate, common scale, depicting the following:

a. Dimensions and display area of the proposed sign, based on the definition of display area contained in this chapter.

b. For ground signs and pole signs, the setback of the sign from the nearest public or private road right-of-way.

c. For ground signs and pole signs, the height of the sign.

d. For wall signs, the height and width of the building wall or tenant-controlled portion of building wall to which the sign will be attached.

e. The proposed graphic images and text to be displayed on the sign.

(c) *Scope.* Sign permits issued on the basis of plans and other information submitted as part of the permit application authorize only the design and construction set forth and described in the permit application, and no other design or construction.

(d) *Conformity with plans required.* The building official or his/her designee(s) shall not approve plans or issue sign permits for any sign which does not conform to the provisions of this chapter.

(e) *Records maintained.* The building official shall maintain a record of all sign permits issued, and such record shall be open for public inspection.

(f) *Permit fees.* An application for a sign permit shall be accompanied by payment of a fee, in an amount established by resolution of the township board of trustees.

(g) *Permit not required for sign maintenance and change of message.* Painting, re-painting, cleaning, maintenance, repair, and change of sign message or graphics shall not be considered erection or alteration of a sign which requires issuance of a sign permit, provided that no structural alterations or additions to the display area are made. Further, signs refaced with a covering, including, but not limited to, banners and/or coverings made of fabric or other material, shall be considered temporary and permitted for a duration of only 60 days, after which the covering shall be replaced with a permanent sign face.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-13. Violations and penalties.**

(a) Failure to comply with the provisions of this chapter shall constitute a violation of the Code and shall be punishable as a municipal civil infraction as prescribed by chapter 1 of this Code.

(b) This chapter shall be enforced by the building official or his/her designee(s), who are hereby designated as the authorized township official to issue municipal civil infraction citations, directing alleged violators to appear in court, or issue municipal civil infraction violation notices, directing alleged violators to appear at the Township of Delta Municipal Violations Bureau as provided by this Code.

(c) Signs which are erected without a permit or which do not comply with provisions herein, may be

removed and impounded by the building official or his/her designee(s). Signs impounded by the township may be disposed of if not claimed and removed from the place of impoundment within seven calendar days of the impoundment.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-14. Nonconforming signs.**

(a) It is the intent of this chapter to permit the continuance of an existing sign which was in conformance with all applicable regulations in effect prior to the effective date of this chapter, although such sign may not conform with the provisions of this chapter.

(b) Signs installed without a sign permit shall be considered illegal and shall be either removed or made to conform to this chapter and a permit obtained.

(c) Nonconforming signs shall not be structurally changed, altered or enlarged unless such change, alteration or enlargement is made to conform to this chapter.

(d) Nonconforming signs shall not be moved in whole or in part to another location unless the sign at the new location conforms to this chapter.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-15. Signs on vacant or unoccupied premises.**

Any sign located on property in the township which is vacant or unoccupied for more than 120 days, and any sign which pertains to a use or activity which has not been in existence or operation for more than 120 days on the property on which the sign is located, shall be subject to the following:

(1) The owner of a vacant or unoccupied property shall remove all graphics, text copy or other business or premises identification from the subject sign. In the event the sign is an internally-illuminated sign with removable graphic display panels, the panels containing the sign graphic or message shall be removed and replaced by a blank panel containing no graphic or message.

(2) Failure to remove the sign message from a vacant or unoccupied property shall constitute a violation of this chapter.
(Ord. No. 03-15, 3-1-04)

**Secs. 15-16--15-20. Reserved.**

## ARTICLE III

## SIGN REGULATIONS

**Sec. 15-21. General.**

The regulations in this article shall govern the type, use, size, height and number of signs permitted on any parcel of land in the township, based on the zoning district designation of the subject property, as shown on

the Official Zoning Map of Delta Charter Township, as amended, adopted as part of the Delta Charter Township Zoning Ordinance, as amended.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-22. Exemptions.**

The following signs are exempt from the provisions of this chapter and from the permit requirements:

(1) Signs no greater than two square feet in area posted on property boundaries in the NR, A-1 and A-2 zoning districts, for purposes of conveying a non-commercial message, such as a prohibition on hunting or trespassing.

(2) Signs located in the interior of buildings, with the exception of window signs.

(3) Window signs, provided that the maximum size of any window sign shall not exceed 25 percent of the area of the window on which it is displayed. Painted messages, text, graphics, posters, balloons, paper advertisements and similar items affixed to the window shall constitute a window sign.

(4) Any identification, address, or for sale sign affixed to a wall, mailbox, post, lamppost, or pillar, and which is not larger than two square feet in display surface.

(5) Traffic control or other municipal signs such as, but not limited to, directional signs placed in rights-of-way, legal notices, railroad crossing signs, danger and other temporary emergency signs.

(6) Memorial signs or tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze or other non-combustible material.

(7) Business and public flags. However, business flags shall be limited to the display of no more than two flags on the premises.

(8) On-premises directional signs, subject to the following limitations:

a. In districts other than the industrial zoning district, the maximum size of an on-premises directional sign shall be four square feet in area.

b. In the I-1 and I-2 zoning districts, the maximum size of an on-premises directional sign shall be 12 square feet in area. An exception to the foregoing limitation shall be as follows: An industrial facility located within an I-1 or I-2 zoning district, which encompasses 200 acres or greater in area, and which is a campus style complex with three or more fully enclosed buildings, each of which being shown to be essential to the functioning of the complex as a whole. For properties meeting this criteria, the maximum size of an on-premises directional sign shall be 12 square feet in area, but an exception shall be made to permit multiple signs which are 12 square feet in area on the same structure, with a maximum total area of combined signs being no greater than 36 square

feet, if needed, as determined at the sole discretion of the Delta Township Building Official. All on-premises directional signs which exceed 12 square feet in total area through multiple sign placement on the same structure must receive the approval of the Delta Township Building Official. A written site plan shall be submitted for review and approval, detailing sign location and listing specific reasons for the request. If the above stated request is denied by the Delta Township Building Official, an appeal process is available before the Delta Township Sign Board of Appeals, following the procedure set forth in section 15-45 of this Code.

c. On-premises directional signs shall be located a minimum of one foot from the public right-of-way.

d. An on-premises directional sign having a height greater than three feet shall have a minimum setback from the public right-of-way of ten feet.

e. Multiple on-premises directional signs shall be mounted on the same structure, unless the need to do otherwise can be demonstrated by the applicant to create a hardship which is non-financial in nature, in order to limit the detriment to environmental aesthetics and sight obstruction.

(9) Political signs, subject to the following limitations:

a. Political signs shall be removed within 14 calendar days after the election to which they pertain.

b. For properties located in the RA, RB and RC zoning districts, the maximum number of political signs which may be displayed on any premises shall be six signs. The maximum size of any individual sign shall be 12 square feet. The aggregate size of all political signs displayed on the premises shall be 30 square feet.

c. For all zoning districts, other than the RA, RB and RC zoning districts, the maximum number of political signs which may be displayed on any premises shall be six signs. The maximum size of any individual sign shall be 32 square feet. The aggregate size of all political signs displayed on the premises shall not exceed 64 square feet.

(10) Signs maintained by the United States of America, the State of Michigan, any agencies or political subdivisions thereof, as well as local municipalities and local governmental units.

(11) Signage affixed to the face of a fuel pump at an auto service station, not to include appurtenances affixed to the pump.

(12) Menu boards for drive-in/drive-through business.

(Ord. No. 03-15, 3-1-04)

**Sec. 15-23. Prohibited signs.**

The following signs are prohibited in the township:

(1) Signs which are placed within or encroach into a public right-of-way, including signs placed on utility poles, traffic control signs, structures or devices. A sign which is unlawfully placed within a public right-of-way may be removed and impounded by the building official or his authorized designees.

(2) Roof signs, as defined herein.

(3) Any sign which, by reason of its size, location, content, coloring or manner of illumination constitutes a traffic hazard or a detriment to traffic safety, by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any traffic control device on public streets and roads.

(4) Signs which include display of such words as "Stop," "Look," "Danger" or any other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.

(5) Signs and sign structures that are no longer in use as originally intended or have been abandoned, or that are structurally unsafe, constitute a hazard to safety and health, or that are not kept in good repair.

(6) Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.

(7) Any sign or other advertising structure containing any obscene, indecent or illegal matter.

(8) Any sign unlawfully installed, erected or maintained.

(9) Signs having flashing, blinking or running type lights are prohibited, or signs that use running-type lighting for informational change of copy.

(10) Display or parking of a motor vehicle or trailer upon a lot or premises in a location visible from a public right-of-way, for the primary purpose of displaying a sign attached to, painted on or placed on the vehicle or trailer, with the exception of vehicles used regularly in the course of conducting the principal use located on the premises.

(11) Use of pennants, string lights, ribbons, or other such features which are hung or strung across any property, and which are not an integral, physical part of a building or other permanent structure on the property.

(12) Balloon signs.

(13) Signs having any visible portion either in motion or having the appearance of being in motion, whether on a continuous basis or at intervals, and regardless of whether the motion or appearance of motion is caused by natural or artificial sources, with the exception of electronic changeable message signs.

(14) Any sign installed prior to enactment of this chapter without a sign permit, when in fact such prior ordinance did require a sign permit.

(15) Off-premises signs, except for billboard signs as permitted in the Limited Industrial (I1) and General Industrial (I2) districts.

(16) Billboard signs used for on-premises advertising are prohibited.

(17) Bench signs.

(18) Home occupation signs.

(19) Signs are not permitted on that portion of any parcel that is less than 25 feet in width or depth.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-24. Signs permitted in Natural Resources (NR), Agricultural (A-1), Agricultural/Residential(A-2), and Residential (RA, RB, RC, RD and RE) districts.**

In the NR, A-1, A-2, RA, RB, RC, RD and RE districts, the requirements of Schedule A shall govern sign use, area, type, height, and numbers, in addition to requirements elsewhere in this chapter.

Schedule A
Signs Permitted in Natural Resources (NR), Agricultural (A-1), Agricultural/Residential (A-2), and Residential (RA, RB, RC, RD and RE) Districts

| Use | Sign Type | Maximum Number of Signs | Maximum Display Area (Square Feet) | Maximum Height Above Grade (Feet) | Location Standards |
|---|---|---|---|---|---|
| Institutional and Public Facilities | Wall Sign or Awning/Canopy Sign | No maximum | Maximum of 2 walls, total area of all wall signs attached to any wall may not exceed 10% of area of the wall (See Fig. 6) | Below uppermost building line | |
| Ground Sign | 1 located adjacent to each street frontage | 40 Sq. Ft. | 8 Ft.Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | |
| Farm Enterprises | Ground Sign | 1 per farm enterprise | 32 Sq. Ft. | 8 Ft. | |
| Residential Development, including plat, condominium, apartment or mobile home park development. | Ground Sign | 1 on each side of each street entrance. | 20 Sq. Ft. per sign, with maximum of 1 display face per sign. | 8 Ft. | Where 2 signs per street entrance are used, the signs shall be of identical size, design and materials. |

(Ord. No. 03-15, 3-1-04)

**Sec. 15-25. Signs permitted in Office (O) district.**

In the O district, the requirements of Schedule B shall govern sign use, area, type, height, and numbers, in addition to requirements elsewhere in this chapter.

Schedule B

Signs Permitted in Office (O) District

| Use | Sign Type | Maximum Number of Signs | Maximum Display Area (Square Feet) | Maximum Height (Feet) | Location Standards |
|---|---|---|---|---|---|
| Individual building containing one (1) business establishment, and individual buildings located within a business complex. | Wall Sign or Awning/Canopy Sign | No maximum | Maximum of 2 walls, total area of all wall signs attached to any wall may not exceed 15% of the area of the wall. (See Fig. 6) | Below uppermost building line | |
| Ground Sign | 1 | 40 Sq. Ft. | 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. A ground sign identifying a building within a business complex shall be located within 100 feet of the building it identifies, or on the same parcel as the building it identifies. | |
| Business Center | Wall Sign or Awning/Canopy Sign | No maximum | Maximum of 2 walls. Total area of all wall signs attached to any wall may not exceed 15% of the area of the wall. (See Fig. 6) | Below uppermost building line | |
| Pole Sign or Ground Sign160 Sq. ft. | Pole Sign: 20 Ft. | May not encroach on or over right-of-way. | | | |
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |
| Business ComplexPole Sign or Ground Sign1 per driveway access60 Sq. Ft. | Pole Sign: 20 Ft. | May not encroach on or over right-of-way. | | | |
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |
| Expressway Business | Wall Sign, Awning/Canopy Sign or Projecting Sign | No maximum | Maximum of 2 walls. Total area of all wall signs and projecting signs attached to any wall may not exceed 15% of the area of the wall. (See Fig. 6) | Below uppermost building line. | Projecting sign may extend a maximum of 5 feet from wall of building, with a minimum clearance above grade of 8 feet. |
| Pole Sign or Ground Sign175 Sq. Ft. | Pole Sign: 30 Ft. | May not encroach on or over right-of-way. | | | |

| | | | | | |
|---|---|---|---|---|---|
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |
| Pole Sign | 1 | 6 Sq. Ft. for each foot of sign height, up to a maximum of 300 Sq. Ft. | 90 Ft. | Minimum height above grade of 60 feet. May not encroach on or over right-of-way. | |
| Marquee Sign | 1 | 6 Sq. Ft. | Underside of building overhang or eave. | May not project further from building than eave overhang. | |

(Ord. No. 03-15, 3-1-04)

**Sec. 15-26. Signs permitted in Local Service Commercial (B-1) and Community Commercial (B-2) districts.**

In the B-1 and B-2 districts, the requirements of Schedule C shall govern sign use, area, type, height and numbers, in addition to requirements elsewhere in this chapter.

Schedule C

Signs Permitted in Local Service Commercial (B-1) and Community Commercial (B-2) Districts

| Use | Sign Type | Maximum Number of Signs | Maximum Display Area (Square Feet) | Maximum Height (Feet) | Location Standards |
|---|---|---|---|---|---|
| Individual building containing one (1) business establishment, including auto service stations. | Wall Sign, Awning/Canopy Sign or Projecting Sign | No maximum | Maximum of 2 walls signs. Total area of all wall signs and projecting signs attached to any wall may not exceed 15% of the area of the wall. (See Fig. 6) | Below uppermost building line | Projecting sign may extend a maximum of 5 Ft. from wall of building, with a minimum clearance above grade of 8 Ft. |
| Pole Sign or Ground Sign1 located adjacent to each street frontage75 Sq. Ft. per sign | Pole Sign: 30 Ft. | May not encroach on or over right-of-way. | | | |
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |
| Marquee Sign | 1 | 6 Sq. Ft. | Underside of building overhang or eave | May not project further from building than eave overhang. | |
| Business Center | Wall Sign, Awning/ Canopy Sign or Projecting Sign | No maximum | Maximum of 2 walls. Total area of all signs attached to any wall may not exceed 15% of the leased/owned area of the wall. | Below uppermost building line | Projecting sign may extend a maximum of 5 Ft. from wall of building, with a minimum clearance above grade of 8 Ft. |

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|---|---|---|---|---|---|
| Pole Sign or Ground Sign1 located adjacent to each street frontagePole Sign: 100 Sq. Ft. per sign, or 1 Sq. Ft. for each 1 Ft. of building wall length facing the street frontage, whichever is greater, up to a maximum of 300 Sq. Ft. Ground Sign: maximum of 150 Sq. Ft. | Pole Sign: 30 Ft. | May not encroach on or over right-of-way. | | | |
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |
| Marquee Sign | 1 per business establishment | 6 Sq. Ft. per sign | Underside of building overhang | May not project further from building than eave overhang. | |
| Auto Sales | Wall Sign, Awning/Canopy Sign or Projecting Sign | No maximum | Maximum of 2 walls. Total area of all wall signs and projecting signs attached to any wall may not exceed 15% of the area of the wall. | Below uppermost building line | Projecting sign may extend a maximum of 5 Ft. from wall of building, with a minimum clearance above grade of 8 Ft. |
| Pole Sign or Ground Sign1 for new vehicle sales use, and 1 for used vehicle sales use75 Sq. Ft. per sign | Pole Sign: 30 Ft. | May not encroach on or over right-of-way. | | | |
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |
| Expressway Business | Wall Sign, Awning/Canopy Sign or Projecting Sign | No maximum | Maximum of 2 walls. Total area of all wall signs and projecting signs attached to any wall may not exceed 15% of the area of the wall. | Below uppermost building line | Projecting sign may extend a maximum of 5 Ft. from wall of building, with a minimum clearance above grade of 8 Ft. |
| Pole Sign or Ground Sign175 Sq. Ft. per sign | Pole Sign: 30 Ft. | May not encroach on or over right-of-way. | | | |
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |
| Pole Sign | 1 | 6 Sq. Ft. for each foot of sign height, up to a maximum of 300 Sq. Ft. | 90 Ft. | Minimum height above grade of 60 feet. May not encroach on or over right-of-way. | |
| Marquee Sign | 1 | 6 Sq. Ft. | Underside of building overhang or eave | May not project further from building than eave overhang. | |

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|---|---|---|---|---|---|
| Business ComplexPole/Ground Sign1 located adjacent to each street frontage | Pole: 100 Sq. Ft. per sign or 1 Sq. Ft. for each 1 Ft. of building wall length facing the street frontage, whichever is greater, up to a maximum of 300 Sq. Ft. | Pole: 30 Ft. | Pole: May not encroach on or over the right-of-way. | | |
| Ground: 150 Sq. Ft. | Ground: 8 Ft. | Minimum 10 Ft. setback required for signs over 3 Ft. in height. | | | |
| Wall Sign, Awning/Canopy Sign or Projecting Sign | No maximum | Maximum of 2 walls. Total area of all wall signs and projecting signs attached to any wall may not exceed 15% of the area of the wall. (See Fig. 6) | Below uppermost building line | Projecting sign may extend a maximum of 5 Ft. from wall of building, with a minimum clearance above grade of 8 Ft. | |
| Marquee Sign | 1 per business establishment | 6 sq. ft. per sign | Underside of building overhang | May not project further from building than eave overhang. | |

(Ord. No. 03-15, 3-1-04)

**Sec. 15-27. Signs permitted in Limited Industrial (I1) and General Industrial (I2) districts.**

In the I1 and I2 districts, the requirements of Schedule D shall govern sign use, area, type, height, and numbers, in addition to requirements elsewhere in this chapter.

Schedule D

Signs Permitted in the Limited Industrial (I1) and General Industrial (I2) Districts

| Use | Sign Type | Maximum Number of Signs | Maximum Display Area (Square Feet) | Maximum Height | Location Standards |
|---|---|---|---|---|---|
| Individual industrial building | Wall Sign or Awning/ Canopy Sign | No maximum | Maximum of 2 walls. Total area of all wall signs attached to any wall may not exceed 15% of the area of the wall. (See Fig. 6) | Below uppermost building line. | |
| Pole Sign or Ground Sign1Pole sign: 100 Sq. Ft., or 1 Sq. Ft. for each 1 Ft. of building wall length facing the street frontage, whichever is greater, up to a maximum of 300 Sq. Ft. Ground sign: 75 sq. Ft. | Pole Sign: 30 Ft. | May not encroach on or over right-of-way. | | | |
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |

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|---|---|---|---|---|---|
| Industrial ParkPole Sign or Ground Sign1 sign per driveway accessPole sign: 100 Sq. Ft., or 1 Sq. Ft. for each 1 Ft. of building wall length facing the street frontage, whichever is greater, up to a maximum of 300 Sq. Ft. Ground sign: 75 sq. Ft. | Pole Sign: 30 Ft. | May not encroach on or over right-of-way. | | | |
| Ground Sign: 8 Ft. | Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | | | | |
| Any parcel | Billboard Sign | Minimum spacing of 1,500 Ft. between billboard signs on the same side of a public road. | 672 Sq. Ft., if located on a parcel adjoining a limited access freeway right-of-way. 300 Sq. Ft., if not located on a parcel adjoining a limited access freeway right-of-way. | 30 Ft. | Minimum setback of 75 Ft. from a public right-of-way, except that no setback is required from a limited access state highway right-of-way. Minimum setback of 500 Ft. from property boundary of a residential district or use, or from property boundary of a place of worship, a public park, or a public or private elementary or secondary school. |

(Ord. No. 03-15, 3-1-04)

GRAPHIC UNAVAILABLE: Figure 6 - Illustration, Measurement of Maximum Display Area of Wall Signs.

**Sec. 15-28. Temporary signs.**

(a) *Permit required.* A temporary sign shall not be placed on any lot, parcel or premises, with the exception of single-family, two-family and multiple family residential uses, unless a permit authorizing such temporary sign has been issued by the building official or his/her designee(s).

(b) *Required application contents.* Application for a permit to display a temporary sign shall be made to the building official or his/her designee(s), by submission of the required forms, fees, exhibits and information by the owner of the property on which the sign is to be located, or by his agent or lessee. The application shall contain the following information:

(1) The name, mailing address and telephone number of the property owner, business owner and applicant for the permit.

(2) Identification of the street address and parcel number of the parcel on which the sign is to be placed.

(3) A site plan, drawn to scale, accurately identifying the location of the proposed temporary sign on the subject property.

(4) A scaled drawing which accurately depicts the dimensions and display area of the proposed sign.

(5) A non-refundable application fee, in an amount established by resolution of the township board.

(6) If the temporary sign is a mobile sign, a refundable deposit in the amount of $150.00 shall be submitted, to financially guarantee conformance with the provisions contained herein, including removal of the sign on or before the permit expiration date.

(c) *Standards for display of temporary signs.* The display of temporary signs, including banners, shall conform with the provisions of Schedule E, herein. In addition, the following standards shall apply to display of temporary signs for all nonresidential uses, in all zoning districts:

(1) A maximum of three permits authorizing display of a temporary sign for 15 consecutive days shall be issued in any calendar year for any individual business premises.

(2) The beginning of the display period for a temporary sign shall not be more than 14 calendar days from the date of the issuance of the permit.

(3) There shall not be more than one temporary sign displayed per business on a property at any one time.

(4) A temporary sign over three feet in height above grade, shall be setback a minimum of ten feet from any right of way line.

(5) Mobile signs shall be subject to the following additional standards:

a. Illuminated mobile signs shall be installed in conformance with all state and township electrical codes. No flashing or moving lights shall be used on any mobile sign.

b. All mobile signs and components shall be firmly anchored to the ground in a manner which ensures that the sign will not constitute a safety hazard in the event of high winds, as determined by the building official.

c. Any mobile sign for which a permit has been issued pursuant to this Section and which is placed or displayed in violation of this chapter may be impounded by the township. Any costs associated with the removal and impoundment of the sign by the township shall be deducted from the deposit made at the time of application for the mobile sign permit. Upon removal and impoundment of a mobile sign, the township shall notify the sign owner and/or permit applicant of the township's intent to dispose of the sign. If it is not claimed and removed from the township's place of impoundment within five business days from the date of the notice, the township may dispose of the sign in any manner it deems appropriate.

(Ord. No. 03-15, 3-1-04)

GRAPHIC UNAVAILABLE: Figure 7 - Temporary Signs

**Sec. 15-29. Permitted temporary signs.**

Schedule E

Permitted Temporary Signs

| Use | Permit Required? | Sign Type | Maximum Number of Signs | Maximum Display Area (Square Feet) | Maximum Height Above Grade | Maximum Display Duration | Location Standards |
|---|---|---|---|---|---|---|---|
| Single-Family and 2-Family Subdivisions and Condominiums in All Districts | No | Construction Sign | 1 per development | 32 Sq. Ft. | 8 Ft. | Until 90% of the lots are sold, up to a maximum of 2 years.May not encroach on or over right-of-way. Minimum 10 Ft. setback required for any ground sign over 3 Ft. in height. | |
| Single and Two-Family Residential Uses in All Districts | No | Ground Sign | No Maximum | Total area of all signs may not exceed 12 Sq. Ft. | 5 Ft. | 7 days. | |
| No | Real Estate Sign | 1 per lot/parcel | 6 Sq. Ft. | 8 Ft. | 5 days after purpose of sign is fulfilled. | | |
| Multiple-Family Residential Use in RC, RD and RE Districts. | No | Construction Sign | 1 per development | 32 Sq. Ft. | 8 Ft. | Upon occupancy of any portion of the development. | |
| No | Real Estate Sign | 1 per development | 10 Sq. Ft. | 5 Ft. | 5 days after purpose of sign is fulfilled. | | |
| Non-residential uses in all Districts. | No | Real Estate Sign | 1 per lot or parcel | 32 Sq. Ft. | 8 Ft. | 5 days after purpose of sign is fulfilled. | |
| No | Construction Sign | 1 per lot or parcel | 32 Sq. Ft. | 8 Ft. | Upon occupancy of any part of the premises. | | |
| Yes | Mobile Sign1 per premises, of either type. | Mobile: 32 Sq. Ft. | Mobile: 8 Ft.See Sec. 15-28 | | | | |
| Yes | Other Temporary Sign | Other: 24 Sq. Ft. | Other: Below Roof Line | | | | |

(Ord. No. 03-15, 3-1-04)

**Sec. 15-30. Wind load.**

Signs and sign structures shall be designed and constructed to resist wind forces of not less than 20 pounds per square foot on signs up to 60 feet in height and not less than 30 pounds per square foot for signs over 60 feet in height.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-31. Bracing.**

All bracing systems for signs shall be designed and constructed to transfer lateral forces to the foundation. For signs on buildings all loads shall be transmitted through the structural frame of the building to the ground in such manner as to not overstress any of the elements thereof. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or the structural frame of the building.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-32. Anchorage.**

Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to safely support the loads applied.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-33. Electrical.**

All permanent or temporary electrical installations shall comply with the current electrical code of the township.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-34. Display of street address of premises on signs.**

The street address number shall be displayed on the primary freestanding identification sign for each premises on land located in an Office (O), Local Service Commercial (B-1), Community Commercial (B-2), Light Industrial (I-1) or General Industrial (I-2) district, as shown on the Delta Charter Township Zoning Map. Display of street address numbers shall conform with the following standards:

(1) Address numbers shall be displayed on the sign face or on the supporting structure of the sign, at a minimum height of two feet above grade.

(2) The height of the numbers shall be a minimum of four inches.

(3) The street address number shall be displayed using Arabic numerals, in a readily-legible text style, and in a contrasting color from the background surface on which the number is placed.

(4) If the premises which are identified by a primary freestanding identification sign contains more than one street address number, the street address number displayed on the sign shall identify the lower and upper ends of the address range to which the sign pertains.

(5) Display of street address numbers on a sign structure shall not be considered a sign subject to the

regulations contained in Schedules B through E of this article, unless the height of the address numbers exceeds eight inches, in which case the street address number shall be considered a sign, subject to the limitations on size and number of signs contained in this chapter.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-35. Certification of compliance.**

Construction plans and specifications for any sign greater than 30 feet in height shall be prepared and sealed by a professional engineer, licensed in the State of Michigan. The building official may require that construction plans and specifications for signs less than 30 feet in height be prepared and sealed by a professional engineer registered in the State of Michigan.
(Ord. No. 03-15, 3-1-04)

**Secs. 15-36--15-40. Reserved.**

## ARTICLE IV.

## SIGN BOARD OF APPEALS

**Sec. 15-41. Established.**

A Township Sign Board of Appeals is hereby established.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-42. Membership.**

The Township Sign Board of Appeals shall consist of seven members: a member of the township planning commission appointed by the planning commission, a member of the township board appointed by the township board, with terms of service concurrent with service on the planning commission and on the township board, and five additional members appointed by the township board from among electors residing within the township, with terms not exceeding three years each.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-43. Appeals authorized.**

(a) Any person allegedly aggrieved by a decision of the township building official relative to the placement, area, height and construction of a sign may appeal such decision to the Township Sign Board of Appeals. Such appeal shall be taken in the office of the building official.

(b) Whenever the strict application of requirements of this chapter may pose demonstrable hardship or practical difficulty with regard to placement, area, height and construction of a sign, an appeal for variance from such requirements may be filed with the building official on a form provided for such purpose.

(c) The building official or his/her designee(s) shall then place the appeal on a regular meeting agenda of the board of appeals within 45 days of filing.

(d) Within 90 days of receipt, the board of appeals shall render a final decision in accordance with the provisions of this chapter.

(e) Any decision of the board shall not become final until the expiration of five township business days from the date of the decision, unless the board finds that immediate effect is necessary to preserve a substantial property right, and so certifies in the record of the decision.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-44. Fees.**

Any person filing an appeal with the Township Sign Board of Appeals shall fill out the necessary appeal form provided by the building official or his/her designee(s) and shall pay a filing fee, as established by resolution of the township board.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-45. Appeal procedure.**

(a) The building official or his/her designee(s) shall give due notice of all hearings to all owners of record of real property within 300 feet of the premises in question; such notice shall be delivered by first class mail addressed to the respective owners at the address given in the last assessment roll.

(b) All persons appealing shall be required to appear in person or to be represented by a duly authorized agent.

(c) The board of appeals shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:

(1) The relevant administrative records and administrative orders issued herein relating to the appeal.

(2) The appeal form.

(3) The requisite written findings of fact, the conditions attached, the decisions and orders by the board of appeals in disposing of the appeal, signed by the chairman of the board.

(d) The appellant shall be prepared to furnish a site drawing, photograph, and any other means of proof, to the sign board of appeals to demonstrate that a hardship or practical difficulty exists.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-46. Action of board of appeals.**

The concurring vote of a majority of the members of the sign board of appeals appointed and serving shall be necessary to revise any order, requirement, decision or determination of the building official or his/her designee(s), zoning administrator or any other township official or agency; or decide in favor of the applicant any matter upon which they are required to pass or to effect any variance of this chapter.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-47. Decisions of the sign board of appeals.**

(a) The sign board of appeals shall have the authority to grant variances from the provisions of this chapter.

(b) A variance shall not be granted unless the sign board of appeals determines that each of the following criteria and/or standards have been affirmatively satisfied:

(1) Where there are practical difficulties or unnecessary hardships that will exist if the variance is not granted. The appellant must demonstrate that the alleged practical difficulty or hardship, or both, are exceptional and peculiar to the appellant's situation and result from conditions which do not generally exist throughout the township.

(2) The fact that other larger signs constructed under prior sign ordinances exist in the area shall not be sufficient reason to declare practical difficulty or unnecessary hardship.

(3) The sign board of appeals shall not grant a variance if it is determined that the practical difficulty or hardship is self-created.

(4) The terms "practical difficulties" and "hardships" shall relate to the use of a particular parcel of land. "Practical difficulty" or "hardship" shall not be deemed solely economic, as in relating to the cost of the sign, the size of the sign, or to the fact that the sign has already been constructed. The fact that the sign is only available in a standardized size and/or material (example: franchised business signs) shall not constitute a "practical difficulty" or "hardship."

(5) The practical difficulty or hardship which is alleged to result from a failure to grant the variance, must include substantially more than mere inconvenience or the mere inability to attain a higher financial return.

(6) It must be demonstrated by the appellant that granting the variance will result in substantial justice being done, while consideration is given to the impacts on the public health, safety and welfare.

(7) The granting of the variance shall not impose a negative impact on the rights of others.

(c) The sign board of appeals shall have jurisdiction to decide applications for appeals and interpretations filed as hereinafter provided:

(1) Where it is alleged by the appellant that there is an error in any order, requirement, permit, interpretation, decision or refusal made by the building official or any other township official, body, or agency in enforcing the provisions of this chapter. The sign board of appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, permit, interpretation, decision or refusal as in its opinion ought to be done, and to that end shall have all the powers of the administrative official from whom the appeal was taken.

(2) The building official or his/her designee(s) shall have the authority to request interpretations of the provisions of this chapter from the sign board of appeals.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-48. Findings of fact.**

(a) The sign board of appeals shall prepare an official record for all appeals and shall base its decision on this record.

(b) The official record for each variance must record a finding of fact or each criteria and/or standard in section 15-47(b).
(Ord. No. 03-15, 3-1-04)

**Sec. 15-49. Limitations on the powers of the sign board of appeals.**

(a) The sign board of appeals shall not take any action which results, in effect, in a legislative change to the terms of this chapter.

(b) The sign board of appeals shall not have the authority to add to the types of signs permitted on any premises.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-50. Review by circuit court.**

Any party aggrieved by a final decision of the board of appeals may obtain a review thereof both on the facts and the law, in Eaton County Circuit Court.
(Ord. No. 03-15, 3-1-04)

**Secs. 15-51--15-60. Reserved.**

## ARTICLE V.

## UNIFIED BUSINESS DEVELOPMENT

**Sec. 15-61. Purpose and intent.**

It is the intent of the unified business development regulations to allow flexibility in signage under a unified plan. The regulations are intended to result in a comprehensive signage plan which results in less signage overall than would typically result.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-62. Eligibility requirements.**

(a) In order to qualify for UBD designation, the subject parcel(s) must consist of a minimum of ten acres.

(b) All property owners with a UBD shall sign the UBD application thereby consenting to compliance with the UBD regulations.

(c) Properties must be commercially zoned in order to qualify for UBD designation.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-63. Processing a UBD application.**

The processing of a UBD shall be as follows:

(a) Submittal of an application as provided by the building department. A fee shall be paid as established by a resolution of the Delta Township Board of Trustees.

(b) A site plan shall accompany the UBD application. The site plan shall include:

(1) A legal description of the site, dimensions of site boundary lines, total site area, north arrow, legend, graphic scale and title block containing the project name.

(2) Location of buildings, structures, streets, parking lots, driveways, landscaped areas and easements proposed or existing on the property.

(c) A signage plan shall accompany the UBD application. The signage plan shall include the following:

(1) Computation of the maximum total sign area, the maximum area for individual signs, and the number of freestanding signs, both existing and proposed, on the property.

(2) An accurate indication on the site plan of the proposed location of all signs.

(3) An indication of sign materials, colors, height, size and illumination.

(d) The staffs of the planning and building departments shall prepare a written analysis of the proposed UBD site plan and signage plan.

(e) The site plan, signage plan and staff analyses shall be forwarded to the planning commission, who shall review the documents and make a recommendation to the sign board of appeals regarding the UBD request. The planning commission shall recommend approval, approval with conditions, or denial of the UBD. The planning commission recommendation shall be forwarded to the sign board of appeals.

(f) The sign board of appeals shall review the site plan, signage plan, staff analyses and planning commission recommendation when considering a UBD request. The sign board of appeals shall have final authority as to whether a UBD designation shall be granted.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-64. UBD criteria.**

When reviewing the proposed UBD site plan and signage plan, the planning commission and sign board of appeals shall apply the following criteria to determine its acceptance:

(a) The UBD shall include the following elements:

(1) The proposed signage shall not be contrary to the public interest or to the purpose of the sign ordinance.

(2) The UBD shall not cause a substantial adverse effect upon properties in the immediate vicinity of the subject parcel.

(3) The signage plan shall provide common name identification to the public.

(4) Shared access to parking and shared driveways within the development.

(5) Shared signage shall be provided including the identification of the common name of the development.

(6) The physical layout of the project shall result in a cohesive and unified development. However, the development may include out parcels for lease or for sale, which may be intersected by public streets.

(7) The area proposed for the UBD shall not be a combination of individual parcels, solely assembled for the purposes of creating the UBD.

(8) Signs shall be organized such that visual clutter is reduced and signs are integrated with other elements of the property such as architecture and landscaping.

(9) Signs shall be designed and constructed in a manner which allows pedestrians and motorists to identify, interpret and respond in an efficient and safe manner to information contained on the signs.

(10) The primary purpose of signs within the UBD shall be for identification rather than advertising. (Ord. No. 03-15, 3-1-04)

**Sec. 15-65. Jurisdiction of the sign board of appeals regarding UBD's.**

The sign board of appeals shall have authority to waive the following provisions of the sign ordinance:

(a) Off-premises signs, not to include signs placed in public rights of way, may be permitted.

(b) The maximum display area and maximum height of permitted individual signs may be increased by a maximum of 25 percent.

(c) Properties may be permitted to have an individual commercial sign in addition to being permitted a business center sign.

(Ord. No. 03-15, 3-1-04)

**Sec. 15-66. Restrictions on signage within a UBD.**

The following requirements shall apply to all signs within a UBD:

(a) The total sign area permitted for all signs within a UBD shall not exceed 75 percent of the sign area permitted under the sign ordinance regulations.

(b) Mobile temporary signs, as defined herein, shall not be permitted on properties for which a UBD has been approved.

(c) Within the area of the UBD, spacing between business center signs shall be a minimum of 500 feet.

(Ord. No. 03-15, 3-1-04)

**Sec. 15-67. Amendments.**

A UBD signage plan may be amended by filing a new site plan and signage plan along with an application and the fee with the building department. The plan shall be submitted to the planning commission and sign board of appeals and the criteria in sections 15-64, 15-65 and 15-66 applied.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-68. Existing signs.**

If a UBD application is filed for a property on which existing signs are located, the signage plan shall include a schedule for bringing into conformance, no later than three years from the date of the sign board of appeals approval of the UBD, all signs not conforming with the UBD signage plan.
(Ord. No. 03-15, 3-1-04)

**Sec. 15-69. Binding effect.**

(a) Following approval of the signage plan for the UBD, no sign shall be erected, placed, painted, or maintained, except in conformance with the approved plan. Normal maintenance and repair of signs shall not be subject to the signage plan for the UBD.

(b) The signage plan for the UBD shall be enforced in the same way as any provision of this chapter.

(c) The UBD signage plan shall be binding on the property owners and their successors, assigns, tenants, and subtenants. A copy of the UBD signage plan shall be filed at the township clerk's office.

(d) The existence of a UBD shall be noted in all leases pertaining to properties on which a UBD has been granted by the sign board of appeals. A deed restriction, acknowledging the existence of a UBD on the subject parcel, shall be recorded at the Eaton County Register of Deeds Office and said restriction shall be binding on the property owners and their successors, assigns, tenants and subtenants. In addition, any sale of property on which a UBD has been granted shall include a disclosure regarding the UBD on the property.

(Ord. No. 03-15, 3-1-04)

# Chapter 15.5

# STREETS, SIDEWALKS, AND PUBLIC PLACES

**Article I. In General**

**Secs. 15.5-1--15.5-25. Reserved.**

**Article II. Sidewalks**

**Sec. 15.5-26. Purpose.**
**Sec. 15.5-27. Definitions.**
**Sec. 15.5-28. Sidewalk construction required.**
**Sec. 15.5-29. Variances.**
**Sec. 15.5-30. Reserved.**
**Sec. 15.5-31. Repair of sidewalks.**
**Sec. 15.5-32. Construction or repair by the township.**
**Sec. 15.5-33. Construction standards.**
**Sec. 15.5-34. Authority of township board.**
**Sec. 15.5-35. Administration.**
**Sec. 15.5-36. Violations.**
**Sec. 15.5-37. Appearance tickets.**
**Secs. 15.5-38--15.5-60. Reserved.**

**Article III. Private Roads**

**Sec. 15.5-61. Purpose.**
**Sec. 15.5-62. Definition.**
**Sec. 15.5-63. Exemptions.**
**Sec. 15.5-64. Design standards.**
**Sec. 15.5-65. General requirements.**
**Sec. 15.5-66. Preliminary private road permit.**
**Sec. 15.5-67. Final private road permit.**
**Sec. 15.5-68. Amendments.**
**Sec. 15.5-69. Township liability.**
**Sec. 15.5-70. Variances.**
**Sec. 15.5-71. Violations.**
**Sec. 15.5-72. Appearance tickets.**
**Sec. 15.5-73. Severability.**
**Sec. 15.5-74. Effective date.**
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**Article IV. Ice and Snow Removal**

**Sec. 15.5-86. Purpose.**
**Sec. 15.5-87. Definition.**
**Sec. 15.5-88. Removal required.**
**Sec. 15.5-89. Requirements for removal.**
**Sec. 15.5-90. Administration.**
**Sec. 15.5-91. Enforcement.**
**Sec. 15.5-92. Violations.**
**Sec. 15.5-93. Municipal civil infraction.;aoh5;**

## ARTICLE I.

## IN GENERAL

### Sec. 15.5-1--15.5-25. Reserved.

## ARTICLE II.

## SIDEWALKS

### Sec. 15.5-26. Purpose.

The purpose of this ordinance is to provide for the construction, maintenance, and repair of sidewalks for the public safety pursuant to the provisions of Public Act 359 of 1947, as amended.
(Ord. No. 93-9, 11-1-93)

### Sec. 15.5-27. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings hereinafter defined:

*Alteration of existing principal building* shall mean any alteration, construction, or reconstruction related to an existing principal building in the township that results in a change in said principal building of 25 percent of the floor area or more, or that results in the replacement of an existing principal building.

*Abutting or adjacent property* shall mean any lot or parcel of land adjoining, bordering, or touching a street as defined herein.

*Adjacent sidewalk* shall mean that portion of the sidewalk located within the street next to an abutting or adjacent property as defined herein.

*Building* shall mean an enclosed structure having a roof supported by columns, walls, arches, or other devices used for the housing, shelter, or enclosure of persons, animals, chattels, or property of any kind.

*Principal building* shall mean a building in which is conducted the main or principal uses of the lot or parcel on which said building is located.

*Private street* shall mean any street, road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to abutting properties. A street includes the land between the street right-of-way lines, whether improved or unimproved.

*Public street* shall mean a dedicated public right-of-way, which is a state, county, or municipal roadway affording the principal means of access to abutting property. A street includes the land between the street right-of-way lines, whether improved or unimproved.

*Sidewalk* shall mean that portion of the street right-of-way improved with concrete and designed for pedestrian travel.

*Street* shall mean a dedicated public right-of-way which is a state, county, or municipal roadway affording the principal means of access to abutting property. A street includes the land between the street right-of-way lines, whether improved or unimproved.
(Ord. No. 93-9, 11-1-93; Ord. No. 03-03, §§ 1, 2, 2-17-03)

**Sec 15.5-28. Sidewalk construction required.**

(a) All owners of lots and parcels abutting dedicated public streets or private streets shall be required to construct sidewalks at the time of construction of any new principal buildings, or at the time of alteration of existing principal buildings on such lots or parcels. This provision shall not apply in conjunction with the construction or alteration of principal buildings on lots or parcels located within the NR, A1, A2, RA, I1, and I2 zoning districts, or in conjunction with the construction of one and two-family dwellings on lots or parcels created prior to the effective date of this ordinance. Residential, office, or commercial-zoned lots or parcels located within subdivisions that have received final preliminary plat approval prior to the effective date of this ordinance shall have sidewalks installed as required by the township board at the time final preliminary approval of the subdivision plat was granted. Additionally, residential, office or commercial-zoned lots or parcels created prior to the effective date of this ordinance shall have sidewalks installed as required by the planning commission, township board, or zoning administrator at the time of final site plan approval for the construction of new, or alteration of existing, principal buildings on such lots or parcels. Sidewalks required to be constructed pursuant to this section shall be installed within one year of issuance of the building permit for construction or alteration of any principal buildings on said lots or parcels. All sidewalks constructed shall comply with the Delta Township Sidewalk Construction Standards referred to in section 15.5-32 herein.

(b) The township board may, by resolution, require the owners of lots and parcels abutting public street rights-of-way, or private street rights-of-way, to construct sidewalks where the presence of sidewalks may be declared by the township board to be necessary to provide safe and convenient routes for pedestrian traffic. Such sidewalk routes may include, but shall not be limited to, routes between residential areas and activity centers such as schools, within the Township's Central Business District, and those routes identified in the Delta Township Sidewalk Plan. All sidewalks constructed shall comply with the Delta Township Sidewalk Construction Standards referred to in section 15.5-32 herein. The township board may order the construction of the sidewalks and assess all or part of the costs of sidewalk construction to the abutting property owners involved, or may permit the abutting property owners to provide for the construction of the required sidewalks on their own in accordance with the Delta Township Sidewalk Construction Standards referred to in section 15.5-32 herein, and any other specifications required by the township board. The township board may also cause sidewalks to be constructed with the cost of said construction paid out of the contingent fund of the township. A resolution requiring the construction of sidewalks shall note the time period in days in which the owners must construct the required sidewalk. The construction of any sidewalk under this section shall be in compliance with the requirements of P.A. 80 of 1989, MCLA 41.288a, as amended.

(c) Prior to adoption of a resolution requiring sidewalks, the township board shall hold a public hearing. The township clerk shall cause notice of the time and place of the public hearing to be published within a newspaper of general circulation within the township at least ten days prior to the date of the hearing.

In addition, all abutting property owners affected by such a resolution shall be given due notice of the public hearing by the township clerk via regular mail at least ten days prior to the date of the hearing. Said notice shall be prepared and the public hearing conducted in accordance with Michigan Public Acts 64 and 65 of 1989, as amended.
(Ord. No. 93-9, 11-1-93; Ord. No. 03-03, § 3, 2-17-03)

**Sec. 15.5-29. Variances.**

(a) The township board may, by resolution, authorize a variance from the requirements of section 15.5-28 of this ordinance under the following circumstances:

(1) The township board shall determine that the proposed variance will not impair the public health, safety, or general welfare of the inhabitants of the township.

(2) The township board shall determine that a strict application of such requirements would result in practical difficulties to, or undue hardship upon, the owners of such lots or parcels. Practical difficulties may include, but shall not be limited to, severe variations in topography, unsuitable soils, or difficulty in providing safe separation between pedestrian and vehicular traffic due to site location, layout, or existing building arrangements. The cost of installing a sidewalk shall not constitute the sole basis for an undue hardship.

(3) A variance may be granted by the board when the preponderance of lots or parcels of land on the street in question are already developed with no sidewalks existing, and accordingly that a sidewalk would not likely connect to any other walk, and thus not serve the purpose of a pedestrian system.

(b) A variance request shall be filed by the property owner or their designated agent. An application for a variance shall be submitted to the township clerk on a special form for that purpose. Applications shall be submitted at least two weeks in advance of a regular meeting of the township board.

(c) The township planning department shall have the responsibility of preparing a written report which shall be submitted to the township board prior to the meeting at which the board will consider a variance. (Ord. No. 93-9, 11-1-93)

**Sec. 15.5-30. Reserved.**

**Editors Note:** Ord. No. 03-03, § 4, adopted Feb. 17, 2003, repealed § 15.5-30 pertaining to ice and snow removal and deriving from Ord. No. 93-9, adopted Nov. 1, 1993. Section 5 of said ordinance set out new provisions pertaining to similar subject matter which have been included as Art. IV, §§ 15.5-86--15.5-93.

**Sec. 15.5-31. Repair of sidewalks.**

(a) It shall, in all cases, be the responsibility of the owner of every lot or parcel of land in the township to keep the sidewalks adjacent to his lot or parcel in good repair. Sidewalks shall be repaired or replaced when the condition of same is detrimental to the safety of the general public. Included as conditions requiring repair, but not limited to, are the following:

(1) A rise or drop of more than one inch between any two sections of sidewalks.

(2) More than two cracks of one-quarter inch in width or more in any two lineal feet of sidewalk section.

(3) Any section of sidewalk which is tilted in excess of one inch per foot from inside edge to outside edge. (The outside edge being the edge of the sidewalk nearest the street line.)

(4) If, in any five foot lineal section of sidewalk, more than 50 percent of the surface has scaled off to a depth of 1/4 inch or greater, that section of the sidewalk shall be replaced.

(b) Whenever the township engineer, or the engineer's designated agent, shall determine that a sidewalk is in a state of disrepair, a notice shall be sent by regular mail to the owner of the adjacent lot or parcel to repair the sidewalk. The notice shall specify the time period within which such work shall be commenced. In no case shall the time period allowed for repair of a sidewalk exceed 90 days.
(Ord. No. 93-9, 11-1-93)

**Sec. 15.5-32. Construction or repair by the township.**

If any owner shall fail or neglect to construct or repair any sidewalk adjacent to their lot or parcel of land within such time as herein required, or as may be required by a resolution of the township board, the township board may cause the same to be done in accordance with the provisions of P.A. 80 of 1989, MCLA 41.288a, and the cost of said construction or repair may be paid out of the contingent fund of the township, and the township board may pursue the means necessary to recover the cost of said construction or repair from the owner.
(Ord. No. 93-9, 11-1-93)

**Sec. 15.5-33. Construction standards.**

All sidewalks hereafter constructed, repaired or rebuilt shall be constructed, repaired or rebuilt according to the Delta Township Sidewalk Construction Standards as adopted by resolution of the township board.
(Ord. No. 93-9, 11-1-93)

**Sec. 15.5-34. Authority of township board.**

The township board, or the board's designated official, shall have authority to provide for the construction or repair of sidewalks as well as the clearance of ice and snow by general contract, or in such other manner as it shall determine.
(Ord. No. 93-9, 11-1-93)

**Sec. 15.5-35. Administration.**

It shall be the responsibility of the township engineer, or such person as the engineer may designate, to supervise and control all sidewalks and the construction, repair, and maintenance thereof, including inspection, and the issuance of appearance tickets if so designated by the township manager, and to enforce the provisions of this ordinance.
(Ord. No. 93-9, 11-1-93)

**Sec. 15.5-36. Violations.**

(a) Upon determination that a violation of the provisions of this ordinance exists, the persons believed to have committed the violation shall be notified by certified letter of the nature of the violation. The notice shall specify the time period in which the person shall come in compliance with the provisions of this ordinance. In no case shall the time period specified in the notice to come in compliance with the provisions of

this ordinance exceed 90 days.

(b) Violations of the provisions of this ordinance, or failure to comply with any of its requirements, shall constitute a misdemeanor.

(c) Any person, firm, or corporation who violates this ordinance or fails to comply with any of its requirements shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $500 or imprisoned for not more than 90 days, or both, and, in addition, shall pay all costs and expenses involved. Each day such violation continues shall be considered a separate offense.

(d) The owner of record or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(e) The imposition of any fine, or jail sentence, or both shall not exempt the violator from compliance with the provisions of this ordinance.
(Ord. No. 93-9, 11-1-93)

**Sec. 15.5-37. Appearance tickets.**

After a notice of violation is given to a person pursuant to section 15.5-36 herein, and compliance with the provisions of this ordinance has not been obtained, the township manager, or an official appointed by the township manager, shall be authorized to issue and serve appearance tickets on any person with respect to any violation of the Delta Charter Township Sidewalk Ordinance when there is reasonable cause to believe that the person has committed such an offense. This authority is granted pursuant to Public Act 147 of 1968, as amended.
(Ord. No. 93-9, 11-1-93)

**Secs. 15.5-38--15.5-60. Reserved.**

## ARTICLE III.

## PRIVATE ROADS

**Sec. 15.5-61. Purpose.**

The township has hereby determined that as tracts of land are divided, sold, transferred, and developed, private access roads are being created to provide access to the newly divided properties which are not subject to regulation under the Michigan Land Division Act and other state regulations. The township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private roads to assure:

(1) That private roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other emergency vehicles.

(2) That said roads are constructed of suitable materials to ensure minimal maintenance and safe

passage.
(Ord. No. 01-01, § 20.1, 3-19-01)

**Sec. 15.5-62. Definition.**

*Private road* means a road intended for vehicular traffic which services two or more properties and which is not under the jurisdiction of a public agency.
(Ord. No. 01-01, § 20.2, 3-19-01)

**Sec. 15.5-63. Exemptions.**

The provisions herein are not applicable to private roads serving two-family dwellings, multiple family dwellings, mobile home parks, condominium subdivisions, planned unit developments, and properties within commercial, office, or industrial zoning districts.
(Ord. No. 01-01, § 20.3, 3-19-01)

**Sec. 15.5-64. Design standards.**

All private roads constructed after the effective date of this ordinance [Ord. No. 01-01] shall comply with the following standards:

(1) *Driving surface.* The private road shall consist of at least two lanes (two directions) with a minimum lane width of ten feet each.

(2) *Crown.* The road surface shall have a minimum crown of 0.2 of one foot from the centerline of the private road to the outside edge of the pavement.

(3) *Base materials.* The driving surface shall have a minimum of six inches of bank run gravel and two inches minimum of processed gravel over a compacted base. Where the road is being constructed in impervious soils, a 12-inch sand sub-base with a sub-base drainage system shall be required.

(4) *Shoulder.* A road shoulder shall be provided on each side of the private road surface with a minimum width of two feet containing a slope of .22 of one foot from the outside edge of the road surface to the toe of the slope. A shoulder shall not be required where curb and gutter has been installed.

(5) *Turnaround.* The end of the private road shall have a turnaround and the easement shall allow enough land for a 30-foot inside radius or a 48-foot outside radius or a second means of ingress and egress. The cul-de-sac shall be constructed in accordance with the standards set forth herein.

(6) *Culverts.* Culverts shall be placed at all natural drainage courses or other waterways. Culvert sizes, materials, and grades shall be determined using the county road commission standards.

(7) *Drainage.* Drainage provisions for private roads shall be in compliance with the private road regulations of the county drain commissioner's office.

(8) *Slope.* Street grades shall not exceed ten percent.
(Ord. No. 01-01, § 20.4, 3-19-01)

**Sec. 15.5-65. General requirements.**

All private roads constructed after the effective date of this ordinance [ Ord. No. 01-01] shall comply with the following requirements:

(1) *Easement.* A 30-foot wide easement shall be dedicated for the private road. Private roads shall be centered within the street right-of-way.

(2) *Road name.* A road name shall be approved by the Tri-County Regional Planning Commission and the Eaton County 911 Central Dispatch.

(3) *Signage.* A road name sign of a type approved by the county road commission shall be placed at the intersection(s) of the private road and public or private roads. The bottom of the sign face shall be placed a minimum of six feet above the adjacent road surface.

(4) *Erosion.* All private roads are subject to regulation under the county's soil erosion program as administered by the county drain commissioner.

(5) *Sight distance and road clearance.* Areas at or near intersections shall be kept free of obstructions in order to provide adequate sight distance for motorists. The area above the road surface must be kept free of obstructions such as tree limbs to accommodate the safe passage of emergency service vehicles.

(6) *Maintenance.* All private roads shall be maintained in a safe manner. Maintenance, repair, and liability for private roads shall not be the responsibility of the township.
(Ord. No. 01-01, § 20.5, 3-19-01)

**Sec. 15.5-66. Preliminary private road permit.**

(a) *New private roads.* Construction of a single-family dwelling shall not begin on a new private road or on adjacent properties which depend on the private road for access until a preliminary private road permit has been issued.

(b) *Application.* The applicant for a preliminary private road permit shall submit an application for said permit, together with a review fee as determined by the township board, to the zoning administrator. The following documents shall accompany the application:

(1) *Legal description.* A legal description of the proposed private road right-of-way.

(2) *Site plan.* A reproducible site plan, drawn on a 24- by 36-inch sheet to a scale of not more than one inch to 200 feet, illustrating the location of the proposed road and the property lines of parcels adjacent to the proposed road. The site plan shall superimpose topographic elevations, at

not more than two-foot contour intervals, over the proposed road right-of-way.

(3) *Construction plans.* A reproducible copy of construction plans, drawn on a 24- by 36-inch sheet to a horizontal scale of not less than one inch to 50 feet, prepared by a licensed professional engineer including a cross section of the proposed road illustrating the sub-base, base, and driving surface, street grades, drainage, and other improvements as necessary.

(4) *Phasing.* If an applicant proposes to initially only construct a portion of the private road, they shall provide a general layout for the entire road.

(5) *Maintenance agreement.* A private road maintenance agreement which provides a detailed description of how the road will be maintained and how the maintenance costs will be apportioned and paid for by benefitting property owners. The primary purpose of said maintenance agreement shall be to ensure the provision of suitable access by emergency vehicles. The applicant shall agree that subsequent owners of any and all building sites accessed by the proposed private road shall enter into the maintenance agreement. The agreement shall be recorded in the records of the county register of deeds, and a recorded copy shall be filed with the zoning administrator, prior to issuance of the final private road permit. The township shall not be responsible for the legality or enforcement of a private road maintenance agreement.

(c) *Review.* Following receipt of the required materials, the zoning administrator shall refer the application to the fire chief, township engineer, utilities director, county drain commissioner and other individuals or agencies deemed appropriate by the zoning administrator. Review of the application shall include its conformance with applicable regulations, and whether the health, safety, and general welfare of persons using or affected by the private road will be adequately protected. The township board shall review and approve or disapprove the proposed private road. If approval is granted, by the township board and if the zoning administrator finds that all of the applicable regulations have been complied with, the zoning administrator shall issue a preliminary private road permit to the applicant which shall allow the applicant to proceed with construction of the private road. No construction of the private road shall be started until the preliminary private road permit is issued by the zoning administrator. The preliminary private road permit shall expire two years after it is granted, unless road construction is completed within that time. If the application is not approved, the zoning administrator shall set forth in writing the reasons for rejection and the requirements for resubmittal and shall provide the applicant with a copy thereof.
(Ord. No. 01-01, § 20.6, 3-19-01)

**Sec. 15.5-67. Final private road permit.**

Upon completion of construction of a private road, the owner shall submit to the township a completion certificate signed by a registered engineer that the road has been completed in accordance with the construction plans. The owner shall correct any deficiencies identified. Upon final review and approval of the completed private improvements by the township engineer, the zoning administrator shall issue a final private road permit to the owner. Certificates of zoning compliance for construction of a single family dwelling on properties served by the private road shall not be issued until the final private road permit has been issued or the applicant for a building permit or owners(s) of the private road right-of-way have provided the township with a cash deposit, certified check, surety bond or irrevocable bank letter of credit in an amount determined by the township engineer to insure construction of the private road in accordance with the private road construction

plans within two years from the issuance of the certificate of zoning compliance.
(Ord. No. 01-01, § 20.7, 3-19-01)

**Sec. 15.5-68. Amendments.**

Any additions, deletions, or alterations from the original recorded agreement or construction plans shall be recorded as amendments to the original at the register of deeds' office and submitted to the zoning administrator to determine compliance with this article.
(Ord. No. 01-01, § 20.8, 3-19-01)

**Sec. 15.5-69. Township liability.**

The owner(s) of the private road agree, by applying for and securing a permit to construct the private road, that they shall indemnify, save and hold the township harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the private road. Such wording shall appear on the application for the permit and be shall be signed by the applicant.
(Ord. No. 01-01, § 20.9, 3-19-01)

**Sec. 15.5-70. Variances.**

Any person affected by a decision regarding this article shall have the right to appeal the decision to the township board within ten calendar days. Such appeal shall be filed with the zoning administrator in writing and shall state the reasons for appeal and include any documents in support thereof. The township board shall establish a time for hearing the appeal(s) which shall be not later than 30 calendar days after filing. Written notice of such hearing by first class mail shall be provided to all adjacent properties which depend on or may depend in the future on the private road for access and all properties within 300 feet of such private road. Such notice shall be given not less than 72 hours prior to such hearing. The decision of the township board shall be set forth in writing and be delivered to the applicant within ten calendar days following the hearing. The decision of the township board shall be final. The township board shall grant variances only upon a finding, from reasonable evidence, that the following facts and conditions exist:

(1) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this article or the public interest. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

(2) That the condition or situation of the specific piece of property, for which the variance is sought is of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such conditions or situations.

(3) That by reason of exceptional narrowness in width, breadth, length, or shape of a specific piece of property on the effective date of this ordinance [Ord. No. 01-01], or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land, building, or structure or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this article would involve practical difficulties or would cause undue hardship.

(4) Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this article, the township board may vary or modify any of its rules or provisions so that the spirit of this article is observed, public safety secured, and substantial justice done.

(Ord. No. 01-01, § 20.10, 3-19-01)

**Sec. 15.5-71. Violations.**

(a) Upon determination that a violation of the provisions of this article exists, the persons believed to have committed the violation shall be notified by certified letter of the nature of the violation. The notice shall specify the time period in which the person shall come in compliance with the provisions of this article. In no case shall the time period specified in the notice to come in compliance with the provisions of this article exceed 90 calendar days.

(b) Violations of the provisions of this article, or failure to comply with any of its requirements, shall constitute a misdemeanor.

(c) Any person, firm or corporation who violates this article or fails to comply with any of its requirements shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $500.00 or imprisoned for not more than 90 days, or both, and in addition, shall pay all costs and expenses involved. Each day such violation continues shall be considered a separate offense.

(d) The owner of record or tenant of any building, structure, premises, or part thereof, and any engineer, builder, contractor, agent or person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(e) The imposition of any fine, or jail sentence, or both shall not exempt the violator from compliance with the provisions of this article.

(Ord. No. 01-01, § 20.11, 3-19-01)

**Sec. 15.5-72. Appearance tickets.**

After a notice of violation is given to a person pursuant to section 15.5-71 herein, and compliance with the provisions of this article has not been obtained, the zoning administrator shall be authorized to issue and serve appearance tickets on any person with respect to any violation of the Delta Charter Township Private Road Ordinance when there is reasonable cause to believe that the person has committed such an offense. This authority is granted pursuant to Public Act 147 of 1968, as amended.

(Ord. No. 01-01, § 20.12, 3-19-01)

**Sec. 15.5-73. Severability.**

If any provision of this article or the application thereof to any person or circumstance shall be found to be invalid by any court, such invalidity shall not affect the remaining provisions of the article which shall be given effect.

(Ord. No. 01-01, § 20.13, 3-19-01)

**Sec. 15.5-74. Effective date.**

This ordinance shall take effect 30 calendar days after publication.
(Ord. No. 01-01, § 20.14, 3-19-01)

**Secs. 15.5-75--15.5-85. Reserved.**

## ARTICLE IV.

## ICE AND SNOW REMOVAL*

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* **Editors Note:** Ord. No. 03-03, § 5, adopted Feb. 17, 2003, set out provisions intended for use as Art. IV, §§ 15.5-75--15.5-82. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as Art. IV, §§ 15.5-86--15.5-93.

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**Sec. 15.5-86. Purpose.**

This article is intended to provide the township with a means of applying reasonable regulations to require snow and ice removal from sidewalks, and to require that the removal of snow from private property shall not be deposited or placed in a manner deemed inappropriate, in order to promote public health, safety and welfare.
(Ord. No. 03-03, § 5, 2-17-03)

**Sec. 15.5-87. Definition.**

For the purpose of this article, the following words and phrases shall have the meaning hereafter defined:

*Private property* shall mean any area, space, lot, or parcel, whether improved or unimproved, occupied or unoccupied, which is privately owned and maintained for the purposes of snow and ice removal.
(Ord. No. 03-03, § 5, 2-17-03)

**Sec. 15.5-88. Removal required.**

No person shall permit ice or an accumulation of more than two inches of snow to remain on any sidewalk adjacent to a lot or parcel occupied by them, or on a sidewalk adjacent to any unoccupied lot or parcel owned by them, for a longer period than 24 hours after the same has formed or fallen.
(Ord. No. 03-03, § 5, 2-17-03; Ord. No. 03-12, 11-17-03)

**Sec. 15.5-89. Requirements for removal.**

All persons removing snow from private property, whether by use of a shovel, snow blower, plough, or any other method, shall comply with the following regulations:

(1) Snow shall not be deposited or spread into sidewalks, alleys, streets, or highways.

(2) Snow shall not be deposited so as to obstruct fire hydrants or fire appliances.

(3) Snow shall not be deposited so as to create any visual obstruction which would impair the safe use of sidewalks, alleys, streets, or highways.

Sheriff department personnel and township fire department personnel shall be authorized to issue and serve citations with respect to violations of this section.

**Cross References:** Fire prevention and protection, Ch. 7, § 7-27.

(Ord. No. 03-03, § 5, 2-17-03)

**Sec. 15.5-90. Administration.**

It shall be the responsibility of the township manager, or any township official so designated by the township manager, to administer the terms of this article.

(Ord. No. 03-03, § 5, 2-17-03)

**Sec. 15.5-91. Enforcement.**

It shall be the responsibility of the county sheriff department, the township manager, and township officials as appointed by the township manager to enforce the terms of this article. Personnel as herein appointed shall be authorized to issue and serve citations with respect to violations and/or non-compliance with any of the provisions of this article.

(Ord. No. 03-03, § 5, 2-17-03)

**Sec. 15.5-92. Violations.**

(a) Violations of the provisions of this article, or failure to comply with any of its requirements, shall be punishable as a civil infraction subject to a fine in the amount of $25.00 if paid within ten days of issuance, or $50.00 if paid after ten days of issuance.

(b) Civil infraction citations shall be issued and served to the owner of the property upon which the violation has occurred.

(c) The imposition of any fine shall not exempt the violator from compliance with the provisions of this article. Each day a violation remains in existence may be treated as a separate offense.

(d) If any fines and or costs associated with this section are not paid, the civil infraction citation may be filed with the district court in accordance with subsection 2-188(g) of this Code.

(e) The civil fine associated with this section shall be set from time to time by the township board by resolution.

(Ord. No. 03-03, § 5, 2-17-03)

**Sec. 15.5-93. Municipal civil infraction.**

For each violation of a provision of this article, or failure to comply with any of its requirements, a township appointed official shall be authorized to issue and serve a municipal civil infraction citation, in

accordance with Article VII of Chapter 2 of this Code, on any person with respect to a violation of this article when there is reasonable cause to believe that person has committed such an offense.
(Ord. No. 03-03, § 5, 2-17-03)

# Chapter 16

# SUBDIVISION REGULATIONS

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## ARTICLE I.

## IN GENERAL

### Sec. 16-1. Short title.

This ordinance shall be known and may be cited as the"Delta Charter Township Subdivision Ordinance."
(Ord. No. 94-3, § 1, 4-4-94)

### Sec. 16-2. Purpose.

The purpose of this ordinance is to regulate and control the subdivision of land within the township, in order to promote the public health, safety and general welfare of the community. These regulations are specifically designed to:

(1) Provide for orderly growth and the harmonious development of the community.

(2) Secure adequate traffic circulation through coordinated street systems with proper relation to existing streets and highways, adjoining subdivisions and vacant land, and public utilities.

(3) Create individual lots of maximum utility and livability.

(4) Establish standard procedures for processing preliminary and final plats thoroughly and efficiently.

(5) Establish subdivision requirements for design, site preparation and public improvement

installation.

(6) Provide procedures to ensure that public improvements are installed according to the appropriate standards.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-3. Legal basis.**

This ordinance is enacted pursuant to the statutory authority granted by the Subdivision Control Act of 1967, Act 288, as amended, Act 246, P.A. 1945, township ordinances, as amended, authorizing township boards to adopt ordinances and regulations to secure the public health, safety and general welfare; Act 359, P.A. 1947, Charter Township Act, as amended, authorizing Charter Townships, and Act 285, P.A. 1931, Municipal Planning Act, as amended, authorizing the planning commission to review subdivision plats.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-4. Scope.**

This ordinance shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this ordinance, except for the further subdividing of lots. This ordinance does not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances, comprehensive plan provisions or regulations. Where this ordinance imposes a greater restriction upon land than is imposed or required by such existing provisions of any other ordinance, law, or comprehensive plan or regulations of this township, the provisions of this ordinance shall prevail.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-5. Rules of construction.**

The following rules of construction shall apply:

(1) The particular shall control the general.

(2) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or,", "either...or," the conjunction shall be interpreted as follows:

a. "and" indicates that all the connected items, conditions, provisions, or events shall apply.

b. "or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.

c. "either...or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

(3) Words used in the present tense shall include the future tense, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(4) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(5) In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.

(6) Terms not herein defined shall have the meaning customarily assigned to them.

(7) Days means calendar days unless otherwise stated.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-6. Fees.**

Fees for activities regulated under this ordinance shall be established by resolution of the township board. Fees may be amended by resolution of the township board and shall be deemed effective immediately upon adoption of said resolution and shall apply to all applications thereafter filed.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-7. Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings hereinafter defined:

*Alley* shall mean a public or private right of way shown on a plat which provides secondary access to a lot, block or parcel of land.

*As-built plans* shall mean revised construction plans in accordance with all approved field changes.

*Block* shall mean an area of land within a subdivision that is entirely bounded by streets, or highways, excepting alleys, and excepting the exterior boundary or boundaries of the subdivision.

*Building line or setback line* shall mean a line which defines the minimum distance (as determined by the minimum front, side, or rear yard setback) which any building shall be located from a property line, existing street right-of-way, easement line of an approved private street, proposed right-of-way line as indicated in the township's comprehensive plan, or ordinary high water mark.

*Caption* shall mean the name by which the plat is legally and commonly known.

*Clear vision corner* shall have the same meaning as *sight triangle* as defined in this chapter.

*Clerk* shall mean the township clerk of the Charter Township of Delta.

*Comprehensive plan (or master plan)* shall mean a plan adopted by the township for the physical development of the township showing the general location for major streets, parks, schools, public building sites, land use and other similar information. The plan may consist of maps, data and other descriptive matter.

*County engineer* shall mean the Engineer-Manager of the Eaton County Road Commission.

*County health department* shall mean the Barry-Eaton District Health Department.

*County plat board* shall mean the Eaton County Plat Board.

*County road commission* shall mean the Eaton County Road Commission.

*Developer* shall have the same meaning as proprietor as defined in this chapter.

*Drain commissioner* shall mean the Eaton County Drain Commissioner.

*Easement* shall mean a right of use over the property of another.

*engineer* shall mean the township engineer of the Charter Township of Delta.

*Filing date* shall mean the date upon which any application pursuant to this ordinance is submitted and the required filing fee is paid.

*Floodplain (100 year)* shall mean that area of land adjoining the channel of a river, stream, or water course which, on the basis of available floodplain information, is subject to a one percent or greater chance of flooding in any given year.

*Future street improvement plan* shall mean that portion of the comprehensive plan which sets forth the location and alignment of proposed streets.

*GAP (critical gap)* shall mean the median time headway between vehicles in a major traffic stream which will permit side-street vehicles at a stop or yield controlled approach to cross, through or merge with the major traffic stream under prevailing traffic and roadway conditions, in seconds.

*Improvements* shall mean grading, street surfacing, curb and gutter, driveway approaches, sidewalks, water mains and appurtenances, sanitary sewers, storm sewers, culverts, bridges, utilities, waterways, detention/retention facilities and other modifications to the natural state of land.

*Level of service* shall mean a qualitative measure describing operational conditions within a traffic stream; generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.

*Lot* shall mean a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

*Lot, corner* shall mean any lot having at least two contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A lot abutting a curved street(s) shall be a corner lot if the arc has a radius less than 150 feet.

*Lot, cul-de-sac* shall mean a lot which has more than one-half of its required frontage on a cul-de-sac

street.

*Lot depth* shall mean the horizontal distance between the front and rear lot lines, measured along the median between side lot lines.

*Lot frontage* shall mean the length of the front lot line(s), which is(are) the line(s) separating the lot from any street right-of-way.

*Lot, interior* shall mean a lot other than a corner lot, with the exception of a through lot, which has only one lot line fronting on a street.

*Lot, through* shall mean an interior lot having frontage on two more or less parallel streets.

*Lot width* shall mean the horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

*Outlot* shall mean a lot set aside for designated purposes other than a building site, park or land dedicated to public or private use.

*Parcel or tract* shall mean a continuous area, parcel, site, piece of land, or property which is the subject of a development application.

*Pedestrian walkway* shall mean a right-of-way providing pedestrian access to streets, parcels, lots, tracts, outlots, or land.

*Person* shall mean an individual, corporation, partnership, incorporated association or any similar entity.

*Planning commission* shall mean the Planning Commission of the Charter Township of Delta as established under Act 168, Public Acts 1959, as amended.

*Planning director* shall mean the Planning Director of the Charter Township of Delta.

*Planned unit development* shall mean a form of land development comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and non-residential uses.

*Plat* shall mean a map or chart of a subdivision of land.

*Plat, preliminary* shall mean a map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.

*Plat, final* shall mean a map of a subdivision of land, which is approvable and recordable.

*Proprietor, subdivider, or developer* shall mean a natural person, firm, association, partnership, corporation or combination of any of them which may hold any recorded or unrecorded ownership interest in land.

*Public utility* shall mean all persons, firms, corporations, co-partnerships, or municipal or other public authorities providing gas, electricity, water, steam, telephone, storm sewers, sanitary sewers, transportation, cable television or other services.

*Public open space* shall mean land dedicated or reserved for use by the general public including, but not limited to, parks, parkways, recreation areas, streets, and highways and public parking spaces.

*Record drawings* shall mean construction plans revised in accordance with all field changes.

*Replat* shall mean the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

*Right-of-way* shall mean an easement permanently dedicated and established for passage of persons or vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

*Security for performance* shall mean a deposit by the proprietor with the clerk in the form of cash, a certified check, or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the township board in an amount sufficient to insure completion within the time specified.

*Setback line* shall have the same meaning as "building line" as defined in this chapter.

*Sight distance* shall mean the length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway.

*Sight triangle* shall mean a triangular shaped portion of land established at street intersections in which nothing is permitted which would limit or obstruct the vision of motorists.

*Street, arterial* shall mean those streets where the movement of through traffic is the primary function, with service to adjacent land uses a secondary function.

*Street, collector* shall mean those streets used to carry traffic from minor streets to arterial streets, including principal entrance streets to large residential developments.

*Street, cul-de-sac* shall mean a dead end street which terminates in a circular or semi-circular section of street which allows for vehicular turnarounds.

*Street, expressway* shall mean those streets designed for high speed, high volume traffic with full or partially-controlled access, some grade crossings, and no private driveway connections.

*Street, freeway* shall mean those streets designed for high speed, high volume through traffic with completely controlled access, no grade crossings, and no private driveway connections.

*Street, frontage road* shall mean a public or private drive which generally parallels a public street

between the right-of-way and the front building setback line. Frontage roads can be one-way or bi-directional in design. The frontage road provides specific access points to private properties while maintaining separation between the street and adjacent land uses.

*Street, major thoroughfare* shall mean an expressway or arterial street as defined in this ordinance.

*Street, minor/local* shall mean a street which is intended primarily for access to abutting properties.

*Street, private* shall mean any road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to abutting property.

*Street, public* shall mean a public thoroughfare which affords the principal means of access to abutting property.

*Street, service drive* shall mean a drive which generally parallels the public right-of-way but runs along the back of a land use which fronts on the public street. A service drive may provide access to properties on both sides.

*Street, stub* shall mean a street extended to the boundary line of the tract to provide for the future projection of streets into adjacent areas.

*Street width* shall mean the shortest distance between the lines delineating the right-of-way of streets.

*Subdivide or subdivision* shall mean the partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease for more than one year, or of building development, where the act of division creates five or more parcels of land each of which is ten acres or less in area; or five or more parcels of land each of which is ten acres or less in area are created by successive divisions within a period of ten years. Subdivide or subdivision does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this ordinance or the requirements of an applicable Delta Township Ordinance.

*Subdivider* shall mean the same as proprietor as defined in this chapter.

*Subdivision Control Act* shall mean Act 288, P.A. 1967, as amended, State of Michigan.

*Subdivision Regulations, Eaton County Road Commission* shall mean the compiled rules pertaining to the design and construction of streets within subdivisions in Eaton County, including Delta Township.

*Surveyor* shall mean either a land surveyor who is licensed in the State of Michigan as a licensed professional surveyor or a civil engineer who is licensed in the State as a licensed professional engineer.

*Topographical map* shall mean a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

*Township* shall mean the Charter Township of Delta, Eaton County, Michigan.

*Township board* shall mean the Township Board of the Charter Township of Delta.

*Tract* shall mean the same as "parcel" as defined in this chapter.

*Trip* shall mean a one-direction movement which begins at an origin and ends at a destination. A subdivision with 100 trips per day would include 50 entering (ingress) and 50 exiting (egress) movements over an average period.

*Variance* shall mean a relaxation or modification of the requirements of this ordinance as authorized by the township board under the provisions of this ordinance.

*Wetland* shall mean land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances, does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

*Wetland, regulated* shall mean a wetland that falls under the provisions of the Goemaere-Anderson Wetland Protection Act, Act 203 of 1979, as amended.

*Wetland, non-regulated* shall mean a wetland, as defined in this chapter, consisting of one acre or more of contiguous area.
(Ord. No. 94-3, § 1, 4-4-94)

## ARTICLE II.

## PLATTING PROCEDURES AND DATA REQUIRED

### Sec. 16-8. Tentative approval of the preliminary plat; filing procedures.

(a) *Submittal.* The subdivider shall submit a reproducible copy of the preliminary plat for tentative approval to the clerk. The subdivider shall also submit the required application and fees. The signature of the property owner on the application shall grant permission to the township to make on-site investigations as it deems necessary. The clerk shall forward the plat and application to the planning director who shall be responsible for placing the plat on a future planning commission agenda.

(b) *Review of applicable documents.* Prior to submitting the preliminary plat to the clerk, the subdivider shall have reviewed the following:

(1) Delta Township Zoning Ordinance.

(2) Delta Township Subdivision Ordinance.

(3) Delta Township Comprehensive Plan.

(4) Delta Township Sewer and Water Ordinances.

(5) Delta Township Water/Wastewater Installation Standards.

(6) Delta Township Drain Ordinance.

(7) Delta Township Sidewalk Ordinance.

(8) Michigan Subdivision Control Act and Manual of Instructions.

(9) Eaton County Road Commission Subdivision Regulations.

(10) Eaton County Drain Commissioner's Office Compiled Rules.

(11) Barry-Eaton District Health Department Regulations.

(12) Such other ordinances applicable to the subdivision of land.

(c) *Concurrent approvals prohibited.* Tentative and final approvals of the preliminary plat shall not be concurrent.

(d) *Soils investigation.* Prior to submitting the preliminary plat to the clerk, the subdivider shall have undertaken a soils investigation of sufficient detail to determine that the soil conditions of the property to be platted are suitable, or can be modified, such that buildings can be constructed on the proposed lots.

(e) *General investigation.* Prior to submitting the preliminary plat to the clerk, the subdivider shall have verified the zoning, inquired of the Eaton County Road Commission the adequacy of adjacent streets and investigated the availability and adequacy of sewage disposal, water supply, storm drainage, gas, telephone, and electricity in regard to the proposed subdivision.

(f) *Ownership* When the subdivider files an application for tentative approval of the preliminary plat, the applicant shall verify that he is the owner of the property or officially acting in the owner's behalf. If there are any options or liens on the property they shall be so noted.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-9. Tentative approval of preliminary plat; information requirements.**

The plat shall show the subdivision's entire development scheme including the area for immediate development, and shall include the following:

(1) *Existing conditions.*

(a) An overall area map at a scale of not less than 1"=1,000', showing the relationship of the subdivision to its surroundings within one-half mile of the boundary of the proposed subdivision, such as section lines and/or major streets and township and/or county boundaries.

(b) Boundary line of proposed subdivision, section lines within or adjacent to the tract and overall property dimensions.

(c) Property lines of adjacent tracts of land shown in relation to the tract being proposed for subdivision including those of areas across abutting roads.

(d) Location, widths and names of existing or prior platted streets and private streets, and public easements within or adjacent to the tract being proposed for subdivision, including those located across abutting roads.

(e) Location of existing sewers, water mains, storm drains and other underground facilities within and adjacent to the tract being proposed for subdivision.

(f) Topography and contours with an interval of two feet. Contours to be based on N.G.V.D. datum.

(g) Location and elevation of the 100-year floodplain on the property and an indication of the limits of the floodplain as well as an indication as to the amount of acreage in the 100-year floodplain.

(h) Location of rivers, streams, lakes, drainage sources, high-tension towers, excavations, bridges, culverts, and other features unique to the proposed subdivision.

(i) The names and addresses of all property owners of undeveloped or unplatted land abutting the proposed subdivision as they appear on the tax records of the township.

(j) A general indication of the soil types in the area and their boundaries. Areas which have soil types which possess severe limitations for dwellings with basements shall be noted.

(k) A legal description of the proposed site including an indication of the total land area expressed in acres.

(l) Location and boundaries of regulated and non-regulated wetlands.

(m) Any areas suspected of containing hazardous waste, as defined in the Hazardous Waste Management Act, being Act 64 of 1979, as amended, shall be noted.

(2) *Proposed conditions.*

(a) Layout of streets, right-of-way widths, and connections with adjoining platted streets and also the widths and location of alleys, easements and public walkways. The proprietor shall arrange with the Tri-County Regional Planning Commission to reserve non-conflicting street names.

(b) The layout and approximate dimensions of lots. Within a box scribed on the plat map shall be itemized the number of lots, anticipated square footage of the smallest lot, the

anticipated minimum lot frontage and the anticipated minimum frontage at the building setback line for lots with curved frontage. None of these dimensions shall be less than the minimums required by the zoning ordinance.

(c) Indication of the use of parcels of land intended to be dedicated or set aside for public use or reserved for the use of property owners in the subdivision.

(d) An indication of the ownership, and existing and proposed use of any parcels identified as "excepted" on the preliminary plat.

(e) Where the subdivider proposes to use a system other than county-approved storm drains, the engineer may: (1) require the proprietor to submit such data as is required to determine compatibility of the proposed plat with the future installation of public storm drains; (2) require changes in the Tentative Plat and/or easements to facilitate future installation of public storm drains.

(f) In the case where a subdivider wishes to submit a tentative preliminary plat for only part of the land available, he/she shall indicate the entire tract on the map showing such existing items as listed in section 16-9(a). The approximate location of anticipated future streets shall be illustrated on the entire tract. This requirement shall not be construed as requiring the proprietor to plat the remaining land according to his original sketch of "anticipated future streets."

(Ord. No. 94-3, § 1, 4-4-94; Ord. No. 00-05, 12-18-00)

**Sec. 16-10. Tentative approval of the preliminary plat; planning commission review.**

(a) The planning director shall review the submitted subdivision data for completeness. If the plat or application is incomplete, he/she shall notify the subdivider outlining the deficiencies and instruct the subdivider that the application and plat will not be reviewed by the planning commission until the required data is submitted.

(b) If the application and the plat are complete, the planning director shall transmit copies of the proposed plat to the Eaton County Road Commission, Eaton County Drain Commissioner, school district, fire chief, the sheriff's department, and other agencies as deemed necessary.

(c) Upon receipt of an application for tentative approval of the preliminary plat, one notice of the pending plat shall be sent by the planning director by mail to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the school district in which the property is located. Notices to property owners shall not be required for properties that have been subjected to the rezoning and/or special use permit notification process within the preceding 12 months. The notice shall be given not less than five nor more than 15 days before the date the plat will be considered by the commission. The notice shall:

(1) Describe the general nature of the tentative preliminary plat request.

(2) Indicate the property which is the subject of the request.

(3) State when and where the request will be considered by the Commission.

(4) Indicate when and where written comments will be received concerning the request.

(d) At least one sign stating when and where the request will be considered by the commission shall be posted, visible to the public, on the subject property at least seven days before the scheduled commission meeting. One notice of the pending plat shall be published not more than 15 days nor less than five days before the meeting in a newspaper of general circulation in the township.

(e) The planning director shall review the preliminary plat for compliance with applicable codes and ordinances and then prepare a report citing his/her findings which shall be submitted to the planning commission.

(f) The planning commission shall recommend to approve, modify or deny tentative approval of the preliminary plat within 45 days of the date of receipt by the clerk and shall within that time frame report its action to the township board. The 45-day period may be extended if the applicant consents. If no action is taken within 45 days, the tentative approval of the preliminary plat shall be deemed to have been granted by the planning commission. The action of the planning commission may contain any recommendations which are deemed appropriate.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-11. Tentative approval of the preliminary plat; township board review.**

(a) The township board shall not approve, modify, or deny tentative approval of the preliminary plat until it has received the planning commission's report, unless no action has been taken by the planning commission as set forth in section 16-10(f).

(b) Within 30 days of the meeting at which the township board receives the report of the planning commission (or within 30 days following the expiration of the period set forth in section 16-10(f) if no action has been taken by the planning commission), the township board shall approve, modify, or deny tentative approval of the preliminary plat.

(c) If the township board grants tentative approval of the preliminary plat, the clerk shall so notify the subdivider. If the board rejects the plat the reasons for the rejection shall be stated in writing and the requirements for approval noted.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-12. Conditions and duration of tentative approval of the preliminary plat.**

Tentative approval of the preliminary plat by the township board shall confer upon the subdivider for a period of one year from the date of approval, approval of lot sizes, lot orientation and street layout. Such approval may be extended by the township board if applied for by the subdivider before the expiration date.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-13. Model homes.**

The subdivider may be permitted to begin construction on one to no more than four model homes prior to tentative approval of the preliminary plat, provided that the following guidelines are met:

(1) A metes and bounds legal description and a plot plan for each building site shall be provided to the Zoning Administrator. The Zoning Administrator shall review the status of the subject parcel(s) to insure that the proposed metes and bounds division(s) do not violate the provisions of the Subdivision Control Act.

(2) The house(s) shall be located on the site such that the house(s) will be appropriately situated on the lot if the Final Plat is approved, or can meet the applicable zoning ordinance requirements if the Final Plat is not approved.

(3) The township engineer shall determine that adequate public water and sanitary sewer services are available to serve the house(s).

(4) A certificate of zoning compliance shall be secured from the zoning administrator prior to beginning construction on the house(s).

(Ord. No. 94-3, § 1, 4-4-94; Ord. No. 00-05, 12-18-00)

**Sec. 16-14. Final approval of the preliminary plat; filing procedures.**

(a) *Submittal.* The subdivider shall submit a reproducible copy of the preliminary plat for final approval to the clerk. The subdivider shall also submit an application form, the required fees and copies of approval letters from the appropriate agencies. A signature on the application shall grant permission to the township to make any on-site investigations it deems necessary.

(b) *Information required on plat.*

(1) Name of proposed subdivision.

(2) Names, addresses and telephone numbers of the subdivider and the surveyor preparing the plat, and the seal of the surveyor preparing the plat.

(3) Legal description of the subject parcel.

(4) The names of abutting subdivisions and the names and addresses of owners of adjacent properties.

(5) Statement of intended use of the proposed plat, such as, single or multiple-family residential; commercial; office or industrial. The statement shall identify any sites proposed for open or recreational uses, and indicate all known natural resources and features to be preserved.

(6) A map of the entire area scheduled for development if the proposed plat is a portion of a larger holding intended for subsequent development. If phasing is intended, a statement regarding the phasing plan must be included.

(7) A location map showing the relationship of the proposed plat to the surrounding area, including the nearest road intersection.

(8) Streets, alleys, street names, right-of-way and roadway widths, together with drainage arrows.

(9) Lot widths, the size of the smallest lot and the total number of lots.

(10) A grading plan illustrating contours at two-foot intervals. The grading plan is intended to insure that stormwater runoff does not negatively impact adjacent properties. The grading plan may include yard drains, detention/retention facilities, open ditches, joint swales between lots, etc.

(11) All conditions such as:

a. Rivers, natural watercourses, existing county or private drains;

b. Railroads, powerlines and cemeteries or parks;

c. All other features that the location or existence of which might influence the layouts of the plat.

(12) Proposed and existing storm and sanitary sewers, and water mains.

(13) Typical cross section of streets to be constructed including right-of-way widths, which shall comply with requirements as established in the County Road Commission specifications for street construction.

(14) Right-of-way easements, showing location, width and purpose.

(c) *Other information required.*

(1) *Impact studies.* The township may require that a study(ies) be prepared including, but not limited to, soil conditions, wetlands and utilities. Said studies shall be prepared by a licensed practitioner. (See Chapter 4 regarding Traffic Impact Studies.)

(2) *Preliminary engineering plans.* The township engineer may require the subdivider to submit a reproducible set of preliminary engineering plans for water, sewers, sidewalks and other required public improvements. The plans shall contain enough information and detail to enable the township engineer to make a preliminary determination as to conformance of the proposed improvements to applicable township regulations and standards.

(Ord. No. 94-3, § 1, 4-4-94; Ord. No. 00-05, 12-18-00)

**Sec. 16-15. Final approval of preliminary plat; processing.**

(a) *Information required:*

(1) If the township determines that it is necessary for the subdivider to extend the township water and/or sanitary sewer systems to serve the proposed subdivision, the subdivider shall enter into a written agreement in compliance with the Delta Township Water/Wastewater ordinances and installation standards. It should be noted that the subdivider may be required to reimburse the township for its inspection and engineering expenses and other expenses as required by the water/wastewater ordinances.

(2) The subdivider shall have completed a written agreement with the township board regarding any cost splits between the subdivider and the township covering oversizing and/or deep ditching of township utilities, and any other financial participation by the township.

(b) *Township board action:*

(1) Preliminary engineering plans for all improvements required shall be reviewed and approved by the township engineer.

(2) Within 20 days after receipt of the preliminary plat for final approval, the township board shall either approve or reject it and give its reasons therefore.

(c) *Conditions of approval:*

(1) The township board may enter into a written agreement with the subdivider to construct, within a reasonable time, certain improvements within the area to be platted. No construction shall be undertaken in the plat area prior to the granting of all final approvals of the preliminary plat plans as provided in the Subdivision Control Act of 1967, as amended.

(2) As a condition of final approval of the preliminary plat, the subdivider shall be required to sign a written commitment for the mandatory installation of street lights in residential subdivisions per section 16-39(j).

(c) The subdivider shall submit proof of ownership of the land included in the final plat in the form of a title insurance policy which is currently in force.

(d) The subdivider shall submit a closure statement, prepared by a surveyor, attesting to the accuracy of the subdivision survey.

(e) All bonds, deposits, fees and other financial or legal documents required by law, this or other township ordinances, or other applicable governmental regulations shall have been submitted at or prior to filing for final plat.

(f) The township may require other information as it deems necessary to establish whether the proper parties have signed the plat.

(g) At the time of filing the final plat the proprietor shall submit certifications from the proprietor, land surveyor, county treasurer, county drain commissioner, and county road commission.
(Ord. No. 94-3, § 1, 4-4-94; Ord. No. 00-05, 12-18-00)

**Sec. 16-16. Reserved.**

**Sec. 16-17. Final plats; review procedures.**

(a) *Review by appropriate authorities:*

(1) Township engineer and planning director: The township engineer and planning director shall review the final plat and make a recommendation to the township board.

(2) Township board:

a. The township board shall make a final decision regarding the final plat within 20 days of the filing with the clerk.

b. The township board shall approve or deny the final plat.

c. If denied, the township board shall give the subdivider its reasons in writing and, if applicable, rebate the recording fee.

d. If approved, the township board shall instruct the clerk to sign the municipal certificate. The clerk shall be responsible for forwarding the approved documents to the county plat board.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-18. Final plats; authority of the township.**

A subdivision plat shall not be received or recorded by the county register of deeds until final plat approval has been granted by the township board. No public board, agency, commission, official, or other authority shall proceed with the construction of or authorize the construction of any public improvement required by this ordinance unless such public improvement(s) shall comply with the requirements of this ordinance.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-19. Improvements and facilities required by the township.**

(a) If the public water and sanitary sewer facilities are not completed and tested prior to the township board's approval of the final plat, a contract between the subdivider and the township board shall be provided for completion of the public water and sanitary sewer facilities.

(b) Performance of the contract shall be guaranteed by a cash deposit, certified check, or irrevocable bank letter of credit, as detailed in section 16-40.

(Ord. No. 94-3, § 1, 4-4-94)

## ARTICLE III.

## TRAFFIC IMPACT STUDIES

### Sec. 16-20. Intent.

Delta Township recognizes the direct correlation between land development and traffic operations. The intent of this chapter is to permit accurate evaluation of expected impacts of proposed subdivisions in order to assist in decision-making. This chapter is further intended to help achieve the following objectives:

(1) Provide a standard set of analytic tools and a format for preparing traffic impact studies.

(2) Allow the township to assess the effects that a proposed subdivision may have on the community by outlining information needed and evaluation procedures to be used.

(3) Help ensure safe and reasonable traffic-operating conditions on streets and intersections after development of the proposed subdivision.

(4) Reduce the negative traffic impacts created by individual subdivisions by helping to ensure that the transportation system can safely and efficiently accommodate the projected traffic increases.

(5) Realize a comprehensive approach to the overall impacts of the development of various subdivisions along a corridor or within part of the township rather than a piecemeal approach.

(6) Provide direction to township decision-makers, transportation agencies, and developers of the expected impacts of a subdivision.

(7) Alert the township, transportation agencies and developers of improvements or modifications needed to the roadway, access, or site design.

(8) Protect the substantial public investment in the existing street system.

(Ord. No. 94-3, § 1, 4-4-94)

### Sec. 16-21. Applicability.

(a) A traffic impact study shall be required and shall be submitted by an applicant for a proposed subdivision which could generate at least 100 directional trips during the peak hour of the traffic generator, or the peak hour on the adjacent streets, or over 1,000 trips in an average day.

(b) Forecasted trip generation shall be based upon equations/rates outlined in the most recent edition of the Institute of Transportation Engineer's (ITE) Trip Generation Manual or other authoritative studies available.

(Ord. No. 94-3, § 1, 4-4-94)

### Sec. 16-22. Study area determination.

The planning director and the applicant shall meet to determine the study area boundaries. Other issues which shall be discussed include the availability of data, background rates to be used, horizon (design) year,

acceptable trip generation rates and reduction factors, trip distribution, as well as the need to evaluate other issues. Generally the larger the subdivision, the larger the study area will be and the more detailed the traffic study will be.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-23. Traffic impact study contents.**

(a) *Description of the site and surroundings.* Illustrations and a narrative shall describe the characteristics of the site and adjacent roadway system (functional classification, lanes, speed limits, etc.). This description shall include surrounding land uses, expected development in the vicinity which could influence future traffic conditions, special site features, and a description of any committed roadway improvements.

(b) *Description of the subdivision.* The number of lots, phasing, access points, right-of-way widths (existing and proposed), future street connections and on and off-site improvements shall be noted.

(c) *Description of existing traffic conditions:*

(1) *Traffic counts.* Existing conditions including existing daily and peak hour traffic volumes on adjacent street(s) and intersections in the vicinity which are expected to be impacted shall be noted. Traffic count data shall not be over two years old, except the planning director may permit 24-hour counts up to three years old to be increased by a factor supported by documentation that traffic has increased at a rate of no more than two percent in the past 3-5 years. Traffic counts shall be taken Monday through Friday on non-holiday weeks under normal driving conditions. Additional counts (i.e. on a Saturday for a proposed commercial development) may also be required in some cases. The individual preparing the impact study shall obtain the traffic counts during average or higher than average volume conditions for the area under study.

(2) Roadway characteristics shall be described and illustrated, as appropriate. Features to be addressed include lane configurations, geometrics, signal timing, traffic control devices, posted speed limits, average running speeds, gaps in the traffic flow, and any sight distance limitations. Existing levels of service shall be calculated for intersections included within the study area.

(3) Existing driveways and turning movement conflicts shall be illustrated and described.

(4) Traffic accident data covering the most recent three years for intersections analyzed in the impact study may be required, particularly for sites along corridors identified as critical or congested corridors. The planning director shall be responsible for obtaining traffic accident data if it is required.

(d) *Trip generation.* The impact study shall include forecasted trip generation of the proposed subdivision for the a.m. and p.m. peak hours and the average daily traffic generated. The forecasts shall be based on the data and procedures outlined in the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers (ITE) or other authoritative studies available.

(e) *Trip distribution.* The projected traffic generated shall be distributed (inbound v. outbound, left turn v. right turn) onto the existing street network to project turning movements at site access points and nearby

intersections where required. Projected turning movements shall be illustrated in the report. A description of the application of standard engineering procedures for determining the distribution shall also be attached (gravity model, market studies, counts at existing driveways, etc.) For projects of regional significance, a network model projection may be required.

(f) *Impact analysis:*

(1) For any subdivision with a completion date beyond one year at the time of the traffic study, the analysis shall also include a scenario analyzing forecasted traffic at the date of completion along the adjacent street network using a forecast based on a network model (if available), historic annual percentage increases, and/or on expected development in the area. Traffic impact assessments shall acknowledge the traffic impacts of other uses approved, but not yet constructed, which may affect traffic operations for the subject site as determined by the planning director.

(2) The impact study shall include a capacity analysis (level of service) at the proposed access points using the procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board. Before and after capacity analyses shall also be performed at all street intersections where the expected traffic generated at the site will comprise at least five percent of the existing intersection capacity, and/or for roadway sections and intersections experiencing congestion or a relatively high accident rate, as determined by the applicable road agency.

(3) The impact study shall include gap studies for unsignalized intersections.

(4) The township may require that the impact on the street network be evaluated for a project of regional significance if a network model is available.

(g) *Access design/access management standards.* The impact study shall include a map and description of the location and design of proposed access, including any sight distance limitations, dimensions from adjacent driveways and intersections within 350 feet on either side of the main roadway, other data to demonstrate that the design and number of access points proposed will provide safe and efficient traffic operation and be in accordance with the standards of this ordinance and the standards of the applicable road agency.

(h) *Other study items:*

(1) The traffic impact study shall describe the need for, or provision of, any additional right-of-way where required.

(2) The study shall note changes which should be considered to the subdivision layout.

(3) The study shall include a description of any non-motorized facilities.

(4) If a median crossover is desired, separate analysis shall be provided.

(5) If a traffic signal is being requested, the relationship of anticipated traffic to traffic signal warrants in the Michigan Manual of Uniform Traffic Control Devices shall be reviewed. Analysis shall also be provided on the impacts to traffic progression along the roadway through coordinated timing, etc.

(i) *Mitigation/alternatives.* The study shall outline mitigation measures and demonstrate any changes to the level of service achieved by these measures. Any alternatives or suggested phasing of improvements shall be described. The mitigation measures may include items such as roadway widening, need for bypass lanes or deceleration tapers/lanes, changes to signalization, use of access management techniques or a reduction in the proposed number of lots. Any mitigation measure shall include correspondence from the applicable road agency. The responsibility for and timing of roadway improvements shall be described.

(j) *Preparer's qualifications.* A required traffic impact study shall be prepared under the direction of a traffic/transportation engineer registered in Michigan (PE) with a history of completing impact studies and other traffic engineering analyses. The preparer's resume shall accompany the study.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-24. Submittal.**

The following procedure shall be followed in submitting a traffic impact study:

(1) The applicant shall submit the traffic impact study to the township's planning department at the time the preliminary plat for tentative approval is submitted to the clerk.

(2) The township shall distribute the traffic impact study to the appropriate road agencies. A copy shall also be submitted to the Tri-County Regional Planning Commission for projects of regional significance.

(3) The road agencies shall provide the township with comments prior to any action on the subdivision request. The township planning department shall review and comment on the traffic impact study and prepare a report for the planning commission and/or township board.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-25. Appeals.**

Appeals for a waiver (variance) from the requirement of a traffic impact study shall be made to the township board in accordance with the procedures contained in Chapter 7, Variances. Factors which the township board shall consider when reviewing a variance request include:

(1) Are roadway improvements scheduled which are expected to mitigate any impacts associated with the proposed subdivision?

(2) Is the existing level of service along the roadway not expected to drop to level C due to the proposed subdivision?

(3) Is the existing level of service not expected to be significantly impacted by the proposed

subdivision due to specific conditions at the subject location?

(4) Has a similar traffic study been previously prepared for the site and is it still considered applicable?

(Ord. No. 94-3, § 1, 4-4-94)

## ARTICLE IV.

## SUBDIVISION DESIGN STANDARDS

### Sec. 16-26. Streets and roads; design standards.

Subdivision design standards set forth by the Eaton County Road Commission and the Michigan Department of Transportation's Uniform Criteria for major streets, as from time to time amended, shall be followed in addition to the other standards specified in this ordinance. If there is a conflict between standards, the more stringent shall apply.

(Ord. No. 94-3, § 1, 4-4-94)

### Sec. 16-27. Streets and roads; general requirements.

(a) *Location.* Subdivision streets shall be required to conform to the recommendations of the comprehensive plan, as amended.

(b) *Local or minor streets.* Such streets shall be so arranged as to discourage their use by through traffic while permitting adequate access for emergency services.

(c) *Street continuation and extension.* The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions, unless otherwise approved by the township board and the county road commission.

(d) *Stub streets.* Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.

(e) *Frontage roads and service drives.* Where a subdivision abuts or contains an arterial street, the township may require frontage roads and service drives to be installed or such other treatment as is deemed necessary for the adequate protection of residential properties and to afford separation of through and local traffic.

(f) *Reserve strips.* Privately held reserve strips controlling access to streets shall be prohibited. Subdivision plats which result in the creation of small parcels of land of negligible economic or aesthetic value, in which the predominant function of such parcels is to unreasonably deny access to public roads, utilities, or services from adjacent land, shall be prohibited.

(g) *Access.* Safe, suitable and adequate access shall be provided to subdivisions. The following factors shall be considered when determining whether safe and adequate access exists:

(1) Trip generation. Generally subdivisions generating more than 500 trips per day shall be required to provide a second access point. Trip generation estimates shall be based upon equations/rates provided in the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

(2) Topography and natural features surrounding the subject parcel shall be considered.

(3) The provision of outlots, stub streets, etc. which may facilitate future access.

(4) The likelihood of adjacent properties being developed in the near future such that they could be connected to the subject parcel.

(5) Proximity to emergency services.

(6) The adequacy of the proposed street intersection in terms of sight distances, spacing, slope, etc.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-28. Streets and roads; specifications.**

(a) *Street rights-of-way and roadway widths.* Street and road right-of-way and roadway widths shall conform to recommendations contained in the comprehensive plan and the rules of the county road commission and Michigan Department of Transportation.

(b) *Street names.* Street names shall be approved by the Tri-County Regional Planning Commission.

(c) *Reservation of rights-of-way.* Easements/rights-of-way for planned street widenings/improvements and new streets recommended in the comprehensive plan may be required by the township board.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-29. Easements.**

(a) *Location.* Easements shall be provided along front, side and/or rear lot lines for utilities as required by public agencies and/or public utilities. If required, the total width shall not be less than six feet along each lot, or a total of 12 feet for adjoining lots, or ten feet if off the front lot line. Requirements for the proposed layout of utilities shall be sought from the appropriate utility companies by the subdivider.

(b) *Storm drains.* The subdivider shall provide drainage easements as required by the county drain commissioner and township for surface and/or subsurface drainage.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-30. Blocks.**

(a) *Arrangements.* A block shall generally be so designed as to provide two tiers of lots, except where lots back onto an arterial street, natural feature or subdivision boundary.

(b) *Maximum length.* The maximum length allowed for residential blocks shall generally be 1,320 feet long from center of street to center of street, except where the township board determines that physical conditions justify a greater distance.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-31. Lots.**

(a) *Conformance to zoning* The lot width, depth, and area shall not be less than the particular district requirements of the zoning ordinance, except in the case of a planned unit development or where outlots are provided for some permitted purpose.

(b) *Lot lines.* Side lot lines shall be essentially at right angles to tangent street sections and radial to curved streets.

(c) *Lot width to depth ratio.* Narrow, deep lots shall be avoided. The depth of a lot generally shall not exceed three times the width as measured at the front building line.

(d) *Corner lots.* Corner lots shall be platted in conformance with at least the minimum zoning ordinance requirements.

(e) *Lot frontage.* All lots shall front upon a publicly dedicated street. Variances may be permitted for approved planned unit developments.

(f) *Lots abutting arterial and collector streets.* Residential lots abutting arterial or collector streets where frontage streets are not possible or desirable, shall be platted with reverse frontage lots, or with side lot lines parallel to the arterial/collector street.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-32. Floodplain.**

Any areas within the proposed subdivision which lie within the 100-year floodplain shall be subject to review by the Michigan Department of Natural Resources. Filling or altering the floodplain is subject to a review and approval by the department.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-33. Preservation of natural features.**

The subdivider shall preserve existing natural features such as trees, watercourses, historic spots, and similar irreplaceable assets, insofar as reasonably possible, in the design of the subdivision.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-34. Soil erosion and sedimentation controls.**

Soil erosion and sedimentation controls shall be as adopted and administered by the drain commissioner.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-35. Planned unit developments.**

A subdivision within a planned unit development shall be platted as per the provisions of this ordinance. (Ord. No. 94-3, § 1, 4-4-94)

## ARTICLE V.

## SUBDIVISION IMPROVEMENTS

**Sec. 16-36. Purpose.**

It is the purpose of this article to define the public improvements which will be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning, design, construction, and financing of public facilities, and to further establish procedures for assuring compliance with these requirements.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-37. Responsibility for plans.**

It shall be the responsibility of the subdivider to have prepared by a registered engineer, a complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data, for the hereinafter required public streets, utilities, and other facilities. Such construction plans shall be based on preliminary plans which have been approved with the preliminary plat, and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible agencies. All construction plans shall be prepared in accordance with the standards or specifications of the responsible agencies.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-38. Submittal of plans.**

When construction has been completed at the time of filing the final plat, one complete copy of as-built engineering plans shall be filed with the township engineer coincident with the filing of the final plat. Other requirements and procedures in the submittal of final plats shall be as provided in sections 16-16 through 16-19.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-39. Required public improvements.**

(a) *Lot irons and monuments.* Monuments shall be set in accordance with the Subdivision Control Act, Act No. 288 of the P.A. of 1967, as amended.

(b) *Streets.* All streets shall be constructed in accordance with the standards and specifications adopted by the county road commission and/or the Michigan Department of Transportation, as applicable.

(c) *Off-site street improvements.* A subdivider may be required by the township board to install off-site road improvements such as acceleration/deceleration tapers and lanes, a center turn lane and a by-pass lane.

Such improvements shall be installed as per the requirements of the Eaton County Subdivision Regulations and/or the County engineer.

(d) *Installation of public utilities.* Public utilities shall be located in accordance with the rules of the county road commission and as provided herein. If necessary to protect public safety and/or welfare, the township engineer may require that the underground work be required to extend to each lot to a distance within said lot of at least ten feet from the interior edge of the road right-of-way or front yard utility easement. See section 16-29 regarding utility easement widths and locations.

(e) *Driveways.* All driveway openings in curbs shall be as specified by the county road commission or the Michigan Department of Transportation.

(f) *Storm drainage:*

(1) *General.* An adequate storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts, bridges, detention/retention facilities and other appurtenances, shall be required in all subdivisions. The requirements for each particular subdivision shall be established by the drain commissioner.

(2) *Construction standards.* Construction shall follow the specifications and procedures established by the drain commissioner, in the adopted supplemental design standards and procedures for plat development, as amended. All proposed storm drainage construction plans for proposed plats shall be approved by the drain commissioner.

(3) *Drainage outlets.* A storm drainage outlet shall be provided by the subdivider to serve each lot zoned residential and intended to be used for single-family detached dwellings. The Delta Township Drain Ordinance provides specific regulations pertaining to the installation of storm drainage outlets.

(g) *Water supply system.*

(1) *Connection requirement.* Subdivisions shall be connected to a public water system.

(2) *Appurtenances and state approval.* Fire hydrants, valves, and other required water system appurtenances shall be provided by the subdivider. Connections and/or extensions to the township water supply system shall comply with the requirements of the township and the state department of public health.

(3) *Extension to subdivision boundary.* When a public water supply system is installed to serve a proposed subdivision, it shall be extended to the exterior boundary of said subdivision, as determined by the township engineer.

(h) *Sanitary sewer system.*

(1) *Connection requirement.* Subdivisions shall be connected to a public sanitary sewer system. "Available public sanitary sewer system" means a public sanitary sewer system located in a

right-of-way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property and passing not more than 500 feet at the nearest point from the boundary of the subdivision.

(2) *Appurtenances and state approval.* Sanitary sewers, manholes and required appurtenances thereto shall be provided by the subdivider. Sewer systems shall comply with the requirements of the township and the state department of environmental quality.

(3) *Extension to subdivision boundary.* When a public sanitary sewer system is installed to serve a proposed subdivision, it shall be extended to the exterior boundary of said subdivision, as determined by the township engineer.

(i) *Sidewalks and pedestrian walkways:*

(1) Sidewalks shall be required as per the Delta Township Sidewalk Ordinance, as amended, which provides specific regulations pertaining to the installation of sidewalks.

(2) Pedestrian walkways, outside of a public road right-of-way, when required by the township board, shall have corresponding easements at least ten feet in width. The township board shall determine if an improved walking surface shall be installed within the easement.

(j) *Street lighting.* The subdivider shall petition the township board for the installation of street lights in residential subdivisions as a condition of final approval of the preliminary plat. Where the average width of lots, as measured at the front property line, is over 150 ft., the township board may waive the street lighting requirement. The street lighting process shall be as follows:

(1) The clerk shall request that a street lighting plan and cost estimate be prepared for the proposed street lighting system by the applicable utility company.

(2) The township assessing department, acting on behalf of the township supervisor, shall estimate the cost per benefit (lot/unit) for the proposed street light system.

(3) The township board shall hold a public hearing for the proposed special assessment district.

(4) Following the public hearing, the board shall finalize the boundaries of the special assessment district and confirm the special assessment roll.

(5) The clerk shall notify the utility company to proceed with the installation of the street lights.

(k) *Underground utilities.* Electricity, telephone and other communication systems shall be placed underground as much as reasonably possible.
(Ord. No. 94-3, § 1, 4-4-94; Ord. No. 00-05, 12-18-00)

**Sec. 16-40. Guarantee of completion of township required improvements.**

(a) *Financial guarantee arrangements.* In lieu of the actual installation of required public

improvements, the township board may permit the subdivider to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of the county road commission, drain commissioner or any other agency responsible for the administration, operation and maintenance of the applicable public improvement.

(b) *Sureties:*

(1) A cash deposit, certified check, surety bond, an irrevocable bank letter of credit, or such surety acceptable by the township board, shall accrue to the township. These deposits shall be made with the township treasurer, or deposited with a responsible escrow agent, or trust company, subject to the approval of the township board.

(2) The dollar value of the cash deposit, certified check, surety bond, or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the engineer and determined by the township board.

(3) The escrow time for the cash deposit, certified check, surety bond, or irrevocable bank letter of credit, shall be for a period to be specified by the township board.

(4) In the case of cash deposits or certified check, an agreement between the township and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.

(c) *Township approval of final plat; financial guarantees.* With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:

(1) The construction of improvements required by this ordinance shall have been completed by the subdivider and approved by the township board.

(2) Surety acceptable to the township shall have been filed in the form of a cash deposit, certified check, irrevocable letter of credit or surety bond.

(d) *Special agreements.* A special agreement(s) may be entered into between the subdivider and the township board as needed for appropriate items.

(e) *Inspection of public improvements under construction.* Before approving a final plat and construction plans and specifications for public improvements, an agreement between the subdivider and the township board shall be made to provide for inspecting the construction and its conformity to the submitted plans. The subdivider shall be responsible for payment of all inspection fees as established by the township board.

(f) *Penalty for failure to complete a public improvement.* In the event the subdivider shall fail to complete such work within such period of time as required by the conditions of the guarantee for

the completion of public improvements, it shall be the responsibility of the township board to proceed to have such work completed. In order to accomplish this, the township board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check or irrevocable bank letter of credit which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, as included in a written agreement between the township board and the subdivider.

(Ord. No. 94-3, § 1, 4-4-94)

## ARTICLE VI.

## LOT DIVISIONS

### Sec. 16-41. Purpose.

It is the purpose of this article to provide standards pertaining to the division of platted lots within existing subdivisions.

(Ord. No. 94-3, § 1, 4-4-94)

### Sec. 16-42. Divisions.

(a) Land may be detached from a lot or outlot and added to another lot, outlot or parcel following approval by the township board.

(b) A lot or outlot may be divided into two, three or four but not more than four separate parts following approval by the township board.

(Ord. No. 94-3, § 1, 4-4-94)

### Sec. 16-43. Ownership.

The applicant shall submit a signed statement that he/she is the owner of the subject parcel or officially acting on the owner's behalf. If there are any liens or options on the property these shall be indicated on the aforementioned statement. If the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) then the name and address of the owner(s) of record must be indicated and their signature(s) attached.

(Ord. No. 94-3, § 1, 4-4-94)

### Sec. 16-44. Ordinance compliance.

Land to be detached or divided must meet the requirements of this ordinance, the zoning ordinance and all other applicable ordinances.

(Ord. No. 94-3, § 1, 4-4-94)

### Sec. 16-45. Procedure.

(a) *Submittal.* The applicant shall submit a land division application, the appropriate fee, and an

illustration of the requested division to the clerk.

(b) *Notification* Upon receipt of an application for a lot division, the clerk shall send one notice of the pending division by mail to all persons to whom real property is assessed within 300 feet of the boundary of the property in question. The notice shall be given not less than five nor more than 15 days before the date the division will be considered by the township board.

(c) *Preparation of report.* The planning director shall prepare a report to the township board regarding the lot division request. At a minimum the report should address the following:

(1) The location of existing utility lines and easements shall be identified to insure that they do not interfere with proposed building sites.

(2) The location of existing buildings shall be confirmed in order to confirm that said buildings do not straddle a lot line and that said buildings comply with minimum setback requirements following the proposed division.

(3) Provision of public water and sanitary sewer service.

(4) Lot divisions which result in a house being constructed behind another house shall be discouraged.

(d) *Apportionment of utility costs, assessments, and taxes.* Where utility costs, assessments, and/or taxes have been made on a per lot basis, the planning director shall determine what additional fees may be due. Said fees must be paid before any building permits or certificates of zoning compliance are issued for the resulting lots.

(e) *Recordation.* Properties created via a land division shall not be added to the Delta Township assessment records until the divisions have been recorded at the Eaton County Register of Deeds Office. (Ord. No. 94-3, § 1, 4-4-94)

## ARTICLE VII.

## VARIANCES

### Sec. 16-46. Jurisdiction.

Subject to the provisions of this chapter, the township board shall have the jurisdiction to grant or deny variances as hereafter provided:

(1) Where it is alleged by the appellant that there is an error in any order, requirement, permit interpretation, decision, or refusal made by the planning director or any other township official or agency in enforcing the provisions of this ordinance. The board may reverse or affirm, wholly or in part, or may modify the order, requirement, permit, interpretation, decision or refusal as in its opinion ought to be done, and to that end shall have all the powers of the administrative official from whom the appeal was taken.

(2) Where by reason of the shape, topographical condition or other extraordinary situation or condition of the land, or the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this ordinance would involve practical difficulties or would cause undue hardships.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-47. Procedures.**

(a) The concurring vote of a majority of the members of the township board shall be necessary to revise any order, requirements, decision or interpretation of the planning director, or any other township official or agency, or to decide in favor of an applicant on any matter upon which they are required to pass, or to effect any variation of this ordinance.

(b) Consideration of a variance request by the township board shall be conducted concurrently with the review of the subdivision plat by the township board.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-48. Application.**

(a) Requests for a variance shall be made by filing an application with the planning director on a form provided for that purpose.

(b) A fee, the amount of which shall be set by the township board from time to time, shall be paid at the time the variance application is filed.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-49. Criteria.**

No variance from the provisions or requirements of this ordinance shall be authorized by the township board unless the board finds all of the following, based upon competent material and substantial evidence on the record:

(1) That special conditions or circumstances exist affecting the subject parcel which are peculiar to the subject parcel and that the strict application of the provisions of this ordinance would clearly be impracticable or unreasonable;

(2) That the special conditions or circumstances do not result from the actions of the applicant;

(3) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subject parcel is located;

(4) That such variance will not violate the provisions of the Subdivision Control Act, being P.A. 288 of 1967, as amended;

(5) That such variance shall not have the effect of nullifying or be contrary to the spirit and purpose

of this ordinance and the township comprehensive plan.

(6) That such variance is the minimum variance that will permit the reasonable use of the land. To this end, the board may authorize a lesser variance than that requested by the applicant.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-50. Conditions.**

When granting a variance, the board may prescribe reasonable conditions and safeguards necessary to meet the spirit and intent of this ordinance. Violations 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 ordinance.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-51. Recordation of findings.**

The board shall record into the record all relevant findings, conditions, facts and other relevant factors, including the vote of each member and all of its official actions.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-52. Voiding and reapplication.**

(a) A variance granted under the provisions of this ordinance shall become null and void unless the final plat of the subject subdivision shall have been approved by the board.

(b) No application for a variance which has been denied wholly or in part by the board shall be resubmitted within one year from the date of the board's action, except on grounds of new evidence or proof of changed conditions relating to the reasons for the denial of the original variance found by the board to be valid.

(Ord. No. 94-3, § 1, 4-4-94)

## ARTICLE VIII.

## ENFORCEMENT AND PENALTIES

**Sec. 16-53. Enforcement.**

The planning director shall enforce the provisions of this ordinance.

(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-54. Violation procedures.**

(a) When a violation of this ordinance is found, the subdivider, property owner and/or person maintaining the violation shall be contacted by mail or in person by the planning director. The planning director shall explain the intent of this ordinance, the nature of the violation, and the corrective action necessary to comply.

(b) When a property owner or other party who has violated this ordinance manifests by word or

action an intent not to correct the violation or to further violate this ordinance, the planning director shall proceed with formal inspection and issue a "Notice of Violation" without delay. When a property owner or other party who has violated this ordinance expresses an intent to correct the violation, the planning director shall allow a reasonable time period, not to exceed 30 days, for correction of the violation.

(c) At the end of the correction period, the planning director shall make a formal inspection of the property to determine if the noted violations have been corrected. A record of this inspection shall be made and shall contain the information necessary to establish the nature and extent of any remaining violation.

(d) If the corrective action has been taken by the property owner or other person responsible for the violation, the planning director shall indicate that the property is in compliance with this ordinance by sending a letter stating this to the property owner.

(e) Passive violations. If the noted violations remain and are evident in the record of formal inspection, the planning director shall issue a "Notice of Violation." This notice shall be delivered in person or by certified mail, return receipt requested restricted to addressee, to the property owner and/or other person responsible for the violation and shall contain the date of formal inspection, the provision of this ordinance violated, the penalties which may be imposed, and the amount of time allowed for corrective action not to exceed 15 days.

(f) At the end of this correction period, the planning director shall again make a formal inspection of the property to determine whether or not the indicated corrective actions have been taken.

(g) If the violation remains, the planning director shall present all evidence to a designated attorney for the purpose of seeking either a criminal warrant or civil action against the property owner or other person responsible for the violation.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-55. Penalties.**

Violation of any of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 or imprisoned for not more than 90 days, or both. Each day such violation continues shall be considered a separate offense. The land owner, subdivider, builder, or any other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the township board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this ordinance or of the Subdivision Control Act.
(Ord. No. 94-3, § 1, 4-4-94)

## ARTICLE IX.

## AMENDMENTS

**Sec. 16-56. Initiation of amendments.**

The township board may, from time to time, amend, supplement, or repeal the provisions of this ordinance. Amendments may be initiated by the township board, the planning commission, or by petition of one or more township residents.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-57. Application procedure.**

An amendment to this ordinance shall be initiated by submission of an application on a form supplied by the township, including an application fee, which shall be established from time to time by resolution of the township board. Fees shall not be required for amendments initiated by the township board or planning commission. The application shall be submitted to the clerk who shall forward a copy to the planning director.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-58. Public hearing.**

(a) All proposed amendments to this ordinance shall be referred to the planning commission for public hearing and recommendation to the township board, prior to consideration thereof by the township board.

(b) Upon receipt of an amendment by the planning director, a public hearing on the proposed amendment shall be scheduled before the planning commission. Notice of the hearing shall be given by two publications in a newspaper of general circulation in the township, the first to be printed not more than 30 days nor less than 20 days before the date of the hearing, and the second not more than eight days before the date of the hearing.

(c) Following the public hearing, the planning commission shall identify and evaluate all factors relevant to the amendment and shall report its findings and recommendations to the township board.
(Ord. No. 94-3, § 1, 4-4-94)

**Sec. 16-59. Final action by township board.**

Following receipt of the findings and recommendation of the planning commission, the township board shall consider the proposed amendment. The township board may modify the proposed amendment as recommended by the planning commission, prior to enactment.
(Ord. No. 94-3, § 1, 4-4-94)

# Chapter 17

# TRAFFIC AND MOTOR VEHICLES*

* **State Law References:** Michigan vehicle code, MCL 257.1 et seq.; authority for township to regulate streets and highways within its jurisdiction, MCL 257.606.


**Article I. In General**

**Sec. 17-1. Parking in fire lane; violation.**
**Secs. 17-2--17-25. Reserved.**

**Article II. Uniform Traffic Code**

**Sec. 17-26. Title.**
**Sec. 17-27. Adoption of Uniform Traffic Code by reference.**
**Sec. 17-28. Adoption of provisions of Michigan Vehicle Code by reference.**
**Sec. 17-29. Adoption of other state laws by reference.**
**Sec. 17-30. Penalties.**
**Sec. 17-31. Severability.**
**Secs. 17-32--17-45. Reserved.**

**Article III. Truck Traffic and Parking**

**Sec. 17-46. Approved truck routes.**
**Sec. 17-47. Definitions.**
**Sec. 17-48. Incidental or emergency local truck traffic.**
**Sec. 17-49. Parking.**
**Sec. 17-50. Signs.**
**Sec. 17-51. Violations.**
**Sec. 17-52. Enforcement actions.**


## ARTICLE I.

## IN GENERAL

### Sec. 17-1. Parking in fire lane; violation.

No person shall stop, stand or park any vehicle, trailer or other object, whether occupied or unoccupied, or shall block in any manner, an area designated as a fire lane by ordinance, whether upon public or private property, except when necessary to avoid conflict with other traffic in compliance with law or at the direction of a police officer or fire department personnel.

(1) Each violation of this section shall be punishable as a civil infraction, subject to a civil fine in the amount of $25.00 if paid within ten days of issuance, or $50.00 if paid after ten days of issuance.

(2) Sheriff departmental personnel and fire department personnel shall be authorized to issue and serve citations with respect to violations of this section.

(3) In addition to such penalty as herein provided, any sheriff or fire department personnel may have any vehicle, trailer or other object, left illegally unattended in an area designated as a fire lane by

ordinance in violation of this section removed therefrom at the owner's expense without liability to the sheriff department, fire department, sheriff department or fire department personnel, or township. Such vehicle, trailer or other object may be held until the civil fine, towing and storage charges have been paid in full.

(4) If any fines and or costs associated with this section are not paid, the civil infraction citation may be filed with the district court in accordance with subsection 2-188(g) of this Code.

(5) The civil fine associated with this section shall be set from time to time by the township board by resolution.

(Ord. No. 03-02, § 1, 2-3-03)

**Cross References:** Fire prevention and protection, Ch. 7.

**Secs. 17-2--17-25. Reserved.**

## ARTICLE II.

## UNIFORM TRAFFIC CODE*

* **Editors Note:** Ord. No. 03-04, adopted Feb. 3, 2003, repealed the former Art. II, §§ 17-26--17-29, and enacted new provisions intended for use as §§ 17-31--17-36. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 17-26--17-31. The former Art. II pertained to similar subject matter and derived from Ord. No. 232, §§ 1--6, adopted June 17, 1974; Ord. No. 275, §§ 1--3, and 6, adopted Oct. 19, 1981; and Ord. No. 275.2, § A, adopted Nov. 21, 1988.

**State Law References:** Authority to adopt the Uniform Traffic Code, MCL 257.951.

**Sec. 17-26. Title.**

This article and the provisions of the Uniform Traffic Code and state laws adopted by reference herein shall be collectively known and may be cited as the "Delta Charter Township Traffic Code Ordinance."
(Ord. No. 03-04, 2-3-03)

**Sec. 17-27. Adoption of Uniform Traffic Code by reference.**

The Uniform Traffic Code for cities, townships, and villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 P.A. 306, as amended (MCL 24.201 et seq.) and made effective October 30, 2002 is hereby adopted by reference. All references in said Uniform Traffic Code to a "governmental unit" shall mean the Charter Township of Delta.

**Sec. 17-28. Adoption of provisions of Michigan Vehicle Code by reference.**

The following provisions of the Michigan Vehicle Code, 1949 P.A. 300, as amended (MCL 257.1 et seq.) are hereby adopted by reference:

(1) Chapter I (Words and Phrases Defined): MCL 257.1--257.82.

(2) Chapter II (Administration, Registration): MCL 257.223--257.225, 257.228, 257.243, 257.244,

257.251, 257.252, 257.255--257.257.

(3) Chapter III (Operator's and Chauffeur's License): MCL 257.301, 257.310, 257.311, 257.312, 257.324--257.326, 257.328.

(4) Chapter VI (Obedience to and Effect of Traffic Laws): MCL 257.601-257.603, 257.606, 257.608-257.616, 257.617a-257.627, 257.629, 257.631, 257.632, 257.634-257.645, 257.647-247.656, 257.657-257.662, 257.667-257.675, 257.676-257.682, 257.683-257.710e, 257.716-257.724, 257.726, 257.727b, 257.727c, 257.728, 257.741, 257.742(1)(3)(6), 257.743-257.750.

(5) Chapter VIII (License Offenses): MCL 257.901a, 257.902, 257.904, 257.904a, 257.904e, 257.941, 257.942.

(Ord. No. 03-04, 2-3-03)

**Sec. 17-29. Adoption of other state laws by reference.**

The following provisions of state law are hereby adopted by reference:

Section 3102 of the Michigan Insurance Code of 1956, 1956 P.A. 218, as amended, pertaining to required insurance (MCL 500.3102).

(Ord. No. 03-04, 2-3-03)

**Sec. 17-30. Penalties.**

The penalties provided by the Uniform Traffic Code and the provisions of the state laws hereinabove adopted by reference are hereby adopted as the penalties for violations of the corresponding provisions of this article except where a civil fine is specified within a township fee schedule, or where a civil fine is specified within a township ordinance, in accordance with state law.

(Ord. No. 03-04, 2-3-03)

**Sec. 17-31. Severability.**

If a court of competent jurisdiction declares any provision of this article or the Uniform Traffic Code or a statutory provision adopted herein to be unenforceable, in whole or in part, such declaration shall only affect the provision held to be unenforceable and shall not affect any other part or provision; provided that if a court of competent jurisdiction declares a penalty provision to exceed the authority of the township, the penalty shall be construed as the maximum penalty that is determined by the court to be within the authority of the township to impose.

(Ord. No. 03-04, 2-3-03)

**Secs. 17-32--17-45. Reserved.**

## ARTICLE III.

## TRUCK TRAFFIC AND PARKING

**Sec. 17-46. Approved truck routes.**

No person, individual, firm, partnership, or corporation shall operate or drive a truck upon a street within the corporate limits of the Charter Township of Delta, except on the following streets:

(1) Interstate 96

(2) Interstate 69

(3) Interstate 496

(4) M-43

(5) Canal Rd. from Mt. Hope Hwy. south to Davis Hwy.

(6) Creyts Rd. from I-496 interchange south to Lansing Rd.

(7) Sanders Rd. from Pierson Hwy. south to Millett Hwy.

(8) Snow Rd. from Mt. Hope south to Pierson Hwy.

(9) Lansing Rd.

(10) Mt. Hope Hwy. from Lansing Rd. west to I-96/I-69 bridge

(11) Pierson Hwy. from Snow Rd. west to Sanders Rd.

(12) Millett Hwy. from Lansing Rd. to Sanders Rd.; and from Creyts Rd. west to Nixon Rd.

(13) Davis Hwy. from Lansing Rd. west to CN Railroad Tracks; and from Canal Rd. west to Guinea Rd.

(14) Rickle Street

(15) Ena Dr.

(16) Lanac St.

(17) North Port Dr.

(18) Central Circle

(19) Sloan Hwy.

(20) Westland Way

(21) Empire Way
(Ord. No. 01-02, § 1, 5-7-01)

**Sec. 17-47. Definitions.**

[For the purposes of this article, the following words and phrases shall have the meanings hereinafter defined:]

*Local truck traffic* shall mean trucks operated to transport products, good, commodities, or raw materials either from within Delta Charter Township to another place within or outside the township, or from outside the township to a place within the township. Incidental or emergency local truck traffic, as defined in section 17-48 below, shall be permitted.

*Truck* shall mean any commercial motor vehicle, common carrier, delivery truck, dump truck, double bottom truck, pole trailer, semi-trailer, tank vehicle, truck tractor, wrecker, or any other vehicle designed, used or maintained primarily for the transportation of property including, but not limited to raw materials, products, commodities or other commercial items.
(Ord. No. 01-02, § 2, 5-7-01)
**Cross References:** Definitions and rules of construction, § 1-2.

**Sec. 17-48. Incidental or emergency local truck traffic.**

No provision of this article shall restrict the emergency use of nor the casual or incidental commercial truck pickup or delivery to any individual, residence or business upon the streets within the corporate limits of the Charter Township of Delta. Use of "approved truck routes" for such casual or incidental pick up or delivery is mandatory only if such delivery or pickup can be made without operation on streets other than said established truck routes. All trucks within the township shall return to the nearest " approved truck route" by the most direct route when finished delivering or picking up goods on non-designated routes. This includes trucks having additional destinations within the township. Short cuts on non-truck routes are expressly prohibited.
(Ord. No. 01-02, § 3, 5-7-01)

**Sec. 17-49. Parking.**

No person, individual, firm, partnership, or corporation shall park a truck as hereinabove defined, upon private property or upon public streets within the corporate limits of the Charter Township of Delta; except that trucks, as hereinabove described, shall be allowed to be parked upon private property which is zoned commercial or industrial so long as access to said property is entirely on designated truck routes and so long as the trucks do not physically or visually block or interfere with entry to or exit from public or private streets, roadways, alleys, and driveways.
(Ord. No. 01-02, § 4, 5-7-01)

**Sec. 17-50. Signs.**

The Road Commissioner of the Eaton County Road Commission shall erect signs at all entrances to the Charter Township of Delta giving notice of the restrictions on truck traffic and shall erect signs on the appropriate streets, designating them as truck routes.
(Ord. No. 01-02, § 5, 5-7-01)

**Sec. 17-51. Violations.**

Violation of this article is a civil infraction which shall be punished by a fine for the first offence not to exceed $100.00, plus other costs, damages, or sanctions which the court in its discretion may impose.

(1) Increased civil fines may be imposed for repeat violations by a person of any requirement or provision of this article. As used in this section, repeat offenses means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any one-year period (unless some other period is specifically provided by this article) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this article for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

a. The fine for any offense, which is a first, repeat offense shall be no less than $250.00, plus costs.

b. The fine for any offense, which is a second, repeat offense or any subsequent repeat offense shall be no less than $500.00, plus costs per offense.

(2) Failure to answer a citation or notice to appear in court for a municipal civil infraction is a misdemeanor violation punishable by a fine of not more than $500.00, plus other costs, or by imprisonment for term not to exceed 90 days, or both fine and imprisonment.

(3) Failure to comply with an order, judgment, or default in payment of a civil fine, costs, damage, or expenses so ordered may result in enforcement actions, including but not limited to imprisonment, collections, placement of liens or other remedies as permitted in Chapter 87 of Act 236 of Public Acts of 1961 as amended.

(4) A municipal civil infraction is not lesser included offense of a criminal offense or an ordinance violation that is not a civil infraction.

(5) Impounding of motor vehicles: Motor vehicles which have failed to answer six or more parking violation notices or citations under this article may be immobilized or impounded by the township.

(6) Continuing offenses: Each day on which a violation of this article continues, constitutes a separate or repeat offense and shall be subject to penalties or sanctions as a separate or repeat offense.

(Ord. No. 01-02, § 6, 5-7-01)

**Sec. 17-52. Enforcement actions.**

This article shall be enforced by the person or persons designated by the Charter Township of Delta Board of Trustees. A municipal civil infraction action may be commenced upon the issuance of a municipal civil infractions citation directing the alleged violator to appear in court.

(Ord. No. 01-02, § 7, 5-7-01)

# Chapter 18

# UTILITIES*

* **State Law References:** Authority to provide for water and sewer systems, MCL 41.411.


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## ARTICLE I.

## IN GENERAL

### Sec. 18-1. Use of hydrants.

It shall be unlawful for any person, other than authorized township personnel, to draw or take water from any public hydrant, except for emergency fire use, without notifying and obtaining permission from the water department.
(Ord. No. 101, 9-16-63; Ord. No. 102, 9-16-63)

### Sec. 18-2. 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:

*Assessable costs* means the reasonable costs incurred by Delta Charter Township, or by a private person, corporation, or other assisting government agency, operating at the request or direction of the township, in connection with an incident involving a below ground, collapsed trench, structural collapse, confined space, high angle or other complex rescue situation or a terrorist act as defined in this ordinance. The term "assessable costs" includes, but is not limited to:

(1) The costs of providing police, fire, rescue, and emergency medical services at the scene of such

an incident.

(2) All salaries, wages, and compensation of responding, supervising, investigating, reporting, and testifying township personnel for services rendered in connection with such an incident, its investigation or any prosecution brought in connection with same.

(3) All salaries, wages, and compensation of responding, supervising, investigating, reporting, and testifying personnel of any assisting government agencies acting at the request or direction of the township for services rendered in connection with such an incident, its investigation or any prosecution brought in connection with same.

(4) All costs, expenses, and fees, including actual expert witness and attorney fees, incurred in connection with the prosecution of the responsible party.

(5) The replacement cost of all equipment, materials and supplies lost or rendered beyond reuse or repair as a result of such an incident.

(6) All rental or leasing costs incurred for equipment used in connection with such an incident.

*Responsible party* means any person, firm, corporation, association, partnership, commercial entity, consortium, joint venture, or other legal entity whose actions or inactions cause, in whole or in part, an incident involving a below ground, collapsed trench, structural collapse, confined space, high angle or other complex rescue situation or terrorist act as defined in this ordinance.

*Terrorist act* means conduct utilizing terror, intimidation, violence or the threat of violence to commit or aid in the commission of an unlawful act including, but not limited to, hijacking, assassination, and the use of explosives, biological or chemical agents to endanger persons or property.
(Ord. No. 03-14, 3-1-04)

**Sec. 18-3. Findings and purpose.**

Delta Charter Township finds that a significant and continuous potential exists for incidents involving a below ground, collapsed trench, structural collapse, confined space, high angle or other complex rescue situation or a terrorist act that will place a substantial financial and operational burden upon police, fire fighting, rescue, and emergency medical services. The township finds that this chapter is necessary to fairly allocate the costs resulting from such incidents among those responsible for them. The township further finds that this chapter is necessary to establish a policy and set forth the methods by which it may recover costs incurred in making appropriate responses and providing services in connection with same, pursuant to State law, including Public Act 33 of 1951, being MCL 41.801 et seq.
(Ord. No. 03-14, 3-1-04)

**Sec. 18-4. Liability for assessable costs.**

(a) Delta Charter Township may recover all assessable costs relating to an incident involving a belowground, collapsed trench, structural collapse, confined space, high angle or other complex rescue situation or a terrorist act from any or all responsible parties jointly or severally.

(b) The township manager, or the manager's designee, shall determine the total assessable costs and shall, in consultation with other township personnel involved in responding to the incident for which cost recovery may be sought, determine whether to assess all or part of such costs against any responsible party. The factors considered in making such a determination include, but are not limited to, the following:

(1) The total assessable costs.

(2) The risk the incident presented to the township, its residents, and their property.

(3) Whether the incident resulted in any injury or damage to person or property, and the extent of such injury or damage.

(4) The extent to which the incident required an unusual or extraordinary use of township personnel and equipment.

(5) Whether the incident resulted in any damage to the environment and the extent of such damage.

(6) Such other factors as the township deems appropriate.

(c) Assessable costs may be allocated among and between responsible parties, including allocating all or some assessable costs jointly and severally against more than one responsible party, regardless of whether a responsible party has liability for those costs in addition to that imposed by this article.

(d) A determination not to assess costs pursuant to this article shall in no way limit, extinguish, or constitute a defense to the liability of any responsible party to any third party.
(Ord. No. 03-14, 3-1-04)

**Sec. 18-5. Billing and collection of assessable costs and late payment fees.**

(a) Upon a determination to assess costs made pursuant to this article, the township shall submit an itemized invoice, by first class mail or personal service, to each responsible party. Invoices for assessable costs will be due and payable within 30 days of the date of mailing. Thereafter a late payment fee equal to one percent per month of the unpaid balance shall be assessed, added to the total unpaid balance, and collected in the same manner as assessable costs.

(b) If a responsible party appeals an assessment of costs, and that assessment is upheld in whole or in part, the costs upheld shall be due and payable within 30 days from the date of determination of the appeal and late payment fees shall thereafter apply as provided in subsection (a) of this section.

(c) The township may proceed by action in any court of competent jurisdiction to collect any assessable costs due and owing under the provisions of this article and it shall have all remedies provided by law in connection with the collection of same.
(Ord. No. 03-14, 3-1-04)

**Sec. 18-6. Appeals of assessable costs to township manager.**

(a) Any responsible party may appeal a determination and invoice of assessable costs as provided for in this section. Within seven business days of the date of mailing the invoice, the responsible party shall deliver, or cause to be delivered, a written request to meet with the township manager or designee. This request must include the current address and telephone number of the responsible party and specify all objections to the assessment determination. Any reason, basis, or argument challenging that determination which is not set forth in the request shall be deemed waived by the responsible party.

(b) Within seven business days after receipt of a request satisfying the requirements of subsection (a) of this section, the township will notify the responsible party of the time, date, and place of a meeting at which that party's objections will be considered by the manager or designee. The responsible party's failure to attend this meeting will constitute a waiver of that party's objections to the assessment determination.

(c) The manager or designee may, at the conclusion of the meeting with the responsible party, or within a reasonable time thereafter, reduce, increase, set aside, or leave unchanged the determination of assessable costs. Written notification of the decision made by the manager or designee will be mailed to the responsible party at the address provided by the responsible party.
(Ord. No. 03-14, 3-1-04)

**Sec. 18-7. Appeal of township manager's decision to township board.**

(a) The decision of the manager or designee to reduce, increase, or leave unchanged a determination of assessable costs may be appealed to the township board if the responsible party has fully complied with section 18-6, above and files a written request for township board review with the township clerk not later than seven business days after the date of the written notification of the decision sought to be appealed.

(b) Upon receipt of a request for township board review, the township clerk will place the appeal on the agenda of a regularly scheduled Township board meeting which is at least 14 calendar days after the date the responsible party's request for township board review is received.

(c) On appeal of a determination of assessable costs to the township board the responsible party shall appear before the board in person or through a designated representative; limit objections only to those set forth in the written request as required by section 18-6; and have the burden of proving, by a preponderance of relevant facts, that the determination appealed from is erroneous in whole or in part.

(d) On appeal of a determination of assessable costs, the township board shall, within a reasonable time, reverse, affirm, or modify the determination appealed from. The decision of the township board shall be final when made.

The township clerk shall notify the responsible party in writing of the township board's decision on appeal.
(Ord. No. 03-14, 3-1-04)

**Secs. 18-8--18-25. Reserved.**

## ARTICLE II.

# WATER SYSTEM*

* **Editors Note:** The voters of Delta Charter Township authorized the township to add fluoride to the township water supply system in 1992.

## DIVISION 1.

## GENERALLY

### Sec. 18-26. Operation of public water system.

The operation, maintenance, and management of the public water supply system of the Charter Township of Delta shall be under the immediate supervision and control of the utilities department.
(Ord. No. 03-20, 3-21-05)

### Sec. 18-26.1. "Private well" defined.

A private well is defined as an opening in the surface of the earth for the purpose of removing water through mechanical or nonmechanical means for any purpose except treatment of the groundwater, under a plan approved by the Michigan Department of Environmental Quality. This exception applies only when all necessary permits for the well have been obtained.
(Ord. No. 03-20, 3-21-05)

### Sec. 18-26.2. Prohibitions; permits.

No person shall install a private well, without first obtaining a permit from Delta Township and the Barry-Eaton Local Health Department. The intent of this section is to promote public health and the general welfare and to facilitate the adequate provision of public water.
(Ord. No. 03-20, 3-21-05)

### Sec. 18-27. Mandatory connection to the Delta Township Water System.

(a) To insure the payment of the township's obligations incurred relating to the creation, maintenance, and extension of the public water supply system, and to insure the public health, safety, and welfare, any new structure, not to include remodeling or additions, including residences, retail, office, and industrial buildings for which a building permit is obtained after the effective date of the ordinance from which this division is derived, that is to be used for human occupancy, employment, recreation, or other purposes shall be physically connected to said system and obtain its entire water supply for human consumption and sanitary purposes from said system if such structure is used for industrial purposes or is located within 200 feet of the Delta Township Water System.

(b) Existing structures for human occupancy, employment, recreation or other purposes that are served by a private well, that are used for industrial purposes or located within 200 feet of the Delta Township Water System, and that experience well failure shall be prohibited from drilling a new well. Such structures shall be required to connect to the Delta Township Water System.

(c) Any cost of extending the Delta Township Water System to comply with the connection requirements shall be the responsibility of the property owner unless otherwise determined and agreed to by the Delta Township Board of Trustees.
(Ord. No. 03-20, 3-21-05)

**Sec. 18-28. Connection to the water system.**

For the purposes of this division, all connections to the Delta Township Water System shall be physically connected to the interior plumbing system of the structure within 30 days of the extension of the service line into the building, and, if applicable, the disconnection of a private well to the interior plumbing system. This requirement may be waived only at the discretion of the utilities director.
(Ord. No. 03-20, 3-21-05)

**Sec. 18-29. Mandatory well plugging.**

At the time of a connection to the Delta Township Water System, the existing well(s) on the premises must be abandoned and plugged. In those instances where the well is inaccessible, such as under a building/structure or covered by concrete/asphalt, the township engineer shall determine if the mandatory well plugging can be waived. A licensed well driller retained and under the supervision of the Delta Township Engineering Department, shall perform the plugging of the well.
(Ord. No. 03-20, 3-21-05)

**Sec. 18-30. Extensions to the water system.**

Any extension to the Delta Township Water System shall be designed and constructed in accordance with the township's water installation standards, as amended, and applicable state law.
(Ord. No. 03-20, 3-21-05)

**Sec. 18-31. Fees.**

All users of the water system shall be responsible for the payment of user fees based on a fee schedule adopted by the township. The fees shall be binding upon all users of the water system, as well as their successors in interest, assigns, estates, and heirs.
(Ord. No. 03-20, 3-21-05)

**Secs. 18-32--18-35. Reserved.**

## DIVISION 2.

## CONSERVATION

**Sec. 18-36. Purpose.**

The purpose of this division is to provide a method for limiting and, where necessary, terminating the nonessential use of water within the charter township.

(Ord. No. 256, § 1, 9-19-77)

**Sec. 18-37. 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:

*Emergency water shortage alert* means an emergency declared by the township supervisor and/or board of trustees of the township to reduce water consumption to a level necessary to maintain water storage sufficient for intended firefighting and to provide water for the basic health and welfare of all water users.

*Water* means water which is obtained from the township water supply system.
(Ord. No. 256, § 2, 9-19-77)
**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 18-38. Application of regulations.**

The provisions of this division shall apply to all persons using water both in and outside the township, and regardless of whether any person using water shall have a contract for water service with the township.
(Ord. No. 256, § 3, 9-19-77)

**Sec. 18-39. Declaration of emergency water shortage alert.**

(a) The supervisor and/or board of trustees may declare an emergency water shortage alert when water consumption levels exceed the ability of the water system to produce sufficient quantities of water to meet consumption demands and/or to maintain sufficient reserves of water for fighting fires.

(b) When declared by the township supervisor, the alert shall not exceed 72 consecutive hours unless confirmed by the board of trustees. An alert declared by the board of trustees shall not exceed 180 consecutive days unless renewed by the board. The board may at any time declare the end of the alert.

(c) The extent of the emergency water shortage alert shall be specified by the township board when the alert is declared. This may be a total ban or a restricted ban during certain designated high usage hours of the day.
(Ord. No. 256, § 4, 9-19-77)

**Sec. 18-40. Certain uses prohibited.**

The use and withdrawal of water by any person for the following purposes is hereby prohibited when such use and withdrawal of water is subsequent to the declaration of an emergency water shortage alert:

(1) *Watering yards.* The sprinkling, watering, or irrigating of shrubbery, trees, lawns, grass, ground cover, plants, vines, gardens, vegetables, flowers, or any vegetation.

(2) *Washing mobile equipment.* The washing of automobiles, trucks, trailers, trailer houses, railroad cars, or any other kind of mobile equipment.

(3) *Cleaning outdoor surfaces.* The washing of sidewalks, driveways, service station aprons, porches, and other outdoor surfaces.

(4) *Cleaning buildings.* The washing of the outside of dwellings; the washing of the inside and outside of office buildings.

(5) *Cleaning of equipment and machinery.* The washing of any business and industrial equipment and machinery. This restriction shall not apply to equipment used in the preparation of food for human consumption.

(6) *Ornamental fountains.* The operation of any ornamental fountain or any other structure making a similar use of water. This restriction shall not apply to fountains which recirculate water.

(7) *Swimming pools.* Swimming and wading pools not employing a filtering and recirculating system.

(8) *Escape through defective plumbing.* The escape of water through defective plumbing shall be deemed to be with the knowledge and permission of the owner, where such water loss is discovered.

(Ord. No. 256, § 5, 9-19-77)

**Sec. 18-41. Exceptions to maintain sanitation and public safety.**

The township shall have the authority to permit a reasonable use of water in any case necessary to maintain adequate health and sanitation standards. Use of water to extinguish or prevent fires shall not be impaired.

(Ord. No. 256, § 6, 9-19-77)

**Sec. 18-42. Restriction on business and industrial uses.**

Businesses and industries using township water shall be restricted to the use of an amount of water used by the business during the corresponding month of the preceding year.

(1) *Exception for business necessary for public health, safety and welfare.* The provisions of this section shall not apply to those businesses and industries declared by resolution of the township board of trustees to be necessary for the public health, safety, and welfare.

(2) *Exception for food manufacturer.* Businesses and industries processing animal, vegetable, and mineral matter for food purposes shall be regulated in the use of water as follows:

The board of trustees of the township shall hold a public hearing to determine the amount of water to be used based on the amount needed during normal years in a particular food processing business.

(Ord. No. 256, § 7, 9-19-77)

**Sec. 18-43. Emergency notice.**

If the board of trustees or supervisor of the township declares an emergency water shortage alert, this alert will be brought to the attention of all residents within the township by means of radio, television, or local newspaper as directed by the board or by the supervisor.
(Ord. No. 256, § 8, 9-19-77)

**Sec. 18-44. Township water supply system information.**

The township water supply system shall have available and shall furnish all records necessary to determine the uses of water restricted by this division.
(Ord. No. 256, § 9, 9-19-77)

**Sec. 18-45. Enforcement.**

Every police officer of the township shall, in connection with his duties imposed by law, diligently enforce the provisions of this division.
(Ord. No. 256, § 10, 9-19-77)

**Sec. 18-46. Discontinuance of service.**

The board of trustees shall have the authority to enforce the provisions of this section by discontinuance of water service in the event of a violation in usage where there is an emergency shortage alert.
(Ord. No. 256, § 11, 9-19-77)

**Sec. 18-47. Lawn sprinkling restrictions.**

Lawn sprinkling is hereby allowed on even-numbered days of the month at all residences which are even-numbered in the charter township which use water supplied by the charter township and is prohibited on odd-numbered days of the month thereat. Lawn sprinkling is hereby allowed on odd-numbered days of the month at all residences which are odd-numbered in the charter township which use water supplied by the charter township water system, and is prohibited on even-numbered days of the month thereat. This regulation and limitation of use shall be effective during the months of May, June, July and August of every year.
(Ord. No. 231, § 2, 5-20-74)

**Sec. 18-48. Lawn sprinkling notice.**

Notice of the lawn sprinkling regulations set forth in section 18-47 shall be published each year by the clerk of the charter township in a newspaper circulated within the charter township between April 15 and 30 of every year. Such notice shall set out the above lawn sprinkling regulations.
(Ord. No. 231, § 3, 5-20-74)

**Sec. 18-49. Penalties.**

Users of water supplied by the township water system who violate the terms and provisions of this division, or refuse to comply with any of the provisions of this division, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be punished by the imposition of a fine not to exceed $100.00, or by

confinement to the county jail for a period of not to exceed 90 days, or by imposition of both fine and confinement within the discretion of the court.
(Ord. No. 256, § 12, 9-19-77)

**Secs. 18-50--18-60. Reserved.**

## DIVISION 3.

## CROSS CONNECTIONS

**Sec. 18-61. Adoption of rules.**

The charter township hereby adopts by reference the water supply cross connection rules of the state department of public health, being R325.11401 through R325.11407 of the Michigan Administrative Code.
(Ord. No. 248, § 2.00, 3-3-75)

**Sec. 18-62. 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:

*Backflow* means water of questionable quality, wastes or other contaminants entering a public water supply system due to a reversal of flow.

*Cross connection* means a connection or arrangement of piping or appurtenances through which a backflow could occur.

*Nonpotable water* means water not safe to drink.

*Potable water* means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to public health department standards.
(Ord. No. 248, § 3.00, 3-3-75)
**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 18-63. Inspections.**

It shall be the duty of the charter township to cause inspections to be made of all properties served by the public water supply where cross connection with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the charter township and as approved by the state department of health.
(Ord. No. 248, § 4.00, 3-3-75)

**Sec. 18-64. Right to enter property; owner to furnish information.**

The representative of the charter township shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the charter township for the purpose of inspecting the piping system or systems thereof for cross connections. On request the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
(Ord. No. 248, § 5.00, 3-3-75)

**Sec. 18-65. Discontinuance of water service.**

The township is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this division exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this division.
(Ord. No. 248, § 6.00, 3-3-75)

**Sec. 18-66. Labeling nonpotable water supply.**

Any water outlet in a nonpotable water system shall be labeled as:

WATER UNSAFE

FOR DRINKING

(Ord. No. 248, § 7.00, 3-3-75)

**Sec. 18-67. Effect on state plumbing code.**

This division does not supersede the state plumbing code but is supplementary to it.
(Ord. No. 248, § 8.00, 3-3-75)

**Sec. 18-68. Penalty.**

Any person or customer found guilty of violating any of the provisions of this division, or any written order of the charter township in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine, which fine shall not exceed $500.00, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. Each day upon which a violation of the provisions of this division shall occur shall be deemed a separate and additional violation.
(Ord. No. 248, § 9.00, 3-3-75)

**Secs. 18-69--18-80. Reserved.**

## DIVISION 4.

## CHARGES

**Sec. 18-81. Properties affected.**

Main and capital charges hereinafter established shall apply to all properties located within the boundaries of the charter township served by the public water system owned by the township. Those properties within the township served by public water furnished by the City of Lansing, or any other municipal corporation or township shall be subject to such charges as may be provided for by contract between Delta Township and any other municipality.
(Ord. No. 251, § 1, 12-1-75)

**Sec. 18-82. 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:

*Abutting property* means property abutting a public water main, whether through or from the front, side or the back of the premises.

*Average cost per linear foot of main according to pipe size* means that for a water main it shall be calculated by dividing the total project cost by the total linear feet of pipe, valves, manholes and fittings installed in the project of interest prorated by pipe size.

*Building official* means the individual appointed by the township board delegated to administer the township building code.

*Capital charge* means such charge as may be established, which represents the respective portion of the capital investment of water system, which may be allocated or attributed to any premises, including but not limited to oversizing of lines and treatment plant capacity and production facilities. A capital charge also may be known as an equity charge. When square footage must be calculated to determine capital charge unit factors, the outside dimensions of buildings shall be used.

*Connection* means the act of joining a water lead to a new or existing building which results in the providing of public water to the building.

*Deferral charge* means a charge as set by resolution of the township board utilizing a set interest rate, ENR factor or other methodology to reflect the increased cost of the main from the date the project was accepted by the township board until the date of payment of the main charge.

*ENR* means the *Engineering News Record* as published weekly by McGraw-Hill, Inc.

*First party* means persons and their successors, heirs, or assignees entering into a contract with the township board to privately participate in funding additions to the water system.

*Inspector* means any person duly authorized by the township board to inspect and approve any or all facilities affected by this article.

*Installation charge* means the cost of extending water service from the main to the building.

*Lateral water main* means a water main, four inches or larger in diameter, that serves, or is intended to serve, two or more buildings and is connected to, and part of, the public water system.

*Main charge* means a footage charge to defray the cost of a public water line abutting the premises which cost has not been previously defrayed by special assessment or other charge.

*Premises* or *properties* means land and any building located thereon.

*Public water* means a water conduit in which all owners of abutting properties have equal rights and which is controlled by public authority.

*Second party* means the board of trustees for the charter township.

*Stubs* means water leads from the main to the lot line.

*Third party* means those persons and their successors, heirs or assignees who do not join with the first party and/or the township board in a contract to privately fund additions to the water system addition of the first party.

*Total project cost* means, for any water main installation, and shall include (but not be limited to), the following costs: installed cost of the main, valves, manholes, fittings, and other appurtenances thereto; all repair, replacement, restoration, or protection of roads, landscape, waterways, or other environment; all engineering, planning, advertising, administrative cost and bidding cost.

*Township engineer* means the staff engineer of the township or such professional engineer retained by the township board to review the engineering aspects of the township water system, or the authorized representative of such engineer.
(Ord. No. 251, § 2, 12-1-75; Ord. No. 93-5, 8-16-93; Ord. No. 95-7, § 1, 10-2-95)
**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 18-83. Times and conditions of collection of charges.**

Charges imposed by this section shall be paid in full or refunded under the following conditions and at the following times unless otherwise provided herein.

(1) From each premises requesting to use, or required to use the public water system a capital charge and a main charge will be charged and collected, as per section 18-84, unless previously paid.

(2) Upon application for a building permit for the purpose of erecting new buildings, main charges shall be collected.

(3) Upon application for authorization to connect a new building or existing building to the public water, all applicable charges shall be collected.

(4) Prior to start of construction of new buildings or additions to existing buildings when a building permit is not required, or prior to a lateral connection to the public water system, all applicable

charges shall be paid (for example, schools).

(5) If an application is withdrawn (in writing), then the charges due under this article shall be refunded less an administrative charge as set by resolution of the township board.

(6) The requirements of this section shall not apply to those properties served by water furnished by a municipal corporation or township other than Delta Township but rather the contracted terms, amounts and methods of payment shall apply.

(Ord. No. 251.2, § 1, 8-2-82; Ord. No. 93-5, 8-16-93; Ord. No. 95-7, § 1, 10-2-95)

**Sec. 18-84. Establishment of main charges.**

Main charges for water are hereby established for the privilege of connecting premises to the public water system as follows:

(1) When the public water mains available to such premises were constructed with public funds and the premises have not been specially assessed for any portion of the installing cost.

(2) When the public water mains available to such premises were financed by nonpublic funds and such premises did not participate in full in the financing of these services.

(3) It is the intent of these main charges to ensure that each premises connecting to the public water system of the township shall share its respective portion of the cost of installation of mains.

(4) Lateral water main connections to the public water system shall be subject to a benefit charge in lieu of a water main charge, as per section 18-85(3).

(Ord. No. 251, § 4, 12-1-75; Ord. No. 93-5, 8-16-93)

**Sec. 18-85. Water main charges.**

Water main charges shall be as follows:

(1) Water main charges for premises served by water mains installed as part of assessment districts but not assessed thereunder: the water main charge shall be levied against a premises on the same basis as originally determined by the township board for the assessment district with a deferral charge added as set by resolution by the township board.

(2) Water main charges for other premises: One-half of the average cost per linear foot of the main according to pipe size (subject to the size provisions following) in the project under which the water main being charged for was actually installed, times the length of abutting property on each side of the water main. A deferral charge as set by resolution by the Township board shall be added. The water installation charges are not included in this price. Even though the water main size abutting the actual premises may be greater than that listed in the following table, the premises main charge shall be based on that portion of cost which would have been charged under the project of interest for a main of the size listed:

| Premises | Main Size |
|---|---|

| | |
|---|---|
| Residential structures from one through four units | 6" |
| Residential structures from four units to 12,000 square feet of total floor area | 8" |
| Residential structures over 12,000 square feet of total floor area | 10" |
| Nonresidential structures less than 40,000 square feet of total floor area | 8" |
| All structures over 40,000 square feet of total floor area | 10" |

If the actual main size abutting the premises is less than that listed in the table above, then the actual main size shall be used for determining the proportionate cost.

(3) Water main charges for lateral water main connections or premises not directly abutting mains: Where a lateral water main is connected to the public water system or where premises do not directly abut a water main, such as (but not limited to), premises beyond the end of a dead-end street, on a court or street turnaround, landlocked premises or property served from the end of the public water system, the township board shall by resolution determine the benefit to be charged in lieu of a water main charge.

(4) Exception for lateral mains: Where privately funded water mains (under contract with the township board) are installed and individual building water services are connected to such lateral mains those services may be connected into the public water system without paying a water main charge. However, the lateral water main is subject to the benefit charge, as per section 18-85(3). This provision in no way exempts water main charges to those platted lots or other parcels which stub into a public main directly rather than via the privately funded lateral mains.

(5) Exception for parcels at the intersection of streets: Where a parcel lies at the intersection of two streets or roads and is abutted on both of those sides by water mains, the footage for which a water main charge is made shall be calculated as follows to grant a measure of relief to the property owner:

a. Where both property lines and mains abutting the intersecting streets are less than 200 feet long, only the shorter of the two sides shall be used in calculating water main charges.

b. If one or both property lines and abutting mains are over 200 feet in length, 200 feet shall be subtracted from the total footage of abutting mains in calculating the water main charge.

(Ord. No. 251, § 7, 12-1-75; Ord. No. 93-5, 8-16-93; Ord. No. 95-7, § 1, 10-2-95)

**Sec. 18-86. Water capital charge.**

(a) A water capital charge shall be established by board resolution based upon a schedule of fees

which shall be as set by resolution of the township board that shall apply to all new water service connections made to the township facilities and for any increase in sizing thereafter there shall be charged the difference between the charge for an existing meter and the fee herein established for the larger meter.

(b) The water capital charges shall be paid upon making application to the township or upon application for installation of a larger meter size. Subsequent amendments of the schedule of fees shall be by board resolution.
(Ord. No. 251.3, 3-26-91)

**Sec. 18-87. Installation charges.**

From the water main to the service valve (applicable to 66-foot road right-of-way only). Where water services are installed by other than the township there shall be an inspection fee as shall be set by resolution of the township board.
(Ord. No. 251, § 8(b), 12-1-75; Ord. No. 95-7, § 1, 10-2-95)

**Sec. 18-88. Responsibility for calculating main and stub charges.**

The township engineer shall be responsible for providing the necessary data for the determination of cost for the water main charges and stub charges to particular individual premises under section 18-85.
(Ord. No. 251, § 9, 12-1-75)

**Sec. 18-89. Restriction on issuing permits and authorizations.**

(a) No building permit shall be issued and no construction or alteration shall commence until the main and/or benefit charges have been paid in accordance with this article, subject to the exceptions in subsection 18-83(6), section 18-90, section 18-96 and section 18-98.

(b) No authorizations to connect water shall be granted until the capital charges have been paid in accordance with this article subject to the exceptions in subsection 18-83(6) and section 18-96.
(Ord. No. 251, § 10, 12-1-75; Ord. No. 93-5, 8-16-93)

**Sec. 18-90. Deposits and time deferred payments.**

Main, stub, capital, and lateral benefit charges are reflective of costs which customarily are spread over a period of years through special assessments or other bond financing by the township. In addition, lateral benefit charges may be reflective of these types of costs. In order to avail more township customers within the township's boundaries of the advantages of long term financing, such charges may be deferred and paid in installments as permitted herein:

(1) *Main and stub charges.* Main and stub charges established under sections 18-85 and 18-86 of this article may be paid in 15 equal annual installments bearing interest at a rate as determined by resolution of the township board on the unpaid principal balance as computed at the time of connection. This deferral of main and stub charges shall apply only to those properties situated within the boundaries of the charter township.

(2) *Lateral benefit charges.* The township board by resolution may permit lateral benefit charges established under section 18-85 of this article to be paid at such times and upon such other terms and conditions as the township board determines, in its discretion, to be proper.

(3) *Recognition of lien.* As a condition precedent to deferral of capital, main or stub charges, the township board shall require a statement from the mortgage holder or, in the event such premises are not subject to a mortgage, a statement from the property owner recognizing the validity of the lien of the charges under the provision of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, and agreeing that the charges when in default shall be subject to acceleration to be collected in the same manner as other delinquent charges under the provision of such act.

(Ord. No. 251.2, § III, 8-2-82; Ord. No. 95-7, § 1, 10-2-95)

**Sec. 18-91. Reserved.**

**Sec. 18-92. Water service rates.**

(a) *Monthly charge for meter and service maintenance ("customer charge").* The monthly charge for meter and service maintenance shall be as set by resolution of the township board.

(b) *Consumption rates.* Consumption rates shall be computed based upon the metered water consumption for those users connected to the township water supply system and shall be billed monthly at a rate set by resolution of the township board.

(c) *Fire hydrant rental.* For the use of water through fire hydrants and for the availability of such water, the township shall pay a fee as set by resolution of the township board, payments to be made from funds legally available for such purpose or from the proceeds of taxes which the township shall levy within charter tax rate limitations.

(d) *Fire hydrant maintenance.* Fire hydrants shall be installed on private property at the property owner's expense. Water supply and maintenance of fire hydrants installed on private property shall be provided by the township for a charge as set by resolution of the township board. Hydrants installed on private property shall be used for fire protection only and shall not be used for any other purposes, except as may be permitted by this article. No additional charge will be made for water used from these hydrants for fire purposes.

(e) *Charge for turn-on or turn-off of water services.* For new customers no charge shall be made. For customers who have defaulted on bills, a charge for turn-off or turn-on shall be as set by resolution of the township board.

(f) *Special rates.* Special rates for miscellaneous or special services shall be fixed by the township board.

(g) *Water from hydrants.* No one shall be allowed to use water from fire hydrants, except as follows:

(1) Through a meter installed and read by the utility department, or by measured amounts controlled

by the utility department, to be billed to the user, at a rate set by the township board.

(2) By the utility department, for sewer flushing, unmetered, but the number of tank truck fills, and tank capacity thereof to be reported to the accounting department, and billed to the utility department.

(3) For water main flushing and such other uses determined as necessary by the utility department, not to be billed.

(4) For firefighting and fire training, not to be billed.

(5) For fire flow testing by the engineering department or for a sprinkler consultant under the supervision of the engineering department.

(h) *Billings.*

(1) Bills shall be rendered to users no less often than on a monthly basis.

(2) The township board may require meter readings and/or billings to be made more often than on a monthly basis. Billings made more often than on a monthly basis may be estimated and prorated on a monthly basis with the balance due to be adjusted by a meter reading and billing at the end of each month.

(3) All bills rendered to users shall become due and payable 15 days after the billing date. Payments made by mail shall be postmarked no later than 15 days after the billing date. No utility department employee in the field shall be permitted to receive payments for billings or other charges.

(i) *Past due bills.*

(1) All bills not paid on or before the due date as herein established shall be subject to a penalty as shall be set by resolution of the township board.

(2) Water service shall be discontinued 35 days after the billing date, if all necessary payments have not been made as required by this article, except as follows by subsection (i)(3). The 35-day requirement notwithstanding, the service shall not be discontinued unless the accounting department is open to receive payment on the day of and the day following discontinuation of service.

(3) When a customer claims hardship, the controller at his discretion may allow the customer to make reduced payments at intervals more frequent than the usual billing interval. These payments shall equal in total the monthly bill. This method of payment shall not allow a customer to defer full payment of the bill beyond 35 days after the billing date.

(4) The procedure for notification of default in payment of bills prior to service discontinuation shall be by sending a past due notice 20 days after the billing date. The past due notice shall state the

amount due, the service discontinuation date, the additional charge to reinstate discontinued service, and that payment made after the discontinuation date must be for all charges.

(5) Where service to a customer in default of a bill has been discontinued, the service shall not be restored until authorized by the accounting department. The accounting department shall not authorize restoration of service until arrangements for payment of all charges, as may be required by ordinance, have been made.

(j) *Returned (NSF) checks.* An administrative fee as set by resolution of the township board shall be charged for handling returned checks.

(k) *Water service deposits.* Water service deposits shall not be required, except as follows:

(1) Where annual notice is given in writing, as provided for in section 21, Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101, et seq., MSA 5.2731, et seq.), as amended, that a tenant is responsible for such charges and services as is provided for by this article, then a cash deposit as set by resolution by the Township Board shall be made as security for payment of such charges and services. The deposit shall be returned after two years, if no default in payment of bills has occurred and if the customer has not been past due more than two times within a two-year period.

(2) As required by subsection (l) Enforcement.

(l) *Enforcement.* Charges for water services shall constitute a lien on the property served, pursuant to section 21, Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, unless annual notice is given that a tenant is responsible and whenever such charges shall be delinquent for two months or more, the township officer or officers in charge of the collection thereof shall certify annually before September 1 of each year, to the tax-assessing officer of the township, the fact of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general township taxes against such premises are collected and the lien thereof enforced. Provided, however, where annual notice is given in writing that a tenant is responsible for such charges and services as provided by section 21, Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), no further service shall be rendered such premises until a cash deposit equal to six months water charges shall have been made as security for payment of such charges and service. In addition to the other lawful enforcement methods, the payment of charges for service to any premises may be enforced by discontinuing the water service to such premises. (Ord. No. 1.14, 12-17-90; Ord. No. 98-9, § 1, 12-7-98)

**Sec. 18-93. Enforcement.**

If any premises is found to be connected to the public water mains in violation of this chapter or failed to have paid the main or capital charges in accordance with the provisions of this chapter, the director shall be notified of any violation within ten days of its discovery; the director shall cause notice to be given to the owners of record of the property by certified mail and by posting such notice conspicuously upon such building. The notice shall state the amount of main and/or capital charges due and owing, the last day of payment, the public office where such payment must be made and the right of appeal as provided in section 18-94 hereof.

(Ord. No. 251, § 12, 12-1-75)

**Sec. 18-94. Appeal.**

Persons receiving notice of the charge may, within 30 days from the mailing of such notice, request a hearing before the township board as to the nature of the charges and the amounts thereof. The board shall determine the amount of charges due and owing and shall direct the director to place such charges upon the next tax roll of the township unless paid within ten days and such charges shall become a lien and collected in the same manner as provided for delinquent charges set forth in section 18-95 hereof.
(Ord. No. 251, § 13, 12-1-75)

**Sec. 18-95. Collection of delinquent charges.**

(a) Charges for water service and capital connection charges established by this chapter furnished to any property shall be a lien thereof, as provided by section 21, Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, and any charges delinquent for three months or more shall be certified annually prior to September 1 to the township treasurer who shall enter the same upon the next tax roll against the property for which such charges were incurred and such charges shall be collected and such lien shall be enforced in the same manner and subject to the same collection and penalty charges as provided for in the collection of general ad valorem taxes except such delinquent charges shall bear a delinquent interest rate of one-half of one percent per month from the date of delinquency in addition to the delinquent charges made and provided for the collection of ad valorem taxes. In addition to any other lawful enforcement methods, the payment may be enforced by discontinuing the water service to such property. Further, all charges and penalties may be recovered by the township by court action.

(b) Such capital charges, equity charges, main charges or connection charges as may apply to water improvements furnished within the corporate limits of the charter township by the City of Lansing or any other state municipal corporation or township shall become a lien on property and may be collected in the same manner as provided for in subsection 18-95(a). The township shall upon collection of these charges rebate them to the municipal corporation or township owed, less the interest as a collection fee.
(Ord. No. 251, § 14, 12-1-75)

**Sec. 18-96. Hardship.**

(a) Persons owning property with buildings located thereon and residing thereon who are required by state law, the health department or by ordinance to connect to a public water main or who desire to connect to same may apply to the township board of trustees for hardship consideration in regard to payment of the various charges required by this article.

(b) The board shall determine in its discretion for each application if a hardship exists. The board may require such proofs as it deems necessary to determine if a hardship actually exists and the degree thereof.

(c) If the township board determines that a hardship exists, a lien shall be placed against the property. All charges (including capital charges) required under this article may be deferred by use of the methods listed in subsection 18-96(d), chosen at the discretion of the board. In no event shall the property change ownership without payment in full of the charges due (survivorship of part owners shall not be

considered an ownership change).

(d) At its discretion, the board may require one or more of the following hardship payment methods, in full, in part, or in combination:

(1) Use of the method allowed in subsection 18-90(a), for all charges (including capital charges).

(2) Deferral of all charges (including capital charges) until the property changes ownership. Charges shall bear interest at the rate of eight percent per annum. The property owner may pay off any and all charges with interest due at any time. The township board may at its discretion determine that the hardship is ending and require immediate payment of all charges due (the property owner may still elect to use subsection 18-90(a), to the extent allowed therein to nonhardship cases). If, at its discretion, the board determines that the hardship is reduced, it may require payment by use of subsection 18-96(d)(1).

(Ord. No. 251, § 15, 12-1-75)

**Sec. 18-97. Nonexclusivity of fees.**

The charges herein established are in addition to any fee the township has heretofore or may hereinafter establish for a contractor's permit to construct, cut into or connect to the public water.

(Ord. No. 251, § 16, 12-1-75)

**Sec. 18-98. Additions and connections to the public water system.**

(a) No additions by other than the township shall be allowed to the public water system except by prior contract with the township board.

(b) Where the township board contracts with the first party to extend the water system with private funds, then the first party shall not be levied main charges on the privately funded water mains specifically covered by the contract. The foregoing also applies to water service installation charges if the first party also installs same under contract with the township board. The above exemption on main charges and water installation charges shall not extend to either water mains abutting the first party's property which were funded publicly or by persons other than first party; or the benefit charge for lateral water main connections to the public water system.

(c) The township, by contract with the first party, may agree to collect main and stub charges from third parties and rebate such charges to the first party. Such charges shall not be collected from third parties prior to the times and conditions specified in section 18-83. The contract shall specify that total rebates shall not exceed the actual cost of construction abutting the third party's properties or the amount of main and stub charges to be collected from the third party, whichever is the lesser amount. The township shall have the sole authority to determine what future connections are subject to rebate main charges to the first party. The first party shall not contract with, or otherwise exact any fee from, any third party who desires to connect to and/or use any addition to the public water system.

(d) No persons shall be exempted from capital charges.

(e) All plans and specifications for additions and connections to the public water system, including lateral connections, shall be submitted to and approved in writing by the township engineer.

(f) Except as permitted herein, no permits for use of the public water system shall be requested or issued until after the addition to the water system has been certified in writing as being satisfactorily complete by the township engineer and the proper deeds of grant, waivers of lien and easement agreements are provided to the township. The township manager may grant temporary use permits for periods not to exceed 60 days. In the event of a violation of this section, the township may, without notice or any liability to the first party, disconnect the addition to the public water system and/or take any other action necessary to prevent the flow of water into the addition to the public water system. The first party shall pay all costs, including actual attorney's fees, which the township incurs in enforcing the provisions of this section.
(Ord. No. 251, § 17, 12-1-75; Ord. No. 93-5, 8-16-93; Ord. No. 95-7, § 1, 10-2-95)

**Secs. 18-99--18-120. Reserved.**

## ARTICLE III.

## WASTEWATER SYSTEM USE

## DIVISION 1.

## GENERALLY

**Sec. 18-121. Purpose.**

This article establishes regulations regarding the discharge of all domestic, industrial and commercial waste into the sanitary sewer system of the charter township, in order to service these public purposes:

(1) To prevent the pollution of public waters.

(2) To preserve, protect, and maintain the sewage collection and treatment facilities of the township.

(3) To comply with state and federal water quality standards.
(Ord. No. 284.2, § 1.1, 4-15-91)

**Sec. 18-122. Regulation, permits.**

This article provides for the regulation of all contributors to the township wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for other users, authorized monitoring and enforcement activities, and requires nondomestic user's reports.
(Ord. No. 284.2, § 1.2, 4-15-91)

**Sec. 18-123. Relation to other provisions.**

No provision contained in this article shall be construed to interfere with any additional regulations or requirements that may be imposed by the township board, the county, the state health department, or any other

lawfully constituted authority with respect to public or private sewage disposal.
(Ord. No. 284.2, § 9.1, 4-15-91)

**Sec. 18-124. Director's responsibilities.**

The administration, implementation and enforcement of the provisions of this article for the industrial waste pretreatment and nondomestic users control program and the authorization of the industrial discharges shall be the sole responsibility of the director of the township utility department or his designee for the purpose of controlling and monitoring wastewater discharged into the publicly owned treatment works.
(Ord. No. 284.2, § 1.3, 4-15-91; Ord. No. 97-2, § 1, 10-6-97)

**Sec. 18-125. Applicability.**

This article shall apply to the users of the township sanitary sewer system and to persons outside the township who are, by contract or agreement with the township, connected to the township sanitary sewer system.
(Ord. No. 284.2, § 1.4, 4-15-91)

**Sec. 18-126. 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:

*Act* or *the act* means the federal water pollution control act, also known as clean water act, as amended, 33 U.S.C. 1251 et seq.

*Approval authority* means the supervisor of the Shiawassee District of the Michigan Department of Environmental Quality.

*Authorized representative of industrial user* means a duly authorized representative who is responsible for the overall operation of the facilities from which the indirect discharge originates.

*Available public sanitary sewer system* means a public sanitary sewer system located in a right-of-way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property and passes not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

*BOD* means biochemical oxygen demand or the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainpipes inside the walls of the building and conveys it to the building sewer, beginning approximately five feet outside the inner face of the building wall and is not part of the public sewer.

*Building sewer* means the extension from the building drain to the public sewer main or other place of disposal and is not part of the public sewer.

*Building stub (house lead)* shall mean that part of the building sewer from the public sewer main to the right-of-way and is not part of the public sewer.

*Bypass* means the intentional diversion of wastestream from any portion of an industrial user's treatment facility.

*COD* means a measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test.

*Combined sewer* means a sewer intended to receive both wastewater and storm or surface water.

*Combined wastestream* means the flow of wastewater from an industrial facility where the sanitary wastestream is combined with the process regulated wastestream following treatment.

*Commercial user* means a person whose premises are used to offer services and/or products such as retail and wholesale stores, gasoline stations, restaurants, schools, churches, hotels, motels, nursing homes, hospitals, warehouses, private clubs, theaters, and governmental buildings.

*Compatible pollutants* means those pollutants that the township wastewater treatment plant was specifically designed to remove taking into account biochemical oxygen demand and shall mean suspended solids, fecal coliform bacteria, and total phosphorous.

*Contamination* means any introduction into water of microorganisms, chemicals, wastes or wastewater in a concentration that makes the water unfit for its intended use.

*Control authority* means and shall refer to the director of the wastewater treatment plant as defined in the approved pretreatment program under the provisions of 40 CFR 403.11.

*Direct discharge* means the discharge of treated or untreated wastewater directly to the waters of the state.

*Director* means the head of the township utility department or his authorized representative.

*Discharge* means spilling, leaking, seeping, pumping, pouring, emitting, emptying, dumping, or depositing.

*Domestic sewage* means liquid or water-carried waste discharged from residential living units and resulting from activities usually considered to be carried on in a domicile.

*Domestic user* means a person whose premises are for single-family or multiple-family use.

*Effluent* means wastewater or other liquid, partially or completely treated, flowing out of a reservoir, basin, treatment plant, or industrial treatment plant or part thereof.

*Environmental protection agency* or *EPA* means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

*Federal categorical pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of Federal Water Pollution Act Amendments of 1972 (PL 92-500) which applies to a specific category of industrial users.

*Federal prohibitive discharge standard* means any regulation developed under the authority of section 307(b) of Federal Water Pollution Act Amendments of 1972 (PL 92-500) and 40 CFR 403.5.

*Garbage--shredded* means garbage that has been cut or shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

*Garbage--solid* means solid wastes resulting from the domestic, commercial and industrial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce or from the canning or packing of food.

*Grab sample* means a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and without consideration of time.

*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 a environmentally undesirable substance discharged to the township treatment works for which the treatment facility is not designed to remove or alter. The substance may also cause treatment upset, adverse effects on the safety and/or health of the treatment plant workers, or pass through.

*Indirect discharge* means the discharge or the introduction of pollutants from any source into the POTW (including holding tank waste discharged into the system).

*Industrial user* means the user that discharges to the public sewer system from manufacturing or processing operations, including users engaged in profit seeking ventures which discharge a trade or process waste. This includes any user identifiable in divisions A, B, D, E, and I in the Standard Industrial Classification Manual, 1972, U.S. Office of Management and Budget.

*Industrial waste* means the liquid or water-carried waste resulting from industrial or manufacturing process, trade or business, or from the development, recovery or processing of a natural resource, with or without suspended or dissolved solids as distinct from sanitary sewage.

*Infiltration* means the water entering a sewer system, including sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. (Does not include inflow.)

*Inflow* means the water discharged into a sewer system, including service connections from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, uncontaminated cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, stormwaters, surface runoff, street wash waters or drainage. (Does not include infiltration.)

*Interference* means the inhibition or disruption of the POTW treatment processes or operations, or that which contributes to a violation of any requirement of the township NPDES permit. The term includes limitations of sewage sludge use of disposal by the POTW in accordance with 405 of the act (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria or those guidelines and criteria contained in any sludge management plan of the POTW applicable to the method of disposal or use employed by the POTW.

*mg/l* means milligrams per liter and represents a unit of the concentration of water or wastewater constituent used in reporting the results of water or wastewater analysis.

*Natural outlet* means any watercourse, pond, ditch, lake or any other body of water, either surface or ground.

*New source* means any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 301(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source. New source shall also include the following:

(1) Construction of new or additional facilities which produce a process wastestream at a site where there has been no previous process discharge.

(2) Complete replacement of process or production equipment which has previously been the source of wastewater discharge.

(3) Wastewater production or wastewater generating processes which come on line at a facility which are substantially independent of an existing source at the same site. Construction, as defined in this provision, is considered to have commenced when:

a. Installation or assembly of facilities or equipment has begun.

b. Significant site preparation has begun for installation or assembly.

c. The owner or operator has entered into a binding contractual obligation.

*Nondomestic user* means an industrial user, commercial establishment or other entity that discharges wastewater to a publicly owned treatment works other than, or in addition to, sanitary sewage.

*Normal domestic strength sewage* means that sewage having a biochemical oxygen demand or suspended solids not to exceed 300 milligrams per liter.

*NPDES permit* means a permit issued pursuant to the national pollutant discharge elimination system prescribed in U.S. Public Law 92-500.

*Owner* means the owner of any real property from which sewage is discharged.

*pH* means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

*Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

*Pollution* means a condition created by the presence of harmful or objectionable material in the water. (See also Contamination.)

*POTW* means publicly owned treatment works and is comprised of the collection systems including the sanitary sewers, pumping stations, and the treatment plant.

*Premises* means each lot or parcel of land, or building, having any connection to the sewer disposal system of the township.

*Pretreatment* or *treatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR 403.6(d).

*Pretreatment requirements* means substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

*Private sewage treatment and disposal facility* means any privy, privy vault, septic tank, cesspool, or outlet into any pond, ditch, lake, watercourse or other body of water or any other device privately owned and maintained for the disposal of sewage.

*Public sewer* means a sewer in which all owners of abutting property have equal rights, and which is controlled by public authority.

*Sanitary sewage* or *sewage* means any combination of liquid or water-carried waste from residences, business buildings, institutions, industrial, commercial, and governmental establishments including any infiltration or inflow as may be present.

*Sanitary sewer* means a sewer intended to carry only sanitary, or sanitary and industrial wastewaters from residences, commercial buildings, industrial plants and institutions, and to which stormwaters, surface waters, and groundwaters are not intentionally admitted.

*Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial permanent loss of natural resources which can

reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delay in production.

*Sewer* means any pipe, tile, tube, or conduit for carrying sewage.

*Sewer permit* means a permit issued by the township building department as written authorization to construct, install, or connect building sewers to the public sewer.

*Significant noncompliance* means chronic violations indicating significant noncompliance include, but are not limited to, the following:

(1) Violation of a particular effluent limit in at least 66 percent of the samples taken over a six-month period of the same pollutant parameters.

(2) Exceeding by 40 percent a conventional pollutant (BOD, solids, etc.) effluent limit in 33 percent of the samples taken over a six-month period.

(3) Exceeding by 20 percent any other effluent limit (nonconventionals and toxins) in 33 percent of the samples taken in a six-month period.

(4) Discharges which violate general prohibition standards or endanger public health.

(5) Failure to achieve compliance schedule milestones within 90 days of the milestone date.

(6) Failure to submit required reports within 30 days of the due date.

(7) Failure to report noncompliance.

(8) Other cases of significant noncompliance as determined by the superintendent.

*Significant user* means any user of the township sanitary sewer system that:

(1) A nondomestic user subject to categorical pretreatment standards under 40 CFR 403 and 40 CFR Chapter I, Subchapter N.

(2) A nondomestic user to which one of the following applies:

a. Discharges 25,000 gallons each day or more of process water to the POTW, excluding sanitary non-contact cooling water and boiler blow-down wastewater.

b. Contributes a waste stream which makes up five percent or more of the average dry weather hydraulic or organic (biochemical oxygen demand, total suspended solids, phosphates, and ammonia nitrogen) capacity of the treatment plant; or

c. Has a reasonable potential, in the opinion of the control authority, to adversely affect the POTW treatment plant or collection system through inhibition, pass through of

pollutants, equipment damage, sludge contamination, or endangerment of POTW workers.

(3) Upon finding that a nondomestic user meeting the criteria in (1) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority may at any time on its own initiative or in response to a petition received from a nondomestic user or POTW determine that a nondomestic user is not a significant nondomestic user.

*Slug* means any discharge of water, sewage, or industrial waste which in concentration of any given waste component or in quantity of flow exceeds for any period of time longer than 15 minutes more than five times the average 24-hour concentration or quantity of flow during normal discharge. Flow shall not exceed 350 gallons per minute above the normal flow.

*Storm sewer* or *storm drain* means a sewer which carries stormwater, surface water, groundwater, roof runoff, or subsurface drainage and to which sewage is not admitted.

*Structure* (in which sanitary sewage originates) means a building in which toilet, kitchen, laundry, bathing, or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial, or other purposes.

*Substantial change* means an anticipated shift in manufacturing process, production rate, or treatment which causes the makeup of a regulated or nonregulated wastestream to be altered in content, or amount of a pollutant with potential adverse impact to the treatment system or final discharge waters, or to contain discharged flow beyond the predetermined maximum flow for the facility.

*Superintendent* means the head of the township wastewater treatment plant or his authorized representative.

*Surcharge* means that any user discharging to the public sewer a wastewater having biochemical oxygen demand, chemical oxygen demand, phosphates, or suspended solids within the range specified in section 18-165 of this Code of Ordinances shall be subject to an additional cost over and above the basic rates. The surcharge shall be the yearly average per pound treatment cost computed as a percent of replacement reserve, and operation and maintenance divided by the yearly pounds of biochemical oxygen demand, chemical oxygen demand, phosphates, or suspended solids. The surcharge per pound of pollutant shall be calculated annually by the superintendent and approved by the township board.

*Suspended solids* means all matter existing in nonliquid state which is removable by filtration in accordance with standard laboratory procedures.

*Toxic pollutant* means any pollutant or combination or pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other acts.

*Uncontaminated industrial effluents* means water which has not come into contact with any substance used in or incidental to industrial processing operations and to which no deleterious or toxic substance has been

added.

*Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards and/or an ordinance prohibiting or limiting standards because of factors beyond the reasonable control of the user; excluding such factors as changes in wastewater characteristics, operational error, improperly designed or inadequate treatment facilities, or improper operation and maintenance or lack thereof. Affirmative defense of an upset by an industrial user must be established in accordance with the conditions of 40 CFR 403.16C.

*User* means any person, establishment or owner who discharges any domestic sewage or industrial waste into the sanitary sewer system of the township.

*Wastewater* means, and please see, Sanitary sewage or sewage.

*Wastewater discharge permit* means a permit issued by the township POTW as written authorization to discharge wastewater into the township sanitary sewer system.

*Waters of the state* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
(Ord. No. 284.2, § 1.5, 4-15-91; Ord. No. 97-2, § 2, 10-6-97)
**Cross References:** Definitions and rules of construction generally, § 1-2.

**Secs. 18-127--18-135. Reserved.**

## DIVISION 2.

## STANDARDS, RULES AND REGULATIONS

**Sec. 18-136. Scope.**

The standards, rules and regulations established in or pursuant to this article are deemed to be the absolute minimum consistent with the preservation of the public health, safety and welfare, to prevent pollution of the environment, and to fulfill the obligations of the township with respect to state and federal law and all rules and regulations adopted in conformance hereto. The discharge into the sewage disposal system of any substance which exceeds the limitations contained herein, or in any manner fails to conform hereto, is hereby declared to be a public nuisance and a violation of this article.
(Ord. No. 284.2, § 2.1, 4-15-91)

**Sec. 18-137. Unlawful discharge.**

It shall be unlawful for any person to place or deposit or permit to be deposited in any unsanitary manner upon any public or private property within the township, any human or animal excrement, garbage, or other objectionable waste.
(Ord. No. 284.2, § 2.2, 4-15-91)

**Sec. 18-138. Disposal facilities.**

Except as hereinafter provided, it shall be unlawful to construct or maintain any private sewage disposal facility in the charter township, or in any area under the jurisdiction of the township.
(Ord. No. 284.2, § 2.3, 4-15-91)

**Sec. 18-139. Unavailability of public sewer.**

Where a public sanitary sewer is not available, the building sewer shall be connected to a private sewage disposal facility constructed in compliance with state law, regulations of the county, the state and local health departments, and the regulations of the township. The owner shall operate and maintain the private sewage disposal facility in a sanitary manner at all times, at no expense to the township.
(Ord. No. 284.2, § 2.4, 4-15-91)

**Sec. 18-140. Availability of public sewer.**

At such time there is an available public sewer within 200 feet of a structure served by private sewage disposal facilities, the supervisor of the charter township shall cause appropriate notice to be served upon the owner of such property, that a public sewer is ready and available to receive connections thereto and that within 18 months from the service of such notice the use of a private sewage disposal facility for the structure shall be discontinued. The plumbing shall be disconnected therefrom; all underground structures shall be filled with fresh earth, in accordance with the county health department, and all plumbing shall be connected with the public sewer. Such notice shall be served by first class United States mail, postage prepaid, in sealed envelopes addressed to the owner at his regular place of residence and by publication in a newspaper of general circulation in the township. This section shall be supplemental to such provisions of law and the public health code as may exist and shall not be construed to limit enforcement of connection requirements to the provisions hereof.
(Ord. No. 284.2, § 2.5, 4-15-91)

**Sec. 18-141. Availability of capacity.**

No connection to the system will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains, and the sewage treatment plant, including capacity for treatment of the BOD, suspended solids, and other contaminants.
(Ord. No. 284.2, § 2.6, 4-15-91)

**Sec. 18-142. Utility agreement.**

Any municipality outside the jurisdiction of the township requesting the use of the township public sewers shall grant the township legal authority to administer and enforce the township Code of Ordinances, article III, Wastewater System Use, within the municipality, including the industrial pretreatment program. This may include the adoption of an ordinance by the municipality equivalent to the charter township Code of Ordinances. In addition, whenever substantive changes are made to the charter township Code of Ordinances, any municipality operating under an equivalent ordinance or code shall be required to adopt equivalent modification within 180 days of the required modifications approval by the township board of trustees.
(Ord. No. 284.2, § 2.7, 4-15-91; Ord. No. 97-2, § 3, 10-6-97)

**Sec. 18-143. Water pollution.**

(a) It shall be unlawful to discharge into any waters of the state or any storm sewer within the township any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided and the direct discharger has a national pollutant discharge elimination system (NPDES) permit issued by the Department of Environmental Quality.

(b) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted waters into any sanitary sewer under the jurisdiction of the charter township.

(c) The discharge of groundwater into the sanitary sewer is prohibited except in cases where such a discharge is regulated under the terms of a wastewater discharge permit issued by the wastewater division of the utility department of the charter township.
(Ord. No. 284.2, § 2.8, 4-15-91; Ord. No. 97-2, § 4, 10-6-97)

**Sec. 18-144. General prohibited discharge standards.**

Except as hereinafter provided, no commercial, domestic or industrial user shall discharge or cause to be discharged any of the following described waters or wastes into any public sewer:

(1) Any liquid or vapor having a temperature higher than the maximum limitation established by resolution of the charter township board of trustees at the user's point of discharge. If the wastewater influent temperature at the treatment plant exceeds the maximum limitation established by resolution of the charter township board of trustees, a lower temperature shall be imposed on the discharger.

(2) Any petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, fat, wax, grease, oil (emulsified or not) in excess of the maximum limitation established by resolution of the charter township board of trustees, any floating oil, oil sheen or grease particles.

(3) The discharge of any flammable or explosive liquid, solid, or gas with a flash point of less than the minimum limitation established by resolution of the charter township board of trustees including, but not limited to gasoline, kerosene, benzene, toluene, xylene, naphtha, alcohols, ethers, fuel oil, or antifreeze is prohibited except as allowed under the terms of a legally issued wastewater discharge permit. Also prohibited are residual BTEX compounds that may be present in waters discharged under a wastewater discharge permit from a groundwater remediation site.

(4) Any garbage that has not been shredded to such a degree that all particles will be carried freely in suspension under normal flow conditions, or having particles with dimensions greater than the maximum limitation(s) established by resolution of the charter township board of trustees.

(5) Any substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage disposal system including, but not limited to, mineral oil, grease, eggshells, ashes, cinders, sand, mud, soil, plastics, bones, wood, paunch manure, straw, shavings, metal, glass, rags, feathers, asphalt, tar, and manure.

(6) Any waters or wastes having a pH outside the range established by resolution of the charter township board of trustees or having any other corrosive property capable of causing damage or hazards to personnel, structures, or equipment of the sewage works.

(7) Any waters or wastes containing a toxic or poisonous substance which would injure or interfere with any sewage treatment process, constitute a hazard to humans, animals, fish or aquatic life or create any hazard in the receiving waters of the sewage treatment plant.

(8) Any waste of sufficient flow or concentration, or both, defined as a slug.

(9) Any waters or waste of such character and quantity that unusual attention or expense is required to handle such materials in the POTW.

(10) Any color, such as, but not limited to, dye wastes and vegetable tanning solution, or any unusual chemical oxygen demand, chlorides, sulfates, or chlorine requirements in such quantities as to constitute a significant load on the POTW or as otherwise established by resolution of the charter township board of trustees.

(11) Any noxious or malodorous liquids, gases, fumes, vapors, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, create a health or safety problem for workers, a hazard to life, or are sufficient to prevent entry into the sewers for maintenance and repair.

(12) Any radioactive waste.

(13) Any substance which may cause the POTW effluent or any other product of the POTW such as residues, sludges, or scums to be unsuitable for disposal, applicable to the sludge management method being used.

(14) Any wastewater or substance containing polychlorinated biphenyl ($PCB_s$).

(15) No industrial waste shall be permitted into the sanitary sewers that may cause violation of the NPDES permit requirements, pretreatment standards, and all other township, state, or any federal regulations.

(16) Discharge of trucked or hauled wastes into the sanitary sewer serving the premises without written approval from the Superintendent.

(17) Waste that would violate the user's commercial industrial wastewater discharge permit.

(18) Discharge of detectable mercury is prohibited, except as specifically established by resolution of the township board of trustees.

(Ord. No. 284.2, § 2.9, 4-15-91; Ord. No. 97-2, § 5, 10-6-97; Ord. No. 00-02, § 1, 4-17-00; Ord. No. 02-05, § 1, 4-15-02)

**Sec. 18-145. Pollutant limitations on wastewater discharges.**

In addition to the general prohibited discharge standards, no person shall discharge into the sanitary sewer wastewater any of the pollutants designated by resolution of the charter township board of trustees in excess of the quantities established in that resolution of the charter township board of trustees as measured on a 24-hour composite sample basis, except for cyanide, oil & grease, pH, and phenols, which shall be analyzed from a grab sample.
(Ord. No. 284.2, § 2.10, 4-15-91; Ord. No. 97-2, § 6, 10-6-97; Ord. No. 00-02, § 2, 4-17-00)

**Sec. 18-146. Reject, surcharge, pretreatment.**

The township reserves the right to reject, surcharge, require pretreatment or establish special contractual provisions to handle high strength or toxic waste, or waste for which discharge is not defined within the foregoing prohibited discharge standards or limitations. The township utility department wastewater division will not grant variance to any categorical pretreatment requirements, local limit, or prohibited discharge standard.
(Ord. No. 284.2, § 2.11, 4-15-91; Ord. No. 97-2, § 7, 10-6-97)

**Sec. 18-147. Federal categorical pretreatment standards (EPA).**

Upon promulgation of a federal categorical pretreatment standard for a particular industrial subcategory, all industrial users affected by the pretreatment standard will be required to conform to the new pretreatment standard in accordance with 40 CFR 403.12. The federal standard, if more stringent than the limitations imposed under this article for sources in that subcategory, shall immediately supersede any limitations imposed under this article. In the event of a new pretreatment standard is less stringent than a standard imposed in this article, the limitations in this article shall prevail. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.
(Ord. No. 284.2, § 2.12, 4-15-91; Ord. No. 97-2, § 8, 10-6-97)

**Sec. 18-148. Township right to revision.**

The township reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system to comply with the public purpose established in section 18-121 of this article.
(Ord. No. 284.2, § 2.13, 4-15-91)

**Sec. 18-149. State requirements.**

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.
(Ord. No. 284.2, § 2.14, 4-15-91)

**Sec. 18-150. Dilution.**

No user shall dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical standards, or in any other pollutant-specific limitation developed by the township or state.

(Ord. No. 284.2, § 2.15, 4-15-91)

**Sec. 18-151. Notification of changed discharges.**

All industrial users are required to notify the township wastewater treatment plant in advance of substantial changes in volume or character of discharge released to the treatment plant. In addition, federal regulation 403.12(P)(1) requires industrial users to notify the publicly owned treatment works (POTW), the Environmental Protection Agency (EPA), Regional Waste Management Division Director, and the state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which otherwise disposed of would be a hazardous waste as defined in 40 CFR Part 261. These changes could include, but are not limited to the following:

(1) Groundwater purged for remediation action,

(2) Groundwaters containing pollutants which infiltrate into the sanitary sewer, and

(3) Listed or characteristic hazardous wastes.

(Ord. No. 284.2, § 2.16, 4-15-91; Ord. No. 97-2, § 9, 10-6-97)

**Sec. 18-152. Treatment bypass conditions.**

Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass unless:

(a) *Bypass which does not violate pretreatment standards.* When necessary for essential maintenance, an industrial user may allow bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation.

(b) *Notice of bypass.* If an industrial user knows of the need to bypass in advance, it shall submit prior notice and where possible, at least ten days before date of the bypass.

(1) An industrial user shall submit oral notice of an unanticipated bypass that exceeds pretreatment standards within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, the exact date 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 reoccurrence of the bypass. The written report may be waived if the oral report is received within 24 hours.

(c) *Prohibition of bypass.* Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated process water, or maintenance during normal periods of downtime. This

condition is not satisfied if adequate back up 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.

(3) The nondomestic user submitted notices as required under paragraph (b)(1) of this section.
(Ord. No. 284.2, § 2.17, 4-15-91; Ord. No. 97-2, § 10, 10-6-97)

**Sec. 18-153. Accidental discharge.**

Facilities to prevent accidental discharge of general prohibited materials shall be installed and maintained at the owner's or user's expense when they are necessary. Detailed plans showing facilities and operating procedures shall be submitted to the township for review and approval before construction of the facility. No user who commences contribution to the POTW after April 23, 1991 shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the township.
(Ord. No. 284.2, § 2.18, 4-15-91)

**Sec. 18-154. Notification.**

In case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the superintendent of the incident. The notification shall include the location of the discharge, type of waste, concentration and volume, the type of hazard associated with the waste and the proper method of treatment. The user shall also provide technical data and personnel to assist the POTW in the proper method for treating the accidental discharge.
(Ord. No. 284.2, § 2.19, 4-15-91; Ord. No. 97-2, § 11, 10-6-97)

**Sec. 18-155. Written notice.**

Within five days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Article or other applicable law.
(Ord. No. 284.2, § 2.20, 4-15-91; Ord. No. 97-2, § 12, 10-6-97)

**Sec. 18-156. Notice to employees.**

A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental or dangerous discharge.
(Ord. No. 284.2, § 2.21, 4-15-91)

**Sec. 18-157. Interceptors; installation and maintenance.**

(a) Grease, oil, and/or sand interceptors shall be provided at the owner's expense for the proper handling of liquid waste containing grease, any flammable wastes, sand, or other harmful ingredients. Grease interceptors shall be required for all food service establishments where grease is disposed of as a portion of the

total wastewater discharge. Oil and sand interceptors are required for establishments engaged in the maintenance and/or washing of motor vehicles. Interceptors shall be of a type and capacity approved by a qualified engineer and shall be located so as to be readily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall be substantially constructed, watertight and equipped with easily removable covers which, when bolted in place, are gastight and watertight.

(b) When installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.
(Ord. No. 284.2, § 2.22, 4-15-91)

**Sec. 18-158. Pretreatment facilities.**

The owner shall provide, at his expense, such treatment facilities as may be necessary to control the quality and quantity of discharge of waters and wastes to meet all applicable state and federal regulations including the limitations set forth in the township NPDES permit and the limitations on wastewater discharges contained in this article. The provision for pretreatment facilities in this section is to assure that the user will consistently provide for the reduction in the amount of a pollutant in the effluent to a less toxic or harmless state.
(Ord. No. 284.2, § 2.23, 4-15-91)

**Sec. 18-159. Construction of pretreatment facilities.**

Plans, specifications, and other pertinent information relating to proposed pretreatment facilities shall be submitted to the township for review and no construction of such facilities shall be commenced until such plans are approved.
(Ord. No. 284.2, § 2.24, 4-15-91)

**Sec. 18-160. Maintenance of pretreatment facilities.**

Where pretreatment facilities are provided for any waters or wastes, they shall be maintained in satisfactory and effective operation by the owner at his expense. Records of maintenance performed on pretreatment equipment shall be provided to the township upon request.
(Ord. No. 284.2, § 2.25, 4-15-91)

**Sec. 18-161. Control manholes.**

When required by the township, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of wastes. Such manhole shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the township. The manhole 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. If a sampling manhole has not been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.
(Ord. No. 284.2, § 2.26, 4-15-91)

**Sec. 18-162. Removal credits.**

There shall be no variance, adjustment or revisions of the federal categorical pretreatment standards as provided for in 40 CFR 403.7(b). It is the intent of the township POTW not to issue removal credits that would allow a user to discharge higher amounts of toxic compounds than established by the existing federal categorical pretreatment standards or standards that may be amended or promulgated in the future or standards as established in this article.
(Ord. No. 284.2, § 2.27, 4-15-91)

**Sec. 18-163. Measurements, analyses.**

All measurements, tests and analyses of the characteristics of water and wastes shall be determined in accordance with 40 CFR 136 or in accordance with methodology approved by the United States Environmental Protection Agency.
(Ord. No. 284.2, § 2.28, 4-15-91)

**Sec. 18-164. Inspection; powers and authority of inspectors.**

Authorized employees of the township bearing credentials shall be permitted to enter upon all properties for the purpose of inspection, observation, investigation, measurement, sampling and testing, and to examine and copy any records pertaining to the pretreatment program. Any person who applies for and/or receives services from the POTW shall be deemed to have consented to the conditions of this section, including entrance upon that person's property. All significant industrial users will be sampled and inspected at least once each year.
(Ord. No. 284.2, § 2.29, 4-15-91)

**Sec. 18-165. Surcharge.**

Any user discharge to the public sewer wastewater having a biochemical oxygen demand, chemical oxygen demand, oil and grease, phosphorus or suspended solids within the range established by resolution of the charter township board of trustees shall be subject to an additional surcharge over and above the basic rates. The surcharge shall be the yearly average per pound of treatment cost computed as a percent of the total operating costs divided by the pounds of treated pollutant.
(Ord. No. 284.2, § 2.30, 4-15-91; Ord. No. 97-2, § 13, 10-6-97; Ord. No. 00-02, § 3, 4-17-00)

**Sec. 18-166. Waste discharged from external sources.**

The discharge of waste into the township wastewater system from an external source such as trucked or hauled waste, test well residuals, pump and haul, or spent water from an abatement site, or other external contributors is not permitted unless prior written consent has been obtained from the superintendent. Permission may be granted on a case-by-case basis for discharge of such wastes into a pre-identified manhole of the sanitary sewer system, or at the treatment plant. Analysis and pretreatment of any waste proposed for discharge into the treatment system may be required prior to commencement of the discharge of the waste.
(Ord. No. 284.2, § 2.31, 4-15-91; Ord. No. 97-2, § 14, 10-6-97)

**Secs. 18-167--18-175. Reserved.**

## DIVISION 3.

## BUILDING SEWERS AND CONNECTIONS

### Sec. 18-176. Authorization required.

No person shall cover, uncover, obstruct or make any connections with or opening into, use, alter, or disturb any public sewer, manhole, service access, or appurtenance thereof, without first obtaining written authorization from the appropriate township department.
(Ord. No. 284.2, § 3.1, 4-15-91)

### Sec. 18-177. Authorization forms, fees.

All connections with any sewer of the township and any grading, excavation, or backfilling that will result in the obstruction, or placing above or below grade level, of any public sewer, manhole, service access, or any appurtenance thereof, shall be made only on written authorization issued by the township and on such forms and on payment of such fees and in accordance with such conditions as shall be established from time to time by the township board. Authorization to connect to the sewer shall be subject to specific requirements of the township relating to sewer design and/or the more stringent requirements of the Uniform Building Code, Uniform Plumbing Code or any subsequent ordinance or amendment adopted by the township board with regard to standards for construction of building drains, sewers, and stubs.
(Ord. No. 284.2, § 3.2, 4-15-91)

### Sec. 18-178. Owner expense, liability.

(a) All costs and expenses incident to the installation and connection of the building sewer to the public sewer, and to the repair, replacement, and maintenance of such building sewer, shall be borne by the owner of the premises served by the building sewer.

(b) All costs and expenses incident to the raising or lowering of any public sewer, or manhole, or service access to surface grade required as a result of any grading, excavating, or backfilling, shall be borne by the person requiring the grading, excavating, or backfilling.

(c) The owner shall indemnify the township from all loss or damage that may directly or indirectly be occasioned by the installation of the building sewer or by grading, excavating, or backfilling that requires any public sewer, manhole, or service access to be raised or lowered to grade level.

(d) Only that portion considered as a public sewer main shall be maintained at the expense of the township. The building sewer (including the house lead) is not a part of the public sewer main.
(Ord. No. 284.2, § 3.3, 4-15-91)

### Sec. 18-179. Vandalism.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with or alter any structure, property, appurtenance, equipment, or any other item which is part of the POTW.

(Ord. No. 284.2, § 3.4, 4-15-91)

**Secs. 18-180--18-190. Reserved.**

## DIVISION 4.

## ADMINISTRATION OF WASTEWATER DISCHARGE PERMITS

**Sec. 18-191. Wastewater discharge permits.**

All significant users proposing to discharge nondomestic waste into the sanitary sewers of the POTW shall obtain a wastewater discharge permit prior to contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a wastewater discharge permit within 180 days after the effective date of this ordinance [October 6, 1997.] It shall be unlawful for a significant user to discharge any wastewater to the POTW without a permit except as authorized by the superintendent in accordance with the provisions of this article.
(Ord. No. 284.2, § 4.1, 4-15-91; Ord. No. 97-2, § 15, 10-6-97)

**Sec. 18-192. Permit conditions.**

Wastewater discharge permits shall be subject to all provisions of this article and all other applicable regulations, user charges, and fees established by the township. Permits shall contain no less than the following conditions, where appropriate:

(1) A wastewater permit shall not be reassigned, transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(2) The duration of a wastewater permit shall be one year.

(3) A condition of permit requirements may include submission of facility plans for accidental spill prevention, cleanup procedures, notification, and reporting of a spill incident.

(4) The terms and conditions of the permit may be subject to modification by the township during the term of the permit. (Refer to sections 18-147, 18-148 and 18-149.)

(5) Limits on the average and maximum wastewater constituents and characteristics.

(6) Limits on the average and maximum rate and time of discharge and/or requirements for flow regulation and equalization.

(7) Requirement for installation and maintenance of inspection and sampling facilities.

(8) Compliance schedules.

(9) Requirements for submission of a baseline monitoring report, special technical reports, discharge reports, or compliance schedule reports different from those prescribed in this chapter, all of

which shall comply with the standards and guidelines which are (or in the future may be) established by the township.

(10) Requirement for notification to the township of significant change in discharge.

(11) Special conditions as the superintendent may reasonably require under particular circumstances of a given discharge including, but not limited to, sampling locations, frequency of sampling, number and type of sample, standards for testing, and reporting schedule.

(Ord. No. 284.2, § 4.2, 4-15-91; Ord. No. 97-2, § 16, 10-6-97)

**Sec. 18-193. Permit application.**

(a) A user, upon application for a wastewater discharge permit, shall submit the following information:

(1) The nature and concentration of all pollutants in the discharge.

(2) The average and maximum daily flow for process units in the user's facility which are limited by pretreatment standards or requirements.

(3) An inventory of all chemicals, toxic substances, oils or solvents which are used in conjunction with regulated processes and contained on the user's property.

(4) The normal usage of all chemicals, toxic substances, oils or solvents, and the normal quantities on hand.

(5) The method or methods of disposal of spent or used chemicals, toxic substances, oil and solvents used in conjunction with the regulated processes.

(6) A description of the pretreatment methods that will be used to remove regulated pollutants.

(7) Production data which will aid in determining process flow and types and concentration of regulated pollutants.

(8) Site plans, floor plans, mechanical and plumbing plans to show all sewers and sewer connections.

(9) Other information that may be required to suitably process the application for the permit.

(b) The application for permit reissuance shall be signed by an authorized representative of the significant user.

(Ord. No. 284.2, § 4.3, 4-15-91)

**Sec. 18-194. Reporting requirements for permittee.**

(a) *Ninety-day compliance reports.* Within 90 days following the date for compliance with

applicable categorical pretreatment standards or in the case of a new source following commencement of introduction of wastewater into the POTW, any industrial user subject to such standards shall submit to the township wastewater treatment plant a report containing the information described in 40 CFR 403.12(b)4--6. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the discharger into compliance. This statement shall be signed by an authorized representative of the discharger.

(b) *Periodic compliance reports.* All significant users subject to a pretreatment standard set forth in this article, after the compliance date of such a pretreatment standard, or in the case of a new discharger after commencement of discharge to the township, are required to submit six-month reports to the township unless required more frequently by the township POTW. This report shall contain information as defined in the approved wastewater discharge permit.

(1) A record of all measured or estimated average and maximum daily flows. Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the township may accept reports of average and maximum flows estimated by verifiable techniques.

(2) Results of all sampling and analysis of the discharge necessary for the monitoring of concentrations of regulated pollutants. Monitoring frequency shall be prescribed in the content of the discharger's sewer use permit.

(c) *Report sampling.* Data used in support of a compliance report, a baseline monitoring report, and/or compliance with a pretreatment standard deadline must be representative of the sampling performed during the period covered by the report.
(Ord. No. 284.2, § 4.4, 4-15-91; Ord. No. 97-2, § 17, 10-6-97)

**Sec. 18-195. Accidental spill prevention.**

The application for a wastewater discharge permit shall include plans for accidental spill prevention in accordance with sections 18-151 through 18-154.
(Ord. No. 284.2, § 4.5, 4-15-91)

**Sec. 18-196. Confidential information.**

(a) Information of a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction. The user may request in writing that the release of information which reveals trade secrets be entitled to protection. The request shall be made to the township manager, or in his absence the township supervisor. The user shall specifically identify which information it wishes accorded confidential treatment and the specific reasons its release of said information would harm the user. The township manager or supervisor may, but is under no obligation to, promise confidentiality of any trade secrets. In the event the township manager or supervisor refuses to promise confidentiality of the information to be submitted, within ten days of such denial the user may petition the township board for a hearing to be held within 30 days of the user's request to determine the validity of the user's request. Representatives of the US EPA and the Michigan Department of Environmental Quality shall upon request be afforded immediate and unlimited access to all information

collected by the township under the Industrial Pretreatment Program. These agencies have established procedures for the handling of confidential information.

(b) Information accepted by the township as confidential may not be transmitted to any governmental agency or to the general public until the user has been accorded an opportunity by the superintendent to provide further documentation of the user's original request for confidentiality. If, after the user has been allowed 20 days to comment, the superintendent decides that it is in the best interest of the public to release the information, he shall so notify the user and allow ten days for the user to request a hearing before the township board, such hearing to be held within 30 days of notification to the clerk of the user's request for a hearing.

(c) Effluent monitoring data will not be recognized as confidential information.
(Ord. No. 284.2, § 4.6, 4-15-91; Ord. No. 97-2, § 18, 10-6-97)

**Sec. 18-197. New source compliance.**

A new source subject to categorical or ordinance defined pretreatment standards shall install and start up all pretreatment equipment necessary for complying with such standards prior to commencement of discharge. Compliance with pretreatment standards shall be completed within the shortest feasible time, but not to exceed 90 days from commencement of discharge.
(Ord. No. 284.2, § 4.7, 4-15-91)

**Sec. 18-198. Baseline monitoring report deadline for new sources.**

A new industrial source is required to submit a baseline monitoring report (BMR) at least 90 days prior to commencement of discharge.

(1) An existing industrial user is required to submit a BMR to the control authority within 180 days after the effective date of the applicable categorical standard (40 CFR 403.12 B).

(2) A new categorical industrial user is required to submit a BMR at least 90 days prior to commencement of the facilities discharge to the POTW.

a. Within 180 days after the effective date of a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission, whichever is later, existing industrial users subject to the standards which are currently discharging to or are scheduled to discharge to the POTW, shall submit to the POTW a report which contains the information listed in paragraphs (b)(1--7) OF 40 CFR 403.12.

b. A new industrial source is required to submit a baseline monitoring report at least 90 days prior to commencement of discharge. The report shall contain information as required in 40 CFR 403.12(b)(1--5). New sources shall also be required to include in this report, information of the method of pretreatment the source intends to use to comply with applicable pretreatment standards. Estimated measurements shall be used to provide the information as required in 40 CFR 403.12, paragraphs (b)(4 & 5).

c. Industrial users shall report any changes to information in the baseline monitoring report to the POTW within 60 days.

(Ord. No. 284.2, § 4.8, 4-15-91; Ord. No. 97-2, § 19, 10-6-97)

**Sec. 18-199. Signatory requirements.**

Reports shall be signed by a responsible corporate officer in charge of a principal business function: either president, vice president, secretary, treasurer, or a duly authorized representative of a responsible corporate officer. The appropriate corporate officer shall be designated in writing by the permittee prior to issuance of a wastewater discharge permit. If there is any change of the responsible corporate official, the appropriate replacement for the officer shall be designated in writing prior to submittal of any report under his authority. All reports shall include the certification statement as set forth in 40 CFR Part 403.6 (A)(2)(ii). If the user is a federal, state, or local government facility, then a director or higher official appointed or designated to oversee the operation and performance of the activities of the government facility or their designee shall be the authorized representative. That authorization shall be made in writing.

(Ord. No. 284.2, § 4.9, 4-15-91; Ord. No. 97-2, § 20, 10-6-97)

**Sec. 18-200. Records retention.**

All dischargers subject to this chapter shall retain and preserve for a period of no less than three years any records, books, documents, memoranda, reports, correspondence and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the superintendent pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(Ord. No. 284.2, § 4.10, 4-15-91; Ord. No. 97-2, § 21, 10-6-97)

**Sec. 18-201. Continuation of a permit beyond the expiration date.**

When application for permit reissuance has been filed in a timely and orderly manner, but a new permit has not been issued, an extension of the expiring permit will be given. The length of the extension will reflect the time needed for reissuance of the new permit, but shall not exceed 60 days.

(Ord. No. 284.2, § 4.11, 4-15-91)

**Sec. 18-202. Permit appeal.**

(a) Requests for reconsideration should be made within 20 days of final issuance of a wastewater discharge permit. After 20 days the right to reconsideration by the superintendent or by a court of law is considered waived.

(b) Requests for reconsideration should be made in writing and include supporting reasons for reconsidering the permit requirement being questioned.

(Ord. No. 284.2, § 4.12, 4-15-91; Ord. No. 97-2, § 22, 10-6-97)

**Sec. 18-203. Temporary permits, site contamination clean-up water.**

The release of water from a temporary point of discharge into the sanitary sewer as a result of site contamination from leakage of underground fuel storage tanks (USTs) is unlawful except as authorized by the superintendent through issuance of a wastewater discharge permit. All temporary users proposing to discharge into the sanitary sewers of the township shall apply for a wastewater discharge permit prior to commencement of discharge to the township POTW. The township reserves the right to reject, surcharge, or establish special contractual provisions in accordance with the Code of Ordinances section 18-146 And the terms of the following sections 18-204--18-207.

In addition to the requirements contained in this section, the release of water from a temporary point of discharge into the sanitary sewer as a result of site contamination from leakage of underground fuel storage tanks shall be in full compliance with the provisions of the leaking underground storage tank act, MCL 299.831, et seq., as amended, and the Michigan Environmental Response Act, MCL 299.601, et seq., as amended.
(Ord. No. 97-2, § 23, 10-6-97)

**Sec. 18-204. Temporary permit conditions.**

Temporary wastewater discharge permits shall be subject to all provisions of this Code of Ordinances and all other applicable regulations, user charges, and fees established by the township. A temporary permit shall contain no less than the following:

(1) A temporary permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation.

(2) The duration of a temporary permit shall not exceed one year.

(3) Limits on the maximum allowable discharge of pollutants.

(4) Limits on the average and maximum rate and time of discharge.

(5) Requirements for submission or reports.

(6) Special conditions, as the superintendent may require.
(Ord. No. 97-2, § 24, 10-6-97)

**Sec. 18-205. Temporary permit application.**

A temporary user, upon application for a wastewater discharge permit shall submit the following information:

(1) The remediation contractor name, address, phone number, and the project coordinator for the site.

(2) The company name, address, phone number, and environmental officer for the location for which the permit is being obtained.

(3) Testing results of a purgeable halocarbon scan (EPA Method 601) from each monitoring well.

(4) In addition, background sampling from each monitoring well is required for the following:

a. benzene

b. ethyl benzene

c. toluene

d. xylene

e. phosphates

f. lead

g. methyl tert butyl ether (MTBE)

(5) An estimate of the anticipated average and maximum flow in gallons/day.

(6) The anticipated start date, and the projected duration of the project.

(7) The authorized signature of a responsible corporate official in charge of a principal business function; either president, vice president, secretary, treasurer, or a duly authorized representative of a responsible corporate officer.

(Ord. No. 97-2, § 25, 10-6-97)

**Sec. 18-206. Reporting requirements for temporary permits.**

(a) *Violation.* Should sampling results reveal a treatment violation, it must be immediately reported to the Superintendent. In addition, the following information shall also be reported verbally and in writing within five days following receipt of the sampling data:

(1) The cause of the violation.

(2) How the violation was corrected.

(3) When discharge was resumed following the correction in treatment.

(b) *Monitoring reports.*

(1) Sampling data shall be reported weekly for the first three months of discharge.

(2) If no violations are detected during the first three months of discharge, the reporting requirement may be reduced to quarterly thereafter. A reduction in the reporting requirement must be

approved in writing by the superintendent.
(Ord. No. 97-2, § 26, 10-6-97)

**Sec. 18-207. Pollutant limitations for temporary wastewater discharge permits.**

Due to the nature of the discharge from sites requiring a temporary wastewater discharge permit, the charter township board of trustees shall establish, by resolution, maximum pollutant limitations for the purpose of ensuring acceptable wastewater discharge from these sites. These limitations are in addition to the pollutant limitations set forth in section 18-145 of this Code.
(Ord. No. 97-2, § 27, 10-6-97; Ord. No. 00-02, § 4, 4-17-00)

**Secs. 18-208--18-215. Reserved.**

## DIVISION 5.

## ENFORCEMENT

**Sec. 18-216. Notice of potential harmful discharge.**

All industrial users shall notify the POTW immediately of all discharges that could cause problems to the POTW including any slug loadings as defined in this article. All categorical significant users are required to report a violation of pretreatment standards within 24 hours of when the violating discharge was first detected. Resampling to confirm compliance of the wastestream in violation shall be completed within 30 days.
(Ord. No. 284.2, § 5.1, 4-15-91; Ord. No. 97-2, § 28, 10-6-97)

**Sec. 18-217. Notice of violation.**

(a) *Generally.* Whenever the superintendent finds that a user has violated or is violating this article or a wastewater discharge permit, including any prohibition, limitation or requirement contained herein, the township may serve upon such a person a written notice stating the nature of the violation. Within 30 days of the receipt date of this notice, a plan for the satisfactory correction thereof shall be submitted to the superintendent by the user.

(b) *Damaging contributions.* Whenever the township finds that a user has or is violating this article or a wastewater discharge permit, by an actual or threatened discharge that may cause interference to the POTW or cause the township to violate any condition of its NPDES permit, the township may serve upon such a person a verbal and/or written notice to require immediate stoppage or elimination of the violating contribution. Within ten days of the receipt date of this notice, an explanation of the violations and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.
(Ord. No. 284.2, §§ 5.2, 5.3, 4-15-91; Ord. No. 97-2, § 29, 10-6-97)

**Sec. 18-218. Consent orders.**

The superintendent is hereby empowered to enter into consent orders, assurances of voluntary

compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct noncompliance within a time period specified by the order. Consent orders shall have the same force and effect as administrative orders issued in accordance with section 18-221.
(Ord. No. 284.2, § 5.4, 4-15-91; Ord. No. 97-2, § 30, 10-6-97)

**Sec. 18-219. Show cause hearing.**

(a) The superintendent may order any user which causes or contributes to violation of this article, or wastewater discharge permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

(b) A user may also request, in writing, a hearing before the township board because of enforcement action taken or pending for a violation. The user will be notified of the meeting as described in subsection (a), and must be prepared to show cause before the township board as to why the enforcement action should not have been taken, or should not be taken. The township board may itself conduct the hearing and take the evidence, or may designate an impartial hearing officer to:

(1) Issue in the name of the township board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence to any matter involved in such hearings.

(2) Take the evidence and transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the township board for action thereon.

(c) At any hearing held pursuant to this article, testimony taken must be under oath and recorded. The transcript will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
(Ord. No. 284.2, § 5.5, 4-15-91; Ord. No. 97-2, § 31, 10-6-97)

**Sec. 18-220. Affirmative defense.**

When an enforcement action is brought against an industry alleging violation of specific article limits or general prohibitions, the industry may verifiably demonstrate in its defense that:

(1) It did not know or have reason to know that its discharge alone or in conjunction with a discharge from other sources would cause pass through or interference.

(2) The user was in compliance with local limits designed to prevent interference and/or pass through, directly prior to and during the incidence of interference and/or pass through.

(3) If a local limit designed to prevent interference or pass through has not been developed for the

constituent that caused the interference and/or pass through, the industry may demonstrate that directly prior to, and during the incident of discharge, its effluent did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was in compliance with its approved NPDES permit and applicable sludge disposal criteria.

(4) Affirmative defense will not be allowed in cases where an alleged discharge of pollutants has resulted in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health or safety problems.

(Ord. No. 284.2, § 5.6, 4-15-91; Ord. No. 97-2, § 32, 10-6-97)

**Sec. 18-221. Compliance order.**

When the superintendent finds that an industrial user has violated, or continues to violate this article or a permit or order issued hereunder, he may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related equipment have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self monitoring, and management practices. A compliance schedule may also be included in the body of a wastewater discharge permit.

(Ord. No. 284.2, § 5.7, 4-15-91; Ord. No. 97-2, § 33, 10-6-97)

**Sec. 18-222. Permit action.**

This permit may be modified, revoked and reissued, or terminated for good cause including, but not limited to the following:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) Material or substantial alterations or additions to the discharger's operation which were not covered in the effective permit;

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the control authority's collection and treatment systems, POTW personnel or the receiving waters;

(5) Violation of any terms or conditions of this permit;

(6) Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or

(7) Upon request of the permittee, provided such request does not create a violation of any existing applicable requirements, standards, laws, or rules and regulations.

(Ord. No. 284.2, § 5.8, 4-15-91)

**Sec. 18-223. Publication of violations.**

The township shall annually publish in the largest circulation newspaper in the area a list of the users which, during the previous 12 months, were in significant noncompliance of applicable pretreatment standards or other pretreatment requirements. The notification shall also summarize any enforcement actions taken against the user during the same 12 months. For the purposes of this section, a significant violation is a violation which:

(1) Remains uncorrected for 45 days after notification of noncompliance.

(2) Is part of a pattern of noncompliance over a 12-month period.

(3) Involves a failure to accurately report noncompliance.

(4) Results in the township exercising its right to suspend service.

(Ord. No. 284.2, § 5.10, 4-15-91; Ord. No. 97-2, § 35, 10-6-97)

**Sec. 18-224. Emergency suspension of service.**

(a) The superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(b) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in section 18-221 are initiated against the user.

(c) An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.

(Ord. No. 284.2, § 5.10, 4-15-91; Ord. No. 97-2, § 36, 10-6-97)

**Sec. 18-225. Legal action.**

If any person discharges sewage, industrial wastes, or other wastes into the township wastewater disposal system contrary to provisions of this article, federal or state pretreatment requirements, or any order of the township, or is found to be in violation of any division or section of this article, the superintendent shall notify the township board and the board may commence action for appropriate legal and/or equitable relief in the circuit court of this county.

(Ord. No. 284.2, § 5.11, 4-15-91; Ord. No. 97-2, § 37, 10-6-97)

**Sec. 18-226. Injunctive relief.**

Whenever a user has violated, or continues to violate the provisions of this article or permit or order issued hereunder, with the consent of the township board, the superintendent, through the township attorney, may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the user. The superintendent may recover fees and expenses associated with the enforcement activity in the same manner as other sewer service charges.
(Ord. No. 284.2, § 5.12, 4-15-91; Ord. No. 97-2, § 38, 10-6-97)

**Secs. 18-227--18-240. Reserved**

## DIVISION 6.

## PENALTIES, COSTS

**Sec. 18-241. Violations and penalties.**

(a) Any person found to be violating any provision of this article, and the orders, rules, regulations, and permits issued hereunder shall be served by the township with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.

(b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) above shall be responsible for a Code violation punishable as a municipal civil infraction as prescribed by chapter 1 of this Code.

(c) This article shall be enforced by the superintendent of the township wastewater treatment plant or designees who are hereby designated as the authorized township officials to issue municipal civil infraction citations under this article, directing alleged violators to appear in court, or to issue municipal civil infraction notices, directing alleged violators to appear at the township municipal violations bureau as provided by this Code.

(d) The issuance of municipal civil infraction citations shall be pursuant to chapter 2, article 7 of this Code.

(e) Notwithstanding any provision to the contrary, the amount of a municipal civil infraction found due in response to the issuance of a municipal civil infraction notice for a violation of this article shall be according to the following schedule:

(1) First offense: $1,000.00;

(2) Second offense: $2,500.00;

(3) Third or subsequent offense: $5,000.00.

A copy of this schedule shall be posted at the township municipal ordinance violations bureau.

(f) In addition to the penalties provided herein, the township may recover costs incurred as a consequence of sampling and monitoring expenses, legal action, or increased operational and maintenance expenditures for the sanitary sewer system or treatment plan, or increased sludge handling expenditures, and such costs shall be recoverable from the person found to have violated this article or the orders, rules, regulations and permits issued hereunder.

(g) The following violations of this article are exempt from enforcement as a municipal civil infraction:

(1) All acts or omissions which constitute a crime under state law punishable by imprisonment for more than 90 days including, but not limited to, section 18-179.

(2) All violations capable of enforcement pursuant to MCL 324.3115.

(Ord. No. 284.2, § 6.1, 4-15-91; Ord. No. 97-2, § 39, 10-6-97; Ord. No. 02-02, § 1, 1-22-02)

**Sec. 18-242. Tenant responsibility.**

Should the owner of any property, after receipt of notice of violation as specified herein, fail to comply with the provisions of this article against the agent or tenant of the owner or any other person occupying or having charge of such property, the owner shall be jointly and severally responsible with such tenant for any failure to comply with the provisions of this article.

(Ord. No. 284.2, § 6.2, 4-15-91)

**Sec. 18-243. Falsifying information.**

Any person who knowingly makes any false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article, or wastewater discharge permit; or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than $500.00 or by imprisonment for not more than six months, or by both.

(Ord. No. 284.2, § 6.3, 4-15-91)

**Sec. 18-244. Cost recovery by the township.**

Any discharger violating any provisions of this article who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the township wastewater disposal system, shall be liable to the township for any damage, loss, or expense including costs as a consequence of legal action resulting from such violation or discharge. The township shall bill the discharger for the costs incurred by the township for any cleaning, repair, replacement, and/or legal fees caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this article enforceable under the provisions of section 18-241.

(Ord. No. 284.2, § 6.4, 4-15-91)

**Secs. 18-245--18-255. Reserved.**

## DIVISION 7.

## FUNDING

### Sec. 18-256. Funding for POTW service.

This article allows the use of the fees and charges for the operation and maintenance of the industrial waste pretreatment and nondomestic users control program (IWP & NUCP).
(Ord. No. 284.2, § 7.1, 4-15-91)

### Sec. 18-257. Additional funding.

Fees and charges may be established for, but not limited to the following:

(1) Administration of the industrial waste pretreatment and nondomestic users' control program.

(2) Monitoring, inspections, surveillance procedures.

(3) Reviewing accidental discharge procedures and construction.

(4) Permit applications.

(5) Filing appeals.

(6) Sampling (grab, composite, or other types of sampling).

(7) Testing costs.

(8) Multiple discharge analysis from an independent testing laboratory.

(9) Other fees the township may deem necessary to carry out the requirements of the industrial waste pretreatment and nondomestic users' control program.

(Ord. No. 284.2, § 7.2, 4-15-91)

### Sec. 18-258. Fees.

Fees shall be the amount established by resolution of the township board and shall relate solely to the matters covered in section 18-257 and are separate from all other fees chargeable by the township.
(Ord. No. 284.2, § 7.3, 4-15-91)

### Secs. 18-259--18-270. Reserved.

## DIVISION 8.

## APPEALS

### Sec. 18-271. Aggrieved parties.

Any user of the township sanitary sewage disposal works or any potential user thereof aggrieved by the application of the provisions hereof is entitled to appeal to the township board as the sanitary sewer board of appeals. Any decisions made by the township board pursuant to request of a user or potential user shall be taken from an adverse decision of the building official or superintendent, and the decision of the township board shall be final and binding except as may be confirmed, set aside, or amended by a court of competent jurisdiction. (Ord. No. 284.2, § 8.1, 4-15-91; Ord. No. 97-2, § 40, 10-6-97)

**Secs. 18-272--18-290. Reserved.**

## ARTICLE IV.

## WASTEWATER SYSTEM RATES

**Sec. 18-291. 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:

*Abutting property* means property abutting a public sewer main, whether through or from the front, side or the back of the premises.

*Accumulated sanitary sewer system value* means that value, per 1,000 cubic feet of sewer use, as established by resolution of the charter township board of trustees which shall be adjusted periodically by resolution of the township board to reflect the most current net system value.

*Average cost per linear foot of main according to pipe size* for sewer main shall be calculated by dividing the total project cost by the total linear feet of pipe, valves, manholes, and fillings installed in the project of interest, prorated by pipe size. The township engineer shall also proportion the cost of installing sewer at a depth not exceeding 20 feet.

*Building official* means an individual appointed by the township board delegated to administer the township building code ordinance.

*Capital charge* means such charge as may be established, which represents the respective portion of the capital investment of sewer system, which may be allocated or attributed to any premises, including but not limited to oversizing of lines and treatment plant capacity and production facilities. A capital charge also may be known as an "equity charge." When square footage must be calculated to determine capital charge unit factors, the outside dimensions of buildings shall be used.

*Commercial user* means a user of the system which is primarily engaged in business or commerce (whether for profit or not-for-profit), but not classified as a residential, institutional or governmental user.

*Connection* means the act of joining a sewer lead to a new or existing building which results in the providing of public sewer to the building.

*Director* means the director of the township utility department.

*First party* means persons and their successors, heirs, or assignees entering into a contract with the township board to privately participate in funding additions to the water or sewer system.

*Governmental user* means a user of the system which is the state, a municipality, a subdivision of a municipality or of the state, including a school district.

*Household* means a claimant and spouse and all other persons residing therein.

*Household income* means all income received by all persons of a household in a tax year while members of a household.

*Income* means the sum of federal adjusted gross income as defined in the Internal Revenue Code, plus all income specifically excluded or exempt from the computations of the federal adjusted gross income.

*Institutional user* means a user of the system which is an organizational, establishment, foundation or society of a public, educational, or charitable character such as a hospital, educational facility, charity or church.

*Industrial user* means that user that uses water or the public water system for manufacturing or processing purposes including users engaged in profit-seeking ventures which discharge a trade or process waste.

*Inspector* means any person duly authorized by the township board to inspect and approve any or all facilities affected by this article.

*Lateral sewer main* means a sewer main, eight inches or larger in diameter, that serves, or is intended to serve, two or more buildings and is connected to, and part of, the public sewer system.

*Main charge* means a footage charge to defray the cost of a public sewer line abutting the premises which cost has not been previously defrayed by special assessment or other charge.

*Normal domestic strength sewage* means that sewage characterized by a biochemical oxygen demand (BOD) or concentration of suspended solids of not to exceed 300 milligrams per liter (mg/l).

*Operation and maintenance (O&M)* means those items of labor, service, material, utility costs and other charges including replacements which are necessary to the functioning of the sanitary sewage collection and disposal system of the charter township.

*Premises and properties* means land and any building located thereon.

*Pretreatment* means the methods and processes as approved by the director, to remove incompatible pollutants from industrial waste prior to the entry of such waste into the township sanitary sewer system.

*Public sewer* means a sewer conduit in which all owners of abutting properties have equal rights to use and which is controlled by public authority.

*Replacement* means any equipment, accessories and appurtenances necessary to cause the system to live out its useful design life.

*Residential user* means those users of the system whose primary use is that of a domicile and whose sewage is of normal domestic strength.

*Sanitary sewer system value* means the net assets less liabilities and contributed equity of the township sanitary sewer system as determined from the most current, completed yearly audit.

*Second party* means the board of trustees for the charter township.

*Senior citizen* means an individual, or either one of two persons filing a joint tax return under Act No. 20 of the Public Acts of Michigan of 1973 (MCL 206.30 et seq., MSA 7.557(130) et seq.), as amended, who is 65 years of age or older and whose estimated household income for the current taxable year will not exceed $8,500.00, or such other amount as may be determined by resolution of the township board to be applicable and consistent with the provisions of the aforesaid Act No. 20 as of the date of filing of an application by a senior citizen for a senior citizen rate.

*Sewage* means the water-carried wastes from residences, business buildings, institutions, industrial establishments and any other premises.

*Sewage disposal system* or *system* means the sanitary sewage collection and treatment system within the charter township and all connections thereto, both public and private, used for the purpose of collection and treatment of water-carried waste.

*Sewer service charge* means the total charge for sanitary sewer service within the township including charges for operation, maintenance, replacement, local capital cost, and the cost of billing.

*Stubs* means sewer leads from the main to the lot line.

*Surcharge* means that any user discharging to the public sewer a wastewater having biochemical oxygen demand, chemical oxygen demand, phosphates, or suspended solids within the range specified in section 18-165 of this Code of Ordinances shall be subject to an additional cost over and above the basic rates. The surcharge shall be the yearly average per pound treatment cost computed as a percent of replacement reserve, and operation and maintenance divided by the yearly pounds of biochemical oxygen demand, chemical oxygen demand, phosphates, or suspended solids. The surcharge per pound of pollutant shall be calculated annually by the superintendent and approved by the township board.

*Third party* means those persons and their successors, heirs or assignees who do not join with the first party and/or the township board in a contract to privately fund additions to the sewer system addition of the first party.

*Total project cost* means, for any sewer or water main installation, and shall include (but not be limited to) the following costs: installed cost of the main, valves, manholes, fittings, and other appurtenances thereto; all repair, replacement, restoration, or protection of roads, landscape, waterways, or other environment; all engineering, planning, advertising, administrative and bidding costs.

*Township engineer* means the staff engineer of the township or such professional engineer retained by the township board to review the engineering aspects of the township sewer and/or water system, or the authorized representative of such engineer.

*User charge* means those charges imposed on a monthly or quarterly basis for the privilege of using the sanitary sewage disposal system of the township and shall be deemed to consist of a component for operation, maintenance and replacement charges only.

*Volume of sewer use* means, for the purpose of enforcement of this article, and is hereby determined to be synonymous with the volume of township metered water serving the user and it shall be assumed that all metered water is entering the public sanitary system unless the customer can demonstrate to the contrary. Separate water meters serving users that do not use the sanitary sewer system for their disposal need not be considered for establishment of sewer capital charges that are not set by schedule.
(Ord. No. 279.1, § 1, 12-3-84; Ord. No. 93-6, 8-16-93; Ord. No. 97-2, § 41, 10-6-97)

**Sec. 18-292. Rates.**

(a) *Metered rates.*

(1) In township. Rates to be charged for sanitary sewer service shall be computed based upon metered water consumption for those users connected to the township's water distribution system or other water supply source and whose premises are within the corporate limits of the township and are as set by resolution of the township board.

(2) Out of township. Rates to be charged for sanitary sewer service shall be as set by resolution of the township board.

(b) *Unmetered rates.*

(1) In township rates:

a. Residential users shall be charged a flat rate based on residential averages multiplied by the sum of the in-township rates for operation and maintenance, debt service, capital and replacement costs.

b. Nonresidential users shall be charged a flat rate based on nonresidential averages multiplied by the sum of the in-township rates for operation and maintenance, debt service, capital and replacement costs.

(2) Out of township rates:

a. Residential users shall be charged a flat rate based on residential averages multiplied by the sum of the out-township rates for operation by the sum of the out-township rates for operation and maintenance, debt service, capital and replacement costs.

b. Nonresidential users shall be charged a flat rate based on nonresidential averages multiplied by the sum of the out-township rates for operation and maintenance, debt service, capital and replacement costs.

(c) *Surcharge rates.*

(1) Rates to be charged for surcharge shall be based on the samples taken from the user's wastewater discharge and the amount or degree that the samples exceed the 300 mg/l limit of biochemical oxygen demand (BOD) or suspended solids (SS).

(2) The rates shall be calculated annually by the director of the wastewater treatment plant.

(3) The rates shall be approved and adopted annually by township board resolution.

(d) *Billings.*

(1) Bills shall be rendered to users no less often than on a monthly basis.

(2) The township board may require meter readings and/or billings to be made more often than on a monthly basis. Billings made more often than on a monthly basis may be estimated and prorated on a monthly basis with the balance due to be adjusted by a meter reading and billing at the end of each month.

(3) All bills rendered to users shall become due and payable 15 days after the billing date. Payments made by mail shall be postmarked no later than 15 days after the billing date. No utility department employee in the field shall be permitted to receive payments for billings or other charges.

(e) *Special rates.* Rates for miscellaneous or special services for which a special rate shall be established by resolution of the township board, provided that the operation and maintenance and replacement components be uniformly applied to users subject to the rate.

(f) *Past due bills.*

(1) All bills not paid on or before the due date as herein established shall be subject to a penalty as shall be set by resolution of the township board.

(2) Sanitary sewer service shall be discontinued 35 days after the billing date, if all necessary payments have not been made as required by this article, except as follows by subsection (f)(3). The 35-day requirement notwithstanding, the service shall not be discontinued unless the accounting department is open to receive payment on the day of and the day following discontinuation of service.

(3) When a customer claims hardship, the controller at his discretion may allow the customer to make reduced payments at intervals more frequent than the usual billing interval. These payments shall equal in total the monthly bill. This method of payment shall not allow a

customer to defer full payment of the bill beyond 35 days after the billing date.

(4) The procedure for notification of default in payment of bills prior to service discontinuation shall be by sending a past due notice 20 days after the billing date. The past due notice shall state the amount due, the service discontinuation date, the additional charge to reinstate discontinued service, and that payment made after the service discontinuation date must be for all charges.

(5) Where service to a customer in default of a bill has been discontinued, the service shall not be restored until authorized by the accounting department. The accounting department shall not authorize restoration of service until arrangements for payment of all charges as may be required by ordinance, have been made.

(g) *Returned (NSF) checks.* An administrative fee as set by resolution of the township board shall be charged for handling returned checks.

(h) *Sewer service deposits.* Sewer service deposits shall not be required, except as follows:

(1) Where annual notice is given in writing as provided for in section 21, Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, that a tenant is responsible for such charges and services as provided for by this article, then a cash deposit as established by township board resolution shall be made as security for payment of such charges and services. The deposit shall be returned after two years, if no default in payment of bills has occurred and if the customer has not been past due more than two times within a two-year period.

(2) As required by subsection (i), Enforcement.

(i) *Enforcement.* Charges for sewer services shall constitute a lien on the property served, pursuant to section 21, Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended, unless annual notice is given that a tenant is responsible and whenever such charges shall be delinquent for two months or more, the township officer or officers in charge of the collection thereof shall certify annually before September 1 of each year, to the tax assessing officer of the township, the fact of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general township taxes against such premises are collected and the lien thereof enforced. Provided, however, where annual notice is given in writing that a tenant is responsible for such charges and services as provided by section 21, Act No. 94, of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, no further service shall be rendered to such premises until a cash deposit equal to six months sewer charges shall have been made as security for payment of such charges and service. In addition to other lawful enforcement methods, the payment of charges for service to any premises may be enforced by discontinuing the sewer service to such premises.

(j) *Winter averaging.* Winter averaging, if any, shall be established by resolution of the township board, provided that the operation and maintenance and replacement components be uniformly applied to users subject to the rate.

(k) *No free service.* No user of the township's sanitary sewer system, public or private, shall receive

free service.
(Ord. No. 279.5, § 1, 4-2-90; Ord. No. 93-6, 8-16-93; Ord. No. 98-9, § 2, 12-7-98)

**Sec. 18-293. Reserved.**

**Sec. 18-294. Sewer main and capital charges.**

(a) Main and capital charges hereinafter established shall apply to all properties located within the boundaries of the charter township served by the public sewer system owned by the township. Those properties within the township served by public sewer furnished by the City of Lansing, or any other municipal corporation or township, shall be subject to such charges as may be provided for by contract between the township and such other municipality.

(b) Sewer capital charges for properties located outside the boundaries of the charter township shall be as arranged by agreement between the charter township and the property owners requesting such service and the unit of government where such property is situated; however, no capital charge shall be less than those charges to properties located within the township.
(Ord. No. 279, § 5, 12-20-82)

**Sec. 18-295. Times and conditions of collection of charges.**

(a) Charges imposed by this article shall be paid in full or refunded under the following conditions and at the following times unless otherwise specifically provided elsewhere in this article:

(1) For each premises requesting to use or required to use the public sewage disposal system, unless previously paid, a sewer main charge will be collected as per section 18-296, and a sewer capital charge will be collected as per section 18-299.

(2) Upon application for a building permit for the purpose of erecting new buildings, main and/or benefit charges shall be collected.

(3) Upon application for a building permit to construct an addition to an existing premises, other than a single-family residence, all applicable sewer charges shall be paid at the same rate as though the addition were a new building. The sewer capital charge shall apply only to the addition being added, provided that the class of use of the premises is not being changed.

(4) Sewer capital charges, once paid for the first occupant's use, shall not be further adjusted for future changes in occupancy unless there is intensification of a use by a classification change, structural, plumbing addition, or other changes that would create a larger demand on the system. Charges for such added use shall be paid upon application for building permit; or if a building permit is not required by ordinance, then such additional charges shall be paid prior to a plumbing permit; or if neither a building or plumbing permit is required by ordinance, then the additional charge shall be paid prior to occupancy by the new occupant.

(5) If a sewer capital charge rate has not been established by township board resolution in regard to a particular use, then the time of collection shall be as described in section 18-299.

(6) Upon application for authorization to connect a new building, existing building, or lateral sewer main connection to the public sewer, all applicable charges shall be collected, except as provided in section 18-300, section 18-301, and section 18-303.

(7) When the class of use of a proposed building, existing building or addition to an existing building is not set forth in the application for building permit, the sewer capital charge shall be the amount as established by township board resolution for unknown occupancies. This charge shall be adjusted at the time that the first total building occupancy or use class is known.

(8) Prior to start of construction of new buildings or additions to existing buildings when a building permit is not required, all applicable charges shall be paid (for example, schools).

(9) If an application is withdrawn (in writing), then the charges due under this article shall be refunded less an administrative charge.

(b) The requirements of this section shall not apply to those properties served by a sewer furnished by a municipal corporation or township other than the charter township, but rather the contracted terms, amounts and methods of payment shall apply.
(Ord. No. 279, § 6, 12-20-82; Ord. No. 93-6, 8-16-93)

**Sec. 18-296. Establishment of main charges.**

Main charges for sewer are hereby established for the privilege of connecting premises to the public sewer system as follows:

(1) When the public sewer mains available to such premises were constructed with public funds and the premises have not been specially assessed for any portion of the installing cost.

(2) When the public sewer mains available to such premises were financed by nonpublic funds and such premises did not participate in full in the financing of those services.

(3) It is the intent of this main charge to ensure that each premises connecting to the sewage disposal system of the township shall share its respective portion of the cost of installation of mains.

(4) Lateral sewer main connections to the public sewer system shall be subject to a benefit charge in lieu of a sewer main charge, as per section 18-297(3).
(Ord. No. 279, § 7, 12-20-82; Ord. No. 93-6, 8-16-93)

**Sec. 18-297. Computation of sewer main charges.**

The amount of sewer main charges shall be determined as follows:

(1) Sewer main charges for premises served by sewers installed as part of assessment districts, but not assessed thereunder, shall be charged to and payable by a premises on the same basis as originally determined by the township board for the assessment district with a deferral charge

added as set by resolution of the township board.

(2) Sewer main charges for premises abutting a sewer for which no assessment district exists shall be either one-half of the average cost per linear foot of main according to pipe size in the project under which the sewer main being charged for was actually installed, times the length of abutting property on each side of the sewer main, or shall be based upon any other method that the township board, by resolution, determines to be proper. A deferral charge shall be added as set by resolution of the township board. In those cases where the sewer main abutting a premises is actually larger than eight inches and/or deeper than 20 feet, then the cost shall be proportioned as if it had been an eight-inch main no deeper than 20 feet, or shall be proportioned as the township board, by resolution, determines to be proper.

(3) Where a lateral sewer main is connected to the public sewer system or where premises do not directly abut a sewer main such as, but not limited to, premises beyond the end of a dead-end road, on a road or street turn around, landlocked premises, or property served for the end of the public sewer system, the township board shall by resolution determine the benefit charge that shall be imposed in lieu of a sewer main charge.

(4) Where privately funded sewer mains (under contract with the township board) are installed and individual building sewer stubs are connected to such lateral mains, those mains may be connected into the public sewer system without paying a sewer main charge, however, the lateral sewer main is subject to the benefit charge, as per section 18-297(3). This provision in no way exempts sewer main charges to those platted lots or other parcels which stub into a public main directly rather than via the privately funded lateral mains.

(5) Where a parcel lies at the intersection of two streets or roads and is abutted on both of those sides by sewer mains, the footage for which a sewer main charge is made shall be calculated as follows to grant a measure of relief to the property owner:

a. Where both property lines and mains abutting the intersecting streets are less than 200 feet long, only the shorter of the two property lines shall be used in calculating the sewer main charges.

b. If one or both property lines and mains abutting the intersecting streets are over 200 feet in length, 200 feet shall be subtracted from the total footage of abutting mains in calculating the sewer main charge.

(Ord. No. 279, § 8, 12-20-82; Ord. No. 93-6, 8-16-93; Ord. No. 95-6, § 1, 10-2-95)

**Sec. 18-298. Stub charges.**

When no sewer stub exists, the property owner shall bear the expense of installation of such stub. Where a sewer stub has been provided but not otherwise reimbursed to the township, it shall be paid at the time the sewer main charges are due at the rate per stub of the actual installed cost and an interest charge prorated through the month of payment.

(Ord. No. 279, § 9, 12-20-82)

**Sec. 18-299. Capital charges.**

(a) A capital charge as set by resolution of the township board, per single-family residence or residential equivalent unit shall be charged as a condition of obtaining service from the system.

(b) The township board shall adopt and revise from time to time if necessary, a schedule of residential equivalent unit factors representing the ratio of average residential sewage use to volume of nonresidential uses. Such schedule shall be used in determining capital charges except as otherwise provided herein. When the charge is based upon building area, the outside perimeter of the walls shall be used.

(c) The township building official may require metering of private water supply systems to verify the accuracy of charges.

(d) If a sewer capital charge rate has not been established by resolution in regard to a particular use, then with approval of the township board, an estimated charge shall be made and such charge collected prior to connection to the township system, except where otherwise provided in this article. Where this procedure is used, the user shall, as a condition of connection, give written assurance to the township providing for a later adjustment of the connection fee. The adjustment shall be based upon the ratio of actual volume of sewer use by such customer to the average use of a single-family residence.

(e) Initial sewer capital charges for industrial users shall be determined by using the most current accumulated system value as established by resolution of the charter township board of trustees and expressed as a rate per 1,000 cubic feet, multiplied by the user's commitment to a projected annual sewage volume divided by 1,000. The minimum charge shall be as set by resolution of the township board. The township will review the actual annual sewage volume of each industrial user. No additional capital charge will be made for actual annual sewage volumes in excess of the projected volume on which the current capital charge is based, if the excess is less than ten percent of the initial projected volume. Similarly, no additional capital charges will be made for any single year in which the excess exceeds ten percent, but is less than 20 percent. For any two consecutive years (eight billing quarters) that the user's sewage volume (on which the current capital charge is based) has been exceeded by ten percent of the current capital charge volume commitment or for any single year that the excess exceeds 20 percent, then an additional charge, calculated upon the last four quarters use, shall be made to the user based on the most recent accumulated value of the sanitary sewer system and calculated by the same method as the initial charge. The total of such additional capital charge shall be due and payable upon receipt of an invoice unless deferral is permitted under section 18-301. With approval of the township board an industrial user may commit to a larger annual sewage volume and pay the appropriate capital charge increase therefor at any time. Each sewage volume commitment by an industrial user and any subsequent changes thereto shall be documented by a separate agreement with the township.

(f) There shall be no rebate of capital charges once paid.

(g) Sewer capital charges once paid shall not be transferred to other parcels of land, other buildings, or other portions of buildings. However, if a building is removed, then such charge, if paid or assumed to have been paid, can be credited towards another building to be located on the same parcel of property.
(Ord. No. 279.4, § 1, 4-2-90; Ord. No. 94-2, § 1, 2-21-94)

**Sec. 18-300. Additions and connections to the public sewer.**

(a) No additions by other than the township shall be allowed to the public sewer system except by prior contract with the township board.

(b) Where the township board contracts with the first party to extend the sewer system with private funds, then the first party shall not be levied main charges on the privately funded sewer mains specifically covered by the contract. The foregoing also applies to sewer stub installation charges if the first party also installs same under a contract with the township board. The above exemption on main charges and sewer stub charges shall not extend either to sewer mains abutting the first party's property which were funded publicly or by persons other than the first party or the benefit charge for lateral main connections to the public sewer system.

(c) The township, by contract with the first party, may agree to collect main and stub charges from third parties and rebate such charges to the first party. The contract shall specify that total rebates shall not exceed the actual cost of construction abutting a third party's properties or the amount of main and stub charges to be collected from a third party, whichever is the lesser amount. The township shall have the sole authority to determine what future connections are subject to rebate of main charges to the first party. The first party shall not contract with, or otherwise exact any fee from, any third party who desires to connect to and/or use any addition to the public sewer system.

(d) No persons shall be exempted from capital charges.

(e) All plans and specifications for additions and connections to the public sewer system, including lateral connections, shall be submitted to and approved in writing by the township engineer.

(f) Except as provided herein, no permits for use of the public sewer system shall be requested or issued until after the addition to the public sewer system has been certified in writing as being satisfactorily complete by the township engineer and the proper deeds of grant, waivers of lien and easement agreements are provided to the township. The township manager may grant temporary use permits for periods not to exceed 60 days. In the event of a violation of this section, the township may, without notice or any liability to the first party, disconnect the addition to the public sewer system, shutoff or disconnect the public water supply and/or take any other action necessary to prevent the flow of sewage into the addition to the public sewer system. The first party shall pay all costs, including actual attorney's fees, which the township incurs in enforcing the provisions of this section.
(Ord. No. 251, § 17, 12-1-75; Ord. No. 93-6, 8-16-93; Ord. No. 95-6, § 1, 10-2-95)

**Sec. 18-301. Deposits and time deferred payments.**

Main and stub charges are costs which customarily are spread over a period of years. In order to avail more township customers within the township's boundaries of the advantages of long-term financing, such charges may be deferred and paid in installments as permitted herein:

(1) *Main and stub charges:* Main and stub charges established herein may be paid in 15 equal annual installments bearing interest at a rate as determined by resolution of the township board on the unpaid principal balance as computed at the time of connection. This deferral of main and stub charges shall apply only to those properties situated within the boundaries of the charter

township.

(2) *Lateral benefit charges:* The township board by resolution may permit lateral benefit charges established under section 18-297(3) of this article to be paid at such times and upon such other terms and conditions as the township board determines, in its discretion, to be proper.

(3) *Sanitary sewer capital charges:* Sewer capital charges with total amounts, or estimated amounts in cases of unestablished charges as per section 18-299, equal to or greater than $10,000.00 may be deferred and paid in equal periodic payments not less than annually over a period not exceeding 15 years in duration at the rate as determined by resolution of the township board for those building sewer hookups made to the sanitary sewer system prior to January 1, 1983. As a prerequisite to deferring capital charge payments, ten percent of the total capital charge or estimated capital charge shall be paid prior to hooking up to the sewer system. Unestablished capital rates for the above shall be as per section 18-299. If an estimated charge has been deferred and it is determined at a later date that the total charge is to be less than $10,000.00, then the difference between the initial payment of the total charge shall be due and payable upon receipt of an invoice. If in fact, it is determined that the total charge is $10,000.00, or more but is less or greater than the estimated initial charge, then such initial charge and future payments shall be adjusted to reflect such difference. If it is determined that additional sanitary sewer capital charges are due for industrial users because of increased volumes, projections, or commitments, then these additional charges may be deferred, provided, that these additional charges are equal to or greater than $10,000.00, and also provided that at least ten percent of the total additional charge is paid upon receipt of an invoice and with the balance paid in equal periodic payments not less than annually over a period of 15 years at the maximum interest rate permitted hereunder. This deferral of capital sewer charges shall apply only to those properties situated within the boundaries of the charter township.

(Ord. No. 279, § 11, 12-20-82; Ord. No. 95-6, § 1, 10-2-95)

**Sec. 18-302. Interest charges.**

Whenever an interest charge is computed hereunder it shall be computed at a rate to be set by the township board by resolution per annum on the principal amount of the charge for the unpaid principal balance, unless the township shall have issued bonds to finance the cost of the facility or improvement for which a charge is made in which event the interest rate shall be at a rate to be set by the township board by resolution per annum or such greater rate but not exceeding one percent in excess of the rate at which bonds are sold as may be determined by the township board.

(Ord. No. 279, § 12, 12-20-82)

**Sec. 18-303. Hardship.**

(a) Persons owning property with buildings located thereon and residing thereon who are required by state law, the health department or by ordinance to connect to a public sewer system or who desire to connect to same may apply to the township board of trustees for hardship consideration in regard to payment of the various charges required by this article.

(b) The board shall determine in its discretion for each application if a hardship exists. The board

may require such proofs as it deems necessary to determine if a hardship actually exists and the degree thereof.

(c) If the township board determines that a hardship exists, a lien shall be placed against the property. All charges (including capital charges) required under this article may be deferred by use of the methods listed in subsection 18-303(d), chosen at the discretion of the board. In no event shall the property change ownership without payment in full of the charges due (survivorship of part owners shall not be considered an ownership change).

(d) At its discretion, the board may require one or more of the following hardship payment methods, in full, in part, or in combination:

(1) Use of the method allowed in subsection 18-301 (1), for all charges (including capital charges).

(2) Deferral of all charges (including capital charges) until the property changes ownership. Charges shall bear interest at the rate determined by resolution of the township board. The property owner may pay off any and all charges with interest due at any time. The township board may at its discretion determine that the hardship is ending and require immediate payment of all charges due (the property owner may still elect to use subsection 18-301(1), to the extent allowed therein to nonhardship cases.) If, at its discretion, the board determines that the hardship is reduced, it may require payment by use of subsection 18-301(1).

(Ord. No. 93-6, 8-16-93; Ord. No. 95-6, § 1, 10-2-95)

**Secs. 18-304--18-325. Reserved.**

## ARTICLE V.

## DRAINS

**Sec. 18-326. Purpose.**

The purpose of this article is to provide storm drainage for all new construction including, but not limited to single-family homes, duplexes, triplexes and condominium units not requiring engineered site plans. Standards contained herein are intended to ensure that such drainage is properly installed.

(Ord. No. 300, § II, 4-17-89)

**Sec. 18-327. 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:

*Storm drain connection* means drainage pipe installed between the storm drain outlet, which typically ends at the front lot line, and a building. The connections are installed by the builder, inspected by the township and maintained by the property owner.

*Storm drain main* means a storm drain, typically located in road rights-of-way under the jurisdiction of the county drain commissioner, which is installed by the developer and which receives runoff from storm drain

outlets.

*Storm drain outlet* means an open or enclosed conduit that collects and transports runoff. The outlet is installed by the developer and turned over to the jurisdiction of the county drain commissioner and is typically located in a road right-of-way.

*Yard drain* means an enclosed drain, typically with a catchbasin attached, whose primary purpose is to drain lawn areas.
(Ord. No. 300, § III, 4-17-89)

**Cross References:** Definitions and rules of construction generally, § 1-2.

**Sec. 18-328. Installation standards for storm drain connections.**

(a) *Underground pipe.* Installation of a storm drain connection shall be made at the time of building construction. The following standards shall apply to storm drain connections:

(1) A drainage plan for each condominium unit shall be submitted at the time a building permit is requested.

(2) The connection pipe for new construction shall be a minimum of four inches in diameter if it is a gravity pipe, and minimum of 1 1/2 inch if it is a pressure pipe. It may consist of solid PVC material, flexible plastic pipe or other material approved by the township engineer.

(3) The connection pipe must be buried a minimum of 42 inches below surface grade when permitted by the grade of the outlet pipe.

(4) The slope of the gravity connection pipe shall not be less than one-eighth inch per foot.

(5) An outlet pipe may be shared by several property owners, as per the county drain commissioner.

(6) The connection pipe shall be laid at a uniform grade and in a straight alignment insofar as possible.

(7) All excavations required for the installation shall be open trench, unless otherwise approved. The site of the installation shall at all times be barricaded and lighted so as to protect the public.

(8) If the owner wishes to make connection to the storm drain outlet at a point other than the outlet location, then such connection shall be approved by the agency having jurisdiction over the drain. An indirect connection will be required between the stub connection and sump pump pipe to protect against backflows.

(9) If permitted by the township engineer, the storm drain connection may be placed in the same trench as the sanitary sewer lead.

(10) All new construction not requiring engineered site plans, whether or not the property has a storm drain outlet, must obtain a storm drain connection permit from the township building department at the time of construction. The permit fee shall be used to defray costs of the inspection of the

connection and shall be as set by resolution of the township board.

(11) After the storm drain connection has been installed, but prior to backfilling, the applicant for the storm drain connection permit shall request and receive an inspection of the work by an authorized township inspector. Approval of this township inspector shall be obtained before backfilling.

(b) *Open ditch.* Open ditch installation is the construction/improvement of an open ditch which shall outlet into a designated drain. The following standards shall apply to the open ditch method:

(1) The ditch shall be properly graded, maintained and legally described and recorded so as to provide a storm drain outlet in perpetuity.

(2) An agency shall be designated with responsibility for continued maintenance of the ditch.

(3) An easement, at a width designated by the township engineer, shall be recorded at the county register of deeds. The easement document shall include a statement prohibiting filling of the ditch or any other activities which would impair the water-carrying capacity of the ditch.

(4) Where footing drain discharge is deposited upon the surface of the ground, the place of deposit shall be in that yard area that drains directly to the planned route and course of drainage.

(c) *Yard drains.* Installation of a series of underground yard drains should be arranged such that they are accessible to the various properties proposed for development. An inspection fee shall be charged. The following standards shall apply to yard drains:

(1) An agency shall be designated with responsibility for continued maintenance of the drain.

(2) An easement, at a width designated by the township engineer, shall be recorded at the county register of deeds office.

(d) *Alternative storm drain connection.* A developer/property owner shall have the option of designing and installing a unique method of providing a storm drain connection. Such method shall be certified by a civil engineer registered in the state and shall be subject to the approval of the township engineer.
(Ord. No. 300, § IV, 4-17-89)

**Sec. 18-329. General requirements.**

(a) The primary purpose of the storm drain connection is to provide an outlet for sump pumps. However, roof drains, yard drains and other sources of clean water runoff may be connected to the storm drain connection if adequate capacity is available.

(b) All costs of construction of a storm drain connection shall be borne by the owner.

(c) It shall generally be the responsibility of the property owner to maintain the storm drain connection unless such responsibility has been officially delegated to a specific public or private agency.

(d) The township and its duly authorized representative shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article at any time during usual business hours.

(e) Stormwater detention may be used in conjunction with the provision of the storm drain outlets mandated herein.

(f) The county drain commissioner shall review and approve the proposed connection of a storm drain outlet to a designated county drain. In designing the storm drain outlet system the capacity and condition of the drain into which the outlet will be directed shall be reviewed and found to be adequate.

(g) Footing drain discharge shall not be directed to, over or through a road curb.

(h) Enforcement of this article shall be the responsibility of the township engineer.
(Ord. No. 300, § V, 4-17-89)

**Sec. 18-330. Variances.**

(a) The township engineer may, upon application and payment of an application fee set by resolution of the township board of trustees, grant a specific variance to a substantive requirement of this article, subject to the standards set herein.

(b) A variance may be granted when all of the following conditions are satisfied:

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

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

(3) The granting of the variance shall not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.
(Ord. No. 300, § VI, 4-17-89)

**Sec. 18-331. Violations and penalties.**

(a) Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction of any such violation such person shall be punishable by a fine of not more than $300.00, and the costs of prosecution, or in default of payment thereof, by imprisonment in the county jail for a period not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate violation.

(b) The township engineer shall be authorized to cause the issuance and the serving of appearance tickets with respect to any violations of this article, pursuant to Act No. 147 of the Public Acts of Michigan of

1968 (MCL 764.9a et seq., MSA 28.868(1) et seq.), as amended.

(c) The township engineer may cause adjudged violations of this article to be recorded at the county register of deeds office for the purpose of giving constructive notice to buyers of property that have known violations.

(d) The township engineer shall cause a notice of compliance to be recorded at such time as the property is brought into compliance with this article, on such properties where there had in fact been an adjudged violation recorded.

(e) If the developer shall fail to complete the installation, construction and/or repair of storm drain facilities as required herein within a reasonable period of time, it shall be the responsibility of the township board to have such work completed. In order to accomplish this, the township board shall reimburse itself for the cost thereof by taking such steps as necessary.
(Ord. No. 300, § VII, 4-17-89)

**Sec. 18-332. Appeals.**

Any person aggrieved by any action of the township board in the administration of this article shall appeal to the county circuit court.
(Ord. No. 300, § VIII, 4-17-89)

# APPENDIX A

# FRANCHISES

**Article I. Consumers Energy Company Electric Franchise**

**Sec. 1. Grant term.**
**Sec. 2. Consideration.**
**Sec. 3. Conditions.**
**Sec. 4. Hold harmless.**
**Sec. 5. Rates.**
**Sec. 6. Franchise not exclusive.**
**Sec. 7. Revocation.**
**Sec. 8. Michigan Public Service Commission jurisdiction.**
**Sec. 9. Effective date.**

## ARTICLE I.

## CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE*

* **Editors Note:** Printed herein is the electric franchise with Consumers Energy Company, adopted on December 6, 1999. Style and capitalization have been made uniform.

ORDINANCE
CONSUMERS ENERGY COMPANY
ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE GRANTING CONSUMERS ENERGY COMPANY, ITS SUCCESSOR AND ASSIGNS, THE RIGHT, POWER AND AUTHORITY TO CONSTRUCT, MAINTAIN AND COMMERCIALLY USE ELECTRIC LINES CONSISTING OF TOWERS, MASTS, POLES, CROSS-ARM, GUYS, BRACES, FEEDERS, TRANSMISSION AND DISTRIBUTION WIRES, TRANSFORMERS AND OTHER ELECTRICAL APPLIANCE ON, UNDER, ALONG AND ACROSS THE HIGHWAYS, STREETS, ALLEYS, BRIDGES, WATERWAYS, AND OTHER PUBLIC PLACES, AND TO DO A LOCAL ELECTRIC BUSINESS IN THE CHARTER TOWNSHIP OF DELTA, EATON COUNTY, MICHIGAN, FOR A PERIOD OF THIRTY YEARS.

THE CHARTER TOWNSHIP OF DELTA, EATON COUNTY, MICHIGAN ORDAINS:

### Section 1. Grant term.

The Charter Township of Delta, Eaton County, Michigan hereby grants the right, power, and authority to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "grantee", to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross-arm, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances tunnels, conduit and any other below-ground facilities for the purpose of transmitting, transforming and distributing electricity on, under, along and across highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the Charter Township of Delta, Eaton County, Michigan, for

a period of thirty years.

**Section 2. Consideration.**

In consideration of the rights, power and authority hereby granted, said grantee shall faithfully perform all things required by the terms hereof.

**Section 3. Conditions.**

(A) All of grantee's towers, masts, and poles shall be neat and sightly, and so placed on either side of the highways, streets, alleys, bridges and waterways, as not to unnecessarily interfere with the use thereof for highway, street and alley purposes. All of grantee's wires carrying electricity shall be adequate to carry the intended current and secretly fastened so as not to endanger or injure persons or property in said highways, street and alleys, and shall be done so as not to interfere with the use thereof, and when completed, the same shall be left in as good condition as when work was commenced. The grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities.

(B) All construction, installation, maintenance, and operation of lines, wires or of any facilities employed in connection therewith shall be in compliance with the Michigan Public Service Commission; any standards issued by any other federal or state regulatory agency; and applicable township ordinances which do not conflict with standards or regulations promulgated or adopted by the Michigan Public Service Commission for regulation of public utilities operating in the Charter Township of Delta.

**Section 4. Hold harmless.**

Said grantee shall at all times indemnify, keep and save the Charter Township, its trustees, officers, agents, and employees free and harmless from all loss, costs, claims, damages, causes of action, fines, penalties, and expense to which it may be subject by reason of negligent acts incurred as a result of the construction, operation, and maintenance of the structures hereby authorized. In case any action is commenced against the Charter Township, its trustees, officers, agent of employees on account of the franchise herein granted, said grantee shall, upon notice, defend the Charter Township, its trustees, officers, agent or employee at grantee's expense with counsel reasonably satisfactory to the Charter Township.

**Section 5. Rates.**

Said grantee shall be entitled to charge the inhabitants of said Charter Township for electric energy furnished therein, as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said Charter Township, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefore being made by either said Charter Township, acting by its Township Board or by said grantee.

**Section 6. Franchise not exclusive.**

The rights, power and authority herein granted are not exclusive.

**Section 7. Revocation.**

The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party seeking such revocation.

**Section 8. Michigan Public Service Commission jurisdiction.**

Said grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Charter Township.

**Section 9. Effective date.**

This ordinance shall take effect upon the day after the date of publication, provided however, it shall cease and be of no effect after thirty days from its adoption unless within said period the grantee shall accept the same in writing filed with the township clerk. Upon acceptance and publication thereof, this ordinance shall constitute a contract between said Charter Township and said grantee.

We certify that the foregoing Franchise Ordinance was duly enacted by the Township Board of the CHARTER TOWNSHIP OF DELTA, EATON COUNTY, MICHIGAN, on the 6th day of December, 1999.

DELTA CHARTER TOWNSHIP

Janice Vedder

_____

Township Clerk

Joseph Drolett

_____

Supervisor

I, Janice Vedder, Clerk of Delta Charter Township, Eaton County, Michigan, hereby certifies that the foregoing is a complete ordinance adopted by the Board of Trustees at their regular meeting held on December 6, 1999.

DELTA CHARTER TOWNSHIP

Janice Vedder

_____

Township Clerk

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| Introduced by Board of Trustees | November 15, 1999 |
| Published following first reading: | |
| Grand Ledge Independent | November 21, 1999 |

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|---|---|
| Delta-Waverly Community News | November 21, 1999 |
| | |
| Adopted by the Board of Trustees | December 6, 1999 |
| Published following final reading: | |
| Grand Ledge Independent | December 12, 1999 |
| Delta-Waverly Community News | December 12, 1999 |

Copies of this ordinance may be purchased or inspected in the office of the Township Clerk, from 8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays.

# APPENDIX B

# REVENUE BONDS

### Article I. Water Supply System Revenue Bonds

**Sec. 1. Definitions.**
**Sec. 2. Statement of purpose; necessity; preliminary approval of plans.**
**Sec. 3. Costs; useful life.**
**Sec. 4. Payment of cost of project; bonds authorized; applicable law.**
**Sec. 5. Series 2000 Bond details, registration and execution.**
**Sec. 6. Sale of Series 2000 Bonds to Michigan Municipal Bond Authority; purchase contract.**
**Sec. 7. Replacement of bonds.**
**Sec. 8. Payment of bonds; defeasance.**
**Sec. 9. State revenue sharing pledge.**
**Sec. 10. Bondholders' rights; receiver.**
**Sec. 11. Management; fiscal year.**
**Sec. 12. No free service or use.**
**Sec. 13. Rates and charges; fixing and revising rates; rate covenant.**
**Sec. 14. Funds and accounts; flow of funds.**
**Sec. 15. Priority of funds.**
**Sec. 16. Depository and funds on hand.**
**Sec. 17. Investments.**
**Sec. 18. Proceeds of Series 2000 Bonds.**
**Sec. 19. Covenants.**
**Sec. 20. Conditions permitting issuance of senior or prior lien bonds.**
**Sec. 21. Additional bonds.**
**Sec. 22. Series 2000 Bond Form.**
**Sec. 23. Amendments without consent of registered owners.**
**Sec. 24. Amendments requiring consent of registered owners.**
**Sec. 25. Severability and paragraph headings.**
**Sec. 26. Publication and recordation.**
**Sec. 27. Effective date.**

### Article II. Water Supply System Revenue Bonds Series 2000B

**Sec. 1. Definitions.**
**Sec. 2. Conditions permitting issuance of additional bonds.**
**Sec. 3. Statement of purpose; necessity; preliminary approval of plans.**
**Sec. 4. TEFRA hearing.**
**Sec. 5. Costs; useful life.**
**Sec. 6. Payment of cost of series 2000B project; bonds authorized.**
**Sec. 7. Series 2000B bond details, registration and execution.**
**Sec. 8. Sale of series 2000B bonds to Michigan Municipal Bond Authority; purchase contract.**
**Sec. 9. State revenue sharing pledge.**
**Sec. 10. Management.**
**Sec. 11. Proceeds of series 2000B bonds.**
**Sec. 12. Covenant regarding construction of series 2000B project.**
**Sec. 13. Tax matters covenant; amendment of Section 19(g) of Ordinance No. B-00-01.**
**Sec. 14. Conditions permitting issuance of senior or prior lien bonds.**
**Sec. 15. Series 2000B bond form.**
**Sec. 16. Applicability of Ordinance No. B-00-01.**
**Sec. 17. Severability and paragraph headings.**
**Sec. 18. Publication and recordation.**
**Sec. 19. Effective date.**

## ARTICLE I.

## WATER SUPPLY SYSTEM REVENUE BONDS*

* **Editors Note:** This article contains the text of Ord. No. B-00-01, adopted May 1, 2000. Style has been made uniform.

The following ordinance was introduced and adopted by the Board of Trustees at its regular meeting held on May 1, 2000.

ORDINANCE NO. B-00-01

AN ORDINANCE TO AUTHORIZE AND PROVIDE FOR THE ISSUANCE OF REVENUE BONDS TO PAY THE COST OF ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE TOWNSHIP'S WATER SUPPLY SYSTEM UNDER THE PROVISIONS OF ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED; TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO THE SYSTEM AND THE REVENUE BONDS.

THE CHARTER TOWNSHIP OF DELTA HEREBY ORDAINS:

**Section 1. Definitions.**

Whenever used in this ordinance, except when otherwise indicated by the context, the following terms when capitalized shall have the following meanings:

(a) *Act 94* means Act 94, Public Acts of Michigan, 1933, as amended.

(b) *Additional Bonds* shall mean Bonds, including bonds of prior and senior or equal standing and priority of lien with the Series 2000 Bonds, issued under section 20 or section 21 of this Ordinance.

(c) *Adjusted Net Revenues* means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the Township in lieu of taxes, to which may be made the following adjustments.

(i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of Additional Bonds or to be placed into effect before the time principal or interest on the Additional Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.

(ii) Revenues may be augmented by amounts which may be derived from rates and charges

to be paid (a) as a result of new customers who have been identified by an agreement to purchase service from the System who had not been serviced during the preceding twelve months or (b) as a result of any other new customer or expansion of service to any existing customers or (c) as a result of potential customers which exist in a new service area who will be serviced by the acquisition of the repairs, extensions, enlargements and improvements to said System which have been made during the preceding twelve months or which will be acquired in whole or in part from the proceeds of Additional Bonds.

(iii) If there is a bond reserve account to be funded from the proceeds of Additional Bonds, then the Revenues may be augmented by an amount equal to the investment income representing interest on investments estimated to be received each operating year from the addition to the bond reserve account to be funded from the proceeds of the Additional Bonds being issued.

The adjustment of revenues and expenses by the factors set forth above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the Township.

(a) *Authorized Officer* means the Township Manager of the Township.

(b) *Bonds* means the Series 2000 Bonds, and any Additional Bonds of equal or prior standing hereafter issued under this Ordinance.

(c) *Construction Fund* shall mean the 2000 Water Supply System Construction Fund established pursuant to section 18 of this Ordinance.

(d) *Depository Bank* shall mean, (a) with respect to the Bond and Interest Redemption Fund, National City Bank of Michigan / Illinois, or whichever bank is the bank at which the principal and interest on the Bonds are currently payable, as long as required by section 24(1) of Act 94, and (b) with respect to the other funds and accounts created under this Ordinance shall mean any financial institution qualified to serve as a depository bank and designated by the Township Board.

(e) *General Obligation Debt Fund* means the General Obligation Debt Fund which may be created under section 14 of this Ordinance.

(f) *Internal Revenue Code* shall mean the Internal Revenue Code of 1986, as amended, and the regulations propounded thereunder.

(g) *Michigan Municipal Bond Authority* shall refer to the Michigan Municipal Bond Authority created under Act 227 Public Acts of Michigan, 1985, as amended.

(h) *Operation Fund* means the Operation and Maintenance Fund created under section 14 of this Ordinance.

(i) *Outstanding Bonds* means, as of any given date, the Series 2000 Bonds, and any Additional

Bonds of equal or prior standing hereafter issued and delivered under this Ordinance except:

(i) Bonds (or portions of Bonds) paid off at or prior to such date;

(ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys or Sufficient Government Obligations equal to the principal amount or redemption price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under this Ordinance and set aside for such payment or redemption (whether at or prior to the maturity or redemption date) provided that if such Bonds (or portion of Bonds) are to be redeemed, notice of such redemption shall have been given as provided in this Ordinance or provision shall have been made for the giving of such notice; and

(iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered.

(j) *Project* means acquiring and constructing various water system extensions and improvements, together with any appurtenances and attachments thereto and any related site acquisition or improvements, together with any necessary interests in land, rights of way and all appurtenances and attachments thereto.

(k) *Purchase Contract* means the Purchase Contract for the Series 2000 Bonds between the Township and the Michigan Municipal Bond Authority.

(l) *Receiving Fund* means the Water Supply System Receiving Fund created under section 14 of this Ordinance.

(m) *Redemption Fund* means the Bond and Interest Redemption Fund created under section 14 of this Ordinance.

(n) *Repair and Replacement Fund* means the Repair and Replacement Fund created under section 14 of this Ordinance.

(o) *Revenues* and *Net Revenues* mean the revenues and net revenues of the System and shall be construed as defined in section 3 of Act 94, including with respect to "Revenues" the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance.

(p) *Series 2000 Bonds* means the Water Supply System Revenue Bonds, Series 2000, authorized by this Ordinance.

(q) *State Revenue Sharing Pledge Agreement* means the revenue sharing pledge agreement between the Township and the Michigan Municipal Bond Authority authorized under section 9 of this Ordinance.

(r) *Sufficient Government Obligations* means direct obligations of the United States of America or

obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which, without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds and the principal and redemption premium, if any, on the Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any of the Bonds are to be called for redemption prior to maturity, irrevocable instructions to call the Bonds for redemption shall be given.

(s) *System* means the entire Water Supply System of the Township including such facilities thereof as are now existing and as shall be acquired and constructed as the Project, including all appurtenances, enlargements, extensions, repairs and improvements thereto hereafter made.

(t) *Township* means the Charter Township of Delta, Eaton County, Michigan.

**Section 2. Statement of purpose; necessity; preliminary approval of plans.**

It is hereby determined to be a necessary public purpose of the Township to acquire and construct the Project in accordance with the plans and specifications prepared by the Township's consulting engineers, which plans and specifications are hereby approved. The Township hereby determines that the portion of the Project comprising an extension to the System is in the best interest of the Township, and that it is reasonable to expect the rates and charges for service furnished by the System to be paid by customers added as a result of the extension to the System will pay for the capital costs related to the extension to the System.

**Section 3. Costs; useful life.**

The total cost of the Project is estimated to be two million dollars ($2,000,000) including the payment of incidental expenses as specified in section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be not less than twenty (20) years.

**Section 4. Payment of cost of project; bonds authorized; applicable.**

To pay part of the cost of acquiring and constructing the Project including payment of all legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2000 Bonds, the Township shall borrow the sum of not to exceed two million dollars ($2,000,000) and shall issue the Series 2000 Bonds therefor pursuant to the provisions of Act 94. Any remaining costs of the Project shall be defrayed from Township funds on hand and legally available for such use. The principal amount of the Series 2000 Bonds will be finally determined by the Authorized Officer in the Purchase Contract.

The Bonds shall be sold and the proceeds applied in accordance with the provisions of Act 94.

**Section 5. Series 2000 Bond details, registration and execution.**

The Series 2000 Bonds shall be designated WATER SUPPLY SYSTEM REVENUE BONDS, SERIES 2000, shall be payable solely out of the Net Revenues and other moneys pledged under this Ordinance, and shall not be a general obligation of the Township. The Series 2000 Bonds hereby authorized shall initially consist of

one fully registered bond payable initially to the Michigan Municipal Bond Authority. The Series 2000 Bonds shall be issued in the aggregate principal amount of not to exceed two million dollars ($2,000,000); shall be dated as of the date of original delivery thereof; shall bear interest at a rate or rates to be determined upon the sale thereof, but in no event in excess of 8% per annum, payable semiannually on May 1 and November 1 of each year commencing November 1, 2000 or such other date as shall be determined by an Authorized Officer at the time of sale; and shall be sold at not less than 95% of their par value. In addition, if required by the Michigan Municipal Bond Authority, the Series 2000 Bonds will bear additional interest, under the terms required by Michigan Municipal Bond Authority, in the event of a default by the Township in the payment of principal or interest on the Series 2000 Bonds when due. The Series 2000 Bonds shall be payable in the amounts and on the dates as shall be determined by an Authorized Officer at the time of sale to the Michigan Municipal Bond Authority, provided that principal shall be payable either on May 1 or November 1 in the years currently anticipated to be 2001 through 2020, but in any event not to extend past 2021. The Series 2000 Bonds shall be subject to redemption prior to maturity as shall be permitted by the Michigan Municipal Bond Authority.

At the time of execution of the Purchase Contract with the Michigan Municipal Bond Authority, the Authorized Officer may adjust the principal amount of the Series 2000 Bonds and the amounts and dates of maturity, date of the Series 2000 Bonds and the interest payment dates, optional redemption provisions and other bond details which are to be finally determined by the Authorized Officer in the Purchase Contract.

The Series 2000 Bonds shall be executed in the name of the Township by the manual or facsimile signature of the Supervisor and the Township Clerk provided that at least one signature on the Bond shall be a manual signature. The Series 2000 Bonds shall be delivered to the Michigan Municipal Bond Authority in accordance with instructions from the Township Manager upon payment of the purchase price for the Series 2000 Bonds in accordance with the bid therefor when accepted.

**Section 6. Sale of Series 2000 Bonds to Michigan Municipal Bond Authority; purchase contract.**

The Township Board hereby approves the sale of the Series 2000 Bonds to the Michigan Municipal Bond Authority at a discount of not less than 95% of their par value with a net interest rate not exceeding 8.00% per annum. The Authorized Officer may approve the final principal and interest payment dates, specific discount, specific interest rates, and final principal amount of the Series 2000 Bonds and the principal payable on each maturity date, within the limitations contained in this authorization Ordinance, and approval of these terms shall be evidenced by execution by the Authorized Officer of the Purchase Contract between the Township and the Michigan Municipal Bond Authority and by execution by the Township Supervisor of the Series 2000 Bonds.

The Township Board hereby approves and authorizes the execution and delivery of the Purchase Contract between the Township and the Michigan Municipal Bond Authority in substantially the form presented to the Township Board with this Ordinance, with such changes as may be necessary or desirable, permitted by law, and not materially adverse to the Township as determined by the Authorized Officer.

**Section 7. Replacement of bonds.**

If any Bond shall become mutilated, the Township, at the expense of the holder of the Bond, shall execute and deliver, a new Bond of like tenor in exchange and substitution for the mutilated Bond, upon

surrender to the Township of the mutilated Bond. If any Bond issued under this Ordinance shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the Township and, if this evidence is satisfactory to both and indemnity satisfactory to the Township shall be given, and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended ("Act 354"), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the Township, at the expense of the owner, shall execute and deliver, a new Bond of like tenor and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond the Township may pay the same without surrender thereof.

**Section 8. Payment of bonds; defeasance.**

The Bonds and the interest thereon shall be payable solely from the Net Revenues, and to secure such payment, there is hereby created a statutory lien upon the whole of the Net Revenues which shall continue until payment in full of the principal of and interest on all Bonds payable from the Net Revenues, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of all principal and interest on Bonds of a series then Outstanding to maturity, or, if called for redemption, to the date fixed for redemption, together with the amount of the redemption premium, if any. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to that series of Bonds, the holders of that series shall have no further rights under this Ordinance except for payment from the deposited funds, and the Bonds of that series shall be considered to be defeased and shall no longer be considered to be Outstanding under this Ordinance.

**Section 9. State revenue sharing pledge.**

As additional security for repayment of the Series 2000 Bonds, the Township Board agrees to pledge the payments that the Township is eligible to receive from the State of Michigan under Act 140, Public Acts of Michigan, 1971, as amended ("State Revenue Sharing") to the Michigan Municipal Bond Authority as purchaser and holder of the Series 2000 Bonds, and the Township Board hereby approves and authorizes the execution and delivery of a revenue sharing pledge agreement between the Township and the Michigan Municipal Bond Authority in substantially the form presented to the Township Board with this Ordinance, with such changes as may be necessary or desirable, permitted by law, and not materially adverse to the Township as determined by the Authorized Officer.

**Section 10. Bondholders' rights; receiver.**

The holder or holders of the Bonds representing in the aggregate not less than twenty percent (20%) of the entire principal amount thereof then Outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the Township, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest on the Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the

Township and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the Township more particularly set forth herein and in Act 94.

The holder or holders of the Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Bonds and the security therefor.

**Section 11. Management; fiscal year.**

The operation, repair and management of the System and the acquisition and construction of the Project shall continue to be under the supervision and control of the Township Board. The Township Board may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The Township Board may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The Fiscal Year for the System shall run concurrently with the Fiscal Year of the Township.

**Section 12. No free service or use.**

No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the Township.

**Section 13. Rates and charges; fixing and revising rates; rate covenant.**

The methods of collection and enforcement of the collection of the rates and charges for service furnished by and the use of the System shall be those in effect on the date of adoption of this Ordinance, which, in the opinion of the Township Board, are currently sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable, and the maintenance of any reserve therefor and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance.

**Section 14. Funds and accounts; flow of funds.**

Commencing on the date of delivery of the Series 2000 Bonds, all funds belonging to the System shall be transferred as herein indicated and all Revenues of the System shall be set aside as collected and credited to a separate depository account to be designated as the WATER SUPPLY SYSTEM RECEIVING FUND (the "Receiving Fund"). The Revenues credited to the Receiving Fund are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Fund periodically in the manner, at the times, and in the order of priority hereinafter specified, provided that no transfer shall be required to be made to a fund on any date if the amount on deposit in the fund is sufficient to meet the requirements of this Ordinance.

A. *Operation and Maintenance Fund:* There shall next be established and maintained a separate account, pursuant to section 16 of this Ordinance, designated as the OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Out of the Revenues credited to the Receiving Fund there shall be first set aside in the Operation and Maintenance Fund the amounts necessary to provide for the payment of expenses of administration and

operation of the System and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

B. *Bond and Interest Redemption Fund:* There shall be established and maintained a separate depository account designated as the BOND AND INTEREST REDEMPTION FUND (the "Redemption Fund"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of, redemption premiums (if any) and interest on the Bonds. The moneys in the Redemption Fund (including any bond reserve account which may be established on a future date) shall be kept on deposit with the bank or trust company where the principal of and interest on the Bonds, or any series thereof, are payable.

Out of the Revenues remaining in the Receiving Fund after provision for the Operation and Maintenance Fund, there shall be set aside in the Redemption Fund prior to each date principal or interest on the Bonds is due, the amount necessary to provide for the payment when due of the principal of and interest on the Bonds.

The amount to be set aside for the payment of principal and interest on any date shall not exceed the amount which, when added to the money on deposit in the Redemption Fund, including investment income thereon and on any bond reserve account which may be established on a future date, is necessary to pay principal and interest due on the Bonds on the next succeeding principal payment date.

The Township may establish a separate bond reserve account in the Redemption Fund.

C. *Repair and Replacement Fund:* There shall next be established and maintained a separate account, pursuant to section 16 of this Ordinance, designated as the REPAIR AND REPLACEMENT FUND (the "Repair and Replacement Fund"), the money credited thereto to be used solely for the purpose of making repairs and replacements to the System. On the date of delivery of the Series 2000 Bonds there shall be credited to the Repair and Replacement Fund a sum, if any, as shall be determined by the Township Manager. Out of the Revenues and moneys of the System remaining in the Receiving Fund, after provision has been made for the transfer of moneys in the Operation and Maintenance Fund and the Redemption Fund (including any bond reserve account which may be established on a future date), there shall be transferred to the Repair and Replacement Fund such additional funds as shall be necessary to keep the System in proper repair and working order. If at any time it shall be necessary to use moneys in the Repair and Replacement Fund for the purpose for which the Repair and Replacement Fund was established, the moneys so used shall be replaced from any moneys in the Receiving Fund which are not required by this Ordinance to be used for the Operation and Maintenance Fund or the Redemption Fund (including any bond reserve account which may be established on a future date).

D. *General Obligation Debt Fund:* Out of the remaining Revenues in the Receiving Fund, or from other available moneys, after meeting the requirements of the foregoing Funds there may be next set aside in or credited periodically to a fund designated the General Obligation Debt Fund such sums as shall be necessary to pay debt service on general obligation bond issues of the Township or general obligations or contractual obligations of the Township which have been or may in the future be incurred for any System purposes.

E. *Surplus Moneys:* Thereafter, any Revenues in the Receiving Fund after satisfying all the foregoing requirements of this section may, at the discretion of the Township, be used for any of the following purposes:

1. Transferred to the Repair and Replacement Fund.

2. Transferred to the Redemption Fund and used for the purchase of Bonds on the open market at not more than the fair market value thereof or used to redeem Bonds prior to maturity pursuant to the terms of the Bonds, or used to make payments to the Michigan Municipal Bond Authority to prepay Bonds prior to maturity pursuant to the terms of the Bonds.

3. Any other use permitted by law.

**Section 15. Priority of funds.**

In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund or the Redemption Fund, any moneys or securities in other funds of the System, except the proceeds of sale of the Bonds, shall be credited or transferred, first, to the Operation and Maintenance Fund, and second, if the moneys on deposit in the Operation and Maintenance Fund are sufficient to meet the requirements of the Operation and Maintenance Fund, shall be credited or transferred to the Redemption Fund.

**Section 16. Depository and funds on hand.**

Moneys in the several funds and the accounts established pursuant to this Ordinance, except moneys in the Redemption Fund (including any bond reserve account which may be established on a future date) and moneys derived from the proceeds of sale of the Bonds, may be kept in one bank account at a bank or banks designated by resolution of the Township, and if kept in one bank account the moneys shall be allocated on the books and records of the Township in the manner and at the times provided in this Ordinance.

**Section 17. Investments.**

Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bonds, may be invested by the Township in United States of America obligations or in obligations the principal of and interest on which is fully guaranteed by the United States of America and any other investments hereafter permitted by law. Investment of moneys in the Redemption Fund being accumulated for payment of the next maturing principal or interest payment of the Bonds shall be limited to obligations bearing maturity dates prior to the date of the next maturing principal or interest payment on the Bonds.

In the event investments are made, any securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds or account from which the purchase was made. Gains realized or interest income earned on investment of funds in the Receiving Fund, the Operation and Maintenance Fund, and the Repair and Replacement Fund shall be deposited in or credited to the Receiving Fund at the end of each fiscal year. Gains realized on interest income earned on investment of moneys in the

Redemption Fund including income derived from any bond reserve account which may be established on a future date shall be credited as received to the Redemption Fund, provided that the bond reserve account, if any, is fully funded.

**Section 18. Proceeds of Series 2000 Bonds.**

The proceeds of sale of the Series 2000 Bonds shall be deposited to a separate depository fund to be established and maintained at a bank or banks qualified to act as depository of the proceeds of sale under the provisions of section 15 of Act 94 and designated the 2000 WATER SUPPLY SYSTEM CONSTRUCTION FUND (the "Construction Fund"). The Construction Fund shall be an account separate from other money of the Township as required under the provisions of section 15 of Act 94. The Construction Fund shall be used to pay costs of acquiring and constructing the Project, including costs of issuance of the Series 2000 Bonds and payment of all legal, engineering, financial and other expenses.

Any unexpended balance of the proceeds of the Series 2000 Bonds remaining after completion of the Project may be used for further improvements, enlargements and extensions of the System in the discretion of the Township, provided that at the time of such expenditure such use be approved by the Michigan Department of Treasury if then required by law. Any remaining balance after such expenditure shall be paid into the Bond and Interest Redemption Fund and shall be used to pay principal and interest on the Series 2000 Bonds.

After completion of the Project and disposition of remaining proceeds, if any, of the Series 2000 Bonds pursuant to the provisions of this section, the Construction Fund shall be closed.

**Section 19. Covenants.**

The Township covenants and agrees with the holders of the Bonds as follows as long as any of the Bonds remain Outstanding and unpaid as to either principal or interest:

(u) The Township will maintain the System in good repair and working order and will operate the same efficiently and will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Michigan and the Township's Ordinances.

(v) The Township will keep proper books of record and account separate from all other records and accounts of the Township, in which shall be made full and correct entries of all transactions relating to the System in accordance with state law. The Township shall have an annual audit of the books of record and accounts of the System for the preceding operating year made each year by an independent certified public accountant.

(w) The Township will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System and liability insurance, of the kinds and in the amounts normally carried by municipalities engaged in the operation of similar water supply systems, including self-insurance.

(x) The Township will not sell, lease or dispose of the System, or any substantial part of the System, until all of the principal and interest on Bonds have been paid in full or provision made therefor

as herein provided.

(y) The Township will not grant any franchise or other rights to any person, firm or corporation to operate a System that will compete with the System.

(z) The Township will cause the Project to be acquired and constructed promptly and in accordance with the plans and specification therefor.

(aa) The Township covenants and agrees with the Registered Owners of the Bonds that as long as any of the Bonds remain Outstanding and unpaid as to either principal or interest, the Township shall not invest, reinvest or accumulate any moneys deemed to be proceeds of the Bonds pursuant to the Internal Revenue Code in such a manner as to cause the Bonds to be "arbitrage bonds" within the meaning of the Internal Revenue Code. The Township hereby covenants that, to the extent permitted by law, it will take all actions within its control and that it shall not fail to take any action as may be necessary to maintain the exemption of interest on the Bonds from gross income for federal income tax purposes, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds, all as more fully set forth in the Non-Arbitrage and Tax Compliance Certificate(s) to be delivered by the Township with the Bonds.

**Section 20. Conditions permitting issuance of senior or prior lien bonds.**

Since the Township has secured payment of the Series 2000 Bonds through the State Revenue Sharing Pledge made to the Michigan Municipal Bond Authority under section 9 of this Ordinance, the Township reserves the right to issue Additional Bonds of senior or prior standing and priority of lien on the Net Revenues of the System to the Series 2000 Bonds (the "Senior Lien Bonds") but only if the Township does not pledge State Revenue Sharing for payment of said Senior Lien Bonds. If Senior Lien Bonds are issued, then Net Revenues of the System would be used first to pay debt service on the Senior Lien Bonds prior to providing for payment of the Series 2000 Bonds.

**Section 21. Additional bonds.**

The right is reserved in accordance with the provisions of Act 94, to issue Additional Bonds payable from the Revenues of the System which shall be of equal standing and priority of lien on the Net Revenues of the System with the Bonds, or Senior Lien Bonds as provided in section 20 and in this section, but only for the following purposes and under the following terms and conditions:

(bb) To complete the Project in accordance with the plans and specifications therefor. Such Additional Bonds shall not be authorized unless the engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the Project in accordance with the plans and specifications therefor and stating the amount that will be required to complete the Project. If such certificate shall be so executed and filed with the Township, it shall be the duty of the Township to provide for and issue Additional Bonds in the amount stated in said certificate to be necessary to complete the Project in accordance with the plans and specifications plus an amount necessary to issue such Additional Bonds or to provide for part or all of such amount from other sources.

(cc) For subsequent repairs, extensions, enlargements and improvements to the System or for the purpose of refunding part of any Bonds then Outstanding and paying costs of issuing such Additional Bonds including deposits which may be required to be made to any bond reserve account which may be established on a future date. Additional Bonds for such purposes shall not be issued pursuant to this subparagraph unless the Adjusted Net Revenues of the System for the then last two (2) preceding twelve-month operating years or the Adjusted Net Revenues for the last preceding twelve-month operating year, if the same shall be lower than the average, shall be equal to at least one hundred percent (100%) of the maximum amount of principal and interest thereafter maturing in any operating year on the then Outstanding Bonds and on the Additional Bonds then being issued. If the Additional Bonds are to be issued in whole or in part for refunding Outstanding Bonds, the annual principal and interest requirements shall be determined by deducting from the principal and interest requirements for each operating year the annual principal and interest requirements of any Bonds to be refunded from the proceeds of the Additional Bonds. For purposes of this subparagraph the Township may elect to use as the last preceding operating year any operating year ending not more than sixteen months prior to the date of delivery of the Additional Bonds and as the next to the last preceding operating year, any operating year ending not more than twenty-eight months prior to the date of delivery of the Additional Bonds. Determination by the Township as to existence of conditions permitting the issuance of Additional Bonds shall be conclusive. No Senior Lien Bonds or Additional Bonds of equal standing as to the Net Revenues of the System shall be issued pursuant to the authorization contained in this subparagraph if the Township shall then be in default in making its required payments to the Operation and Maintenance Fund or the Redemption Fund.

(dd) For refunding a part of the Outstanding Bonds and paying costs of issuing such Additional Bonds including deposits which may be required to be made to any bond reserve account which may be established on a future date. No Additional Bonds shall be issued pursuant to this subsection unless the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding.

**Section 22. Series 2000 Bond Form.**

The Series 2000 Bonds shall be in substantially the following form with such revisions, additions and deletions as may be advisable or necessary to comply with the final terms of the Series 2000 Bonds established upon sale thereof:

Bond No.
R-

United States of America
State of Michigan
County of Eaton

CHARTER TOWNSHIP OF DELTA

WATER SUPPLY SYSTEM REVENUE BOND, SERIES 2000

Principal Amount: $2,000,000

Date of Original Issue:____, 2000

Registered Owner: Michigan Municipal Bond Authority (the "MMBA")

"Installments of Principal" "Payment Dates" and "Coupon Rate" shall have the meanings as described in Exhibit A.

THE CHARTER TOWNSHIP OF DELTA, County of Eaton, State of Michigan (the "Township"), for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, but only out of the hereinafter described Net Revenues of the Township's water supply system, the Principal Amount specified above, in lawful money of the United States of America, on the May 1 Payment Dates shown on Exhibit A unless prepaid prior thereto as hereinafter provided, in the Installments of Principal shown on Exhibit A. The Township also promises to pay to the Registered Owner specified above, or registered assigns, interest on the unpaid Installments of Principal from the Date of Original Issue specified above, or such later date to which interest has been paid, until paid, at the per annum Coupon Rate for each Installment of Principal shown on Exhibit A, payable on the Payment Dates. For the prompt payment of principal and interest on this bond, the Township has irrevocably pledged the revenues of the Township's water supply system, including all appurtenances, extensions and improvements thereto (the "System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory lien thereon is hereby recognized and created.

Notwithstanding any other provision of this bond, as long as the Michigan Municipal Bond Authority (the "MMBA") is the owner of this bond, (a) this bond is payable as to principal and interest at the corporate trust office of National City Bank of Michigan / Illinois, Troy, Michigan, or at such other place as shall be designated in writing to the Township by the MMBA (the "MMBA's Depository"); (b) the Township agrees that it will deposit with the MMBA's Depository payments of the principal of and interest on this bond in immediately available funds at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; and (c) written notice of any redemption of this bond shall be given by the Township and received by the MMBA's Depository at least 40 days prior to the date on which such redemption is to be made.

ADDITIONAL INTEREST

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the MMBA's cost of providing funds (as determined by the MMBA) to make payment on the bonds of the MMBA issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the MMBA has been fully reimbursed for all costs incurred by the MMBA (as determined by the MMBA) as a consequence of the Township's default. Such additional interest shall be payable on the interest payment date following demand of the MMBA. In the event that (for reasons other than the default in the

payment of any municipal obligation purchased by the MMBA) the investment of amounts in the reserve account established by the MMBA for the bonds of the MMBA issued to provide funds to purchase this bond, fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the MMBA issued to fund such account, the Township shall and hereby agrees to pay on demand only the Township's pro rata share (as determined by the MMBA) of such deficiency as additional interest on this bond.

This bond is subject to optional redemption in whole or in part in such order as the Township may determine, in integral multiples of $5,000 on any interest payment date on or after May 1, 2010, at the redemption price of par plus accrued interest to the redemption date. This bond is transferable only upon the books of the Township kept for that purpose at the office of the Township Treasurer by the registered owner hereof in person, or by his attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Township duly authorized in writing and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon the payment of the charges, if any, therein prescribed.

This bond is a single fully registered bond representing the entire series of bonds aggregating the principal sum of $2,000,000,000, issued pursuant to Ordinance No.B-00-01 (the "Ordinance") duly enacted by the Township Board of the Township, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended ("Act 94"), for the purpose of acquisition and construction of improvements and extensions to the Township's water supply system.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of equal or prior standing with this bond may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance. Copies of the Ordinance is on file at the office of the Township Clerk and reference is made to the Ordinance and any and all supplements thereto and modifications and amendments thereof, if any, and to Act 94 for a more complete description of the pledges and covenants securing this bond, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owner of this bond with respect thereto and the terms and conditions upon which this bond is issued and may be issued thereunder. The Township has reserved the right, on the conditions stated in the Ordinance, to issue additional bonds of prior and senior or equal standing and priority of lien with this bond as to the Net Revenues.

THIS BOND IS A SELF-LIQUIDATING BOND AND IS NOT A GENERAL OBLIGATION OF THE TOWNSHIP AND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE TOWNSHIP WITHIN ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATION, AND IS PAYABLE BOTH AS TO PRINCIPAL AND INTEREST SOLELY FROM THE NET REVENUES OF THE SYSTEM AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE ORDINANCE. THE PRINCIPAL OF AND INTEREST ON THIS BOND ARE SECURED BY THE STATUTORY LIEN HEREINBEFORE DESCRIBED.

The Township hereby covenants and agrees to fix and maintain at all times while any bonds authorized by the Ordinance shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of all bonds payable from the revenues of the System as and when the same become due and payable, and to create and maintain a bond redemption fund therefor, to

provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

It is hereby certified and recited that all acts, conditions and things required to be done, exist and happen, precedent to and in the issuance of this bond, in order to make them valid and binding obligations of the Township, have been done, exist and have happened in regular and due form and time as provided by law, and that the total indebtedness of said Township, including this bond, does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the Charter Township of Delta, County of Eaton, State of Michigan, by its Township Board, has caused this bond to be executed by [the facsimile signatures of] its Supervisor and its Township Clerk, and its corporate seal to be hereunto [impressed] [printed], all as of the Date of Original Issue.

CHARTER TOWNSHIP OF DELTA

County of Eaton, State of Michigan

[manual or facsimile signature
to appear on executed bond]

_____
Supervisor

(Seal)

Countersigned:

_____
[manual or facsimile signature
to appear on executed bond]
Township Clerk

**Section 23. Amendments without consent of registered owners.**

The Township, from time to time and at any time, subject to the conditions and restrictions contained in this Ordinance, may enact one or more supplemental or amendatory Ordinances or resolutions or both which thereafter shall form a part hereof, for any one or more or all of the following purposes:

(ee) To issue Additional Bonds or junior lien bonds;

(ff) To add to the covenants and agreements of the Township contained in this Ordinance other covenants and agreements thereafter to be observed, or to surrender, restrict or limit any right or power herein reserved to or conferred upon the Township (including but not limited to the right to issue Additional Bonds);

(gg) To make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provisions contained in this Ordinance, or in regard to matters or questions arising under this Ordinance, as the Township may deem necessary or desirable and not inconsistent with this Ordinance and which shall not have material, adverse effect on the interests of the Registered Owners of the Bonds; and

(hh) To increase the size or scope of the System.

Any amendment or supplemental Ordinance or resolution authorized by the provisions of this section may be enacted by the Township without the consent of or notice to the Registered Owners of any of the Outstanding Bonds, notwithstanding any of the provisions of section 24 below.

**Section 24. Amendments requiring consent of registered owners.**

The Township, from time to time and at any time, subject to the conditions and restrictions contained in this Ordinance, may enact one or more supplemental or amendatory Ordinances or resolutions or both which thereafter shall form a part hereof, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental ordinance, provided, however, that no such supplemental ordinance shall (i) extend the fixed maturity of any Bond, change a mandatory redemption requirement for any Bond, or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal thereof, or reduce or extend the time for payment of any premium payable on the redemption thereof, without the consent of the Registered Owner of each Bond so affected, or (ii) deprive the Registered Owners of the Bonds (except as aforesaid) of the right to payment of the Bonds from the Net Revenues, without the consent of the Registered Owners of all the Outstanding Bonds.

It shall not be necessary for the consent of the Registered Owners under this section to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

**Section 25. Severability and paragraph headings.**

If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

**Section 26. Publication and recordation.**

In accordance with the provisions of section 6 of Act 94, this Ordinance shall be published once in full in the Delta/Waverly Community News and the Grand Ledge Independent, newspapers of general circulation in the Charter Township of Delta qualified under State of Michigan law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the Township and such recording authenticated by the signatures of the Supervisor and the Township Clerk.

**Section 27. Effective date.**

This Ordinance is hereby determined by the Township Board to be immediately necessary for the preservation of the public peace, property, health, and safety of the Township. In accordance with the provisions of section 6 of Act 94, this Ordinance shall become effective immediately upon its adoption.

I hereby certify that the foregoing is a true and complete copy of an Ordinance enacted by the Township Board of the Charter Township of Delta, County of Eaton, State of Michigan, at a Regular Meeting held on Monday, May 1, 2000, 7:00 P.M. prevailing Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to the Open Meetings Act, being Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

I further certify that the following Township Board members were present at said meeting: Supervisor Joe Drolett, Treasurer Philip Chisholm, Clerk Janice Vedder, Trustee John Boles, Trustee Janice Cunningham, Trustee J. P. Jackson, Trustee Michael Skinner, and that the following Township Board members were absent: None.

I further certify that Township Board member, Treasurer Philip Chisholm moved adoption of said Ordinance, and that said motion was supported by Township Board member Trustee J. P. Jackson.

I further certify that the following Township Board members voted for adoption of said Ordinance: Supervisor Joe Drolett, Treasurer Philip Chisholm, Clerk Janice Vedder, Trustee John Boles, Trustee Janice Cunningham, Trustee J. P. Jackson, Trustee Michael Skinner, and that the following Township Board members voted against adoption of said Ordinance: None.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signature of the Supervisor and the Township Clerk.

CHARTER TOWNSHIP OF DELTA

JANICE VEDDER

_____

TOWNSHIP CLERK

JOSEPH DROLETT

_____

TOWNSHIP SUPERVISOR

I, Janice Vedder, Clerk of Delta Charter Township, Eaton County, Michigan, hereby certifies that the foregoing is a complete ordinance adopted by the Board of Trustees at their regular meeting held on May 1, 2000.

CHARTER TOWNSHIP OF DELTA

JANICE VEDDER

TOWNSHIP CLERK

| | |
|---|---|
| Introduced by Board of Trustees | May 1, 2000 |
| Published following first reading: | |
| Grand Ledge Independent | May 7, 2000 |
| Delta-Waverly Community News | May 7, 2000 |
| | |
| Adopted by the Board of Trustees | May 1, 2000 |
| Published following final reading: | |
| Grand Ledge Independent | May 7, 2000 |
| Delta-Waverly Community News | May 7, 2000 |

Copies of this Ordinance may be purchased or inspected in the office of the Township Clerk, from 8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays.

## ARTICLE II.

## WATER SUPPLY SYSTEM REVENUE BONDS SERIES 2000B

The following ordinance was introduced and adopted by the Board of Trustees at its regular meeting held on November 20, 2000.

ORDINANCE NO. B-00-02

AN ORDINANCE SUPPLEMENTING ORDINANCE NO. B-00-01 TO AUTHORIZE AND PROVIDE FOR THE ISSUANCE OF AN ADDITIONAL SERIES OF REVENUE BONDS TO PAY THE COST OF ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE TOWNSHIP'S WATER SUPPLY SYSTEM UNDER THE PROVISIONS OF ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED; TO PRESCRIBE THE FORM OF THE SERIES 2000B BONDS; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO THE ADDITIONAL BONDS.

WHEREAS, the Charter Township of Delta, County of Eaton, State of Michigan (the "Township"), has heretofore enacted Ordinance No. B-00-01 to authorize and provide for the issuance of revenue bonds to pay the cost of acquisition and construction of improvements and extensions to the township's Water Supply System (the "System") under the provisions of Act 94, Public Acts of Michigan, 1933, as amended; and

WHEREAS, pursuant to the provisions of Ordinance No. B-00-01 the Township has heretofore issued and sold its Water Supply System Revenue Bonds, Series 2000, dated May 17, 2000 (the "Series 2000 Bonds"); and

WHEREAS, Section 21(b) of Ordinance No. B-00-01 authorizes the issuance of additional bonds of equal standing and priority of lien with the Series 2000 Bonds for subsequent extensions, enlargements and improvements to the System and payment of the costs of issuing such Additional Bonds, if (i) the Adjusted Net

Revenues of the System for the then last two (2) preceding twelve-month operating years shall be equal to at least one hundred percent (100%) of the maximum amount of principal and interest thereafter maturing in any operating year on the then Outstanding Bonds and on the Additional Bonds then being issued and (ii) if the Township is not in default in making its required payments to the Operation and Maintenance Fund or the Redemption Fund created under Ordinance No. B-00-01; and

WHEREAS, the Township intends to issue its Water Supply System Revenue Bonds, Series 2000B (the "Series 2000B Bonds") as Additional Bonds under Section 21(b) of Ordinance No. B-00-01 for the purpose of paying the costs of acquiring and constructing a water tower and various water system extensions and improvements, together with any appurtenances and attachments thereto and any related site acquisition or improvements; and

WHEREAS, the Township has met or will meet all the conditions and requirements of Section 21(b) of Ordinance No. B-00-01 for the issuance of the proposed Series 2000B Bonds; and

WHEREAS, in order to comply with the requirements of Section 147(f) of the Internal Revenue Code for issuance of bonds the interest on which is excluded from gross income for federal income tax purposes, the Township held a public TEFRA hearing on Thursday, October 19, 2000, regarding the issuance of the Series 2000B Bonds;

THE CHARTER TOWNSHIP OF DELTA HEREBY ORDAINS:

**Section 1. Definitions.**

Whenever used in this ordinance, except when otherwise indicated by the context, the following terms when capitalized shall have the following meanings:

(a) *Act 94* means Act 94, Public Acts of Michigan, 1933, as amended.

(b) *Additional Bonds* shall mean Bonds, including Bonds of prior and senior or equal standing and priority of lien with the Series 2000 Bonds and the Series 2000B Bonds, issued under Section 20 or Section 21 of Ordinance No. B-00-01.

(c) *Adjusted Net Revenues* means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the Township in lieu of taxes, to which may be made the following adjustments.

(i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of Additional Bonds or to be placed into effect before the time principal or interest on the Additional Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.

(ii) Revenues may be augmented by amounts which may be derived from rates and charges to be paid (a) as a result of new customers who have been identified by an agreement to purchase service from the System who had not been serviced during the preceding twelve

months or (b) as a result of any other new customer or expansion of service to any existing customers or (c) as a result of potential customers which exist in a new service area who will be serviced by the acquisition of the repairs, extensions, enlargements and improvements to said System which have been made during the preceding twelve months or which will be acquired in whole or in part from the proceeds of Additional Bonds.

(iii) If there is a bond reserve account to be funded from the proceeds of Additional Bonds, then the Revenues may be augmented by an amount equal to the investment income representing interest on investments estimated to be received each operating year from the addition to the bond reserve account to be funded from the proceeds of the Additional Bonds being issued.

The adjustment of revenues and expenses by the factors set forth above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the Township.

(a) *Authorized Officer* means the Township Manager of the Township.

(b) *Bonds* means the Series 2000 Bonds, the Series 2000B Bonds, and any Additional Bonds of equal or prior standing hereafter issued under this Ordinance.

(c) *Internal Revenue Code* shall mean the Internal Revenue Code of 1986, as amended, and the regulations propounded thereunder.

(d) *Michigan Municipal Bond Authority* shall refer to the Michigan Municipal Bond Authority created under Act 227 Public Acts of Michigan, 1985, as amended.

(e) *Ordinance No. B-00-01* means Ordinance No. B-00-01 of the Township enacted on May 1, 2000.

(f) *Purchase Contract* means the Purchase Contract for the Series 2000B Bonds between the Township and the Michigan Municipal Bond Authority.

(g) *Redemption Fund* means the Bond and Interest Redemption Fund created under Section 14 of Ordinance No. B-00-01.

(h) *Revenues* and *Net Revenues* mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues" the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance and Ordinance No. B-00-01.

(i) *Series 2000 Bonds* means the Water Supply System Revenue Bonds, Series 2000, authorized by Ordinance No. B-00-01 and delivered on May 17, 2000.

(j) *Series 2000B Bonds* means the Water Supply System Revenue Bonds, Series 2000B, authorized by Ordinance No. B-00-01 and this Ordinance.

(k) *Series 2000B Construction Fund* shall mean the 2000B Water Supply System Construction Fund established pursuant to Section 11 of this Ordinance.

(l) *Series 2000B Project* means acquiring and constructing a water tower and various water system extensions and improvements, together with any appurtenances and attachments thereto and any related site acquisition or improvements.

(m) *State Revenue Sharing Pledge Agreement* means the revenue sharing pledge agreement between the Township and the Michigan Municipal Bond Authority authorized under Section 9 of this Ordinance.

(n) *System* means the entire Water Supply System of the Township including such facilities thereof as are now existing and as shall be acquired and constructed as the Series 2000B Project, including all appurtenances, enlargements, extensions, repairs and improvements thereto hereafter made.

(o) *Township* means the Charter Township of Delta, Eaton County, Michigan.

**Section 2. Conditions permitting issuance of additional bonds.**

Pursuant to Section 21(b) of Ordinance No. B-00-01, the Township Board hereby determines the following with respect to the Series 2000B Bonds: (a) the average Net Revenues of the System for the last two (2) preceding twelve-month operating years, is equal to at least one hundred percent (100%) of the maximum amount of principal and interest thereafter maturing in any operating year on Series 2000 Bonds and the Series 2000B Bonds; and (b) the Township is not in default in making its required payments to the Operation and Maintenance Fund or the Redemption Fund established by Ordinance No. B-00-01.

**Section 3. Statement of purpose; necessity; preliminary approval of plans.**

It is hereby determined to be a necessary public purpose of the Township to acquire and construct the Series 2000B Project in accordance with the plans and specifications prepared by the Township's consulting engineers, which plans and specifications are hereby approved. The Township hereby determines that the portion of the Series 2000B Project comprising an extension to the System is in the best interest of the Township, and that it is reasonable to expect the rates and charges for service furnished by the System to be paid by customers added as a result of the extension to the System will pay for the capital costs related to the extension to the System.

**Section 4. TEFRA hearing.**

The Township hereby determines that the notice for the public hearing held on Thursday, October 19, 2000, and the manner of publication therefor, was adequate notice to the citizens of the Township and was well calculated to inform them of the intention of the Township to hold the public hearing and the purpose of the public hearing. The Township Board hereby ratifies and confirms the actions of the Township Manager in conducting the public hearing as the hearing officer for the Township.

**Section 5. Costs; useful life.**

The total cost of the Series 2000B Project is estimated to be Two Million Dollars ($2,000,000) including the payment of incidental expenses as specified in Section 6 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Series 2000B Project is estimated to be not less than twenty (20) years.

**Section 6. Payment of cost of series 2000B project; bonds authorized.**

To pay part of the cost of acquiring and constructing the Series 2000B Project including payment of all legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2000B Bonds, the Township shall borrow the sum of not to exceed Two Million Dollars ($2,000,000) and shall issue the Series 2000B Bonds therefor pursuant to the provisions of Act 94. Any remaining costs of the Series 2000B Project shall be defrayed from Township funds on hand and legally available for such use. The principal amount of the Series 2000B Bonds will be finally determined by the Authorized Officer in the Purchase Contract.

**Section 7. Series 2000B bond details, registration and execution.**

The Series 2000B Bonds shall be designated WATER SUPPLY SYSTEM REVENUE BONDS, SERIES 2000B, shall be payable solely out of the Net Revenues and other moneys pledged under this Ordinance, and shall not be a general obligation of the Township. The Series 2000B Bonds hereby authorized shall initially consist of one fully registered bond payable initially to the Michigan Municipal Bond Authority. The Series 2000B Bonds shall be issued in the aggregate principal amount of not to exceed Two Million Dollars ($2,000,000); shall be dated as of the date of original delivery thereof; shall bear interest at a rate or rates to be determined upon the sale thereof, but in no event in excess of 8% per annum, payable semiannually on November 1 and May 1 of each year commencing May 1, 2001 or such other date as shall be determined by an Authorized Officer at the time of sale; and shall be sold at a price not less than 95% of their par value. In addition, if required by the Michigan Municipal Bond Authority, the Series 2000B Bonds will bear additional interest, under the terms required by Michigan Municipal Bond Authority, in the event of a default by the Township in the payment of principal or interest on the Series 2000B Bonds when due. The Series 2000B Bonds shall be payable in the amounts and on the dates as shall be determined by an Authorized Officer at the time of sale to the Michigan Municipal Bond Authority, provided that principal shall be payable either on May 1 or November 1 in the years currently anticipated to be 2001 through 2020, but in any event not to extend past 2021. The Series 2000B Bonds shall be subject to redemption prior to maturity as shall be permitted by the Michigan Municipal Bond Authority.

At the time of execution of the Purchase Contract with the Michigan Municipal Bond Authority, the Authorized Officer may adjust the principal amount of the Series 2000B Bonds and the amounts and dates of maturity, date of the Series 2000B Bonds and the interest payment dates, optional redemption provisions and other bond details which are to be finally determined by the Authorized Officer in the Purchase Contract.

The Series 2000B Bonds shall be executed in the name of the Township by the manual or facsimile signature of the Supervisor and the Township Clerk provided that at least one signature on the Bond shall be a manual signature. The Series 2000B Bonds shall be delivered to the Michigan Municipal Bond Authority in accordance with instructions from the Township Manager upon payment of the purchase price for the Series 2000B Bonds in accordance with the bid therefor when accepted.

**Section 8. Sale of series 2000B bonds to Michigan Municipal Bond Authority; purchase contract.**

The Township Board hereby approves the sale of the Series 2000B Bonds to the Michigan Municipal Bond Authority at a discount not exceeding 5% of their par value with a net interest rate not exceeding 8.00% per annum. The Authorized Officer may approve the final principal and interest payment dates, specific discount, specific interest rates, and final principal amount of the Series 2000B Bonds and the principal payable on each maturity date, within the limitations contained in this authorization Ordinance, and approval of these terms shall be evidenced by execution by the Authorized Officer of the Purchase Contract between the Township and the Michigan Municipal Bond Authority and by execution by the Township Supervisor of the Series 2000B Bonds.

The Township Board hereby approves and authorizes the execution and delivery of the Purchase Contract between the Township and the Michigan Municipal Bond Authority in substantially the form presented to the Township Board with this Ordinance, with such changes as may be necessary or desirable, permitted by law, and not materially adverse to the Township as determined by the Authorized Officer.

**Section 9. State revenue sharing pledge.**

As additional security for repayment of the Series 2000B Bonds, the Township Board agrees to pledge the payments that the Township is eligible to receive from the State of Michigan under Act 140, Public Acts of Michigan, 1971, as amended ("State Revenue Sharing") to the Michigan Municipal Bond Authority as purchaser and holder of the Series 2000B Bonds, and the Township Board hereby approves and authorizes the execution and delivery of a revenue sharing pledge agreement between the Township and the Michigan Municipal Bond Authority in substantially the form presented to the Township Board with this Ordinance, with such changes as may be necessary or desirable, permitted by law, and not materially adverse to the Township as determined by the Authorized Officer.

**Section 10. Management.**

The acquisition and construction of the Series 2000B Project shall continue to be under the supervision and control of the Township Board.

**Section 11. Proceeds of series 2000B bonds.**

The proceeds of sale of the Series 2000B Bonds shall be deposited to a separate depository fund to be established and maintained at a bank or banks qualified to act as depository of the proceeds of sale under the provisions of Section 15 of Act 94 and designated the 2000B WATER SUPPLY SYSTEM CONSTRUCTION FUND (the "Construction Fund"). The Construction Fund shall be an account separate from other money of the Township as required under the provisions of Section 15 of Act 94. The Construction Fund shall be used to pay costs of acquiring and constructing the Series 2000B Project, including costs of issuance of the Series 2000B Bonds and payment of all legal, engineering, financial and other expenses.

Any unexpended balance of the proceeds of the Series 2000B Bonds remaining after completion of the Series 2000B Project may be used for further improvements, enlargements and extensions of the System in the discretion of the Township, provided that at the time of such expenditure such use be approved by the Michigan

Department of Treasury if then required by law. Any remaining balance after such expenditure shall be paid into the Bond and Interest Redemption Fund and shall be used to pay principal and interest on the Series 2000B Bonds.

After completion of the Series 2000B Project and disposition of remaining proceeds, if any, of the Series 2000B Bonds pursuant to the provisions of this Section, the Construction Fund shall be closed.

**Section 12. Covenant regarding construction of series 2000B project.**

The Township covenants and agrees with the holders of the Series 2000B Bonds that as long as any of the Series 2000B Bonds remain Outstanding and unpaid as to either principal or interest the Township will cause the Series 2000B Project to be acquired and constructed promptly and in accordance with the plans and specification therefor:

**Section 13. Tax matters covenant; amendment of Section 19(g) of Ordinance No. B-00-01.**

The Township hereby amends Section 19(g) of Ordinance No. B-00-01 to provide that the following shall apply to the Series 2000B Bonds:

> The Township covenants and agrees with the Registered Owners of the Bonds that as long as any of the Bonds remain Outstanding and unpaid as to either principal or interest, the Township shall not invest, reinvest or accumulate any moneys deemed to be proceeds of the Bonds pursuant to the Internal Revenue Code in such a manner as to cause the Bonds to be "arbitrage bonds" within the meaning of the Internal Revenue Code. The Township hereby covenants that, to the extent permitted by law, it will take all actions within its control and that it shall not fail to take any action as may be necessary to maintain the exclusion of interest on the Series 2000B Bonds from general federal income taxation (as opposed to alternative minimum or other indirect taxation) under the Internal Revenue Code, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of bond proceeds and moneys deemed to be bond proceeds, all as more fully set forth in the Non-Arbitrage and Tax Compliance Certificate to be delivered by the Township with the Series 2000B Bonds.

**Section 14. Conditions permitting issuance of senior or prior lien bonds.**

Since the Township has secured payment of the Series 2000 and Series 2000B Bonds through the State Revenue Sharing Pledge made to the Michigan Municipal Bond Authority under Section 8 of this Ordinance, the Township reserves the right to issue Additional Bonds of senior or prior standing and priority of lien on the Net Revenues of the System to the Series 2000 and the Series 2000B Bonds (the "Senior Lien Bonds"), but only if the Township does not pledge State Revenue Sharing for payment of said Senior Lien Bonds. If Senior Lien Bonds are issued, then Net Revenues of the System would be used first to pay debt service on the Senior Lien Bonds prior to providing for payment of the Series 2000 and Series 2000B Bonds.

**Section 15. Series 2000B bond form.**

The Series 2000B Bonds shall be in substantially the following form with such revisions, additions and deletions as may be advisable or necessary to comply with the final terms of the Series 2000B Bonds

established upon sale thereof:

Bond No.

R-__

United States of America

State of Michigan

County of Eaton

CHARTER TOWNSHIP OF DELTA

WATER SUPPLY SYSTEM REVENUE BOND, SERIES 2000B

Principal Amount: $2,000,000

Date of Original Issue:_____, 2000

Registered Owner: Michigan Municipal Bond Authority (the "MMBA")

"Installments of Principal" "Payment Dates" and "Interest Rate" shall have the meanings as described in Exhibit A.

THE CHARTER TOWNSHIP OF DELTA, County of Eaton, State of Michigan (the "Township"), for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, but only out of the hereinafter described Net Revenues of the Township's water supply system (defined below), the Principal Amount specified above, in lawful money of the United States of America, on the May 1 Payment Dates shown on Exhibit A unless prepaid prior thereto as hereinafter provided, in the Installments of Principal shown on Exhibit A. The Township also promises to pay to the Registered Owner specified above, or registered assigns, interest on the unpaid Installments of Principal from the Date of Original Issue specified above, or such later date to which interest has been paid, until paid, at the per annum Interest Rate for each Installment of Principal shown on Exhibit A, payable on the Payment Dates. For the prompt payment of principal and interest on this bond, the Township has irrevocably pledged the revenues of the Township's water supply system, including all appurtenances, extensions and improvements thereto (the "System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory lien thereon is hereby recognized and created subject to the issuance of additional bonds of prior and senior standing and priority of lien to this bond on the conditions stated in the Ordinance as described below. This bond is of equal standing and priority of lien as the Net Revenues of the System with the Township's outstanding Water Supply System Revenue Bonds, Series 2000, dated May 17, 2000 (the "Series 2000 Bonds").

Notwithstanding any other provision of this bond, as long as the Michigan Municipal Bond Authority (the "MMBA") is the owner of this bond, (a) this bond is payable as to principal and interest at the corporate trust office of National City Bank of Michigan / Illinois, Michigan, or at such other place as shall be designated

in writing to the Township by the MMBA (the "MMBA's Depository"); (b) the Township agrees that it will deposit with the MMBA's Depository payments of the principal of and interest on this bond in immediately available funds at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; and (c) written notice of any redemption of this bond shall be given by the Township and received by the MMBA's Depository at least 40 days prior to the date on which such redemption is to be made.

ADDITIONAL INTEREST

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the MMBA's cost of providing funds (as determined by the MMBA) to make payment on the bonds of the MMBA issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the MMBA has been fully reimbursed for all costs incurred by the MMBA (as determined by the MMBA) as a consequence of the Township's default. Such additional interest shall be payable on the interest payment date following demand of the MMBA. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the MMBA) the investment of amounts in the reserve account established by the MMBA for the bonds of the MMBA issued to provide funds to purchase this bond, fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the MMBA issued to fund such account, the Township shall and hereby agrees to pay on demand only the Township's pro rata share (as determined by the MMBA) of such deficiency as additional interest on this bond.

This bond is subject to optional redemption in whole or in part in such order as the Township may determine, in integral multiples of $5,000 on any interest Payment Date on or after _____ 1, ____, at the redemption price of par plus accrued interest to the redemption date.

This bond is transferable only upon the books of the Township kept for that purpose at the office of the Township Treasurer, acting as transfer agent for the Township (the "Transfer Agent"), by the registered owner hereof in person, or by his attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon the payment of the charges, if any, therein prescribed.

This bond is a single fully registered bond representing the entire series of bonds aggregating the principal sum of $2,000,000, issued pursuant to Ordinance No. B-00-01 as supplemented by Ordinance No. B-00-02 (collectively, the "Ordinances") duly enacted by the Township Board of the Township, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended ("Act 94"), for the purpose of paying the costs of acquisition and construction of improvements and extensions to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of equal or prior standing with this bond may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued,

reference is made to the Ordinances. Copies of the Ordinances are on file at the office of the Township Clerk and reference is made to the Ordinances and any and all supplements thereto and modifications and amendments thereof, if any, and to Act 94 for a more complete description of the pledges and covenants securing this bond, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owner of this bond with respect thereto and the terms and conditions upon which this bond is issued and may be issued thereunder. The Township has reserved the right, on the conditions stated in the Ordinances, to issue additional bonds of prior and senior or equal standing and priority of lien as to the Net Revenues with this bond and the Series 2000 Bonds.

THIS BOND IS A SELF-LIQUIDATING BOND AND IS NOT A GENERAL OBLIGATION OF THE TOWNSHIP AND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE TOWNSHIP WITHIN ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATION, AND IS PAYABLE BOTH AS TO PRINCIPAL AND INTEREST SOLELY FROM THE NET REVENUES OF THE SYSTEM AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE ORDINANCES. THE PRINCIPAL OF AND INTEREST ON THIS BOND ARE SECURED BY THE STATUTORY LIEN HEREINBEFORE DESCRIBED.

The Township hereby covenants and agrees to fix and maintain at all times while any bonds authorized by the Ordinances shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of all bonds payable from the revenues of the System as and when the same become due and payable, and to create and maintain a bond redemption fund therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinances.

It is hereby certified and recited that all acts, conditions and things required to be done, exist and happen, precedent to and in the issuance of this bond, in order to make it a valid and binding obligation of the Township, have been done, exist and have happened in regular and due form and time as provided by law, and that the total indebtedness of said Township, including this bond, does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the Charter Township of Delta, County of Eaton, State of Michigan, by its Township Board, has caused this bond to be executed by [the facsimile signatures of] its Supervisor and its Township Clerk, and its corporate seal to be hereunto [impressed] [printed], all as of the Date of Original Issue.

CHARTER TOWNSHIP OF DELTA

County of Eaton, State of Michigan

[manual or facsimile signature to appear on executed bond]

_____

Supervisor

(Seal)

Countersigned:

[manual or facsimile signature to appear on executed bond]

_____
Township Clerk

**Section 16. Applicability of Ordinance No. B-00-01.**

Except to the extent supplemented or otherwise provided in this Ordinance, all of the provisions and covenants provided in Ordinance No. B-00-01 shall apply to the Series 2000B Bonds issued pursuant to provisions of this Ordinance, such provisions of said Ordinance being made applicable to the Series 2000B Bonds herein authorized, the same as though said Series 2000B Bonds were originally authorized and issued as a part of the Series 2000 Bonds issued pursuant to Ordinance No. B-00-01.

**Section 17. Severability and paragraph headings.**

If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

**Section 18. Publication and recordation.**

In accordance with the provisions of Section 6 of Act 94, this Ordinance shall be published once in full in the Grand Ledge Independent and Delta/Waverly Community News, a newspaper of general circulation in the Charter Township of Delta qualified under State of Michigan law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the Township and such recording authenticated by the signatures of the Supervisor and the Township Clerk.

**Section 19. Effective date.**

This Ordinance is hereby determined by the Township Board to be immediately necessary for the preservation of the public peace, property, health, and safety of the Township. In accordance with the provisions of Section 6 of Act 94, this Ordinance shall become effective immediately upon its adoption.

I hereby certify that the foregoing is a true and complete copy of an Ordinance enacted by the Township Board of the Charter Township of Delta, County of Eaton, State of Michigan, at a Regular Meeting held on Monday, November 20, 2000, at 7:00 p.m. prevailing Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to the Open Meetings Act, being Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

I further certify that the following Township Board members were present at said meeting: Supervisor Joe Drolett, Treasurer Philip Chisholm, Clerk Janice Vedder, Trustees John Boles, Jan Cunningham, Sherry Freeman and Dorothy Maxwell, and that the following Township Board members were absent: None.

I further certify that Township Board member Treasurer Philip Chisholm moved adoption of said

Ordinance, and that said motion was supported by Township Board member Trustee Jan Cunningham.

I further certify that the following Township Board members voted for adoption of said Ordinance: Supervisor Joe Drolett, Treasurer Philip Chisholm, Clerk Janice Vedder, and Trustees John Boles, Jan Cunningham, Sherry Freeman and Dorothy Maxwell, and that the following Township Board members voted against adoption of said Ordinance: None.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signature of the Supervisor and the Township Clerk.

CHARTER TOWNSHIP OF DELTA

JANICE VEDDER

_____

TOWNSHIP CLERK

JOSEPH DROLETT

_____

TOWNSHIP SUPERVISOR

I, Janice Vedder, Clerk of Delta Charter Township, Eaton County, Michigan, hereby certify that the foregoingis a complete ordinance adopted by the Board of Trustees at their regular meeting held on November 20, 2000.

CHARTER TOWNSHIP OF DELTA

JANICE VEDDER

_____

TOWNSHIP CLERK

| | |
|---|---|
| Introduced by Board of Trustees | November 20, 2000 |
| Published following first reading: | |
| Grand Ledge Independent | November 26, 2000 |
| Delta-Waverly Community News | November 26, 2000 |
| | |
| Adopted by the Board of Trustees | November 20, 2000 |
| Published following final reading: | |
| Grand Ledge Independent | November 26, 2000 |
| Delta-Waverly Community News | November 26, 2000 |

Copies of this Ordinance may be purchased or inspected in the office of the Township Clerk, from 8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays.

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