

# **Charter Township of Filer**

## **General Ordinances**

**(Including amendments adopted through December 1, 2020)**

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**CHAPTER 1  
INCORPORATION**

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION OF FILER TOWNSHIP  
BOARD OF TRUSTEES DECLARING INTENT  
TO APPROVE INCORPORATION OF FILER TOWNSHIP,  
MANISTEE COUNTY, MICHIGAN AS A  
CHARTER TOWNSHIP PURSUANT TO 1947 P.A. 359,  
BEING MCL 42.1 ET SEQ., ORDERING NOTICE OF  
RIGHT TO REFERENDUM AND PRESCRIBING**

**FORM OF NOTICE**

WHEREAS Filer Township, on December 8, 1995, received from the Michigan Department of State official certification that the total number of persons living in Filer Township is 2,153 persons; and

WHEREAS the total number of persons now living in Filer Township exceeds the minimum number of persons required in order to incorporate as a charter township under the provisions of 1947 P.A. 359, being MCL 42.1 *et seq.* (hereafter, "Act 359"); and

WHEREAS by virtue of the authority set forth in Sec 3a(2)(b) of Act 359 the Township Board of Trustees of Filer Township desires to proceed to incorporate Filer Township, Manistee County, Michigan as a Charter Township pursuant to Act 359;

NOW THEREFORE, on the Motion of Adamski, seconded by Cabot,

IT IS HEREBY RESOLVED that the Township Board of Filer Township hereby declares its intent to incorporate Filer Township, Manistee County, Michigan as a Charter Township pursuant to Sec 3a(2)(b) of Act 359, being MCL 42.3a(2)(b) unless within 60 days of the date hereof there is filed with the Clerk of Filer Township a Petition in Disagreement of Intent to Incorporate as a Charter Township in the form and manner allowed by law.

BE IT FURTHER RESOLVED that the Clerk give Notice of the Right of Referendum in the manner provided by law and that the Notice be in substantially the following form:

**NOTICE OF RIGHT OF REFERENDUM ON  
BECOMING A CHARTER TOWNSHIP**

Official certification has been received from the Michigan Secretary of State that the Township of Filer has a population of 2,000 or more and the Township Board of Filer Township, at a special meeting thereof held on the 18th day of December, 1995, has exercised the option allowed by Sec 3a of 1947 P.A. 359 to proceed by resolution with the incorporation of Filer Township as a Charter Township.



NOTICE IS HEREBY GIVEN that the citizens of Filer Township have the right to file a "Right to Referendum Petition." This Petition must be filed within the 60 days which must elapse between passage of the resolution of intent to incorporate and final passage of the resolution to incorporate as a charter township.

NOTICE IS FURTHER HEREBY GIVEN that the petition will follow, in general form, the nominating petition form as prescribed in the Michigan Election Law, and in the heading will indicate "Disagreement of Intent to Incorporate as a Charter Township." The petition must be signed by not less than 10 percent of the registered voters of Filer Township based on the vote cast for all candidates for Township supervisor at the last election at which a supervisor was elected.

NOTICE IS FURTHER HEREBY GIVEN that if the proper petition is timely filed, the question of incorporation will be placed on the ballot at the next general or special Township election.

This Notice is given by Order of the Filer Township Board at a special meeting thereof held on the 18th day of December, 1995.

December 18, 1995

/s/ Mary Wisniski

Mary Wisniski, Clerk

BE IT FURTHER RESOLVED that the Township Attorney prepare the appropriate form of Resolution and Notice of Right to Referendum and the Supervisor and Clerk are hereby authorized to execute and acknowledge the same.

THOSE VOTING IN FAVOR: Adamski, Cabot, Janowiak.

THOSE VOTING AGAINST: Wisniski, Williams

RESOLUTION DECLARED PASSED.

/s/ Alvin Janowiak

Alvin Janowiak, Supervisor

/s/ Mary Wisniski

Mary Wisniski, Clerk

#### CERTIFICATION

The undersigned, Clerk of Filer Township, hereby certifies that the forgoing is a true and correct copy of the Resolution that was adopted by the Filer Township Board of Trustees at a special meeting thereof duly called and held on the 18th day of December, 1995.

/s/ Mary Wisniski

Mary Wisniski

NOTICE OF RIGHT OF REFERENDUM ON  
BECOMING A CHARTER TOWNSHIP

Official certification has been received from the Michigan Secretary of State that the Township of Filer has a population of 2,000 or more and the Township Board of Filer Township, at a special meeting thereof held on the 18th day of December, 1995, has exercised the option allowed by Sec 3a of 1947 P.A. 359 to proceed by resolution with the incorporation of Filer Township as a charter township.

NOTICE IS HEREBY GIVEN that the citizens of Filer Township have the right to file a "Right to Referendum Petition." This Petition must be filed within the 60 days which must elapse between passage of the resolution of intent to incorporate and final passage of the resolution to incorporate as a charter township.

NOTICE IS FURTHER HEREBY GIVEN that the petition will follow, in general form, the nominating petition form as prescribed in the Michigan Election Law, and in the heading will indicate "Disagreement of Intent to Incorporate as a charter township." The petition must be signed by not less than 10 percent of the registered voters of Filer Township based on the vote cast for all candidates for Township Supervisor at the last election at which a supervisor was elected.

NOTICE IS FURTHER HEREBY GIVEN that if the proper petition is timely filed, the question of incorporation will be placed on the ballot at the next general or special Township election.

This Notice is given by Order of the Filer Township Board at a special meeting thereof held on the 18th day of December, 1995.

December 18, 1995

/s/ Mary Wisniski  
Mary Wisniski, Clerk

**Published** in Manistee County, Michigan  
*Manistee News Advocate* Dates December 22 & 29, 1995

**CERTIFICATE OF NO RIGHT OF  
REFERENDUM PETITION**

I, Mary Wisniski, do hereby CERTIFY that I am the duly qualified and acting Clerk of the Township of Filer, Manistee County, Michigan, and that in connection with the adoption by Resolution of Filer Township Board of Trustees Declaring Intent to Approve Incorporation of Filer Township, Manistee County, Michigan, as a charter township Pursuant to 1947 P.A. 1959, being MCL 42.1 *et seq*, Ordering Notice of Right to Referendum and Prescribing Form of Notice, a “Notice of Right of Referendum on Becoming a Charter Township” was published in the *Manistee News Advocate*, a newspaper of general circulation within the Township on December 22, 1995, and December 29, 1995, and no Right of Referendum Petition has been filed with this office by date even herewith.

Date: February 21, 1996

/s/ Mary Wisniski  
Mary Wisniski, Clerk  
Township of Filer  
Manistee County, MI

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF FILER TOWNSHIP BOARD OF TRUSTEES INCORPORATING  
FILER TOWNSHIP, MANISTEE COUNTY, MICHIGAN, AS A CHARTER TOWNSHIP  
PURSUANT TO 1947 P.A. 359, BEING MCL 42.1 *ET SEQ.* AND DIRECTING  
TOWNSHIP CLERK TO FILE TRANSCRIPT WITH THE MICHIGAN SECRETARY  
OF STATE AND THE CLERK OF MANISTEE COUNTY**

**WHEREAS**, Filer Township, on December 8, 1995, received from the Michigan Department of State official certification that the total number of persons living in Filer Township is 2,154 persons; and

**WHEREAS**, the total number of persons now living in Filer Township exceeds the minimum number of persons required in order to incorporate as a charter township under the provisions of 1947 P.A. 359, being MCL 42.1 *et seq* (hereafter, “Act 359”); and

**WHEREAS**, on the 18th day of December, 1995, at a special meeting thereof, the Filer Township Board of Trustees adopted a Resolution of Filer Township Board of Trustees Declaring Intent to Approve Incorporation of Filer Township, Manistee County, Michigan, as a charter township Pursuant to 1947 P.A. 359, Being MCL 42.1 *et seq*, Ordering Notice Of Right To Referendum and Prescribing Form Of Notice, (hereafter, the “Resolution of Intent”); and

**WHEREAS**, a Notice of Right of Referendum on Becoming a Charter Township was published in the *Manistee News Advocate*, a newspaper of general circulation within Manistee County on the 22nd day of December and the 29th day of December, 1995; and

**WHEREAS**, the Clerk of the Township has filed her Certificate of No Right of Referendum Petition certifying that no petition for referendum has been filed in the manner prescribed by law; and

**WHEREAS**, more than 60 days have elapsed since the adoption of the Filer Township Board of Trustees” Resolution of Intent.

**NOW, THEREFORE**, on the Motion of Adamski, seconded by Cabot, **IT IS HEREBY RESOLVED** that the Township Board of Filer Township, pursuant to the authority granted to it by Section 3a(2)(b) of Act 359, being MCL 42.3a(2)(b) does hereby incorporate Filer Township, Manistee County, Michigan, as a charter township to be known as the Charter Township of Filer in the form and manner allowed by law.

**BE IT FURTHER RESOLVED**, that the Clerk of the Township file with the Clerk for Manistee County and the Michigan Secretary of State a complete transcript of the proceedings of the Filer Township Board of Trustees acting to incorporate as a charter township and consisting of a certified copy of the Resolution of Intent, an Affidavit of Publication with respect to the Notice of Right of Referendum on Becoming a Charter Township, a copy of this Resolution, and a copy of the Clerk’s Certificate of No Right of Referendum Petition.

**BE IT FURTHER RESOLVED**, the effective date of this Resolution incorporating Filer Township as the Charter Township of Filer shall be the date the foregoing transcript of proceedings is filed with the Secretary of State in the manner provided by law.

THOSE VOTING IN FAVOR:        **WILLIAMS, CABOT, JANOWIAK, ADAMSKI**

THOSE VOTING AGAINST:        **WISNISKI**

THOSE ABSENT OR ABSTAINING:        **NONE**

**RESOLUTION DECLARED PASSED.**

/s/ Alvin Janowiak  
Alvin Janowiak, Supervisor

/s/ Mary Wisniski  
Mary Wisniski, Clerk

### CERTIFICATION

The undersigned, Clerk of Filer Township, hereby certifies that the foregoing is a true and correct copy of a Resolution that was adopted by the Filer Township Board of Trustees at a **REGULAR** meeting thereof duly called and held on the **5<sup>th</sup>** day of **MARCH**, 1996.

/s/ Mary Wisniski

Mary Wisniski

### AFFIDAVIT OF FILING OF TRANSCRIPT

STATE OF MICHIGAN       )  
                                      : SS.  
COUNTY OF MANISTEE    )

**MARY WISNISKI**, being first duly sworn, deposes and states that she is the duly qualified and acting Clerk of the Township of Filer, Manistee County, Michigan, and that on the **6<sup>th</sup>** day of **MARCH**, 1996, she filed:

1. Resolution of Filer Township Board of Trustees Declaring Intent to Approve Incorporation of Filer Township, Manistee County, Michigan, as a Charter Township Pursuant to 1947 P.A. 359, being MCL 42.1 *et seq.*, Ordering Notice of Right to Referendum and Prescribing Form of Notice.

2. Notice of Right of Referendum on Becoming A Charter Township.

3. Affidavit of Publication.

4. Certificate of No Right of Referendum Petition.

5. Resolution of Filer Township Board of Trustees Incorporating Filer Township, Manistee County, Michigan, as a charter township Pursuant to 1947 P.A. 359, being MCL 42.1 *et seq.*, and Directing Clerk to File Transcript With the Michigan Secretary of State and the Clerk of Manistee County.

6. Affidavit of Filing Transcript.

with the Clerk for Manistee County, Courthouse Building, 415 Third Street, Manistee County, Michigan, and the Michigan Secretary of State, Office of Great Seal and Registration, Lansing, MI 48918, by mailing a copy of the same by registered mail and that the attached copies of the Receipt for Registered Mail are true and correct copies of the originals on file in the Office of the Filer Township Clerk.

/s/ Mary Wisniski

Mary Wisniski

Subscribed and sworn to before me, a notary public, this 6<sup>th</sup> day of MARCH, 1996.

/s/ Richard M. Wilson, Jr.

Richard M. Wilson, Jr., Notary Public

Manistee County, Michigan

My Commission Expires: 3-19-99

**CHAPTER 2**  
**RESERVED FOR FUTURE USE**

## **CHAPTER 3 FISCAL YEAR**

### **3.01 Budget.**

Commencing in 1979, the fiscal year of the Township shall extend from April 1st of each year until March 31st of the following year. Any preexisting Township budget lawfully adopted by the Township Board shall be proportionately extended to coincide with the foregoing new fiscal year periods.

### **3.02 Settlement Day.**

The annual settlement day meeting of the Township Board shall hereafter be held on the 15th day of the last month of the fiscal year of the Township unless said day falls on a Saturday, Sunday or legal holiday whereupon said meeting shall be held on the following Monday which is not a legal holiday.

### **3.03 Annual Meeting.**

The annual meeting of the electors of the Township, where the same has not been abolished, shall be held on the last Saturday in the last month of the aforesaid fiscal year at such time and place as is determined by the Township Board.



**CHAPTER 4**  
**PUBLIC, EDUCATION AND GOVERNMENT COMMISSION**

**NOW, THEREFORE**, the Charter Township of Filer hereby ordains:

**4.01 Public, Education and Government Created and Established.**

The public, education and government (P.E.G.) commission of the City of Manistee is hereby created and established as a commission of the Charter Township of Filer.

**4.02 Duties.**

The composition, authority and duties of the P.E.G. Commission shall be as established by Chapter 288 of the Code of Ordinances of the City of Manistee, which Chapter 288 is incorporated herein by reference.

## **CHAPTER 5**

### **ECONOMIC DEVELOPMENT CORPORATION**

#### **5.01 Application to Incorporate.**

The application under date of April 3, 1978, filed by Joseph P. Adamski, David Kaminski, Thomas Chycinski, Nancy J. Jans, Walter Gorley, Donn A. Sundin and Henry P. Rozmarek to incorporate The Economic Development Corporation of the Township of Filer and the proposed Articles of Incorporation for said corporation be and the same are hereby approved and adopted.

#### **5.02 Execution of Articles of Incorporation.**

The Articles of Incorporation shall be executed in duplicate and upon execution the Township Clerk be and is hereby directed to file and publish said Articles in accordance with Section 31 of Act 338.

#### **5.03 Articles of Incorporation.**

The Articles of Incorporation are signed and acknowledged by the incorporators for the purpose of forming a non-profit corporation of the Township of Filer, Michigan (the "Township") under the provisions of Act No. 338 of the Public Acts of 1974, as amended as follows:

##### **Article I**

The name of the corporation is THE ECONOMIC DEVELOPMENT CORPORATION OF THE TOWNSHIP OF FILER.

##### **Article II**

The Corporation is organized pursuant to Act 338 of the Public Acts of 1974, as amended, ("Act 338") to perform essential public purposes and functions of the Township. Its purposes will be to alleviate and prevent conditions of unemployment, to assist and retain local industries and commercial enterprises in order to strengthen and revitalize the economy of the Township and the State of Michigan, to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating and expanding in the Township, to encourage the location and expansion of commercial enterprises to provide needed services and facilities to the Township and the residents thereof, and to accomplish the foregoing to do the following:

- a) To construct, acquire by gift or purchase, reconstruct, improve, maintain, repair, acquire the necessary lands for the site for "Projects" which term shall hereinafter mean the following: land and existing or planned improvements suitable for use by any industrial or commercial enterprise or a replacement housing project incidental thereto, including all necessary buildings or structures suitable for and intended for or incidental to use as an industrial or commercial enterprise, including a replacement housing project incidental thereto, and all necessary machinery, furnishings, and equipment necessary, suitable, intended for or incidental to a commercial, industrial, or residential use in connection with the buildings or structures.



- 2) Personal property: None

The Corporation will be financed from donations, gifts, grants and devises, either solicited or unsolicited, obtained from public authorities, individuals, corporations and other organizations, by earnings from its activities, borrowings and issuance of revenue bonds.

## Article VI

The names and places of business of each of the incorporators are as follows:

Joseph P. Adamski  
2111 Nelson Street  
Manistee, Michigan 49660

David Kaminski  
1614 Red Apple Road  
Manistee, Michigan 49660

Thomas Chycinski  
2396 Manistee Highway  
Manistee, Michigan 49660

Nancy J. Jans  
1330 East 28th Street  
Manistee, Michigan 49660

Walter Gorley  
1208 26th Street  
Manistee, Michigan 49660

Donn A. Sundin  
1210 25th Street  
Manistee, Michigan 49660

Henry P. Rozmarek  
1669 Fruit Ridge  
Manistee, Michigan 49660

## Article VII

- A. The Board of Directors of the Corporation shall be appointed by the Township Supervisor of the Township with the advice and consent of the Township Board of the Township. The Board of Directors shall consist of nine persons, not more than three of whom shall be an officer or employee of the Township. The term of office for directors shall be in accordance with Section r of Act No. 338, Provided, the Secretary of the Board of Directors of the Corporation shall notify in writing the Township Supervisor of the Township of the Corporation's intention to commence preparation of a project plan and there shall be promptly appointed, in the same manner, to the Corporation's Board of Directors two additional directors representative of neighborhood residents likely to be affected by each such proposed by the Corporation and whose term of office shall be consistent with the provisions of Section 4(2) of Act No. 338.
- B.
- (1) The Board of Directors shall designate one of its members as Chairman, one of its members as Secretary, and a Treasurer, each to be designated for such term for a period of one year. Such officers may succeed themselves in office.

- (2) The Chairman shall preside at meetings of the Board of Directors and may sign and execute all authorized bonds, contracts, checks and other obligations and execute interest coupons with his facsimile signature in the name of the Corporation when so authorized by the Board of Directors. He shall do and perform such other duties as may be fixed by the bylaws and from time to time assigned to him by the Board of Directors.
- (3) The Secretary shall keep the minutes of all meetings of the Board of Directors, and of all committees thereof, in books provided for that purpose. He shall attend to the giving, serving and receiving of all notices or process of or against the Corporation. He may sign with the Chairman in the name of the Corporation all bonds, contracts and other obligations authorized by the Board of Directors, and when so ordered, he shall affix the seal of the Corporation thereto. He shall have charge of all books and records which shall at all reasonable times be open to inspection and examination by the Board of Directors or any member thereof, and by the Township Board of the Township, and, in general, perform all the duties incident to his office. The Secretary shall preside at meetings of the Board of Directors in the absence of the Chairman.
- (4) The Treasurer shall have custody of all the funds and securities of the Corporation which may come into his hands or possession. When necessary or proper, he shall endorse in behalf of the Corporation for collection, checks, notes, and other obligations, and shall deposit them to the credit of the Corporation in a designated bank or depository. He shall sign all receipts and vouchers for payment made to the Corporation. He shall jointly with such other officer as may be designated by the Board of Directors sign all checks, promissory notes and other obligations of the Corporation when so ordered by the Board of Directors. He shall render a statement of his cash accounts when required by the Board of Directors. He shall regularly in the books of the Corporation to be kept by him for the purpose full and accurate accounts of all moneys received and paid by him on account of the Corporation, and shall, at all reasonable times, exhibit his books and accounts to the Board of Directors or any member thereof when so required. He shall perform all acts incidental to the position of Treasurer fixed by the bylaws and as assigned to him from time to time by the Board of Directors. He shall be bonded for the faithful discharge of his duties as Treasurer, the bond to be of such character, form and in such amount as the Board of Directors may require.

### **Article VIII**

The term of the corporate existence is perpetual.

## **Article IX**

The regulation of the internal affairs of the Corporation, including the distribution of assets on dissolution or final liquidation is placed entirely with the Board of Directors or their successors, as provided in the Bylaws of this Corporation, subject, however, to the provisions of Act No. 338.

## **Article X**

No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, officer or director of the Corporation, or any private individual (except that in case of private individuals reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes), and no member, trustee, officer or director of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the Corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

Upon the dissolution of the Corporation or the winding up of its affairs, all property and assets of the Corporation shall be distributed exclusively to the Township or its successor.

## **Article XI**

All meetings of the Board of Directors shall be public and notice of such meetings shall be given in accordance with the Open Meetings Act (Act No. 267 of the Public Acts of 1976, as amended), State of Michigan.

Amended Part of Ordinance #7      Adopted July 1, 1980

## **Article XII**

The Corporation shall at all times be deemed to be an agency of the Township.

## **Article XIII**

These Articles shall become effective and the Corporation shall exist upon and after the approval of said Articles by appropriate action of the Township Board of the Township of Filer and the publication of said Articles as provided on Article XV hereof.

## **Article XIV**

Upon their appointment the Board of Directors shall convene, organize and by resolution adopt bylaws which may set forth the Corporation's rules of procedure and regulation of projects. Said bylaws shall be subject to the approval of the Township Board.

## Article XV

The Township Clerk shall in conformity with Section 31 of Act 338, cause the appropriate filing of these Articles and shall cause the Articles to be published in the *Manistee News Advocate*, Manistee, Michigan a newspaper of general circulation within the Township which publication shall be accompanied by a statement that the right exists to question the incorporation in court as provided in Section 31 of Act 338.

## CHAPTER 6 PLANNING COMMISSION

### 6.01 Creation.

There shall be a Filer Township Planning Commission pursuant to P.A. 33 of 2008, as amended, (“Act 33”) being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*, (hereinafter, “the Commission”) with powers, duties and a staffed Planning Department as hereinafter provided.

### 6.02 Membership.

- A. The Commission shall consist of seven members appointed by the Township Supervisor and the Township Board as provided in Act 33. To be qualified to be a member and remain a member of the Commission, the individual shall meet the following qualifications:
  - 1. shall be a qualified elector of Filer Township;
  - 2. after an individual’s first appointment and before reappointment the individual shall have attended training for Commission members, pursuant to Section 6.04 of this chapter;
  - 3. shall meet the conditions provided for individual members in Sections 6.02.B, 6.02.D and 6.02.E of this chapter, except the geographical location of the individual’s residency may be considered optional.
- B. Members shall be appointed for three-year terms. However, when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of 1/3 of all Commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of 1/3 of all Commission members continue to expire each year.
- C. One member shall also be a member of the Township Board, who shall be *ex officio*, and whose term of office shall coincide with his or her elected term of office on the Township Board.
- D. The membership shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the Township in accordance with the major interests as they exist in the Township, as follows:
  - 1. Natural resources;
  - 2. Recreation;



3. Public health/safety;
  4. Transportation;
  5. Industry;
  6. Commerce.
- E. The membership shall also be representative of the entire geography of Filer Township to the extent practicable, and as a secondary consideration to the representation of the major interests.

### **6.03 Liaisons.**

- A. The Commission, in its Bylaws, may name “liaisons” to the Commission. The purpose of liaisons is to provide Township officials the ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. Liaisons may include:
1. Planning Department staff, and their agents and consultants.
  2. Township Supervisor.
  3. Township Attorney.

### **6.04 Training.**

Appointed members of the Commission shall attend educational programs designed for training members of Michigan planning commissions if the adopted Filer Township budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this paragraph shall prevent a member who has not had training from finishing the member’s term of office unless the member resigns or is removed by action of the Township Board. The member shall be ineligible for reappointment at the conclusion of the term of office if the member did not attend training that was made available to the member in the adopted Filer Township budget. The Commission may specify in its Bylaws the training programs that qualify to meet this requirement.

### **6.05 Appointment and Terms.**

In December of each year the Township Board shall consider the applications and nominations received, and appoint members to the Commission by a majority vote, for a three-year term of office, subject to Sections 6.02.B. All terms shall expire on December 31, at 9:00 a.m. of the third year.

### **6.06 Removal from Office.**

- A. The Township Board may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public

hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Commission meetings shall be considered nonfeasance in office.

- B. The secretary of the Planning Commission shall report any member who has missed three regular meeting in a row to the Township Board.

#### **6.07 Membership; Vacancies.**

The Township Supervisor and Township Board shall fill any vacancy in the membership of the Commission for the unexpired terms in the same manner as the initial appointment.

#### **6.08 Membership; Transition.**

- A. The transition from the previous Charter Township of Filer Planning Commission to the Commission established in this chapter shall take place over a period of three years and shall be complete approximately three years from the effective date of the ordinance adding this Chapter 6. The Township Supervisor and Township Board shall continue to make annual appointments, appointing approximately 1/3 of the membership of the Commission as specified in this chapter, so that three years from the effective date of this Ordinance adding Chapter 6, the membership, membership representation, and number of members have completed the transition to fully comply with this Chapter 6.
- B. All other aspects of this chapter shall have immediate effect.

#### **6.09 Membership; Compensation.**

All members of the Commission shall serve as such with compensation equal to, or less than, the per diem of the Township Board per meeting, as set by the Township Board.

#### **6.10 Meetings.**

- A. The Commission shall meet at least once every month and a majority of the Commission shall constitute a quorum for the transaction of ordinary business. All questions that arise at Commission meetings shall be determined by a vote of the majority of the members of the Commission present at the meeting at which a quorum is present.
- B. The affirmative vote of the majority of the total number of members of the Commission, regardless of vacancies or absences, shall be necessary for the adoption or recommendation for adoption, of any plan or plan amendment.

#### **6.11 Powers and Duties.**

- A. The Commission shall have the powers and duties as set forth in Act 33, as amended, and 2006 P.A. 110 as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*).

- B. The Commission shall have authority to apply for and receive grants from any government agency or private foundation and to receive gifts.

#### **6.12 Staff.**

- A. The Commission is delegated the authority to hire or dismiss a planning director within the budget provided for this purpose.
- B. The planning director shall be a department head, and shall hire or dismiss other such staff within the budget provided for this purpose.
- C. The appointment of the planning director and other such employees shall be subject to the same provisions of law, employment policies, employee roster, employee or union contracts, if any, as govern other employees of Filer Township.
- D. Employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

#### **6.13 Meetings; Records.**

The Commission shall adopt Bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record.

#### **6.14 Approval, Ratification, and Reconfirmation.**

All official actions taken by all Charter Township of Filer Planning Commissions preceding the Commission created by this Chapter 6 are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of the ordinance adding this Chapter 6 shall continue with the Commission created by this chapter, subject to the requirements of this chapter, and shall be deemed a continuation of any previous Township Planning Commission.

## **CHAPTER 7 DOWNTOWN DEVELOPMENT AUTHORITY**

### **7.01 Establishment and Name.**

There is hereby created, established and incorporated a Downtown Development Authority, designated the Township of Filer Downtown Development Authority (the “Authority”) pursuant to and in accordance with Act 57. The Authority shall be a public body corporate which may sue and be sued in any Court of the State of Michigan.

### **7.02 Public Purpose.**

The Authority is established pursuant to Act 57 by the Township to accomplish the public purposes enumerated in Section 201a of Act 57 including, without limitation, the use of tax increment financing and other permitted means to halt property value deterioration and increase property tax valuation where possible in the Authority District, to eliminate the causes of that deterioration and to promote economic growth in the District.

### **7.03 Powers.**

To accomplish the public purpose set forth in paragraph 2, above, the Board of the Authority may do the following:

- a) Prepare an analysis of economic changes taking place in the downtown district.
- b) Study and analyze the impact of metropolitan growth upon the downtown district.
- c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the Board, aids in the economic growth of the downtown district.
- d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the estate construction code.
- e) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the downtown district and to promote the economic growth of the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.
- f) Implement any plan of development in the downtown district necessary to achieve the purposes of this act, in accordance with the powers of the Authority as granted by this act.

- g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.
- h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority deems proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights of interests therein, which the Authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect thereto.
- i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances thereto, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.
- j) Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.
- k) Lease any building or property under its control, or any part thereof.
- l) Accept grants and donations of property, labor, or other things of value from a public or private source.
- m) Acquire and construct public facilities.
- n) Issue bonds and otherwise finance the authorized activities of the Authority pursuant to the terms and conditions of Act 57, provided that the Authority may exercise any and all powers authorized by the ordinance and Act 57, notwithstanding that bonds are not issued by the Authority.
- o) In general, and subject to such limitations and conditions as are or may be prescribed by law, to exercise such other powers which now are or hereafter may be conferred by law upon an authority organized pursuant to Act 57, as amended from time to time, and for the forgoing purposes.

#### **7.04 Authority District.**

The boundaries of the Authority District within which the Authority shall exercise its powers are described on Exhibit “A” attached hereto. The Authority District shall be known as Authority District No. 1 (the “District”). The Township shall not incorporate additional property into the District without further notice and public hearing pursuant to Act 57.

#### **7.05 Board.**

The Authority shall be under the supervision and control of a Board consisting of the Township Supervisor and eight members, as determined by the Township Board. Members shall

be appointed by the Township Supervisor, subject to the approval of the Township Board. Not less than a majority of the members shall be persons having an interest in property located in the District. At least one of the members shall be a resident of the District, if the District has 100 or more persons residing within it.

- a) **Terms.** Each Member of the Board shall serve for a term of four years except of the Members first appointed an equal number of the members, as near as is practicable, shall be appointed for one, two years, three years, and four years. A member shall hold office until the member's successor is appointed.
- b) **Vacancies.** An appointment to fill a vacancy on the Board shall be made by the Township Supervisor for the unexpired portion of the term only.
- c) **Compensation.** Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses.
- d) **Chairperson.** The Board shall elect a Chairperson.
- e) **Oath of Office.** Before assuming the duties of office, each Member shall qualify by taking and subscribing to the constitutional oath of office.
- f) **Rules of Procedure.** The Board shall adopt rules governing its procedure and the holding of regular and special meetings, subject to the approval by the Township Board. Meetings of the Board shall be open to the public in accordance with the Open Meetings Act, being Act 267 of the Public Acts of Michigan of 1976, as amended.
- g) **Public Records.** The financial records of the Authority shall be open to the public in accordance with the Freedom of Information Act, being Act 442 of the Public Acts of Michigan of 1976, as amended. All expenses of the Authority shall be publicized annually in accordance with Act 57.
- h) **Director.** The Board, in its discretion, may employ and fix the compensation of a Director, subject to the approval of the Township Board. The Director shall serve at the pleasure of the Board. A Member of the Board is not eligible to hold the position of Director. Before entering upon the duties of the office, the Director shall take and subscribe to the constitutional oath of office and shall furnish bond. The bond shall be payable to the Authority for the use and benefit of the Authority, approved by the Board and filed with the Township Clerk. The premium on the bond shall be considered an operating expense of the Authority, payable from funds available to the Authority for expenses of operation. The Director shall be the Chief Executive Officer of the Authority. Subject to the approval of the Board, the Director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by Act 57. The Director shall attend the meetings of the Board and shall render to the Board and to the Township Board a regular report covering the activities and financial condition of the Authority. If the Director is absent or disabled, the Board may designate a qualified person as acting director to perform the duties of the office.

Before entering upon the duties of the office the acting Director shall take and subscribe to the constitutional oath of office and furnish bond as required of the Director. The Director shall furnish the Board with information or reports governing the operation of the Authority as the Board requires.

- i) **Treasurer.** The Board may employ and fix the compensation of a Treasurer who shall keep the financial records of the Authority and who, together with the Director, shall approve all vouchers for the expenditure of funds of the Authority. The Treasurer shall perform other duties as may be delegated by the Board and shall furnish bond in an amount as prescribed by the Board.
- j) **Secretary.** The Board may employ and fix the compensation of a Secretary who shall maintain custody of the official seal and records, books, documents, or other papers not required to be maintained by the Treasurer. The Secretary shall attend meetings of the Board and keep a record of its proceedings and shall perform other duties as may be delegated by the Board.
- k) **Legal Counsel.** The Board may retain legal counsel to advise the Board in the proper performance of its duties. The legal counsel may represent the Authority in actions brought by or against the Authority.
- l) **Other Personnel.** The Board may employ other personnel considered necessary by the Board.
- m) **Retirement.** The employees of the Authority may be eligible to participate in municipal retirement and insurance programs of the Township as if they were civil service employees on the same basis as civil service employees.

#### **7.06 Fiscal Year.**

The Authority shall operate on the basis of a fiscal year beginning January 1 and ending the following December 31.

#### **7.07 Budget.**

The Director of the authority shall prepare and submit for the approval of the Board a budget for the operation of the Authority for the ensuing fiscal year, subject to the prior approval of the Township Board, in accordance with Section 228 of Act 57. The budget shall be prepared in the manner and contain the information required of Township departments. If a Director is not employed by the Board, the budget shall be prepared in the same manner by persons designated by the Board.

#### **7.08 Dissolution.**

Upon completion of the purposes for which the Authority was organized, the Authority shall be dissolved by ordinance of the Township Board. The property and assets of the Authority remaining after the satisfaction of all obligations of the Authority shall belong to the Township.

## **7.09 Development Area Citizens Council.**

After the date of the ordinance that added this Section 7.09 to the Code, the Authority may consider and propose to the Township Board amendments to Development Plan and Tax Increment Financing Plan, No. 1993-1, as amended through 2012, without the creation of or input from a Development Area Citizens Council the need for which is hereby eliminated.



## EXHIBIT “A”

That part of the Northeast Quarter (NE1/4), Section Thirteen (13), Township Twenty-One (21) North, Range Seventeen (17) West, bounded on the West by the North-South Quarter line of said Section, on the North by the city limits of the City of Manistee, on the East by the centerline of Maywood Street and on the South by the East-West Quarter line of said Section; that part of the Southeast Quarter (SE1/4), Section Thirteen (13), Township Twenty-One (21) North, Range Seventeen (17) West, described as commencing at the center of said Section, thence East along the East-West Quarter (E-W1/4) line to the centerline of Maywood Avenue, thence South along the centerline of Maywood Avenue to the centerline of Highway US-31, thence South along the centerline of Highway US-31 the South line of said Section, thence West along the South section line to the North and South Quarter line, thence North along the North and South Quarter line to the point of beginning; that part of the Southeast Quarter (SE1/4), Section Thirteen (13), Township Twenty-One (21) North, Range Seventeen (17) West, described as commencing at the intersection of the centerline of Highway US-31 with the South section line, thence Northwesterly along said centerline to its intersection with the centerline of 27th Street, extended Westerly, thence East along the centerline of 27th Street to the centerline of Nelson Street, thence South along the centerline of Nelson Street to the South line of said Section, thence West along the South section line to the point of beginning; Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Section Thirteen (13), Township Twenty-One (21) North, Range Seventeen (17) West, Filer Township, Manistee County, Michigan, **except** commencing at Southwest corner of said Section Thirteen (13), thence North 89°41'33" East 1348.04 feet along said Section line to point of beginning, thence continuing North 89°41'33" East 1348.04 feet along said Section line to the Southeast Corner of said Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4), thence North 2°34'48" West 40.03 feet along the North-South Quarter line of Section Thirteen (13), thence South 89°41'33" West 1145.79 feet, thence along an 8°18'13" curve to the left 204.02 feet its long chord bearing South 81°13'18" West 203.28 feet to the West line of said Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4), thence South 2°34'48" East 10.07 feet along said West line to point of beginning; Section Thirteen (13), Township Twenty-One (21) North, Range Seventeen (17) West; the Northeast Quarter (NE1/4), Section Twenty-four (24), Township Twenty-One (21) North, Range Seventeen (17) West, Filer Township, Manistee County, Michigan.

## **CHAPTER 8 CODIFICATION OF ORDINANCES**

### **8.01 General.**

The general ordinances of the Charter Township of Filer, Manistee County, Michigan, as revised, amended, restated, codified and compiled in book form are hereby adopted as and shall constitute the “Code of Ordinances of the Charter Township of Filer, Manistee County, Michigan.”

### **8.02 Titles and Chapters.**

Such Code of Ordinances as adopted in Section 1 shall consist of the titles and chapters as listed on Attachment A, Table of Contents.

### **8.03 Repeal.**

All ordinances or provisions of ordinances of a general and permanent nature enacted on or before the effective date of this chapter and not included in the Code of Ordinances or recognized and continued in force by reference therein are hereby repealed in their entirety, except as they are included and reordained in whole or in part in such Code of Ordinances.

### **8.04 Revise.**

The repeal provided for in Section 3 shall not be construed to revise any ordinance or part thereof that has been repealed by a subsequent ordinance, which is repealed by this chapter.

### **8.05 Effect.**

The repeal provided for in Section 3 shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this Ordinance nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, or vacating or setting the boundaries of streets or other public places, nor shall the repeal contained in Section 3 be construed in any manner to impair any contracts or agreements to which the Township is a party.

### **8.06 Additions and Amendments.**

Any and all additions and amendments to the Code of Ordinances when passed in the form as to indicate the intention of the Township Board to make the same a part of the Code of Ordinances, shall be deemed to be incorporated in the Code of Ordinances so that reference to the Code of Ordinances shall be understood and intended to include the additions and amendments. Any ordinance adopted after the effective date of this Ordinance which amends or refers to ordinances which have been codified in such Code of Ordinances, shall be construed as if they amend or refer to like provisions of such Code of Ordinances.

#### **8.07 Fees.**

All fees and charges heretofore established by resolution of the Township Board pursuant to previously enacted ordinances shall remain in force and effect unless otherwise revised or rescinded by resolution of the Township Board.

**CHAPTER 9**  
**RESERVED FOR FUTURE USE**

## **CHAPTER 10 RULES AND REGULATIONS**

### **10.01 Rules and Regulations.**

Except to extent otherwise prohibited by law the Township Board may adopt reasonable rules and regulations, implementing, interpreting or clarifying any chapter of this Code of Ordinances. All such rules and regulations, shall be consistent with the terms and conditions of this Code of Ordinances and shall specify which title, chapter, subchapter or section such rule or regulation, is intended to implement, interpret or clarify.

### **10.02 Binding Effect.**

Any rule or regulation, adopted by the Board pursuant to this chapter shall be binding on all agents, servants, employees and contractors of the Township.

### **10.03 Violation.**

A violation of a rule or regulation adopted pursuant to this chapter shall have the same effect as a violation of the chapter the rule or regulation was promulgated to implement, interpret or clarify, and may be enforced in the same manner as other violations of the chapter, provided such rule or regulation has been published in the same manner as required of Township ordinances.

### **10.04 Formal Requirements.**

All rules or regulations, adopted pursuant to this chapter shall be in writing and signed by the Clerk. The Clerk shall maintain all currently effective rules and regulations.

**CHAPTER 11**  
**RESERVED FOR FUTURE USE**

## CHAPTER 12 SERVICE CHARGE IN LIEU OF TAXES

### 12.01 Purpose.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its elderly citizens of low income over the age of 55 years and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA 125.1401, *et seq.*; MSA 116.114(1), *et seq.*). The Township is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act, at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for elderly persons of low income over the age of 55 years is a public necessity, and as the Township will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this chapter for tax exemption and the service charge in lieu of taxes during the periods contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance of such chapter and service charge.

### 12.02 Definitions.

As used in this chapter:

- A. **Authority** means the Michigan State Housing Development Authority.
- B. **Act** means the State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.
- C. **Contract Rents** are as defined by the U. S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U. S. Housing Act of 1937, as amended.
- D. **Housing Development** means a development which contains a significant element of housing for elderly persons of low income over the age of 55 years and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improve the quality of the development as it relates to housing for persons of low income.
- E. **HUD** means the Department of Housing and Urban Development of the United States Government.
- F. **Mortgage Loan** means a loan to be made by the Authority or Farmers Home Administration or the Department of Housing and Urban Development to the Sponsor for the construction and permanent financing of the Housing Development or a Mortgage loan insured by HUD.

- G. **Utilities** mean fuel, water, sanitary sewer service and/or electrical service which are paid by the Housing Development.
- H. **Sponsor** means persons or entities which have applied to either the Authority for a Mortgage Loan to finance a Housing Development or to another governmental entity for a federally-aided loan, as defined by the Act.
- I. **Annual Shelter Rents** means the total collections during an agreed annual period from all occupants of a housing development representing rents or occupancy charges exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.
- J. **Elderly Persons of Low Income** means elderly persons over the age of 55 years who meet the eligibility criteria set by the Authority and/or federal government.

### **12.03 Class of Housing Developments.**

It is determined that the class of Housing Developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be multiple dwellings for elderly persons of low income which are financed or assisted by the Authority or which are Federally Aided, as defined in the Act.

### **12.04 Establishment of Annual Service Charge.**

Housing Developments for elderly persons of low income and the property on which they shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The Township, acknowledging that the Sponsor and the Authority, in the case of a Sponsor receiving a Mortgage Loan from the Authority, have established the economic feasibility of the Housing Development, in reliance upon the enactment and continuing effect of this chapter and the qualification of the Housing Developments for exemption from all property taxes and a payment in lieu of taxes as established in this chapter, will accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to 7 percent of the Contract Rents for federally-aided Housing Developments. The annual service charge shall be equal to 7% of the Annual Shelter Rent for Authority-aided housing developments.

### **12.05 Resolution; Contractual Effect.**

A Resolution of the Township Board granting tax exempt status, as provided in this chapter, shall be adopted by each Housing Development qualified under the terms and provisions of this Ordinance. Notwithstanding the provisions of section 15(a)(5) of the Act, to the contrary, a contract between the Township and the sponsor, with the authority as third party beneficiary under the Contract, to provide tax exemption and accept payments in lieu of taxes as previously described, will be effectuated by enactment of such a Resolution by the Township Board.



#### **12.06 Payment of Service Charge.**

The service charge in lieu of taxes as determined under this chapter shall be payable in the same manner as general property taxes are payable to the Township except that the annual payment shall be paid in installments on or before July 1st and December 1st.

#### **12.07 Duration.**

The tax exemption status of a Housing Development approved for such status by Resolution of the Township Board shall remain in effect and shall not terminate so long as the Mortgage Loan for such Housing Development remains outstanding and unpaid, or for such period as the Authority or other governmental entity has any interest in the property; provided, the construction of such Housing Development commences within one year from the effective date of the Resolution of the Township Board approving the Housing Development for tax exempt status, as provided in this Ordinance.

**CHAPTER 13**  
**RESERVED FOR FUTURE USE**

## **CHAPTER 14**

### **BENEFITS FOR TOWNSHIP EMPLOYEES AND BOARD MEMBERS**

#### **14.01 Establishment of Benefit Plans.**

Pursuant to Section 110b of 1989 PA 77, as amended, being MCL 41.110b, the Township hereby creates and establishes a group insurance plan covering life, health, hospitalization, medical and surgical services and expenses and also hereby creates and establishes a pension plan for the pensioning of the officers and employees described in this chapter.

#### **14.02 Supervisor and Clerk Authorization.**

For the purposes of implementing this chapter, the Township Supervisor and the Township Clerk are hereby authorized to contract, in the name of the Township Board, with any company authorized to transact business within the State of Michigan for purposes of providing group insurance policies and pensions.

#### **14.03 Group Insurance Plan Coverage.**

The group insurance plan created, established and contracted for under this chapter shall cover each person within the following classes of officers and employees and shall also cover the dependents of such persons:

- a. All members of the Township Board who work more than 30 hours per week on a regular basis.
- b. All Township employees who are employed for more than 30 hours per week on a regular basis.

#### **14.04 Pension Plan Coverage.**

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

- a. All Township employees who are employed for more than 30 hours per week on a regular basis.
- b. All elected officials of the Township.

#### **14.05 Township Contribution.**

- A. The Township shall annually contribute such portion of the premium or charges arises under the group insurance plan for each person within the class of officers and employees enumerated in Section 14.03 above as the Township Board shall determine by resolution. A resolution adopted by the Township Board, pursuant to this section, shall continue in effect until changed by subsequent resolution of the Township Board.

- B. The Township shall annually contribute a per centum of that portion of the premium or charges arising under the pension plan contract for each person within the class of officers and employees enumerated in Section 14.04 above, as the Township Board shall determine by resolution. A resolution adopted by the Township Board, pursuant to this section, shall continue in effect until changed by subsequent resolution of the Township Board.
- C. Each person within such class of officers and employees enumerated in Section 14.03 and Section 14.04 above shall be responsible for the remainder of the premium or charges, if any, not paid for by the Township and the Township Treasurer is hereby authorized to deduct the same from each person's pay, salary or compensation and to apply the same to such person's responsibility.

#### **14.06 Pension Plan Eligibility Requirements.**

- A. In addition to the requirements enumerated in Section 14.04 above, each person covered by the pension plan established and created by this chapter and who is employed on the effective date of the pension plan, shall be eligible for coverage on that day, provided he or she then meets the following requirements, otherwise, he or she will be eligible on the first policy anniversary on which he or she meets them.
  - i. The employee's age (nearest birthday) is at least 18 years and not more than 65 years.
- B. Every employee who becomes subsequently employed shall be eligible on the first policy anniversary on which the employee meets the following requirements:
  - i. The employee's age (nearest birthday) is at least 18 years and not more than 65 years.
- C. An employee's normal retirement day shall be the policy anniversary of the pension plan nearest the employee's 65th birthday.
- D. Any person desiring not to be covered by the pension plan, who is otherwise eligible, shall give written notice to the Township Clerk that he or she desires not to be covered. If such notice is received after the person has become covered, such person's coverage under the contract shall cease as provided for in the contract.

#### **14.07 Pension Vesting.**

Each person covered under the pension plan shall have a vested right or interest in such plan upon completion of 18 months of service from the date the plan becomes effective for such person.

#### 14.08 Ratification.

The Township hereby ratifies and confirms the validity of any life, health, hospitalization, medical and surgical service and expense insurance coverage or one or more of such forms of insurance in existence on the effective date of this chapter and also hereby ratifies and confirms the validity of any pension plan in existence on the effective date of this chapter.

#### 14.09 Wage Continuation Benefit.

A. **Definitions.** As used in this Section 14.09, the following terms shall have the meanings herein assigned:

1. **Covered employee** means a full-time employee of the Township regularly scheduled and working 30 or more hours per week, other than an elected official, and who has worked for the Township continuously on a full-time basis for at least 90 days.
2. **Elimination period** means the date on which wage continuation benefits under this section begin. For accidents, wage continuation benefits begin on the first day of total or partial disability. For illnesses, wage continuation benefits begin on the eighth consecutive day of total or partial disability.
3. **Accident or injury** means a bodily injury resulting directly from a non-occupational accident, independent of all other causes, occurring after the date on which an employee becomes a covered employee.
4. **Illness or sickness** means a non-occupational illness or disease, including pregnancy, which begins after the date on which an employee becomes a covered employee.
5. **Partial disability** means as the result of accident or illness, a covered employee is able to perform one or more, but not all, of the material and substantial duties of the covered employee's position with the Township on a full-time basis, or the covered employee is able to perform all of the material and substantial duties of his or her position with the Township on a part-time basis.
6. **Total disability** means as the result of accident or injury, a covered employee is unable to perform all of the material and substantial duties of his or her position with the Township on a full-time basis.
7. **Material and substantial duties** means the duties of the covered employee that are normally required for the performance of his or her job with the Township and which cannot be reasonably omitted or changed.
8. **Average weekly wage** means the total gross wages paid to the covered employee during the eight week immediately preceding the onset of total or partial disability, divided by eight.

9. **Pre-existing condition** means an accident or illness for which medical advice, diagnosis, care or treatment was recommended or received within the three month period prior to the date on which the covered employee became a full-time employee of the Township.
  10. **Medically necessary** means that a service or item required for the treatment or management of an accident or illness, is commonly and customarily recognized by physicians as appropriate in the treatment of the accident or illness; is other than educational or experimental; and is not primarily for the comfort or convenience of the physical or the covered employee.
- B. When the Township receives proof that a covered employee is totally disabled and requires the continuous treatment and evaluation by a physician then, following the elimination period, the Township will pay to the covered employee 60 percent of the covered employee's average weekly wage for the period of total disability but, in no event, longer than 13 weeks after the onset of total disability. Proof of disability must be given upon request.
  - C. When the Township receives proof that a covered employee is partially disabled and requires the continuous treatment and evaluation by a physician then, following the elimination period, the Township will pay to the covered employee a percent of the covered employee's average weekly wage proportionate to the severity of the disability, as determined by the Township Supervisor, for the period of partial disability but, in no event, longer than 13 weeks after the onset of partial disability. Proof of disability must be given upon request.
  - D. Successive periods of disability that are separated by less than two weeks during which a covered employee has returned to full-time active employment with the Township, will be considered one period of disability unless the subsequent period of disability is due to an accident or illness, entirely unrelated to the cause of the previous disability. Successive periods of disability that are separated by two weeks or more during which a covered employee has returned to full-time active employment with the Township will be considered separate disabilities, unless the successive periods are due to injuries that were received in the same accident.
  - E. Notwithstanding anything to the contrary contained in this Section 14.09, no wages will be paid to a covered employee under either Section 14.09.B or 14.09.C for a disability:
    1. unless the covered employee is under the regular care of a physician;
    2. that is caused or contributed to by war or act of war, whether declared or not;
    3. caused by the covered employee's commission of or attempt to commit a felony or to which a contributing cause was the covered employee's engagement in illegal conduct or an illegal occupation;

4. caused or contributed to by an intentionally self-inflicted injury;
5. for which workers compensation benefits are paid or may be paid if fully claimed;
6. arising out of or in the course of any work for pay or profit for an employer other than the Township;
7. occurring while the covered employee is incarcerated in a penal or correctional facility;
8. if the covered employee is receiving or is eligible to receive benefits for the same disability under one or more group insurance plans created, established and contracted for under this Chapter 14, as it may be amended from time to time;
9. which arises from a pre-existing condition, unless the covered employee has been in the continuous full-time employment of the Township for 12 consecutive months prior to the onset of disability;
10. which arises as the result of any elective cosmetic surgery or surgical procedure that is not medically necessary.

**CHAPTER 15**  
**RESERVED FOR FUTURE USE**



**CHAPTER 16**  
**RESERVED FOR FUTURE USE**

**CHAPTER 17**  
**RESERVED FOR FUTURE USE**

**CHAPTER 18**  
**RESERVED FOR FUTURE USE**

**CHAPTER 19**  
**RESERVED FOR FUTURE USE**

## **TITLE TWO – UTILITIES**

- Chapter 20    Mandatory Run Water Ordinance**
- Chapter 21    Public Water Supply**
- Chapter 22    Waterworks for Villages of Oak Hill and Filer City**
- Chapter 23    Water Connection**
- Chapter 24    Community Antenna Television**
- Chapter 25    Electrical Business**
  - Subchapter 1 First Power L.L.C.**
  - Subchapter 2 Nordic Electric L.L.C.**
  - Subchapter 3 Engage Energy US, L.P.**
  - Subchapter 4 Consumers Energy Company**
  - Subchapter 5 DTE Energy Marketing, Inc.**
- Chapter 26    Telecommunications**
- Chapter 27    Gas Franchise**
- Chapter 28    Sewer Use Ordinance**
- Chapter 29    Oil and Gas Facilities**

## **CHAPTER 20**

### **MANDATORY RUN WATER ORDINANCE**

#### **20.01 Purpose and Title.**

The purpose of this chapter is to prevent damage to the Township water distribution system by freezing in order to protect the public health, safety and welfare of the residents and businesses of the Township who rely on the Township water distribution system for their fresh water supply. It may be cited as the “Charter Township of Filer Mandatory Run Water Ordinance.”

#### **20.02 Authority.**

Whenever the Township Supervisor, or his or her designee, determines that the integrity or safety of the Township water distribution system or certain portions thereof may be in danger from freezing or frost conditions unless steps are taken to reduce the risk of harm to the system, the Township Supervisor, or designee, may enter a written order directing some or all of the residents and businesses connected to the Township water distribution system to continuously run a small stream of water inside their homes and businesses to reduce the risk of damage from freezing or frost for a specified period of time or until further order of the Township Supervisor, or designee. The Township Supervisor’s, or designee’s, order may cover the entire system, or such portions thereof as the Township Supervisor, or designee, determines is threatened by freezing or frost. If it is determined that less than the entire water distribution system is in danger of freezing, the order shall specify the names of all streets and cross streets in the Township affected by the order. In determining whether to enter a mandatory run water ordinance, the Township Supervisor, or designee, may consult with the Township water department’s engineer of record and other sources determined by the Township Supervisor, or designee, to have reliable information concerning possible damage to the Township water distribution system. The Township Supervisor may appoint or remove a designee by written notice filed with the Township Water Department.

#### **20.03 Notice.**

The Township Water Department shall give prompt notice of the run water order to all residents and businesses affected by the order, which notice shall include publishing a copy of the run water order in a newspaper of local circulation in the Township, by posting the order on the Township website, or by other means reasonably calculated to inform residents and businesses who are affected by the order.

#### **20.04 Credit for Excess Water Usage.**

- (a) In any calendar quarter during which a run water order was in effect, the water department shall credit water system customers who abide by such order for the difference between the amount of water used by such customer during the quarter in which the run water order was in effect and the average amount of water used by such customer in the same quarter for the three years immediately prior to the year in question. The Township’s records of water consumption in respect to each customer shall be conclusive of the quantity of water used by such customer in determining the amount of the credit.

- (b) Any customer abiding by a run water order who desires to receive credit may contact the Township Water Department in person, by letter or by calling the Water Department extension at the Township Hall to report compliance with the order and the period of time during which the customer ran water as directed.

#### **20.05 Activities for Which Credit is Not Given.**

Customers of the Township water distribution system who:

- (a) run water continuously to avoid frozen pipes inside of their homes or businesses,
- (b) run water continuously without a run water order entered by the Township Supervisor pursuant to Section 2 above, or,
- (c) run water continuously prior to, or more than 48 hours after the time the run water order ceases or terminates,

shall not be given credit under Section 20.04 for excess water usage as the result of such activities.

## **CHAPTER 21 PUBLIC WATER SUPPLY**

### **21.01 Adoption by Reference.**

That the Charter Township of Filer, Manistee County, Michigan adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Energy, Great Lakes and Environment (“MDEGLE”), being R 325.11401 to R 325.11407 of the Michigan Administrative Code.

### **21.02 Inspections.**

That it shall be the duty of the Filer Township Water Department to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Filer Township Water Department and as approved by the Michigan Department of Public Health.

### **21.03 Right of Entry.**

That the representative of the Filer Township Water Department shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of Filer 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.

### **21.04 Discontinue Water Service.**

That the Filer Township Water Department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this chapter 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(s) has been eliminated in compliance with the provisions of this chapter.

### **21.05 Backflow Prevention.**

That all testable backflow prevention assemblies shall be tested at the time of installation or relocation and after any repair. Subsequent testing of devices shall be conducted at a time interval specified by the Charter Township of Filer Board of Trustees and in accordance with MDEGLE requirements. Only individuals that hold an active ASSE 5110 certification shall perform such testing. Each tester shall also be approved by the Charter Township of Filer Board of Trustees. Individual(s) performing assembly testing shall certify the results of his/her testing.



### **21.06 Potable Water Supply.**

That the potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this chapter and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

<p><i>WATER UNSAFE FOR DRINKING</i></p>
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### **21.07 Plumbing Code.**

That this chapter does not supersede the state plumbing code but is supplementary to it.

### **21.08 Penalties.**

That any person or customer found guilty of violating any of the provisions of this chapter or any written order of the Charter Township of Filer Water Department, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$500 nor more than \$5,000 per day and imprisonment for not more than one year or both. Each day a violation of this chapter shall occur shall be deemed a separate and additional violation for purposes of this chapter. (MCL 325.1021)

## **CHAPTER 22**

### **WATERWORKS FOR VILLAGES OF OAK HILL AND FILER CITY**

#### **22.01 Construction of Waterworks.**

The Township Board, of Filer Township, Manistee County, Michigan, hereby determines it to be necessary for, and to secure the public health, safety, convenience and welfare of said Villages of Oak Hill and Filer City to acquire by construction a water-works for these Villages, consisting of two or more water wells, suitable pumping equipment and housing therefor, piping, valves and fittings to connect up the pumping station to a suitable storage tank and then to the present installed distribution water system, all in accordance with detailed maps, plans, specifications and estimates heretofore prepared by Sam Walker & Associates, registered engineers of Birmingham, Michigan, all as authorized by the Township.

#### **22.02 Cost.**

The Township Board has caused an estimate to be made of the cost of said Water Works by their Engineer and Sam Walker & Associates, and it is hereby determined that the total cost of such Water Works including engineering and legal expense and capitalized interest and operating expenses to and including September 1, 1950, is the sum of \$28,000, and that the period of usefulness of said proposed extensions and improvements is estimated to be 30 years.

#### **22.03 Payment by Bonds.**

To pay the cost of acquiring and constructing such Water Works, and all other expenses incident thereto and incident to the issuance of said bonds, it is hereby determined that the Filer Township shall borrow the sum of \$28,000, and that revenue bonds to be issued therefore under the provisions of Act 94, Public Acts of Michigan, 1933, as amended.

Wherever the words "Water Works" is used in this chapter it shall be understood to mean the complete water supply system of the Villages of Oak Hill and Filer City, including the wells, pumping plant, buildings, watermains and accessories constructed under the provisions of this chapter, and all existing water distribution system and all extensions and improvements hereafter construed.

Wherever the words "revenue" and "net revenues" are used in this chapter, they shall be understood to have the meaning as defined in Section 2 of Act 94, Public Acts of Michigan, 1933, as amended.

#### **22.04 Payable by Net Revenues.**

Said bonds shall be designated Water Works Revenue Bonds and shall be payable out of the net revenues of the Water Works after provision has been made for payment of expenses of operation and shall consist of twenty eight (28) bonds of One Thousand (\$1,000.00) Dollars each, numbered in direct order of maturity from 1 to 28, inclusive, dated and payable serially on the 1st day of each year as follows:

\$1,000 1st of each year from 19\_\_ to 19\_\_, inclusive  
\$3,000 1st of each year from 19\_\_ to 19\_\_, inclusive

Said bonds shall bear interest at a rate or rates not exceeding 4 percent per annum, payable on \_\_\_\_\_ 1, 19\_\_, and semi-annually thereafter on \_\_\_\_\_ 1st and \_\_\_\_\_ 1st of each year, both principal and interest to be payable in lawful money of the United States of America at the Manistee County Savings Bank of Manistee, Michigan.

Bonds numbered 10 to 28, inclusive, maturing in the years 1965 to 1973, inclusive, shall be callable for redemption at the option of the Township Board in reverse numerical order on \_\_\_\_\_ 1st, 1960, or on any interest payment date thereafter at par and accrued interest.

Thirty days notice of redemption shall be given by publication in a paper circulated in the State of Michigan which carries, as part of its regular, notices of sale of municipal bonds, and in case of registered bonds, 30 days notice shall be given by mail to the registered address.

Said bonds may be registered in the manner and with the effect set forth on the back thereof, as hereinafter provided.

Said bonds shall be signed by the Chairman of the Township Board of Filer Township and countersigned by the Township Clerk and shall have the seal of the Township affixed thereto, and shall have interest coupons attached bearing the facsimile signatures of said Chairman and Township Clerk, and said officials, by the execution of said bonds, shall adopt as and for their proper signatures their respective facsimile signatures on said coupons.

#### **22.05 Statutory First Lien.**

Said bonds shall not be a general obligation or indebtedness of Filer Township, but shall be payable solely from the net revenues derived from the operation of the Water Works; and to secure such payment there is hereby created a statutory first lien upon the whole of the new revenues of said Water Works, to continue until the payment in full of the principal and interest on said bonds.

#### **22.06 Enforcement.**

The holder of said bonds or coupons representing in the aggregate not less than 20 percent of the entire issue then outstanding may, either at law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel performance of all duties of the officers of Filer Township, including the fixing of sufficient rates, the collection of revenues, the proper segregation of the revenues of the Water Works and the proper application thereof. Provided, however, that the statutory lien upon said revenues shall not be construed to compel the sale of the Water Works.

If there be any default in payment of the principal or of the interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate said Water Works on behalf of the Township, and under the direction of said court, and by and with the approval of said court to perform all of the duties of the officials of said Township, more particularly set forth herein and in Act 94, Public Acts of Michigan, 1933, as amended.

The holder or holders of any such bonds or any coupons therefrom shall have all other rights and remedies given by said Act 94, Public Acts of Michigan, 1933, as amended, for the collection and enforcement of said bonds and the security therefor.

## **22.07 Construction.**

The construction, alteration, repair and management of the Water Works, including the acquisition and construction of the extensions and improvements herein authorized, shall be under the immediate supervision and control of the Township Board.

The Township Board may make such rules and regulations governing the operation of the Water Works and the collection of the service rates as it shall deem necessary for the efficient and proper management of the Water Works. Such rules and regulations shall have the same force and effect as ordinances.

## **22.08 Schedule of Rates.**

The following shall be the initial schedule of rates for the purpose of this chapter, but shall be subject to such increase and revision from time to time as may be necessary to carry out the provisions of this chapter.

All water charges shall be based on water used according to meter readings as follows:

First 15,000 gallons per quarter minimum rate allowed \$3  
Next 25,000 gallons per quarter @ 15 cents per 1,000 gallons  
Next 25,000 gallons per quarter @ 12 cents per 1,000 gallons  
All over 65,000 gallons per quarter @ 10 cents per 1,000 gallons

For fire protection, the Township shall pay out of its appropriate funds, the sum of \$60 per year for each fire hydrant, said sum to be paid annually.

Connection charges for water service shall be the actual cost of meters, connections and installation, plus \$10 for supervision.

The charges for water and services which are under the provisions of Section 21 of Act 94, of the Public Acts of Michigan, 1933, as amended, made a lien on all premises served thereby, unless notice is given that a tenant is responsible, are hereby recognized to constitute each lien and whenever any such charge against any piece of property shall be delinquent for six months, the Township officials in charge of the collection thereof shall certify to the tax assessing officer of the Township, the fact of such delinquency, whereupon such charge shall be 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 notice is given that a tenant is responsible for such charges and service as provided by Section 21 no further service shall be rendered any piece of property until a cash deposit of not less than \$5 shall have been made as security for payment of such charges and service.

In addition to other remedies provided, the Township Board shall have the right to shut off and discontinue the supply of water to any premises for the non-payment of water rates when due.

#### **22.09 Service.**

No free service shall be furnished by said Water Works to any person, firm or corporation, public or private, or to any public agency or instrumentality. Any water furnished to the Township other than by fire hydrants shall be charged against the Township at regular metered rates and shall be paid for quarterly as the services accrue, from the current funds, or from the proceeds of taxes which the Township is authorized and required to levy, in an amount sufficient for that purpose.

#### **22.10 Fixed Rates.**

The rates hereby fixed are estimated to be sufficient to provide for the payment of the interest upon and the principal of all such bonds as and when the same become due and payable, to create a bond and interest redemption fund therefore, to provide for the payment of expenses of the administration and operation of such expenses for maintenance of such Water Works as are necessary to preserve the same in good repair and working order, and to provide a reasonable reserve for major repairs and replacements. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and the Township Board of Filer Township hereby covenants and agrees at all times to fix and maintain such rates for services furnished by said Water Works as shall be sufficient to provide for the foregoing.

#### **22.11 Operation.**

The Water Works shall be operated on the basis of an operating or fiscal year commencing \_\_\_\_\_ 1st and ending on the 1st day of \_\_\_\_\_.

#### **22.12 Receiving Fund.**

The revenues of the Water Works are hereby ordered to be set aside, as collected, and deposited in the Manistee County Savings Bank of Manistee, Michigan, a bank duly qualified to do business in Michigan, in an account to be designated Water Works Receiving Fund, and said revenues so deposited are pledged for the purpose of the following funds and shall be transferred from Receiving Fund periodically in the manner and at the times hereinafter specified.

- A. **Operation and Maintenance Fund.** Out of the revenues in the Water Works Receiving Fund there shall first be set aside, quarterly, beginning with the first quarter of operation, into a separate depository account designated the Operation and Maintenance Fund, a sum sufficient to provide for the payment, for the next quarterly period, of the current expenses of administration and operation of the Water Works 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 next be established and maintained a separate depository account known as the Bond and Interest Redemption fund, which shall be used solely and only for the purpose of paying the principal and interest on the bond hereby authorized. Said Bond and Interest

Redemption Fund shall be maintained as a separate depository account in the bank or trust company where the bonds are made payable.

Out of the revenues remaining in the Water Works Receiving Fund after provision has been made for expenses of operation and maintenance of the Water Works, there shall next be set aside, quarterly, in the bond and Interest Redemption fund, a sum sufficient to provide for the payment of the principal and interest upon all outstanding bonds payable from the revenues of the Water Works, as and when the same become due and payable. The amount set aside for each quarter, commencing \_\_\_\_\_ 1st, 195 \_\_\_, shall be not less than one-half of the total amount of the interest next maturing on the bonds herein authorized. The amount set aside for principal each quarter commencing \_\_\_\_\_ 1st, 195 \_\_\_, shall be not less than one-fourth of the amount of the principal of the bonds next maturing.

There is hereby established in the Bond and Interest Redemption Fund, a separate account, to be known as the Reserve Account, into which there shall be paid quarterly, all of the revenues of the Water Works, after provision has been made for the Operation and Maintenance Fund and Bond and Interest Redemption Fund, until such time as there has been accumulated in said Reserve Account the sum of \$4,000. When such Reserve Account has been established in full, no further payments need be transferred to said account, except as hereinafter required to restore any subsequent deficiency therein. Said Reserve Account shall be used solely for the payment of the principal and interest on said bonds as to which there would otherwise be default.

If at any time it shall be necessary to use monies in the Reserve Account for each payment, the monies so used shall be replaced on the net revenues first received thereafter which are not required by this chapter to be used for operation and maintenance or for current principal and interest requirements. Provided, however, that such Reserve Account shall not be required as monies otherwise appropriated or pledged for the purposes of determining the sufficiency of funds available for redemption of callable bonds.

No further payments need be made into the Bond and Interest Redemption Fund after enough of the bonds have been retired so that the amount then held in said Fund (including the Reserve Account) is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the bonds then remaining outstanding.

- C. **Replacement Fund.** There shall next be established and maintained a separate depository account known as the Replacement Fund, which shall be used solely and for the purpose of making major repairs and replacements to the Water Works for which funds in the Operation and Maintenance Fund are not available or sufficient. There shall be deposited in said Account, annually, out of the revenues in the Water Works Receiving Fund, all of the revenues of the Water Works after provision has been made for the Operation and Maintenance Fund and the Bond and Interest Redemption Fund (including the Reserve Account) until such time as there has been accumulated in said Replacement Fund the sum of \$2,000. If, at any time it shall be necessary to use monies in said fund for such purpose, the monies so used shall be replaced from the net revenues in the Water Works Receiving Fund which are not required by this chapter to be used for the Operation and Maintenance Fund or the Bond and Interest Redemption Fund (including the Reserve Account).

### **22.13 Surplus.**

Any revenues remaining in the Water Works Receiving fund at the end of any operating year, after satisfying the above requirements, shall be deemed to be surplus and shall be transferred, first, to the Operation and Maintenance Fund to the extent of any deficit therein; second, to the Bond and Interest Redemption Fund (including the Reserve Account) to the extent of any deficit therein. Any balance thereafter remaining in the Water Works receiving fund shall, in the discretion of the Township Board, be either transferred to the Bond and Interest Redemption Fund for the purpose of calling bonds, or transferred to a fund designated Improvement Fund and used for improvements, enlargements and extension to the Water Works.

### **22.14 Insufficient.**

In the event that the monies in the Water Works Receiving fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund or the Bond and Interest Redemption Fund, any monies or securities in other funds of the Water Works shall be transferred, first to the Operation and Maintenance Fund, and, second, to the Bond and Interest Redemption Fund to the extent of any deficit therein.

### **22.15 Investing.**

Monies in the Bond and Interest Redemption Fund over and above those being accumulated for the payment of principal and interest next maturing, the monies in any other fund except the Water Works Receiving Fund and the Operation and Maintenance fund may be invested in obligations of the United States of America. In the event such investments, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

### **22.16 Sale of Bonds.**

Said bonds shall be sold and the proceeds applied in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended.

### **22.17 Proceeds of Sale.**

The Manistee County Savings of Manistee, Michigan, a Federal Reserve system member bank, is hereby designated depository of the proceeds of sale of such bonds. Such proceeds shall be solely used to pay the cost of extensions and improvements herein described and any engineering, legal or other expenses incident thereto, and shall be paid out of authorization of the Township Board. Provided, however, that payments for construction, either on account or in full thereafter, shall not be authorized unless there has been filed with the Township Board a statement in writing signed by the engineer in charge of such work to the effect that the work has been completed in accordance with the contract therefore, and that such work is satisfactory. Any unexpended balance of the proceeds of sale remaining after completion of the extensions and improvements herein authorized may, in the discretion of the Township Board, and to the extent of 15 percent of the amount of such issue, be used for further improvements, enlargements and extensions of the Water Works, provided that at the time of such expenditure, such use be approved

by the Township Finance Committee. Any remaining balance after such expenditures shall be paid into the Bond and Interest Redemption fund and shall be used either for the redemption of callable bonds, or the purchase, at not more than the fair market value, of outstanding non-callable bonds.

## **22.18 Unpaid Bonds.**

Filer Township covenants and agrees with the successive holders of the bonds and coupons that so long as any of the bonds remain outstanding and unpaid as to either principal or interest:

- (a) The Township will maintain the Water Works in good repair and working order and will operate the same efficiently and will faithfully and punctually perform all duties with reference to the Water Works required by the Constitution and laws of the State of Michigan, including the making and collecting of sufficient rates for water and service and the segregation and application of the revenues of the Water Works in the manner provided in this chapter.
- (b) Filer Township will fix and collect rates and charges for all water service supplied by the Water Works sufficient to provide for payment of the expenses of administration, operation and maintenance of the Water Works, to provide for the payment of interest on and the principal of all obligations payable therefrom, including the bonds herein authorized, as and when the same become due and payable, to create the Water Works Reserve Account herein required, and to create the reserve for replacements. Such rates shall be fixed and revised from time to time as shall be necessary to produce these amounts.
- (c) The Township Board will maintain and keep proper books of record and account, separate from all other records and accounts, in which shall be full and correct entries of all transactions relating to the Water Works. Not later than three months after the close of each operating year, the Township Board will cause to be prepared, on forms furnished by Municipal Finance Commission, if such forms be available, a statement in reasonable detail, sworn to by the Township Clerk, showing the cash income and disbursements of the Water Works during such operating year, the assets and liabilities of the Water Works at the beginning and close of the fiscal year, and such other information as is necessary to enable any taxpayer of the Township, user of the service furnished, or any holder or owner of the bonds or anyone acting in their behalf, to be fully informed as to all matters pertaining to the financial operation of the Water Works during such year. A certified copy of such statement shall be filed with Municipal Finance Commission and such statement and books of record and account shall at all reasonable times be open to inspection by any taxpayer of the Township, user of the service or holder or holders of any bonds or anyone acting in their behalf. The Township Board will also cause an annual audit of such books of record and account for the preceding operating year to be made by a recognized independent certified public accountant and will make such audit available to the holders of any of the bonds. Such audit shall be completed and so made available not later than three months after the close of each operating year.



- (d) The Township will maintain and carry for the benefit of the holders of the bonds, insurance on all physical properties of the Water Works, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of water systems. All monies received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of calling bonds.
- (e) The Township will not sell, lease or dispose of the Water Works or any substantial part hereof until all the bonds have been paid in full, both as to principal and interest. The Township further will cause the operation of the Water Works to be carried on as economically as possible, will cause to be made to the Water Works all repairs and replacements necessary to keep the same in good repair and working order, and will not do or suffer to be done any act which will affect the Water Works in such a way as to impair or affect unfavorably the security of the bonds.

#### **22.19 Reserved Right.**

The right is reserved, in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended, to insure additional bonds payable from the revenues of said Water Works, which shall be equal standing with the bonds herein authorized for the full completion of the extensions and improvements herein authorized in accordance with the plans and specifications therefor.

The right is further reserved, after completion of the improvements herein authorized, to issue additional bonds for extensions and improvements, payable from the revenues of the Water Works, which shall be of equal standing with the bonds herein authorized. Provided, that no such additional bonds shall be issued unless the average net revenues for the last two preceding operating years shall be equal to at least 150 percent of the average annual requirements for principal and interest thereafter maturing on the bonds herein authorized, on any then prior issued bonds of equal standing with those herein authorized and on such additional bonds then being issued. Permission of the Municipal Finance Commission (or such Commission as shall have jurisdiction over the issuance of municipal bonds) to issue such additional bonds shall constitute a conclusive presumption of the existence of conditions permitting the issuance thereof.

#### **22.20 Incurred Interest.**

Any incurred interest received for the sale of said bonds shall be deposited in the Bond and Interest Redemption fund and applied toward the payment of interest next maturing after the delivery of said bonds.

#### **22.21 Bond Form.**

Said bonds shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF MANISTEE  
FILER TOWNSHIP  
OAK HILL & FILER CITY  
WATER WORKS REVENUE BOND

No. 6

\$1,000.00

KNOW ALL MEN BY THESE PRESENTS, that Filer Township, County of Manistee, State of Michigan, for value received, hereby promise to pay to the bearer, or if registered, to the registered holder hereof, but only out of revenues of the Water Works System of the Villages of Oak Hill and Filer City, including all appurtenances, extensions and improvements thereto, the sum of:

ONE THOUSAND DOLLARS

on the first day of \_\_\_\_\_, A.D., 195\_\_, with interest thereon from the date hereof until paid at the rate of \_\_\_\_\_ per cent per annum, payable on \_\_\_\_\_ 1st, 19\_\_, and semi-annually thereafter on the first day of \_\_\_\_\_ and \_\_\_\_\_ on each year, on presentation and surrender of the proper interest coupons hereto annexed as they severally become due. Both principal of and interest on this bond are payable in lawful money of the United States of America at the Manistee County Savings Bank of Manistee, Michigan, and for the prompt payment thereof the gross revenues of the Water Works of Oak Hill and Filer City of Filer Township, including all appurtenances, extensions and improvements thereto, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance, are hereby irrevocably pledged and a statutory first lien thereon is hereby created.

This bond is one of a series of 28 bonds of even date and like tenor except as to the date of maturity aggregating the sum of \$28,000 issued pursuant to Ordinance No. \_\_\_\_\_ duly adopted by the Township Board on \_\_\_\_\_, 1949, 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, for the purpose of paying the cost of acquiring and constructing additions, extensions and improvements to the Water Works of the Villages of Oak Hill and Filer City in Filer Township.

For the 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 standing may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above described ordinance.

Bonds numbered 1 to 9 inclusive, maturing in the years 19\_\_ to 19\_\_, inclusive, shall be non-callable.

Bonds numbered 10 to 23 inclusive, maturing in the years 1965 to 1973, inclusive, shall be callable for redemption at the option of the Township Board in

reverse numerical order on \_\_\_\_\_ 1st, 1960 or on any interest month payment date thereafter as par and accrued interest.

Notice of redemption shall be given by publication in a paper circulated in the State of Michigan which carries, as part of its regular service, notices of sale of municipal bonds, and in case of registered bonds, 30 days notice shall be given by mail to the registered address.

This bond is self-liquidating bond and is not a general obligation of Filer Township and does not constitute an indebtedness to Filer Township within any constitutional or statutory limitation and is payable, both as to principal and interest, solely from the revenues of the Water Works of Oak Hill and Filer City, Villages in Filer Township. This principal and interest on this bond are secured by a statutory line herein before mentioned.

Filer Township hereby covenants and agrees to fix and maintain at all times while of such bonds shall be outstanding, such rates for service furnished by said Water Works as shall be sufficient to provide for the payment of the interest upon and the principal of all such bonds as and when the same become due and payable, to create a bond and interest redemption fund (including a Reserve Account) therefore to provide for the payment of expenses of administration and operation and such expenses for maintenance of said Water Works as are necessary to preserve for major repairs and replacements to said Water Works.

This bond and the interest thereon are exempt from any and all taxation whatsoever by the State of Michigan or by any taxing authority within said state.

This bond may be registered as to principal only on the books of the Manistee County Savings Bank, in the name of the holder, and such registration noted on the back hereof by said bank, after which no transfer shall be valid unless made on the books and noted hereon in like manner, but transferability by delivery may be restored by registration to bearer. Such registration shall not effect the negotiability of the interest coupons.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of this bond and the series of which this is one have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the Township Board of Filer Township, Manistee County, State of Michigan, has caused this bond to be signed in the name of Filer Township by the Chairman of the Township Board and counter signed by the Township Clerk and the seal of the Township to be affixed hereto, and the coupons hereto attached to be signed by the facsimile signatures of said Chairman and clerk as of the first day of \_\_\_\_\_, A.D., 1949.

FILER TOWNSHIP

BY \_\_\_\_\_

Chairman of the Board

(SEAL)

Countersigned:

\_\_\_\_\_  
Township Clerk

(FORM OF COUPON)

\$ \_\_\_\_\_

On the first day of \_\_\_\_\_, A.D., 19\_\_\_\_, unless the bond to which this coupon pertains shall have been called for redemption, Filer Township, Manistee County, Michigan, will pay to the bearer, the sum of \_\_\_\_\_ Dollars in the manner and out of the revenues described in said bond, at the Manistee County Savings Bank, Manistee, Michigan, being the semi-annual interest then due on its Oak Hill and Filer City Water Works Revenue Bond, No. \_\_\_\_\_.

This coupon is not a general obligation of Filer Township, but is payable from certain revenues as set forth in the bond to which it pertains.

\_\_\_\_\_  
Chairman of the Board

(SEAL)

\_\_\_\_\_  
Township Clerk

REGISTRATION  
NOTHING TO BE WRITTEN HEREON EXCEPT  
BY THE MANISTEE COUNTY SAVINGS BANK

Date of Registration	Name of Registered Owner	Address	Registrar
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**22.22 Application.**

The Township Clerk is hereby authorized and directed to make application to the Municipal Finance Commission for authority to issue and sell said bonds, and for approval of the form of notice of sale of said bonds, in accordance with the provisions Act 202, Public Acts of Michigan, 1943, as amended, and of Act 94, Public Acts of Michigan, 1933, as amended.

**22.23 Invalidity.**

If any section, paragraph, clause or provision of this chapter shall be held invalid, the invalidity of such section, paragraph, clause or provision affect any of the other provisions of this chapter.

## **CHAPTER 23**

### **WATER CONNECTION**

#### **23.01 Definitions.**

For purposes of this Ordinance, the words defined in subsections (a), (b), and (c) shall have the meanings ascribed to them in those subsections. These definitions, unless the context requires otherwise, apply to the use of these defined words in this Ordinance.

- (a) **System** means all water mains, water supply facilities and their appurtenances which the Township has or shall have possession of and operating responsibility for (whether owned by the Township or not), either now in existence in the Township or hereafter acquired or constructed in the Township, together with all works, plants, instrumentalities and properties used or useful in connection therewith in the obtaining of a water supply or in the treatment or distribution of water, including water supply system facilities previously owned by private parties and now owned by the Township, and all extensions, enlargements and improvements thereto in the Township.
- (b) **Township** means the Charter Township of Filer, Manistee County, Michigan.
- (c) **Township Board** means the Charter Township of Filer Township Board.

#### **23.02 Connection to the System.**

Connection to the system, directly or indirectly, and the use of water therefrom for any purpose, shall only be in compliance with the ordinance, as amended, and in compliance with all rules and regulations of the Township applicable thereto, as amended.

#### **23.03 Water System Connection Charge Payment Terms.**

At the time application is made to connect to the System, the water service installation charge as set by resolution of the Township Board, shall be paid in full.

#### **23.04 Charges.**

The charges for filling a swimming pool, providing water for a construction project, other metered fire hydrant use, meter test, or making a service call for such items as turn on, turn off, meter removal, meter re-installation, meter reading outside the regular meter reading schedule for special billing purposes, turn on after delinquent water bill paid, cross connection enforcement/turn off, and development plan review and inspection shall be established and adjusted from time to time by Township Board resolution. All such charges shall be paid in full at the time the service is provided. If any amount is not paid when due, then a penalty shall be charged at the rate of 1 percent for each month or a fraction of a month that the amount due remains delinquent.

### **23.05 Water Rates.**

Rates for water supplied to each premises connected to the System and a readiness-to-serve charge, standby fire line connection charge, or hydrant charge, shall be established to provide sufficient revenues and adjusted from time to time by Township Board resolution. No free service shall be furnished by the System to the Township or to any person, firm or corporation, public or private, or to any public agency or instrumentality. The Township shall pay for water supplied to it or to any of its departments or agencies at the rates established pursuant to this section from time to time. In addition, the Township shall pay for water used through fire hydrants for fire protection and other purposes an annual charge per hydrant as prescribed by resolution of the Township Board from time to time, such charge to be payable on March 31<sup>st</sup> of each year for the previous 12 months and to be prorated in those instances where the hydrant has been in use for only a portion of the previous year.

### **23.06 Billing and Enforcement.**

Charges for water service shall be billed quarterly or on such other regular basis as the Township Board of Trustees by resolution may determine from time to time.

Bills shall be mailed by the 15th day of the month following the period for which the bills are rendered and shall be due and payable on or before the 10th day of the next month. Customers whose bills are not paid on or before the due date shall have a penalty charge equal to 10 percent of the amount of the bill added thereto. Customers whose bills remain unpaid for six months shall be notified in writing, which notice shall indicate that the customer's Township water service will be shut off if payment is not made within five days of the date of the notice. If the bill plus the penalty amount is not paid within five days of the date of the notice, then the customer's public water service shall be turned off immediately and without further notice. Water service shall not be restored until the entire amount of the water bill plus the penalty amount has been paid together with any charges due pursuant to Section 23.04 above.

Charges for water shall constitute a lien on the property served. On or before October 1st of each year, the Township Treasurer shall deliver to the Township Supervisor a certified statement of all water charges and penalty charges thereon then six months or more past due and unpaid. The Township Supervisor shall then place such charges on the next tax roll and the same shall be collected and such lien shall be enforced in the same manner as is provided for general Township taxes.

### **23.07 Fiscal Year.**

The System shall be operated on the basis of a fiscal year beginning April 1st of each year and ending March 31st of the following year.

### **23.08 Financial Records.**

The Township shall cause to be maintained and kept proper financial records relating to the operation of the System. These financial records shall be audited by a certified public accountant as a part of the general Township audit.

### **23.09 Application to Connect.**

No connection shall be made to the System without obtaining a permit therefor. Application for such permit shall be made by the premises title holder or land contract purchaser and filed with the Township Supervisor or his/her representative. The Township Supervisor or his/her representative shall issue such permit when all prescribed conditions have been met. Such permit shall be issued subject to such regulations as may be established and amended by the Township Board from time to time.

### **23.10 Water Service Line.**

All premises connecting to the System shall be provided with a water service line from the water main to the edge of the public street or public easement within which the water main is located, as well as a curb stop and box and meter. The Township shall be the owner of the water service line, curb stop and box and meter.

### **23.11 Prohibition of Cross Connections.**

No cross connections which would violate the water supply cross connection rules of the Michigan Department of Health contained in the Michigan Administrative Code, as the same shall be amended, changed or supplemented from time to time, shall be made. The Township Supervisor or his/her representative shall have the right to enter at any reasonable time any premises connected to the System for the purpose of inspecting the piping system or systems related thereto for cross connections. On request, the owners, lessees or occupants of any premises served by the system shall furnish to the Township Supervisor or his/her representative any pertinent information relating to the piping system or systems on such premises. The Township Supervisor or his/her representative is authorized and directed to discontinue water service after reasonable notice to any premises where a cross connection has been made in violation of this Ordinance. In addition, the Township Supervisor or his/her representative shall take such other precautionary measures as shall be necessary to eliminate any danger of contamination of the System. Water service which has been discontinued because of a cross connection shall not be restored until the cross connection has been eliminated and all charges payable pursuant to Section 6 have been paid to the Township.

### **23.12 Work in Right-of-Way.**

All work in the street right-of-way or in public easements, including water service lines, shall be constructed and performed by the Township or its agents or independent third party contractors.

### **23.13 Meters.**

The Township Supervisor or his/her representative shall have the right to enter at any reasonable time any premises connected to the System for the purpose of reading the water meter or otherwise inspecting the piping system or systems which are connected to the System. If any meter shall fail to register properly, the Township shall estimate the amount of water consumed based on prior billing periods and bill the water customer accordingly.

A water customer may request that a water meter be tested for accuracy. If the meter is found to be accurate in accordance with current American Water Works Association standards, a charge established pursuant to Section 6 shall be made to the water customer. If the meter is found to be inaccurate because it does not meet current American Water Works Association accuracy standards, the meter shall be repaired or a new meter shall be installed and no charge shall be made to the water customer either for the test or the meter repair or replacement. If a water meter is found to be inaccurate as provided above, the Township Supervisor or his/her representative shall determine whether any billing adjustment is appropriate and notify the water customer of the proposed adjustment. If the water customer does not agree with the adjustment, he/she can appeal within ten days of being notified of the proposed adjustment, to the Township Board, whose decision shall be final.

#### **23.14 Service Line Maintenance.**

The owner(s) of each premises served by water shall maintain the connection line, running from the termination of the water service line to the building, structure or other improvement served with water, in good condition with no leaks, breaks or other malfunction.

#### **23.15 One Service Line Per Premises.**

Unless otherwise authorized by the Township Supervisor or his/her representative in writing, each water service line shall serve one premises only. In structures containing more than one dwelling unit, each dwelling unit shall be deemed separate premises for purposes of this Ordinance.

#### **23.16 Repair or Replacement of Meter or Connection.**

If the meter or water service line connection is damaged for any reason, all required repair and replacement shall be at the expense of the premises owner. If the meter or water service line connection malfunctions or is defective, repair or replacement shall be at the expense of the Township.

#### **23.17 Damage to System Facilities/Theft of Water.**

No person, except an employee of the Township or other person duly authorized by the Township, shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the System. No person, except an employee of the Township or other person authorized by the Township, shall draw water from the System except through a metered water connection.

#### **23.18 Fire Hydrant Use.**

No person, except an employee of the Township or other person duly authorized by the Township, shall open or use any fire hydrant except in the case of an emergency, without first securing written permission from the Township Supervisor or his/her representative and paying the charge provided for in Section 6. No tool, other than the prescribed Township Fire Department wrench, shall be used in operating any fire hydrant. No person shall bury or otherwise obstruct a fire hydrant with snow or any other material.



### **23.19 Water Emergency Orders.**

The Township Supervisor or his/her representative may, by written order, subject to review and modification or reversal by the Township Board, regulate, limit or prohibit the use of water. Such order may restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial water needs and for fire protection. Notice of the promulgation of any such order shall be published in a newspaper of general circulation in the Township as soon as reasonably possible after promulgation. Violation of such an order shall constitute a violation of this Ordinance and shall be subject to the penalties and other remedies hereinafter prescribed in this Ordinance.

### **23.20 Rules and Regulations/Other Ordinances.**

The Township may from time to time adopt by resolution rules and regulations governing the type and quality of materials and accessories to be used for connections to the System, construction methods for connections to the System, and other operational and maintenance matters pertaining to the System. Violation of any such rule or regulation shall constitute a violation of this Ordinance and shall be subject to the penalties and other remedies hereinafter prescribed in this Ordinance. Any matters pertaining to the type and quality of materials and accessories to be used for connections to the System, construction methods for connections to the System, and other operational maintenance matters pertaining to the System not governed by this Ordinance or rules and regulations adopted pursuant to this section, shall be subject to and in compliance with all other applicable Township ordinances.

### **23.21 Disruption of Service.**

The Township shall not be liable for any failure or deficiency in the supply of water to water customers whether occasioned by maintenance or repair of the System or any other cause.

### **23.22 Administrative Liability.**

No officer, agent or employee of the Township shall render himself or herself personally liable for any damages that may accrue to any person as a result of any act required or permitted in the discharge of his duties under and in the enforcement of this Ordinance.

## **CHAPTER 24**

### **COMMUNITY ANTENNA TELEVISION**

#### **24.01 Grant of Franchise.**

The Township Board of the Charter Township of Filer hereby authorizes the granting of a non-exclusive cable television franchise to CC Michigan, LLC, doing business as Charter Communications, pursuant to the terms set forth in the Charter Township of Filer, Michigan, Non-exclusive 2004 Cable Television franchise with CC Michigan LLC, d/b/a Charter Communications, a true copy of which shall be reproduced and included in Chapter 24 of the Code.

#### **24.02 Implementation.**

The Township Supervisor, Township Clerk, Township Attorney, special counsel, and other Township officials are hereby authorized and directed to take all actions necessary to effect and implement the Charter Township of Filer, Michigan, Non-exclusive 2004 Cable Television Franchise with CC Michigan LLC.

## CHAPTER 25 ELECTRICAL BUSINESS

### Subchapter 1 - First Power L.L.C.

#### 25.01.01 Grant of Non-Exclusive Rights

- A. **Term.** The Charter Township of the Township of Filer (“Township”) grants to First Power L.L.C., its successors and assigns (“Grantee”), subject to the terms and conditions set forth below, the non-exclusive right, power and authority to construct, maintain and use electric lines consisting of towers, masts, poles, cross-arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances (hereinafter “Electric System”) on, along, across and under the highways, streets, alleys, and bridges (hereafter “Public Ways”) and to do local electric business in the Township, Manistee County, Michigan, for a period of five years.
- B. **Location in Public Ways.** To the maximum extent possible, Grantee shall place its electrical system on, within, and along existing utility facilities in the Public Ways.
- C. **Lease.** Grantee shall not lease or sublease any portion of its Electrical System within the Township to a person who by law is required to obtain the Township’s permission or consent to transaction business in the Township and who lacks such permission or consent. Grantee shall not allow the property of a third party or non-electrical system wires or any other facilities to be overlashed, affixed or attached to any portion of its Electrical System or allow other actions with a similar result without the written consent of the Township.

#### 25.01.02 Use of Public Rights-of-Way by Grantee

- A. **No Burden on Public Ways.** Grantee and its contractors, subcontractors and the Grantee’s Electric System shall not unduly burden or interfere with the present or future use of any of the Public Ways within the Township. Grantee shall erect and maintain its Electric System so as to cause minimum interference with the use of Public Ways and with the rights of reasonable convenience of property owners. No Public Way shall be obstructed longer than necessary during the work construction or repair to the Electric System. Grantee’s cable, wires, structures and equipment shall be suspended or buried so as to not endanger or injure persons or property in the Public Ways. If the Township in its reasonable judgment determines that any portion of the Electric System constitutes an undue burden or interference, Grantee at its expense shall modify its Electric System or take such other actions as the Township may determine is in the public interest to remove or alleviate the burden, and the Grantee shall do so within the time period established by the Township.
- B. **Restoration of Public Ways.** Grantee and its contractors and subcontractors shall immediately restore at Grantee’s sole cost and expense and in a manner approved

by the Township any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance or removal of the Electric System to as good or better condition than that which existed prior to the disturbance. In the event that Grantee, its contractor or subcontractors fail to make such repair within the time specified by the Township, the Township shall be entitled to complete the repair and Grantee shall pay the costs of the Township for such repair.

- C. **Easements.** Any easements over or under private property necessary for the construction or operation of the Electric System shall be arranged and paid for by Grantee. Any use or intrusion on private property without an easement or other instrument evidencing permission of the property owner shall constitute a trespass by Grantee and a violation of this Agreement. Any easements over or under property owned by the Township other than the Public Ways shall be separately negotiated with the Township.
- D. **Tree Trimming.** Grantee may trim trees upon and overhanging the Public Ways so as to prevent the branches of such trees from coming into contact with the Electric System. Grantee shall minimize the trimming of trees to trimming only those that are essential to maintain the integrity of its Electric System. No trimming shall be done in the Public Ways without previously informing the Township.
- E. **Pavement Cut Coordination/Additional Fees.** Grantee shall coordinate its construction program and all other work in the Public Ways with the Township's program for street construction, rebuilding, resurfacing and repair (collectively, "Street Resurfacing"). Grantee shall meet with the official of the Township primarily responsible for the Public Ways at least annually to this end.

The goals of such coordination shall be to require Grantee to conduct all known work in the Public Ways in conjunction with or immediately prior to any Street Resurfacing planned by the Township and to prevent the Public Ways from being disturbed by Grantee for a period of years after such Street Resurfacing.

Grantee shall pay to the Township the sum of \$1,250 for each 50 feet cut into or excavation of any Public Way, or portion thereof, which was subject to Street Resurfacing within 18 months prior to such cut or excavation. This fee is in addition to and not in lieu of the obligation to restore the Public Ways.

- F. **Marking.** Grantee shall mark its Electric System as follows: Aerial portions of the Electric System shall be marked with a marker on its lines on alternate poles which shall state Grantee's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Electric System shall have (1) a conducting wire placed in the ground at least several inches above the Grantee's cable or wire (if such cable or wire is non-conductive), (2) at least several inches above that a continuous colored tape with Grantee's name and a toll-free number and a statement to the effect that there is buried cable beneath, and (3)

stakes or other appropriate above-ground markers with Grantee's name and a toll-free number and indicating that there is buried cable below.

- G. **Compliance with Laws.** Grantee shall comply with all laws, statutes, ordinances, rules and regulations regarding the installation, construction, ownership or use of its Electric System, whether federal, state or local, now in force or which hereafter may be promulgated (including without limitation, any ordinance requiring the installation of additional conduit when Grantee installs underground conduit for its Electric System). Before any installation is commenced, Grantee shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the Township or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Grantee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition) and the National Electric Code (latest edition). Grantee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.
- H. **Street Vacation.** If Township vacates or consents to the vacation of a street or alley within its jurisdiction, and such vacation necessitates the removal and relocation of Grantee's facilities in the vacated Public Way, Grantee agrees, as a condition of this Agreement, to consent to the vacation and to move its facilities at its sole cost and expense when asked to do so by the Township or a court of competent jurisdiction. Grantee shall relocate its facilities to such alternative route as the Township, acting reasonably and in good faith, shall designate.
- I. **Relocation.** If the Township requests Grantee to relocate, protect, support, disconnect, or remove its facilities because of street or utility work, Grantee shall relocate, protect, support, disconnect or remove its facilities, at its sole expense, to such alternate route as Township, acting reasonably and in good faith, shall designate.
- J. **Public Emergency.** The Township shall have the right to sever, disrupt, dig up or otherwise destroy facilities of Grantee, without any prior notice, if such action is deemed necessary by the Supervisor or Fire Chief because of a public emergency. Public emergency shall be any condition which, in the opinion of either of the officials named possess an immediate threat to the lives or property of the citizens of the Township, caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, major water main breaks, hazardous material spills, etc. Grantee shall be responsible for repair at its sole expense of any of its facilities damaged pursuant to any such action taken by the Township.
- K. **Miss Dig.** If eligible to join, Grantee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL 460.701, *et seq.*, and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.

- L. **Use of Existing Facilities; Compensation to Township.** Grantee shall utilize existing poles, conduits, and other facilities wherever practicable, and shall not construct or install any new, different, or additional poles, or other facilities unless expressly authorized by the Township. Where existing utility wiring is located underground, either at the time of initial construction or subsequent thereto, Grantee's Electric System shall also be located underground unless otherwise expressly authorized by the Township. In the event Grantee desires to utilize existing poles, conduits or other facilities owned by the Township, Grantee shall be obligated to pay the existing standard charge for attachment in, placement in, or other use of these facilities.

To the extent that Grantee chooses to construct its own utility wiring or other new facilities, with the Township's consent, as aforesaid, Grantee agrees to compensate the Township for use of the public rights-of-way. Unless otherwise agreed by the Township and Grantee, the compensation shall be paid at the rate of \$ \_\_\_\_\_ per lineal foot of wiring or other facilities installed.

- M. **Underground Relocation.** If Grantee has its facilities on Consumers Energy Company's or any other public utility company's above ground utility poles and the owner of said poles relocated its facilities to an underground conduit, Grantee shall relocate its facilities underground in the same location.
- N. **Pole/Conduit License Agreement Notification.** If Grantee forfeits or otherwise loses its rights under a pole/conduit license agreement with Consumers Energy Company or other entity, then Grantee shall notify the Township Supervisor in writing within 14 days.

#### **25.01.03 No Township Liability; Indemnification.**

- A. **Township Not Liable.** The Township, its agents, employees, and contractors, shall not be liable to Grantee or Grantee's customers for any interference with or disruption in the operation of Grantee's Electric System, or the provision of service over or through the Electric System, or for any damages arising out of Grantee's use of the Public Way.
- B. **Indemnification.** As part of the consideration for this Agreement, Grantee shall defend, indemnify, protect and hold harmless Township, its officers, agents, employees, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgment, decrees, proceedings, and expenses of any nature (including, without limitation, actual fees and expenses of attorneys, expert witnesses and consultants), arising out of or resulting from the acts or omissions of Grantee, its officers, agents, employees, contractors, successors, or assigns.
- C. **Assumption of Risk.** Grantee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any Township owned or controlled property, including Public

Ways, and grantee hereby agrees to indemnify and hold harmless the Township against and from any claim asserted or liability imposed upon the Township for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Electric System or Grantee's failure to comply with any federal, state or local statute, ordinance or regulation.

- D. **Notice, Cooperation and Expenses.** Township shall give Grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent Township from cooperating with Grantee and participating in the defense of any litigation by Township's own counsel.

Grantee shall pay all expenses incurred by Township in defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by or on behalf of the Township attorney, and the actual expenses of Township's agents, employees or expert witnesses, and disbursements and liability assumed by Township in connection with such suits, actions or proceedings.

#### **25.01.04 Franchise Not Exclusive.**

The rights, power and authority granted herein are not exclusive.

#### **25.01.05 Rates.**

Grantee shall be entitled to charge the inhabitants of the Township for electricity furnished at the rates approved by the Michigan Public Service Commission, which body, or its successors, have authority and jurisdiction to fix and regulate electrical rates and promulgated rules regulating such service in the Township. Such rates and rules shall be subject to review and changed any time upon petition being made by either the Township acting through the Township Board or by Grantee.

#### **25.01.06 Township Jurisdiction.**

Grantee shall be and remain subject to all ordinances, rules and regulations of the Township now in affect or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under Michigan or federal law or a limitation upon the existing or future powers of the Township pursuant to its charter or Michigan or federal law.

#### **25.01.07 Michigan Public Services Commission.**

- A. **Jurisdiction.** Grantee shall, as to all other conditions and elements of service not addressed or fixed by this Ordinance, remain subject to the rules and regulations applicable to electric service by the Michigan Public Service Commission, or its successor bodies.

- B. **Filing.** Grantee shall provide the Township with copies of all documents which Grantee sends to the Michigan Public Service Commission and copies of all orders, decisions, or correspondence Grantee receives from the Public Service Commission. Grantee shall permit Township inspection and examination of all records it is required to maintain or file under Michigan Public Service Commission rules and regulations.

## **Subchapter 2 - Nordic Electric L.L.C.**

### **25.02.01 Grant of Non-Exclusive Rights.**

- A. **Term.** The Charter Township of the Township of Filer (“Township”) grants to Nordic Electric L.L.C., its successors and assigns (“Grantee”), subject to the terms and conditions set forth below, the non-exclusive right, power and authority to construct, maintain and use electric lines consisting of towers, masts, poles, cross-arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances (hereinafter “Electric System”) on, along, across and under the highways, streets, alleys, and bridges (hereafter “Public Ways”) and to do local electric business in the Township, Manistee County, Michigan, for a period of five years.
- B. **Location in Public Ways.** To the maximum extent possible, Grantee shall place its electrical system on, within, and along existing utility facilities in the Public Ways.
- C. **Lease.** Grantee shall not lease or sublease any portion of its Electrical System within the Township to a person who by law is required to obtain the Township’s permission or consent to transaction business in the Township and who lacks such permission or consent. Grantee shall not allow the property of a third party or non-electrical system wires or any other facilities to be overlashed, affixed or attached to any portion of its Electrical System or allow other actions with a similar result without the written consent of the Township.

### **25.02.2 Use of Public Rights-of-Way by Grantee.**

- A. **No Burden on Public Ways.** Grantee and its contractors, subcontractors and the Grantee’s Electric System shall not unduly burden or interfere with the present or future use of any of the Public Ways within the Township. Grantee shall erect and maintain its Electric System so as to cause minimum interference with the use of Public Ways and with the rights of reasonable convenience of property owners. No Public Way shall be obstructed longer than necessary during the work construction or repair to the Electric System. Grantee’s cable, wires, structures and equipment shall be suspended or buried so as to not endanger or injure persons or property in the Public Ways. If the Township in its reasonable judgment determines that any portion of the Electric System constitutes an undue burden or interference, Grantee at its expense shall modify its Electric System or take such other actions as the



Township may determine is in the public interest to remove or alleviate the burden, and the Grantee shall do so within the time period established by the Township.

- B. **Restoration of Public Ways.** Grantee and its contractors and subcontractors shall immediately restore at Grantee's sole cost and expense and in a manner approved by the Township any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance or removal of the Electric System to as good or better condition than that which existed prior to the disturbance. In the event that Grantee, its contractor or subcontractors fail to make such repair within the time specified by the Township, the Township shall be entitled to complete the repair and Grantee shall pay the costs of the Township for such repair.
- C. **Easements.** Any easements over or under private property necessary for the construction or operation of the Electric System shall be arranged and paid for by Grantee. Any use or intrusion on private property without an easement or other instrument evidencing permission of the property owner shall constitute a trespass by Grantee and a violation of this Agreement. Any easements over or under property owned by the Township other than the Public Ways shall be separately negotiated with the Township.
- D. **Tree Trimming.** Grantee may trim trees upon and overhanging the Public Ways so as to prevent the branches of such trees from coming into contact with the Electric System. Grantee shall minimize the trimming of trees to trimming only those that are essential to maintain the integrity of its Electric System. No trimming shall be done in the Public Ways without previously informing the Township.
- E. **Pavement Cut Coordination/Additional Fees.** Grantee shall coordinate its construction program and all other work in the Public Ways with the Township's program for street construction, rebuilding, resurfacing and repair (collectively, "Street Resurfacing"). Grantee shall meet with the official of the Township primarily responsible for the Public Ways at least annually to this end.

The goals of such coordination shall be to require Grantee to conduct all known work in the Public Ways in conjunction with or immediately prior to any Street Resurfacing planned by the Township and to prevent the Public Ways from being disturbed by Grantee for a period of years after such Street Resurfacing.

Grantee shall pay to the Township the sum of \$1,250 for each 50 feet cut into or excavation of any Public Way, or portion thereof, which was subject to Street Resurfacing within 18 months prior to such cut or excavation. This fee is in addition to and not in lieu of the obligation to restore the Public Ways.

- F. **Marking.** Grantee shall mark its Electric System as follows: Aerial portions of the Electric System shall be marked with a marker on its lines on alternate poles which shall state Grantees name and provide a toll-free number to call for assistance. Direct buried underground portions of the Electric System shall have

(1) a conducting wire placed in the ground at least several inches above the Grantee's cable or wire (if such cable or wire is non-conductive), (2) at least several inches above that a continuous colored tape with Grantee's name and a toll-free number and a statement to the effect that there is buried cable beneath, and (3) stakes or other appropriate above-ground markers with Grantee's name and a toll-free number and indicating that there is buried cable below.

- G. **Compliance with Laws.** Grantee shall comply with all laws, statutes, ordinances, rules and regulations regarding the installation, construction, ownership or use of its Electric System, whether federal, state or local, now in force or which hereafter may be promulgated (including without limitation, any ordinance requiring the installation of additional conduit when Grantee installs underground conduit for its Electric System). Before any installation is commenced, Grantee shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the Township or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Grantee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition) and the National Electric Code (latest edition). Grantee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.
- H. **Street Vacation.** If Township vacates or consents to the vacation of a street or alley within its jurisdiction, and such vacation necessitates the removal and relocation of Grantee's facilities in the vacated Public Way, Grantee agrees, as a condition of this Agreement, to consent to the vacation and to move its facilities at its sole cost and expense when asked to do so by the Township or a court of competent jurisdiction. Grantee shall relocate its facilities to such alternative route as the Township, acting reasonably and in good faith, shall designate.
- I. **Relocation.** If the Township requests Grantee to relocate, protect, support, disconnect, or remove its facilities because of street or utility work, Grantee shall relocate, protect, support, disconnect or remove its facilities, at its sole expense, to such alternate route as Township, acting reasonably and in good faith, shall designate.
- J. **Public Emergency.** The Township shall have the right to sever, disrupt, dig up or otherwise destroy facilities of Grantee, without any prior notice, if such action is deemed necessary by the Supervisor or Fire Chief because of a public emergency. Public emergency shall be any condition which, in the opinion of either of the officials named possess an immediate threat to the lives or property of the citizens of the Township, caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, major water main breaks, hazardous material spills, etc. Grantee shall be responsible for repair at its sole expense of any of its facilities damaged pursuant to any such action taken by the Township.

- K. **Miss Dig.** If eligible to join, Grantee shall subscribe to and be a member of “MISS DIG,” the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL 460.701, *et seq.*, and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- L. **Use of Existing Facilities; Compensation to Township.** Grantee shall utilize existing poles, conduits, and other facilities wherever practicable, and shall not construct or install any new, different, or additional poles, or other facilities unless expressly authorized by the Township. Where existing utility wiring is located underground, either at the time of initial construction or subsequent thereto, Grantee’s Electric System shall also be located underground unless otherwise expressly authorized by the Township. In the event Grantee desires to utilize existing poles, conduits or other facilities owned by the Township, Grantee shall be obligated to pay the existing standard charge for attachment in, placement in, or other use of these facilities.
- To the extent that Grantee chooses to construct its own utility wiring or other new facilities, with the Township’s consent, as aforesaid, Grantee agrees to compensate the Township for use of the public rights-of-way. Unless otherwise agreed by the Township and Grantee, the compensation shall be paid at the rate of \$ \_\_\_\_\_ per lineal foot of wiring or other facilities installed.
- M. **Underground Relocation.** If Grantee has its facilities on Consumers Energy Company’s or any other public utility company’s above ground utility poles and the owner of said poles relocated its facilities to an underground conduit, Grantee shall relocate its facilities underground in the same location.
- N. **Pole/Conduit License Agreement Notification.** If Grantee forfeits or otherwise loses its rights under a pole/conduit license agreement with Consumers Energy Company or other entity, then Grantee shall notify the Township Supervisor in writing within 14 days.

### **25.02.3 No Township Liability; Indemnification.**

- A. **Township Not Liable.** The Township, its agents, employees, and contractors, shall not be liable to Grantee or Grantee’s customers for any interference with or disruption in the operation of Grantee’s Electric System, or the provision of service over or through the Electric System, or for any damages arising out of Grantee’s use of the Public Way.
- B. **Indemnification.** As part of the consideration for this Agreement, Grantee shall defend, indemnify, protect and hold harmless Township, its officers, agents, employees, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgment, decrees, proceedings, and expenses of any nature (including, without limitation, actual fees and expenses of attorneys, expert witnesses and consultants), arising out of or resulting from the

acts or omissions of Grantee, its officers, agents, employees, contractors, successors, or assigns.

- C. **Assumption of Risk.** Grantee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any Township owned or controlled property, including Public Ways, and grantee hereby agrees to indemnify and hold harmless the Township against and from any claim asserted or liability imposed upon the Township for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Electric System or Grantee's failure to comply with any federal, state or local statute, ordinance or regulation.
- D. **Notice, Cooperation and Expenses.** Township shall give Grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent Township from cooperating with Grantee and participating in the defense of any litigation by Township's own counsel.

Grantee shall pay all expenses incurred by Township in defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by or on behalf of the Township Attorney, and the actual expenses of Township's agents, employees or expert witnesses, and disbursements and liability assumed by Township in connection with such suits, actions or proceedings.

#### **25.02.4 Franchise Not Exclusive.**

The rights, power and authority granted herein are not exclusive.

#### **25.02.5 Rates.**

Grantee shall be entitled to charge the inhabitants of the Township for electricity furnished at the rates approved by the Michigan Public Service Commission, which body, or its successors, have authority and jurisdiction to fix and regulate electrical rates and promulgated rules regulating such service in the Township. Such rates and rules shall be subject to review and changed any time upon petition being made by either the Township acting through the Township Board or by Grantee.

#### **25.02.6 Township Jurisdiction.**

Grantee shall be and remain subject to all ordinances, rules and regulations of the Township now in affect or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under Michigan or federal law or a limitation upon the existing or future powers of the Township pursuant to its charter or Michigan or federal law.

#### **25.02.7 Michigan Public Services Commission.**

- A. **Jurisdiction.** Grantee shall, as to all other conditions and elements of service not addressed or fixed by this Ordinance, remain subject to the rules and regulations applicable to electric service by the Michigan Public Service Commission, or its successor bodies.
- B. **Filing.** Grantee shall provide the Township with copies of all documents which Grantee sends to the Michigan Public Service Commission and copies of all orders, decisions, or correspondence Grantee receives from the Public Service Commission. Grantee shall permit Township inspection and examination of all records it is required to maintain or file under Michigan Public Service Commission rules and regulations.

### **Subchapter 3 - Engage Energy US, L.P.**

#### **25.03.1 Grant of Non-Exclusive Rights.**

- A. **Term.** The Charter Township of the Township of Filer (“Township”) grants to Engage Energy US, L.P., its successors and assigns (“Grantee”), subject to the terms and conditions set forth below, the non-exclusive right, power and authority to construct, maintain and use electric lines consisting of towers, masts, poles, cross-arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances (hereinafter “Electric System”) on, along, across and under the highways, streets, alleys, and bridges (hereafter “Public Ways”) and to do local electric business in the Township, Manistee County, Michigan, for a period of five years.
- B. **Location in Public Ways.** To the maximum extent possible, Grantee shall place its electrical system on, within, and along existing utility facilities in the Public Ways.
- C. **Lease.** Grantee shall not lease or sublease any portion of its Electrical System within the Township to a person who by law is required to obtain the Township’s permission or consent to transaction business in the Township and who lacks such permission or consent. Grantee shall not allow the property of a third party or non-electrical system wires or any other facilities to be overlashed, affixed or attached to any portion of its Electrical System or allow other actions with a similar result without the written consent of the Township.

#### **25.03.2 Use of Public Rights-of-Way by Grantee.**

- A. **No Burden on Public Ways.** Grantee and its contractors, subcontractors and the Grantee’s Electric System shall not unduly burden or interfere with the present or future use of any of the Public Ways within the Township. Grantee shall erect and maintain its Electric System so as to cause minimum interference with the use of Public Ways and with the rights of reasonable convenience of property owners. No Public Way shall be obstructed longer than necessary during the work construction

or repair to the Electric System. Grantee's cable, wires, structures and equipment shall be suspended or buried so as to not endanger or injure persons or property in the Public Ways. If the Township in its reasonable judgment determines that any portion of the Electric System constitutes an undue burden or interference, Grantee at its expense shall modify its Electric System or take such other actions as the Township may determine is in the public interest to remove or alleviate the burden, and the Grantee shall do so within the time period established by the Township.

- B. **Restoration of Public Ways.** Grantee and its contractors and subcontractors shall immediately restore at Grantee's sole cost and expense and in a manner approved by the Township any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance or removal of the Electric System to as good or better condition than that which existed prior to the disturbance. In the event that Grantee, its contractor or subcontractors fail to make such repair within the time specified by the Township, the Township shall be entitled to complete the repair and Grantee shall pay the costs of the Township for such repair.
- C. **Easements.** Any easements over or under private property necessary for the construction or operation of the Electric System shall be arranged and paid for by Grantee. Any use or intrusion on private property without an easement or other instrument evidencing permission of the property owner shall constitute a trespass by Grantee and a violation of this Agreement. Any easements over or under property owned by the Township other than the Public Ways shall be separately negotiated with the Township.
- D. **Tree Trimming.** Grantee may trim trees upon and overhanging the Public Ways so as to prevent the branches of such trees from coming into contact with the Electric System. Grantee shall minimize the trimming of trees to trimming only those that are essential to maintain the integrity of its Electric System. No trimming shall be done in the Public Ways without previously informing the Township.
- E. **Pavement Cut Coordination/Additional Fees.** Grantee shall coordinate its construction program and all other work in the Public Ways with the Township's program for street construction, rebuilding, resurfacing and repair (collectively, "Street Resurfacing"). Grantee shall meet with the official of the Township primarily responsible for the Public Ways at least annually to this end.

The goals of such coordination shall be to require Grantee to conduct all known work in the Public Ways in conjunction with or immediately prior to any Street Resurfacing planned by the Township and to prevent the Public Ways from being disturbed by Grantee for a period of years after such Street Resurfacing.

Grantee shall pay to the Township the sum of \$1,250 for each 50 feet cut into or excavation of any Public Way, or portion thereof, which was subject to Street Resurfacing within 18 months prior to such cut or excavation. This fee is in addition to and not in lieu of the obligation to restore the Public Ways.

- F. **Marking.** Grantee shall mark its Electric System as follows: Aerial portions of the Electric System shall be marked with a marker on its lines on alternate poles which shall state Grantee's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Electric System shall have (1) a conducting wire placed in the ground at least several inches above the Grantee's cable or wire (if such cable or wire is non-conductive), (2) at least several inches above that a continuous colored tape with Grantee's name and a toll-free number and a statement to the effect that there is buried cable beneath, and (3) stakes or other appropriate above-ground markers with Grantee's name and a toll-free number and indicating that there is buried cable below.
- G. **Compliance with Laws.** Grantee shall comply with all laws, statutes, ordinances, rules and regulations regarding the installation, construction, ownership or use of its Electric System, whether federal, state or local, now in force or which hereafter may be promulgated (including without limitation, any ordinance requiring the installation of additional conduit when Grantee installs underground conduit for its Electric System). Before any installation is commenced, Grantee shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the Township or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Grantee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition) and the National Electric Code (latest edition). Grantee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.
- H. **Street Vacation.** If Township vacates or consents to the vacation of a street or alley within its jurisdiction, and such vacation necessitates the removal and relocation of Grantee's facilities in the vacated Public Way, Grantee agrees, as a condition of this Agreement, to consent to the vacation and to move its facilities at its sole cost and expense when asked to do so by the Township or a court of competent jurisdiction. Grantee shall relocate its facilities to such alternative route as the Township, acting reasonably and in good faith, shall designate.
- I. **Relocation.** If the Township requests Grantee to relocate, protect, support, disconnect, or remove its facilities because of street or utility work, Grantee shall relocate, protect, support, disconnect or remove its facilities, at its sole expense, to such alternate route as Township, acting reasonably and in good faith, shall designate.
- J. **Public Emergency.** The Township shall have the right to sever, disrupt, dig up or otherwise destroy facilities of Grantee, without any prior notice, if such action is deemed necessary by the Supervisor or Fire Chief because of a public emergency. Public emergency shall be any condition which, in the opinion of either of the officials named possess an immediate threat to the lives or property of the citizens of the Township, caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, major water main breaks,

hazardous material spills, etc. Grantee shall be responsible for repair at its sole expense of any of its facilities damaged pursuant to any such action taken by the Township.

- K. **Miss Dig.** If eligible to join, Grantee shall subscribe to and be a member of “MISS DIG,” the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL 460.701, *et seq.*, and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- L. **Use of Existing Facilities; Compensation to Township.** Grantee shall utilize existing poles, conduits, and other facilities wherever practicable, and shall not construct or install any new, different, or additional poles, or other facilities unless expressly authorized by the Township. Where existing utility wiring is located underground, either at the time of initial construction or subsequent thereto, Grantee’s Electric System shall also be located underground unless otherwise expressly authorized by the Township. In the event Grantee desires to utilize existing poles, conduits or other facilities owned by the Township, Grantee shall be obligated to pay the existing standard charge for attachment in, placement in, or other use of these facilities.

To the extent that Grantee chooses to construct its own utility wiring or other new facilities, with the Township’s consent, as aforesaid, Grantee agrees to compensate the Township for use of the public rights-of-way. Unless otherwise agreed by the Township and Grantee, the compensation shall be paid at the rate of \$ \_\_\_\_\_ per lineal foot of wiring or other facilities installed.

- M. **Underground Relocation.** If Grantee has its facilities on Consumers Energy Company’s or any other public utility company’s above ground utility poles and the owner of said poles relocated its facilities to an underground conduit, Grantee shall relocate its facilities underground in the same location.
- N. **Pole/Conduit License Agreement Notification.** If Grantee forfeits or otherwise loses its rights under a pole/conduit license agreement with Consumers Energy Company or other entity, then Grantee shall notify the Township Supervisor in writing within 14 days.

### **25.03.3 No Township Liability; Indemnification.**

- A. **Township Not Liable.** The Township, its agents, employees, and contractors, shall not be liable to Grantee or Grantee’s customers for any interference with or disruption in the operation of Grantee’s Electric System, or the provision of service over or through the Electric System, or for any damages arising out of Grantee’s use of the Public Way.
- B. **Indemnification.** As part of the consideration for this Agreement, Grantee shall defend, indemnify, protect and hold harmless Township, its officers, agents, employees, departments, boards, and commissions from any and all claims, losses,



liabilities, causes of action, demands, judgment, decrees, proceedings, and expenses of any nature (including, without limitation, actual fees and expenses of attorneys, expert witnesses and consultants), arising out of or resulting from the acts or omissions of Grantee, its officers, agents, employees, contractors, successors, or assigns.

- C. **Assumption of Risk.** Grantee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any Township owned or controlled property, including Public Ways, and grantee hereby agrees to indemnify and hold harmless the Township against and from any claim asserted or liability imposed upon the Township for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Electric System or Grantee's failure to comply with any federal, state or local statute, ordinance or regulation.
- D. **Notice, Cooperation and Expenses.** Township shall give Grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent Township from cooperating with Grantee and participating in the defense of any litigation by Township's own counsel.

Grantee shall pay all expenses incurred by Township in defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by or on behalf of the Township Attorney, and the actual expenses of Township's agents, employees or expert witnesses, and disbursements and liability assumed by Township in connection with such suits, actions or proceedings.

#### **25.03.4 Franchise Not Exclusive.**

The rights, power and authority granted herein are not exclusive.

#### **25.03.5 Rates.**

Grantee shall be entitled to charge the inhabitants of the Township for electricity furnished at the rates approved by the Michigan Public Service Commission, which body, or its successors, have authority and jurisdiction to fix and regulate electrical rates and promulgated rules regulating such service in the Township. Such rates and rules shall be subject to review and change any time upon petition being made by either the Township acting through the Township Board or by Grantee.

#### **25.03.6 Township Jurisdiction.**

Grantee shall be and remain subject to all ordinances, rules and regulations of the Township now in affect or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under

Michigan or federal law or a limitation upon the existing or future powers of the Township pursuant to its charter or Michigan or federal law.

#### **25.03.7 Michigan Public Services Commission.**

- A. **Jurisdiction.** Grantee shall, as to all other conditions and elements of service not addressed or fixed by this Ordinance, remain subject to the rules and regulations applicable to electric service by the Michigan Public Service Commission, or its successor bodies.
- B. **Filing.** Grantee shall provide the Township with copies of all documents which Grantee sends to the Michigan Public Service Commission and copies of all orders, decisions, or correspondence Grantee receives from the Public Service Commission. Grantee shall permit Township inspection and examination of all records it is required to maintain or file under Michigan Public Service Commission rules and regulations.

### **Subchapter 4 - Consumers Energy Company**

#### **25.04.01 Grant, Term.**

The CHARTER TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, hereby grants the right, power and authority to 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, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances, for the purpose of transmitting, transforming and distributing electricity 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 FILER, MANISTEE COUNTY, MICHIGAN, for a period of 30 years.

#### **25.04.02 Consideration.**

In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

#### **25.04.03 Conditions.**

No highway, street, alley, bridge, waterway or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's structures and equipment shall be so placed on either side of the highways as not to unnecessarily interfere with the use thereof for highway purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways. 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.

#### **25.04.04 Hold Harmless.**

Said Grantee shall at all times keep and save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures hereby authorized. In case any action is commenced against the Township on account of the permission herein granted, said Grantee shall, upon notice, defend the Township and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

#### **25.04.05 Extensions.**

Said Grantee shall construct and extend its electric distribution system within said Township, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

#### **25.04.06 Franchise Not Exclusive.**

The rights, power and authority herein granted, are not exclusive.

#### **25.04.07 Rates.**

Said Grantee shall be entitled to charge the inhabitants of said Township for electric energy furnished therein, the rates 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 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 therefor being made by either said Township, acting by its Township Board, or by said Grantee.

#### **25.04.08 Revocation.**

The franchise granted by this Ordinance is subject to revocation upon 60 days written notice by the party desiring such revocation.

#### **25.04.09 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 Township.

### **Subchapter 5 - DTE Energy Marketing, Inc.**

#### **25.05.01 Grant of Non-Exclusive Rights.**

- A. **Term.** The Charter Township of the Township of Filer ("Township") grants to DTE Energy Marketing, Inc., a Michigan corporation, its successors and assigns ("Grantee"), subject to the terms and conditions set forth below, the non-exclusive right, power and authority to construct, maintain and use electric lines consisting of towers, masts, poles, cross-arms, guys, braces, feeders, transmission and

distribution wires, transformers and other electrical appliances (hereinafter “Electric System”) on, along, across and under the highways, streets, alleys, and bridges (hereafter “Public Ways”) and to do local electric business in the Township, Manistee County, Michigan, for a period of five years.

- B. **Location in Public Ways.** To the maximum extent possible, Grantee shall place its electrical system on, within, and along existing utility facilities in the Public Ways.
- C. **Lease.** Grantee shall not lease or sublease any portion of its Electrical System within the Township to a person who by law is required to obtain the Township’s permission or consent to transaction business in the Township and who lacks such permission or consent. Grantee shall not allow the property of a third party or non-electrical system wires or any other facilities to be overlashed, affixed or attached to any portion of its Electrical System or allow other actions with a similar result without the written consent of the Township.

#### **25.05.02 Use of Public Rights-of-Way by Grantee.**

- A. **No Burden on Public Ways.** Grantee and its contractors, subcontractors and the Grantee’s Electric System shall not unduly burden or interfere with the present or future use of any of the Public Ways within the Township. Grantee shall erect and maintain its Electric System so as to cause minimum interference with the use of Public Ways and with the rights of reasonable convenience of property owners. No Public Way shall be obstructed longer than necessary during the work construction or repair to the Electric System. Grantee’s cable, wires, structures and equipment shall be suspended or buried so as to not endanger or injure persons or property in the Public Ways. If the Township in its reasonable judgment determines that any portion of the Electric System constitutes an undue burden or interference, Grantee at its expense shall modify its Electric System or take such other actions as the Township may determine is in the public interest to remove or alleviate the burden, and the Grantee shall do so within the time period established by the Township.
- B. **Restoration of Public Ways.** Grantee and its contractors and subcontractors shall immediately restore at Grantee’s sole cost and expense and in a manner approved by the Township any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance or removal of the Electric System to as good or better condition than that which existed prior to the disturbance. In the event that Grantee, its contractor or subcontractors fail to make such repair within the time specified by the Township, the Township shall be entitled to complete the repair and Grantee shall pay the costs of the Township for such repair.
- C. **Easements.** Any easements over or under private property necessary for the construction or operation of the Electric System shall be arranged and paid for by Grantee. Any use or intrusion on private property without an easement or other instrument evidencing permission of the property owner shall constitute a trespass

by Grantee and a violation of this Agreement. Any easements over or under property owned by the Township other than the Public Ways shall be separately negotiated with the Township.

- D. **Tree Trimming.** Grantee may trim trees upon and overhanging the Public Ways so as to prevent the branches of such trees from coming into contact with the Electric System. Grantee shall minimize the trimming of trees to trimming only those that are essential to maintain the integrity of its Electric System. No trimming shall be done in the Public Ways without previously informing the Township.
- E. **Pavement Cut Coordination/Additional Fees.** Grantee shall coordinate its construction program and all other work in the Public Ways with the Township's program for street construction, rebuilding, resurfacing and repair (collectively, "Street Resurfacing"). Grantee shall meet with the official of the Township primarily responsible for the Public Ways at least annually to this end.

The goals of such coordination shall be to require Grantee to conduct all known work in the Public Ways in conjunction with or immediately prior to any Street Resurfacing planned by the Township and to prevent the Public Ways from being disturbed by Grantee for a period of years after such Street Resurfacing.

Grantee shall pay to the Township the sum of \$1,250 for each 50 feet cut into or excavation of any Public Way, or portion thereof, which was subject to Street Resurfacing within 18 months prior to such cut or excavation. This fee is in addition to and not in lieu of the obligation to restore the Public Ways.

- F. **Marking.** Grantee shall mark its Electric System as follows: Aerial portions of the Electric System shall be marked with a marker on its lines on alternate poles which shall state Grantee's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Electric System shall have (1) a conducting wire placed in the ground at least several inches above the Grantee's cable or wire (if such cable or wire is non-conductive), (2) at least several inches above that a continuous colored tape with Grantee's name and a toll-free number and a statement to the effect that there is buried cable beneath, and (3) stakes or other appropriate above-ground markers with Grantee's name and a toll-free number and indicating that there is buried cable below.
- G. **Compliance with Laws.** Grantee shall comply with all laws, statutes, ordinances, rules and regulations regarding the installation, construction, ownership or use of its Electric System, whether federal, state or local, now in force or which hereafter may be promulgated (including without limitation, any ordinance requiring the installation of additional conduit when Grantee installs underground conduit for its Electric System). Before any installation is commenced, Grantee shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the Township or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Grantee shall comply in all respects with applicable codes and

industry standards, including but not limited to the National Electrical Safety Code (latest edition) and the National Electric Code (latest edition). Grantee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.

- H. **Street Vacation.** If Township vacates or consents to the vacation of a street or alley within its jurisdiction, and such vacation necessitates the removal and relocation of Grantee's facilities in the vacated Public Way, Grantee agrees, as a condition of this Agreement, to consent to the vacation and to move its facilities at its sole cost and expense when asked to do so by the Township or a court of competent jurisdiction. Grantee shall relocate its facilities to such alternative route as the Township, acting reasonably and in good faith, shall designate.
- I. **Relocation.** If the Township requests Grantee to relocate, protect, support, disconnect, or remove its facilities because of street or utility work, Grantee shall relocate, protect, support, disconnect or remove its facilities, at its sole expense, to such alternate route as Township, acting reasonably and in good faith, shall designate.
- J. **Public Emergency.** The Township shall have the right to sever, disrupt, dig up or otherwise destroy facilities of Grantee, without any prior notice, if such action is deemed necessary by the Supervisor or Fire Chief because of a public emergency. Public emergency shall be any condition which, in the opinion of either of the officials named possess an immediate threat to the lives or property of the citizens of the Township, caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, major water main breaks, hazardous material spills, etc. Grantee shall be responsible for repair at its sole expense of any of its facilities damaged pursuant to any such action taken by the Township.
- K. **Miss Dig.** If eligible to join, Grantee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL 460.701, *et seq.*, and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- L. **Use of Existing Facilities; Compensation to Township.** Grantee shall utilize existing poles, conduits, and other facilities wherever practicable, and shall not construct or install any new, different, or additional poles, or other facilities unless expressly authorized by the Township. Where existing utility wiring is located underground, either at the time of initial construction or subsequent thereto, Grantee's Electric System shall also be located underground unless otherwise expressly authorized by the Township. In the event Grantee desires to utilize existing poles, conduits or other facilities owned by the Township, Grantee shall be obligated to pay the existing standard charge for attachment in, placement in, or other use of these facilities.

To the extent that Grantee chooses to construct its own utility wiring or other new facilities, with the Township's consent, as aforesaid, Grantee agrees to compensate the Township for use of the public rights-of-way. Unless otherwise agreed by the Township and Grantee, the compensation shall be paid at the rate of \$ \_\_\_\_\_ per lineal foot of wiring or other facilities installed.

- M. **Underground Relocation.** If Grantee has its facilities on Consumers Energy Company's or any other public utility company's above ground utility poles and the owner of said poles relocated its facilities to an underground conduit, Grantee shall relocate its facilities underground in the same location.
- N. **Pole/Conduit License Agreement Notification.** If Grantee forfeits or otherwise loses its rights under a pole/conduit license agreement with Consumers Energy Company or other entity, then Grantee shall notify the Township Supervisor in writing within 14 days.

#### **25.05.03 No Township Liability; Indemnification.**

- A. **Township Not Liable.** The Township, its agents, employees, and contractors, shall not be liable to Grantee or Grantee's customers for any interference with or disruption in the operation of Grantee's Electric System, or the provision of service over or through the Electric System, or for any damages arising out of Grantee's use of the Public Way.
- B. **Indemnification.** As part of the consideration for this Agreement, Grantee shall defend, indemnify, protect and hold harmless Township, its officers, agents, employees, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgment, decrees, proceedings, and expenses of any nature (including, without limitation, actual fees and expenses of attorneys, expert witnesses and consultants), arising out of or resulting from the acts or omissions of Grantee, its officers, agents, employees, contractors, successors, or assigns.
- C. **Assumption of Risk.** Grantee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any Township owned or controlled property, including Public Ways, and grantee hereby agrees to indemnify and hold harmless the Township against and from any claim asserted or liability imposed upon the Township for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Electric System or Grantee's failure to comply with any federal, state or local statute, ordinance or regulation.
- D. **Notice, Cooperation and Expenses.** Township shall give Grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent Township from cooperating with Grantee and participating in the defense of any litigation by Township's own counsel.

Grantee shall pay all expenses incurred by Township in defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by or on behalf of the Township attorney, and the actual expenses of Township's agents, employees or expert witnesses, and disbursements and liability assumed by Township in connection with such suits, actions or proceedings.

#### **25.05.04 Franchise Not Exclusive.**

The rights, power and authority granted herein are not exclusive.

#### **25.05.05 Rates.**

Grantee shall be entitled to charge the inhabitants of the Township for electricity furnished at the rates approved by the Michigan Public Service Commission, which body, or its successors, have authority and jurisdiction to fix and regulate electrical rates and promulgated rules regulating such service in the Township. Such rates and rules shall be subject to review and changed any time upon petition being made by either the Township acting through the Township Board or by Grantee.

#### **25.05.06 Township Jurisdiction.**

Grantee shall be and remain subject to all ordinances, rules and regulations of the Township now in affect or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under Michigan or federal law or a limitation upon the existing or future powers of the Township pursuant to its charter or Michigan or federal law.

#### **25.05.07 Michigan Public Services Commission.**

- A. **Jurisdiction.** Grantee shall, as to all other conditions and elements of service not addressed or fixed by this Ordinance, remain subject to the rules and regulations applicable to electric service by the Michigan Public Service Commission, or its successor bodies.
- B. **Filing.** Grantee shall provide the Township with copies of all documents which Grantee sends to the Michigan Public Service Commission and copies of all orders, decisions, or correspondence Grantee receives from the Public Service Commission. Grantee shall permit Township inspection and examination of all records it is required to maintain or file under Michigan Public Service Commission rules and regulations.



## CHAPTER 26 TELECOMMUNICATIONS

### 26.01 Purpose.

The purposes of this chapter 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 Telecommunications 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.

### 26.02 Conflict.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.

### 26.03 Terms Defined.

The terms used in this chapter 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 chapter to a telecommunications provider to use the public rights-of-way in the Township for its telecommunications facilities.

All other terms used in this chapter 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.

**Telecommunications Provider, Provider and Telecommunications Services** mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a provider also includes all of the following:

- (a) A cable television operator that provides a telecommunications service.
- (b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (c) A person providing broadband internet transport access service.

**Township** means the Charter Township of Filer.

**Township Board** means the Township Board of the Charter Township of Filer or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the Township Board.

**Township Supervisor** means the Township Supervisor or his or her designee.

#### **26.04 Permit Required.**

- (a) **Permit 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 chapter.
- (b) **Application.** Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the Township Clerk, one copy with the Township Supervisor, and one copy with the Township Attorney. Upon receipt, the Township Clerk shall make six copies of the application and distribute a copy to members of the Township Board. 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.
- (e) **Additional Information.** The Township Supervisor may request an applicant to submit such additional information which the Township Supervisor deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Township Supervisor. If the Township and the applicant cannot agree on the requirement of additional information requested by the Township, the Township or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- (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 chapter.
- (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 chapter. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500 application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act.

## **26.05 Issuance of Permit.**

- (a) **Approval or Denial.** The authority to approve or deny an application for a permit is hereby delegated to the Township Supervisor. Pursuant to Section 15(3) of the Act, the Township Supervisor shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under Section 4(b) of this chapter for access to a public right-of-way within the Township. Pursuant to Section 6(6) of the Act, the Township Supervisor shall

notify the MPSC when the Township Supervisor has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Township Supervisor shall not unreasonably deny an application for a permit.

- (b) **Form of Permit.** If an application for permit is approved, the Township Supervisor shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.
- (c) **Conditions.** Pursuant to Section 15(4) of the Act, the Township Supervisor 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 Supervisor may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

#### **26.06 Reserved.**

#### **26.07 Conduit or Utility Poles.**

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

#### **26.08 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 paper format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

#### **26.09 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 a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

## **26.10 Establishment and Payment of Maintenance Fee.**

In addition to the non-refundable application fee paid to the Township set forth in subsection 4(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.

## **26.11 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 chapter, 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.

## **26.12 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 11 above shall be void from the date the modification was made.

## **26.13 Use of Funds.**

Pursuant 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.

## **26.14 Annual Report.**

The Township Supervisor shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority, as required under Section 10(5) of the Act.

## **26.15 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 the 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.

## **26.16 Existing Rights.**

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the Township may have under a permit issued by the Township or under a contract between the Township and a telecommunications provider related to the use of the public rights-of-way.

## **26.17 Compliance.**

The Township hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The Township shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in Section 4(c) of this chapter;
- (b) Allowing certain previously issued permits to satisfy the permit requirements of this chapter, in accordance with Section 4(f) of this chapter;
- (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 4(g) of this chapter;
- (d) 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 Section 5(a) of this chapter;
- (e) Notifying the MPSC when the Township has granted or denied a permit, in accordance with Section 5(a) of this chapter;
- (f) Not unreasonably denying an application for a permit, in accordance with Section 5(a) of this chapter;
- (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 5(b) of this chapter;
- (h) 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 Section 5(c) of this chapter;
- (i) 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 Section 5(d) of this chapter;

- (j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 6 of this chapter;
- (k) Providing each telecommunications provider affected by the Township's right-of-way fees with a copy of this chapter, in accordance with Section 11 of this chapter;
- (l) Submitting an annual report to the Authority, in accordance with Section 14 of this chapter; and
- (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 15 of this chapter.

#### **26.18 Reservation of Police Powers.**

Pursuant to Section 15(2) of the Act, this chapter shall not limit the Township's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the Township's authority to ensure and protect the health, safety, and welfare of the public.

#### **26.19 Severability.**

The various parts, sentences, paragraphs, sections, and clauses of this chapter are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this chapter is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this chapter.

#### **26.20 Authorized Township Officials.**

The Township Supervisor or his or her designee is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators to appear in court for violations of this chapter as provided by Chapter 61.

#### **26.21 Municipal Civil Infraction.**

A person who violates any provision of this chapter or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to a civil infraction fine up to \$500. Nothing in this Section 21 shall be construed to limit the remedies available to the Township in the event of a violation by a person of this chapter or a permit.

## **CHAPTER 27 GAS FRANCHISE**

### **27.01 Grant of Gas Franchise and Consent to Laying of Pipes, and Other Undertakings.**

Subject to all the terms and conditions mentioned in this Ordinance, consent is hereby given to Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns, to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys, and other public places in the Township of Filer, Manistee County, Michigan, and a non-exclusive and revocable franchise is hereby granted to the Company, its successors and assigns, to transact local business in said Township of Filer for the purposes of conveying gas into and through and supplying and selling gas in said Township of Filer and all other matters incidental thereto.

### **27.02 Gas Service and Extension of System.**

If the provisions and conditions herein contained are accepted by the Company, as in Section 6 hereof provided, then the Company shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations; and provided further that such initial installation and any extensions shall be subject to the Main Extension provisions, the Area Expansion Program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the Company's Rules and Regulations for Gas Service as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.

### **27.03 Use of Streets and Other Public Places.**

The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said Township of Filer and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its successors and assigns, shall use due care in exercising the privileges herein contained and shall defend, indemnify and hold harmless the Township of Filer from all claims, actions, liabilities and damages, including attorney's fees, arising from the default, carelessness, or negligence of the Company or its officers, agents, and servants in the exercise of the rights or authorities granted under the terms of this Ordinance.

No road, street, alley, or highway shall be opened for the laying of trunk lines or lateral mains except upon application to the Township of Filer or other authority having jurisdiction in the premises. The application shall state the nature of the proposed work and the route. Upon receipt of such application, the Township Board, or such other authority as may have jurisdiction, will not unreasonably withhold a permit to the Company to do the work proposed.

### **27.04 Standards and Conditions of Service; Rules, Regulations and Rates.**

The Company is now under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for gas, and the standards and



conditions of service and operation hereunder, shall be the same as set forth in the Company's schedule of rules, regulations, and rates as applicable in the several cities, villages, and townships in which the Company is now rendering gas service, or as shall hereafter be validly prescribed by the Township of Filer under the orders, rules, and regulations of the Michigan Public Service Commission or other authority having jurisdiction in the premises.

#### **27.05 Successors and Assigns.**

The words "Michigan Consolidated Gas Company" and "the Company," wherever used herein, are intended and shall be held and construed to mean and include both Michigan Consolidated Gas Company and its successors and assigns, whether so expressed or not.

## **CHAPTER 28**

### **SEWER USE ORDINANCE**

#### **28.01 Purpose and Objectives.**

The purpose and objectives of this chapter are as follows:

- (1) to prevent the introduction of pollutants into the Township and the City of Manistee wastewater collection and treatment systems which will interfere with the normal operations of either system or contaminate the resulting municipal sludge produced at the POTW;
- (2) to prevent the introduction of pollutants into the Township wastewater collection system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the wastewater collection system and POTW;
- (3) to improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- (4) to provide for the investigation of instances of pass-through or interference, the notification of the responsible industry, and for appropriate enforcement actions;
- (5) to provide for equitable distribution of the cost of the Township sewer system;
- (6) to require connection to the Township sewer collection system as authorized by state law; and,
- (7) to enact a Township Sewer Ordinance that is consistent with the City of Manistee's Sewer Ordinance, so the Township and City will have sewer ordinances reasonably consistent, and to incorporate such additional or alternate provisions as the Township and City deem appropriate.

#### **28.02 Definitions.**

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

- (1) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1254, *et seq.*
- (2) "ASTM" means American Society for Testing Materials.
- (3) "Authorized representative of an industrial user" includes, but is not limited to:
  - (A) A principal executive officer or at least the level of vice-president, if the industrial user is a corporation;

- (B) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or
  - (C) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates, or for environmental matters of the company. Authorization for this representative must be submitted, in writing, to the Township by the individual designated in either paragraph 3(A) or 3(B) hereof.
  - (D) A director or highest official appointed or designated to oversee the operation and performance of the activities of a federal, state or local government facility, or their designee.
- (4) “Biochemical Oxygen Demand (B.O.D.)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures, five days at 20 degrees centigrade, expressed in terms of weight and concentrations (milligrams per liter)
  - (5) “Building drain” means that part of the lowest horizontal piping of a drainage system that receives discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.
  - (6) “Building sewer” means the extension from the building drain to the public sewer or other place of disposal.
  - (7) “Bypass” means the intentional diversion of waste streams from any portion of a user’s pretreatment facility.
  - (8) “Categorical standards” means national categorical pretreatment standards or other pretreatment standards.
  - (9) “Chemical Oxygen Demand (COD)” means a measure of the oxygen-consuming capacity of inorganic and organics matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. The term “chemical oxygen demand” is also known as “O,” oxygen consumed “OC,” or dichromate oxygen consumed “DOC,” respectively.
  - (10) “Cesspool” means an underground pit into which raw household sewage or other untreated liquid waste is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.
  - (11) “City” refers to the City of Manistee.

- (11a) “City manager” means the City Manager of the City or his or her authorized designee.
- (12) “City system” means the wastewater collection and treatment system owned and operated by the City and is separate from the Township System.
- (13) “Combined sewer” means a sewer receiving both surface runoff and sewage.
- (14) “Compatible pollutant” means a substance amenable to treat in the wastewater treatment place, such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the City’s NPDES permit if the POTW was designed to treat such pollutants and in fact does remove such pollutants to a substantial degree. Examples of such additional pollutants include chemical oxygen demand, total organic carbon, phosphorous and phosphorus compounds and fats, oils, greases of animal or vegetable origin.
- (15) “Composite sample” means a series of samples taken over a specific time period whose volume is proportional to the flow in the waste stream, which are combined into one sample.
- (16) “Cooling water” means the water discharged from any use, such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.
- (17) “Dilution” means any thinning or weakening of a wastewater discharge by mixing it with water or other liquid, including any process of mixing or diluting as a partial or complete substitute for adequate treatment necessary to achieve compliance with applicable standards and limitations. Dilution is prohibited unless specifically approved by the Township and the City in writing.
- (18) “Direct discharge” means the discharge of treated or untreated wastewater directly to the waters of the state.
- (19) “Environmental Protection Agency” and “EPA” mean the U.S. Environmental Protection Agency, the EPA Administrator or other duly authorized official of the EPA.
- (20) “Garbage” means solid waste from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- (21) “Grab sample” means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (22) “Grease interceptor” (or “Grease Trap”) means a tank of suitable size and material located in a sewer line that is designed to remove fats, oil and grease from the wastewater.

- (23) “Health officer” means the legally designated health authority having jurisdiction in the Township, or the Health Officer’s authorized representative.
- (24) “Holding tank waste” means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.
- (25) “Incompatible pollutants” means any pollutant which is not a compatible pollutant.
- (26) “Indirect discharge” means the discharge or the introduction of nondomestic pollutants into the POTW (including holding-tank waste discharged into the system).
- (27) “Industrial user” means any user who or which discharges industrial waste as defined in this section.
- (28) “Industrial Waste” means the wastewater discharge from industrial, manufacturing, trade, service or business processes, or the wastewater discharge from any structure with these characteristics, as distinct from their employees’ domestic wastes or wastes from sanitary conveniences.
- (29) “Interference” means the inhibition or disruption of the City’s POTW treatment processes or operations which contributes to a violation of any requirement of the City’s NPDES permit or reduces the efficiency of the POTW. The term “interference” also includes prevention of sewage sludge use or disposal by the POTW.
- (30) “Laboratory determination” means the measurement, test and analysis of the characteristics of waters and wastes in accordance with the methods contained in the latest edition, at the time of any such measurement, test or analysis, of *Standard Methods for the Examination of Water and Wastewater*, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation, or in accordance with any other method prescribed by the rules and regulations promulgated pursuant to this chapter.
- (31) “Local limits” mean the numerical or non-numerical standards and requirements established by the City in order to protect the safety and welfare of the public and POTW workers, or to prevent pollutant interference, inhibition or pass-through in regard to plant operations, or to comply with state and federal regulations.
- (32) “Michigan Department of Environmental Quality” or “MDEQ” means the Michigan Department of Environmental Quality or any successor agency having regulatory jurisdiction over municipal wastewater collection and treatment systems.
- (33) “National categorical pretreatment standard” and “pretreatment standard” mean any federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial users.

- (34) “National pollution discharge elimination system (NPDES) permit” means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342), in this case, to the City.
- (35) “National prohibitive discharge standard” and “prohibitive discharge standard” mean any regulation developed under the authority of Section 307(b) of the Act and 40 CFR Section 403.5.
- (36) “Natural outlet” means any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
- (37) “New source” means any source, the construction of which is commenced after the publication of proposed national categorical pretreatment standards that will be applicable to such source, provided that:
- (A) Construction is at a site where no other source is located;
  - (B) Process or production equipment causing discharge is totally replaced due to construction; or
  - (C) Production or wastewater generating processes of the facility are substantially independent of an existing source at the same site.
  - (D) Construction is considered to have commenced when the installation or assembly of facilities and/or equipment has begun, significant site preparation has begun for installation or assembly or the owner/operator has entered into a binding contractual obligation for the purchase of facilities or equipment intended to be used in its operation within a reasonable time. Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph (30)B or C hereof but otherwise alters, replaces or adds to existing process or production equipment.
- (38) “Nuisance” means any condition where sewage (or garbage) is exposed to the surface of the ground or is permitted to drain on or to the surface of the ground, into any ditch, storm sewer, lake or stream, or when the odor, appearance, or presence of this material has an obnoxious or detrimental effect on or to the senses and/or health of persons, or when it shall obstruct the comfortable use or sale of adjacent property.
- (39) “Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.
- (40) “pH” means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

- (41) “Pollutant” means any of various chemicals, substances and refuse materials, such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat and industrial, municipal and agricultural wastes, which impair the purity of the water and soil.
- (42) “Pollution” means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.
- (43) “POTW treatment plant” means that portion of the City’s POTW designed to provide treatment to wastewater.
- (44) “Pretreatment” and “treatment” mean the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutants or pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).
- (45) “Pretreatment requirements” means any substantive or procedural requirement for treating a waste prior to inclusion in the POTW.
- (46) “Process waste” means any water, which, during manufacturing or processing, comes into direct contact with, or results from the production of use of any raw material, intermediate product, finished product, by-product or waste product. This definition specifically eludes noncontact cooling water, domestic wastewater, infiltration and inflow.
- (47) “Properly Shredded Garbage” means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (48) “Public Sewer” means a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.
- (49) “Publicly-owned treatment works (POTW)” means a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the City. The term “POTW” includes any sewers that convey wastewater to the POTW treatment plant. For the regulatory purposes of this chapter term “POTW” shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City’s POTW, including, without limitation, the Township System.
- (50) “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

- (51) “Seepage pit” (or “dry well”) means a cistern or underground enclosure constructed of concrete blocks, bricks, or similar material loosely laid with open joints so as to allow the tank overflow or effluent to be absorbed directly into the surrounding soil.
- (52) “Septic tank” means a water-tight receptacle receiving sewage and having an inlet and outlet designed to permit the separation of solids in suspension from such wastes and to permit retained solids to undergo decomposition.
- (53) “Severe property damage” means substantial physical damage to property, damage to the user’s pretreatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources, which can reasonably be expected to occur in absence of a bypass. The term “severe property damage” does not mean economic loss caused by delays in production.
- (54) “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
- (55) “Sewage disposal facilities” means privy, cesspool, seepage pit, septic tank, absorption field, or other devices used in the disposal of sewage.
- (56) “Sewage treatment plant” means the City wastewater treatment plant and related equipment and facilities, which are included in the POTW.
- (57) “Sewer” means a pipe or conduit for carrying sewage.
- (58) “Sewer connection area” means those lands in the Township which have been designated as areas in the Township which shall be served by the Township public sewer system and for which the City has agreed to provide public sewer treatment services.
- (59) “Shall” is mandatory; “may” is permissive.
- (60) “Significant industrial user” means any industrial user of the Township’s wastewater collection system who:
  - (A) Is subject to categorical pretreatment standards under 40 CFR Part 403 and 40 CFR Part 405 through 40 CFR Part 471, along with amendments to the existing or hereafter promulgated standards;
  - (B) Has an average discharge flow of 10,000 gallons or more per average work day of process water to the POTW, excluding sanitary, non-contact cooling water and boiler blow-down wastewater;
  - (C) Has a flow greater than 5 percent of the average dry weather hydraulic or organic capacity in the POTW;



- (D) Has in his or her wastes toxic pollutants as defined pursuant to Section 307 of the Act or other applicable federal and state laws and regulations; or
  - (E) Is found by the Township, the City, the MDEQ, or the EPA to have significant impact, either singly or in combination with other contributing industries, on the POTW, the quality of sludge, the POTW's effluent quality or air emissions generated by the POTW.
- (61) "Significant noncompliance" means one or more of the following:
- (A) Chronic violations of a wastewater discharge limit, defined herein as when 66 percent or more of all the measurements for the pollutant parameter taken during a six-month period exceed, by any magnitude, the corresponding daily maximum limit or the corresponding average limit;
  - (B) Technical review criteria (TRC) violations of a wastewater discharge limit, defined here as when 33 percent or more of all the measurements for the pollutant parameter taken during a six-month period equal or exceed the product of the corresponding daily maximum limit multiplied by the applicable TRC factor, or the product of the corresponding average limit multiplied by the applicable TRC factor. (TRC factor = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
  - (C) Any other violation of a daily maximum limit or an average limit that the Township determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
  - (D) Any discharge of a pollutant that has caused imminent endangerment to human health, public welfare or the environment, or has resulted in the POTW exercising its emergency authority to halt or prevent such a discharge;
  - (E) Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a Township-issued discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
  - (F) Failure to provide, within 30 days after the due date, required reports, such as baseline monitoring reports, 90-day compliance reports and/or reports on compliance with compliance schedules;
  - (G) Failure to accurately report noncompliance; and
  - (H) Any other violation or group of violations which the Township determines as adversely affecting operation or implementation of the Township's pretreatment program.

- (62) “Slug” or “Slug load” means any substance released in a discharge at a rate and/or concentration which causes interference to the POTW.
- (63) “Standard industrial classification (SIC)” means a classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (64) “State” means the State of Michigan.
- (65) “Storm sewer” or “storm drain” means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
- (66) “Storm Water” means any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (67) “Sub-surface disposal field” means a facility for the distribution of septic tank overflow or effluent below the ground surface through a line, or a series of branch lines, of drain tile laid with open joints to allow the overflow or effluent to be absorbed by the surrounding soil throughout the entire field.
- (68) “Surcharge” means an additional charge paid, as part of the service charge, by any customer discharging wastewater having strength in excess of limits set forth by the City or Township to cover the cost of treatment of such excess strength wastewater.
- (69) “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- (70) “System” means the complete water supply and sewage disposal system of the City and the sewage collection system of the Township, including all plants, works, instrumentalities and properties used or useful in connection with transportation and treatment of sewage, together with improvements and extensions thereto, all facilities used or useful in the supply and distribution of water and all additions, extensions and improvements hereafter acquired.
- (71) “Township” means the Charter Township of Filer.
- (72) “Township Supervisor” means the duly serving supervisor of the Township and his or her designee.
- (73) “Township system” means the Township’s wastewater collection system to the point of its discharge into the City System.
- (74) “Township user” means a user located outside the City in the Township.
- (75) “Toxic pollutant” means any pollutant or combination of pollutants which is or can potentially be harmful to the public health or the environment, including those listed

as toxic in regulations promulgated by the Administrator of the EPA under the provisions of Section 307(a) of the Clean Water Act or other Acts.

- (76) “Uncontaminated industrial waste” means wastewater which has not contacted any substance used in or incidental to an industrial processing operation and to which no chemical or other substance has been added.
- (77) “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with national categorical pretreatment standards because of factors beyond the reasonable control of the user. The term “upset” does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.
- (78) “User” means any person who contributes causes or permits the contribution of wastewater into the POTW.
- (79) “Wastewater” means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground water, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (80) “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.
- (81) “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, either surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

### 28.03 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
L	liter
Mg	milligrams
Mg/l	milligrams per liter
NPDES	National pollutant discharge elimination system
POTW	Publicly owned treatment works
SIC	Standard industrial classification
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, <i>et seq.</i>
TSS	Total suspended solids

O & M	Operation and maintenance
CWA	Clean Water Act

#### **28.04 Waste Deposits.**

- (A) No person shall place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the Township, or in any area under the jurisdiction of the Township, any human or animal excrement, garbage or other objectionable waste.
- (B) No person shall discharge to any natural outlet within the Township, or in any area under the jurisdiction of the Township, any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter and statutes and regulations of the state.
- (C) Except as hereinafter provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- (D) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Sewer Connection Area in the Township upon which is located a structure in which water from any source is used or available shall, at his own expense, promptly cause such property to be connected to an available public sanitary sewer system, now located or as may in the future be 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 300 feet at the nearest point from a structure in which sanitary sewage originates as required by this chapter. The connection shall be completed no later than 90 days after the date of publication of a notice by the Township of availability of the public sewer system in a newspaper of general circulation or modification of a structure as to become a structure in which sewer system originates. The Township may adopt regulations to require completion of the connection within a shorter period of time for reasons of public health. The owner or occupant shall install suitable toilet facilities within the structures.

#### **28.05 Water Pollution.**

No person shall commit any nuisance or deposit any substance or matter or do any other act at, about, or near wells, or any natural outlet within the Township, or in any area under the jurisdiction of the Township sources of water supply of the Township that may tend to make such water impure or unwholesome.

#### **28.06 Private Sewer Systems.**

- (A) Where a public sanitary or combined sewer is not available under the provisions of Section 28.04 the building sewer shall be connected to a private sewage disposal

system constructed in compliance with all regulations of the State of Michigan, Community Health Agency, and the Township.

- (B) At such time as a public sewer becomes available to a commercial property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

#### **28.07 Discontinuance of Private Sewer System.**

At such time as a public sewer becomes available to a commercial property served by a private sewage disposal system, and the public sewer is 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 300 feet at the nearest point from a structure in which sanitary sewage originates a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

Upon application of the owner of such property, the Township Board may grant a delay of not more than 90 days before making connection to a public sewer. Such delay shall be granted only if private facilities are satisfactory and create no nuisance or health hazard. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Township.

No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Township or the Michigan Department of Health with respect to private sewage disposal.

#### **28.08 Permit Required.**

- (A) No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Township Supervisor.

All connections to the Township System shall be made only after written authorization and permits issued by the Township are obtained, and upon completion of such forms and the paying of such fees as shall be established from time to time by the Township Board.

- (B) All applicants for sewer connection permits shall, when required, submit plans and specifications for all plumbing construction within such building or premises, and such plans and specifications shall meet the requirements of the Michigan Building Code and all orders, rules and regulations of the Michigan Department of Health. When such plans and specifications have been approved by the Township Supervisor a sewer or plumbing permit shall be issued, subject to final inspection and approval when construction is completed.

- (C) (1) New Users. All new Users regardless of class connecting to the Township System shall be assessed the Connection Fee provided in subsection (3) and either the Construction Fee provided in subsection (4) or the Inspection Fee provided in subsection (5) below.
- (2) Existing Users. All existing Users that convert or expand an existing structure in which sanitary sewage originates in such a way as to require a larger connection or additional connections to the Township System shall be assessed the Connection Fee as provided in subsection (3) below, plus an Inspection Fee as provided in subsection (5) below.
- (3) Connection Fee. The Connection Fee shall be the sum of \$1000 plus \$2,783.96 multiplied by the number of Residential Equivalent Units (REU) assigned to the User's property, or, in the case of properties located in the DDA Sewer Special Assessment District, the number of additional REUs assigned to the User's property as the result of the conversion or expansion of the existing structure [ $\$1000 + (\$2,783.96 \times \# \text{ of REUs}) = \text{Connection Fee}$ ]. REUs shall be based on historic levels of water consumption if available, otherwise on anticipated water consumption, and shall be defined as units of water use, or fraction thereof, per month, as reflected in the following Table of Residential Equivalent Units. A single family residence shall be considered a single REU. A non-residential User shall estimate the volume of water expected to be used (in the case of new construction) by the User, and shall provide that estimate to the Township at the time that service is requested. For existing water Users of the Township, REUs will be established based on the last five years' water usage. The Township shall then assign the appropriate REUs, determine the Connection Fee and notify the User in writing of the Connection Fee. The Connection Fee shall be paid in full before the User discharges sewage to the Township System. The Township reserves the right to review water consumption annually for a five year period after the date of connection, and adjust the number or REUs assigned to a new User based on actual water consumption at any time during this period. If such adjustment results in an increase in the number of REUs assigned to the User's property, the increase shall be added to the next sewer and water bill sent to the User and be collected in the same manner as other sewer and water charges. A User who is aggrieved by the number of REUs assigned by the Township may appeal the determination to the Township Board whose decision is final.
- (4) Construction Fee. The Construction Fee shall be established by the Township on a project by project basis and shall apply to initial and future Users that are required or request to be connected to the Township System under conditions that require an expansion, modification or improvement of the Township System. The Construction Fee shall consist of the Township's total cost of connecting the new User to an existing or new sewer main, including but not limited to new sewer mains and laterals, engineering, design, construction, installation, materials, inspection fees (including any

inspection fees imposed by the City), contingencies, legal, permit, financing, administrative and miscellaneous costs and charges. The Township shall calculate the Construction Fee when the foregoing costs are finally determined and shall invoice the User. The Township may require a deposit of 50% of the anticipated Construction Fee in advance. The Construction Fee shall be paid in full before the User discharges sewage to the Township System.

- (5) Inspection Fee. The Inspection Fee shall be established by the Township on a project by project basis and shall apply to initial and future Users that are required or request to be connected to the Township System, or that require a larger connection to the Township System under conditions that do not require an expansion, modification or improvement of the Township System. The Inspection Fee shall consist of the Township's total cost of planning, designing, evaluating, reviewing, inspecting and approving the connection of the User to an existing sewer main, including but not limited to engineering and inspection fees (including any inspection fees imposed by the City), contingencies, legal, permit, administrative and miscellaneous charges incurred by the Township. The Township shall calculate the Inspection Fee when the foregoing costs are finally determined and shall invoice the User. The Township may require a deposit of 50% of the anticipated Inspection Fee in advance. The Inspection Fee shall be paid in full before the User discharges sewage to the Township System.
- (6) Fee Waiver During Construction Phase. Connection Fees, Construction Fees and Inspection Fees shall be waived on all connections made to the Township System during the construction phase of the Township System.

**TABLE OF RESIDENTIAL EQUIVALENT UNITS**

<b>OCCUPATION / USE</b>		<b>REUs</b>	<b>UNIT FACTOR</b>
Single Family Residence		1	Per residence
Apartment – One Bedroom		0.75	Per unit
Auto Dealers		0.5	Per 1,000 sf
Auto Repair / Collision		0.7	Per 1,000 sf
Athletic / Health Club		0.5 Plus 0.5 Plus 0.5	Per 1,000 sf Per shower above 2 Per hot tub whirlpool
Auto Wash – Coin		2	Per stall
Auto Wash – Mechanical		15	Per stall
Bank		0.4	Per 1,000 sf
Banquet Hall		---	Per 1,000 sf
Bakery		0.75	Per 1,000 sf
Barber Shop		1 Plus 0.25	Per shop Per chair
Beauty Shop		1 Plus 0.5	Per shop Per chair

**TABLE OF RESIDENTIAL EQUIVALENT UNITS**

<b>OCCUPATION / USE</b>		<b>REUs</b>	<b>UNIT FACTOR</b>
Bars / Tavern		2.0	Per 1,000 sf
Bed & Breakfast		0.25	Per guest room
Boarding School		0.35	Per bed
Bowling Alley		0.5	Per lane
Church without kitchen		0.25	Per 1,000 sf
Church with kitchen		0.5	Per 1,000 sf
Cleaners		1.0	Per 1,000 sf
Clinics – Medical / Dental		0.9	Per 1,000 sf
Convalescent Home		0.4	Per bedroom
Convents		0.5	Per room
Convenience / Party Store		0.2	Per 1,000 sf
Campground		0.35	Per site
Camper / RV Dump Station		5	Per station
Day Care – Residential		2	Per residence
Day Care – Commercial		1	Per classroom
Drug Store		0.4	Per 1,000 sf
Factory			Based on Use
Fast Food Restaurant		4.0	Per 1,000 sf
Funeral Home		1.0 plus Living space	Per 1,000 sf
Gas Station		0.5	Per pump
Golf Course Club House		1.5 plus 0.25	Per 1,000 sf Per 1,000 sf of bar
Grocery Store		0.3	Per 1,000 sf
Hospitals – Acute Care		1.0	Per bed
Hospitals – Long Term		0.2	Per bed
Hotel / Motel / Cabins		0.5	Per room
Laundromat		0.5	Per washer
Jail		0.5	Per cell
Multi Family Dwelling		1.0	Per unit
Mobile Home		1.0	Per unit
Office – General		0.5	Per 1,000 sf
Public Buildings		0.4	Per 1,000 sf
Residential Pools		1.0	Per pool
Commercial Pools		4.0	Per pool
Restaurant – Sit Down		5.0	Per 1,000 sf
Schools		1.0	Per classroom
Store – Retail		0.3	Per 1,000 sf
Theater		1.0	Per 1,000 sf
Veterinary		1.0	Per 1,000 sf
Warehouse / Retail		0.1	Per 1,000 sf



- (7) Lien. All unpaid Connection Fees, Construction Fees and Inspection Fees shall be secured by a lien against the property served by the connection to the Township System in the manner provided by law.

## **28.09 Inspection.**

The applicant for a building sewer permit shall notify the Township Supervisor when the building sewer is ready for inspection. The Township Supervisor shall then inspect the building and plumbing construction therein, and if such construction meets the previous requirement as approved in the construction permit, a sewer connection approval shall be issued, subject to the applicable provisions of other sections of this chapter. The connection shall be made under the supervision of the Township Supervisor.

## **28.10 Installation Costs; Repairs Cost.**

- (A) All costs and expenses incident to the installation and connection of a building sewer shall be borne by the owner of such property. 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.
- (B) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Township.
- (C) The cost of all repairs, maintenance and replacements of existing building sewers and their connections to public sewers shall be borne by the property owner. Such owner shall make application to the Township through its designated representative for a permit to perform work.

## **28.11 Separate Building Sewer.**

A separate and independent building sewer line shall be provided for each building, except where one building stands at the rear of another on an interior lot and no private sewer line is available nor can one be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer line from the front building may be extended to the rear building and the whole considered as one building sewer.

## **28.12 Old Sewers.**

Old building sewer lines may be used in connection with new buildings provided that upon examination and test by the Township Supervisor, the old sewer line is found to meet all requirements of this chapter.

## **28.13 Management of System.**

The Township may employ or contract with such persons in such capacities as it deems advisable to carry on the efficient management and operation of the system. The Township Board

may make such rules, orders, and regulations as it deems advisable and necessary to assure the efficient management and operation of the system.

#### **28.14 Discharge Prohibitions.**

- (A) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage water, cooling water or unpolluted industrial process waters to any sanitary sewer.
- (B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the City and Township. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the City and Township, to a storm sewer, combined sewer or natural outlet.
- (C) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW, whether or not the user is subject to the national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:
  - (1) Any liquids, solids or gases, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit, which, by reason of their nature and quantity, are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
  - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, the following: grease, petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from the refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
  - (3) Any wastewater having a pH less than 5.5 or greater than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the POTW.

- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW or exceed a limitation set forth in a categorical pretreatment standard.
  - (5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair, including pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
  - (6) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
  - (7) Any substance which will cause the POTW to violate the City's NPDES permit or the receiving water quality standards.
  - (8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
  - (9) Any wastewater having a temperature which will inhibit biological activity in the POTW, resulting in interference, but in no case wastewater with a temperature which exceeds 66 degrees centigrade (150 degrees Fahrenheit).
  - (10) Any pollutants, including suspended solids and/or oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause interference to the POTW.
  - (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Township Supervisor and City Manager in compliance with applicable state or federal regulations.
  - (12) Any wastewater which causes a hazard to human life or creates a public nuisance.
  - (13) Any unpolluted water, including, but not limited to, non-contact cooling water.
  - (14) Any trucked or hauled wastewater, except as specifically allowed by the City.
- (D) No user shall discharge wastewater containing in excess of the local limits established below.

- (1) **Non-permitted Users.** Unless specially authorized via approval of the Township Supervisor and City Manager and issue of a wastewater discharge permit, no wastewater containing pollutants in excess of the following background concentrations shall be discharged:

Concentration	Pollutant	Sample Basis
*	arsenic	24-hour composite
0.001 mg/l	cadmium	24-hour composite
*	chromium, total	24-hour composite
0.065 mg/l	copper	24-hour composite
0.007 mg/l	lead	24-hour composite
*	mercury	24-hour composite
0.002 mg/l	nickel	24-hour composite
0.001 mg/l	silver	24-hour composite
0.082 mg/l	zinc	24-hour composite
*	cyanide, total	average of grab(s) over 24 hour period
0.1 mg/l	phenols, total	average of grab(s) over 24 hour period
*	xylenes, total	average of grab(s) over 24 hour period
*	tetrachloroethylene	average of grab(s) over 24 hour period

\* Any discharge of indicated pollutant at or above the level of detection shall be a specific violation of this chapter. The sampling procedures, preservation/handling, and analytical protocol for compliance monitoring shall be in accordance with the following EPA methods; the detection levels shall not exceed the indicated values, unless higher levels are appropriate because of sample matrix interference:

Pollutant	Test Method	Level of Detection
arsenic	EPA 206.2	0.001 mg/l
chromium	EPA 218.2	0.001 mg/l
mercury	EPA 245.1	0.0005 mg/l
cyanides, total	EPA 335.2	0.005 mg/l
xylenes, total	EPA 602	0.001 mg/l
tetrachloroethylene	EPA 601	0.001 mg/l

- (2) **Permitted Users.** Upon approval of the Superintendent and issue of a wastewater discharge permit, wastewater not in excess of the following local limits may be discharged:

Concentration	Pollutant	Sample Basis
0.94 mg/l	arsenic	24-hour composite
0.026 mg/l	cadmium	24-hour composite
4.3 mg/l	chromium, total	24-hour composite
0.73 mg/l	copper	24-hour composite
0.75 mg/l	lead	24-hour composite
*	mercury	24-hour composite
1.2 mg/l	nickel	24-hour composite

Concentration	Pollutant	Sample Basis
0.032 mg/l	silver	24-hour composite
2.0 mg/l	zinc	24-hour composite
0.05 mg/l	cyanide, total	average of grab(s) over 24 hour period
0.53 mg/l	phenols, total	average of grab(s) over 24 hour period
0.75 mg/l	xylenes, total	average of grab(s) over 24 hour period
0.88 mg/l	tetrachloroethylene	average of grab(s) over 24 hour period

\* Any discharge of indicated pollutant at or above the level of detection shall be a specific violation of this chapter. The sampling procedures, preservation/handling, and analytical protocol for compliance monitoring shall be in accordance with the following EPA methods; the detection levels shall not exceed the indicated values, unless higher levels are appropriate because of sample matrix interference:

Pollutant	Test Method	Level of Detection
mercury	EPA 245.1	0.0005 mg/l

## **28.15 Incorporation of National Categorical Pretreatment Standards.**

Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the pretreatment standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter and shall be considered part of this chapter. The Township Supervisor shall notify all affected users of the applicable reporting requirements.

Existing users subject to new national categorical pretreatment standards shall achieve compliance within three years of the date the standard is promulgated, unless a shorter compliance schedule is specified in the standard. New sources subject to national categorical pretreatment standards shall install, have in operating condition and have started-up all pretreatment equipment required to achieve compliance before beginning to discharge, and shall meet all applicable pretreatment standards within the shortest feasible time, but not to exceed ninety days after beginning to discharge.

## **28.16 Pretreatment Facilities.**

Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by federal pretreatment regulations and as required by the Township. Any facilities required to pre-treat wastewater to a level acceptable to the Township shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Township for review, and shall be approved by the Township before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Township under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or the method of operation shall be reported to and be acceptable to the Township prior to the user's initiation of the changes.

### **28.17 State Discharge Limit.**

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those provided in this chapter.

### **28.18 Local Discharge Limitations.**

The Township reserves the right to establish by chapter more stringent limitations or requirements on discharges to the wastewater disposal system if such limitations or requirements are deemed necessary to comply with the objectives of this chapter.

### **28.19 Monitoring Facilities.**

The Township may require monitoring facilities to be provided and operated at the user's own expense to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. Normally, the monitoring facility should be situated on the user's premises, but the Township may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the Township and all applicable local construction standards and specifications. Construction shall be completed within ninety days following written notification by the Township.

### **28.20 Inspection and Sampling.**

The Township shall inspect the facilities of any user to ascertain whether the purposes of this chapter are being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Township or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, records copying or the performance of any of the Township's or its representative's duties. The Township, the MDEQ and the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into such user's premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the Township, the MDEQ and the EPA will be permitted to enter the premises of such user without delay, for the purposes of performing their specific responsibilities.

### **28.21 Interceptors.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the Township Supervisor, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that such

interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Township and shall be located as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

#### **28.22 Sand Interceptors.**

Sand interceptors shall be installed in garages, filling stations and other establishments which have washing facilities producing sandy waste waters.

#### **28.23 Interceptor Maintenance.**

Where installed, all grease, oil and sand interceptors, and preliminary treatment facilities for any waters or wastes shall be maintained by the owner, at the Owner's expense, in continuously efficient operation at all times.

#### **28.24 Review and Approval of Certain Discharges.**

- (A) The admission into the public sewers of any waters or wastes
- (1) containing five-day biochemical oxygen demand greater than 300 parts per million by weight, or
  - (2) containing suspended solids greater than 350 parts per million by weight, or
  - (3) containing chemical oxygen demand greater than 600 parts per million by weight, or
  - (4) containing total Kjeldahl nitrogen greater than 40 parts as N per million by weight, or
  - (5) containing total phosphorus greater than 15 parts per P per million by weight, or
  - (6) containing oil and grease greater than 100 parts per million by weight, or
  - (7) having an average daily flow which imposes an unreasonable burden upon the public sewers, pumping stations, or the POTW treatment plant,
  - (8) shall be prohibited unless reviewed and approved by the Township and City and covered by a wastewater discharge permit.

- (B) Such excess discharges may be assessed per-pound and/or per-gallon surcharge fees, as appropriate, in accordance with this chapter. The sample basis for per-pound surcharge fees shall be 24-hour composites or, when appropriate in the opinion of the Township and City, the average of grab(s) collected of a 24-hour period. In no case, however, shall a User discharge wastewater containing in excess of:

Concentration	Pollutant	Sample Basis
980 mg/l	5-Day Biochemical Oxygen Demand	24-hour composite, or average of grab(s) over 24 hour period
1,200 mg/l	Total Suspended Solids	24-hour composite, or average of grab(s) over 24 hour period
2,280 mg/l	Chemical Oxygen Demand	24-hour composite, or average grab(s) over 24 hour period
290 mg/l	Total Kjeldahl	24-hour composite, or average grab(s) over 24 hour period
45 mg/l	Total Phosphorus	24-hour composite, or average grab(s) over 24 hour period
550 mg/l	Oil & Grease	24-hour composite, or average grab(s) over 24 hour period

## 28.25 Dilution of Discharges.

Except where expressly authorized to do so by an applicable national categorical pretreatment standard, no user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city, township or state.

## 28.26 Accidental Discharges.

- (A) **Protective Facilities and Procedures; Emergency Notification.** Where required, a user shall provide protection from accidental discharges of prohibited materials or other substances regulated by this chapter. The Township will evaluate, at least once every two years, whether a user without such protection will be subjected to these requirements. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or users own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Township for review and shall be approved by the Township before construction of the facility. All required users shall complete such a plan within six months of the adoption of this chapter. If required by the Township, a user who commences contribution to the POTW after the effective date of this chapter shall not be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Township. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to



meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notifies the POTW of the incident. The notification shall include the location of the discharge, the type of waste, the concentration and volume of such waste and corrective actions.

- (B) **Written Notice.** Within five days following an accidental discharge, the user shall submit to the Township Supervisor 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 persons or property, nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this chapter or other applicable law.
- (C) **Notice to Employees.** A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

## **28.27 Special Agreements for Acceptance of Unusual Industrial Waste.**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the Township and any industrial concern, with the consent of the City, whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern, provided that such waste will not damage the sanitary or storm sewers, the sewage treatment plant or the receiving waters and provided that the federal categorical standards will not be violated.

## **28.28 Upsets.**

- (A) An upset shall constitute an affirmative defense by users in unintentional and temporary noncompliance with applicable national categorical pretreatment standards or pretreatment requirements, provided that it can be proved that:
  - (1) An upset occurred and the user can identify the causes of the upset;
  - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
  - (3) The user submitted the following information to the Township within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
    - (a) A description of the discharge and the cause of noncompliance;

- (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - (c) Steps being taken and/or planned to reduce eliminate and prevent recurrence of the noncompliance.
- (B) In any enforcement proceedings, the user seeking to establish the occurrence of an upset shall have the burden of proof. Users shall not have an affirmative defense for the discharge of pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute health and safety problems to workers.

## **28.29 Bypasses.**

A bypass producing a discharge which violates applicable national categorical pretreatment standards or pretreatment requirements is prohibited, and the Township may take enforcement action against a user for such bypass, unless the bypass was unavoidable to prevent loss of life, personal injury or severe property damage; there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime (except where adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to operate during normal periods of equipment downtime or preventive maintenance); and the user submitted required notices.

If the user knows in advance of the need for a bypass, a prior notice shall be submitted to the Township at least ten days before the date of the bypass. The Township, with the consent of the City, may approve or disapprove this anticipated bypass, after considering its adverse effects.

A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment requirements to the Township within 24 hours from the time the user becomes aware of the bypass. Unless waived by the Township, a written submission shall then be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.

## **28.30 Disclosure of Information from Industrial Users Prior to Connection and Contribution to Township System; Additional Powers of Township regarding Control of Discharges.**

No person shall discharge to the waters of the state within the Township, or in any area under the jurisdiction of said Township, and/or to the Township System, any wastewater, except as authorized by the Township Supervisor in accordance with the provisions of this chapter, except as provided by the City's NPDES permit.

All industrial users proposing to connect or contribute to the Township System shall submit information on the user, processes and wastewater to the Township before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW

shall submit this information within 180 days after the effective date of this chapter. The information submitted must be sufficient for the Township to determine the impact of the user's discharge on the POTW and the need for pretreatment. The user shall submit, in units and terms appropriate for evaluation, on a disclosure form prescribed by the Township, the following information:

- (A) The user's name, address and location (if different from the address).
- (B) The user's SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (C) Wastewater constituents and characteristics, including, but not limited to, those mentioned in this chapter, as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with the procedures and methods detailed in:
  - (1) *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association;
  - (2) *Manual of Methods for Chemical Analysis of Water and Wastes*, United States Environmental Protection Agency;
  - (3) *Annual Book of Standards*, Part 131, "Water, Atmospheric Analysis," 1975, American Society for Testing and Materials.
- (D) The time and duration of contribution.
- (E) Average daily wastewater flow rates, including daily, monthly and seasonal variations, if any.
- (F) For industries identified as significant industries or subject to the national categorical pretreatment standards, those required by the City, or Township, site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by size, location and elevation.
- (G) A description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.
- (H) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, township, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required by the industrial user to meet applicable pretreatment standards.
- (I) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the

compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards.
  - (2) No increment of progress shall exceed nine months.
  - (3) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Township Supervisor, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Township Supervisor.
- (J) Each product produced by type, amount, process or processes and rate of production.
- (K) The type and amount of raw materials processed, average and maximum per day.
- (L) The number and type of employees, hours of operation of the plant and the proposed or actual hours of operation of the pretreatment system.
- (M) Any other information as may be deemed by the Township or the City to be necessary to evaluate the impact of the discharge on the POTW. The disclosure form shall be signed by a principal executive officer of the user and a qualified engineer. The Township, in consultation with the City, will evaluate the complete disclosure form and data furnished and may require additional information. Within 90 days after full evaluation and acceptance of the data furnished, the Township shall notify the user of the acceptance thereof.
- (N) Within 180 days after the effective date of the promulgation or revision of a national categorical pretreatment standard, all affected existing users must submit to the Township the information required by paragraphs 8 and 9 hereof. At least 90 days prior to commencement of discharge, new sources and existing sources that become affected users subsequent to the promulgation of an applicable national categorical pretreatment standard shall submit to the Township information on the method of pretreatment they intend to use to meet the applicable pretreatment standard and estimates of flow and pollutants to be discharged. Industrial users shall report any changes in the Baseline Monitoring Report to the Township within 60 days.
- (O) Wastewater discharges shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the Township. The Township may:

- (1) Set unit charges or a schedule of user charges and fees for the wastewater to be discharged to the POTW;
- (2) Limit the average and maximum wastewater constituents and characteristics;
- (3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;
- (4) Require the installation and maintenance of inspection and sampling facilities;
- (5) Establish specifications for monitoring programs, which may include sampling locations, the frequency of sampling, the number, types and standards for tests and reporting schedules;
- (6) Establish compliance schedules;
- (7) Require the submission of technical reports or discharge reports;
- (8) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the Township, and affording Township access thereto and copying thereof;
- (9) Require notification of the Township in advance of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, including ground waters purged for remedial action programs and ground waters containing pollutants that infiltrate into sewers;
- (10) Require immediate notification of all discharges that could cause problems to the POTW, including any slug discharges;
- (11) Require other conditions as deemed appropriate by the Township to ensure compliance with this chapter;
- (12) Convert concentration-based national categorical pretreatment standards to equivalent mass-based or production-based pretreatment requirements;
- (13) Control through permit, order, or similar means, the contribution to the POTW by each user to ensure compliance with applicable National Categorical Pretreatment Standards, Pretreatment Requirements, or this chapter. The control mechanism may have the following minimum conditions, which are enforceable:
  - (a) A statement of the duration of the control mechanism, which shall not be more than five years;

- (b) A statement of non-transferability without prior notification to the publicly owned treatment works, and provisions that a copy of the existing control mechanism conditions shall be provided to the new
  - (c) Effluent limits based on applicable general pretreatment standards, local limits, and state and local law;
  - (d) Self-monitoring, sampling, reporting, notification, and record keeping requirements, including identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type based on the applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law;
  - (e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and applicable compliance schedules that do not extend the compliance date beyond applicable federal deadlines;
  - (f) A provision for the modification of the control mechanism by the Township in the event of revised City NPDES permit conditions, water quality standards, categorical pretreatment standards, or objectives of the Township's Industrial Pretreatment Program; and
  - (g) Provisions whereby the Township may issue, revoke, suspend, or formulate a control mechanism based upon the User's compliance with National Categorical Pretreatment Standards, Pretreatment Requirements, or this chapter, using discharge data provided via periodic compliance reports pursuant the "Reporting Requirement" of this chapter.
- (14) Adjust national categorical pretreatment standards to reflect the presence of pollutants in a user's intake water.

## **28.31 Reporting Requirements.**

**28.31.01 Generally.** Within 90 days following the date for final compliance with applicable pretreatment standards, or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Township Supervisor a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. For users subject to equivalent mass-based or concentration-based limits established by the Township, this report shall contain a reasonable measure of the long-term production rate. For users subject to categorical pretreatment standards expressed per unit of production, the report shall include the actual production during the sample period. 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 user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified to by a qualified representative.

#### **28.31.02      Periodic Compliance Reports.**

- (A) Any Significant Industrial User discharging into the Township System shall submit to the Township Supervisor during June and December, unless required more frequently in a control mechanism or by the Township Supervisor a report indicating the nature and concentration of pollutants in the effluent which are limited by National Categorical Pretreatment Standards, Pretreatment Requirements, or a control mechanism. The nature and concentration of pollutants reported shall be on the basis of representative sampling. Where required, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in Paragraph 28.30(O)(13)(g) of this section. At the discretion of the Township Supervisor and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Township Supervisor may agree to alter the months during which the above reports are to be submitted.
- (B) Any User who discharges into the Township System shall, upon direction from the Township Supervisor, submit data indicating the nature and concentration of pollutants in the effluent which are limited by this chapter. This data may be collected by the user or may be collected by the Township with the costs reimbursed by the user. The Township Supervisor may, based upon this data, require additional reporting or may designate the user as a Significant Industrial User and issue a control mechanism to apply to the discharge.
- (C) The Township Supervisor may also impose mass limitations on users who or which are using dilution to meet applicable pretreatment standards or requirements, or in other cases in which the imposition of mass limitations is appropriate. In such cases, the report required by paragraph 1 hereof shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.
- (D) If a user is subject to reporting requirements and is required to demonstrate continued compliance and monitors any pollutant more frequently than required by the Township, using approved procedures, the results of this additional monitoring shall also be included in the periodic compliance report.
- (E) If sampling performed by a user indicates a violation, the user shall notify the Township within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and submit the results of re-analysis to the Township within 30 days after becoming aware of the violation, except when the Township will be performing scheduled surveillance sampling/analysis within this 30-day period.

### **28.32 Discharge of Hazardous Waste.**

All users shall notify the POTW, the EPA Regional Waste Management Division Director and the State Hazardous Waste Authority in writing of any discharge into the POTW of a substance which would be a hazardous waste under 40 CFR 261 if disposed via other means. Notification details, as well as allowable exceptions, shall be in accordance with 40 CFR 403.12(p). In the case of any new regulations under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must provide notification of the discharge of such substance within 90 days of the effective date of such regulations. In the case of any notification of hazardous waste discharges, the user shall further certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

### **28.33 Opening and Closing Holes in Sewers.**

No person shall cut, break or make any opening into any of the sewers, trunk line or otherwise, in any street or alley in the Township, without first having permission from the Township Supervisor to do so. After having received such permission to open, make or break a hole in such sewer, the same shall not be closed except under the supervision and direction of the Township Supervisor.

### **28.34 Rates and Charges for Sewer Disposal.**

- (A) The sanitary sewer system of the Township shall, as far as possible, be operated and maintained on a public utility basis as authorized by law. Each premise within the Township connected to and using the facilities of the system shall pay the rates and charges for such use as fixed and established from time to time by the Township Board.
- (B) Where sewage disposal service is furnished to users not connected to the water system, or in cases where users make use of large quantities of water which may be discharged into storm sewers or approved outlets other than the sanitary sewer system, or for other miscellaneous users of water for which special consideration should be given, special rates may be fixed by the Township Board.
- (C) The character of sewage from any manufacturing or industrial plant, or from any other building or premises, is such that it imposes an unreasonable burden upon the Township's sewerage system, in the discretion of the Township Board, an additional charge shall be made over and above the regular rates herein established; or, in the alternative, such owner may be required to separately and satisfactorily treat such sewage before emptying it into any public sewer, or the right to empty such sewage may be denied, if necessary, for the protection of the system, public health or safety.



- (D) The Township shall provide for the recovery of costs from users of the Township System for the implementation of the Industrial Pretreatment Program. The applicable charges or fees shall be set forth for:
- (a) Reimbursement of costs of setting up and operating the Pretreatment Program;
  - (b) Monitoring, inspection and surveillance procedures;
  - (c) Reviewing accidental discharge procedures and construction;
  - (d) Filing appeals;
  - (e) Consistent removal by the Township of pollutants otherwise subject to federal pretreatment standards; and
  - (f) Other purposes as the Township may deem necessary to carry out the requirements contained in this chapter.
- (E) The charges and fees for the services provided by the system for the Industrial Pretreatment Program shall be levied upon any user who or which may have any sewer connections with the Township System and who or which discharges industrial waste to the POTW or any part thereof. Such charges shall be based upon the quantity and quality of industrial wastewater used thereon or therein.
- (F) The rate to be billed for the use of the system shall be determined as follows for all industrial users within the sanitary sewer service area of the Township:
- (a) A \_\_\_\_\_ per pound excess BOD surcharge shall be made for discharges in excess of \_\_\_\_\_ mg/l BOD.
  - (b) A \_\_\_\_\_ per pound excess suspended solids surcharge shall be made for discharges in excess of \_\_\_\_\_ mg/l suspended solids.
  - (c) Additional surcharges may be made by the Township to compensate the Township for the cost of treatment of pollutant loadings not normally treated at, or in excess of those treated by, the POTW.
  - (d) There shall be additional charges for laboratory testing of wastewater. The laboratory charge shall be for the cost thereof and will be determined for each industrial user.
  - (e) Rates will be established and amended by the Township Board promptly after a resolution by the City Council to establish or amend such rates.

### **28.35 Billing; Failure to Pay; Discontinuance of Service; Other Remedies.**

All metered customers will be billed quarterly or on such other regular basis as the Township Board of Trustees by resolution may determine from time to time. All bills must be paid within 15 days from the date of the bill. Ten percent of the amount due will be added to the amount of the bill if the payment is not received within the 15 days from the date of the bill. Water and/or sewer services shall be shut off if a bill is not paid within 45 days of the due date. Water and/or sewer shut off shall not be turned on again until all sums due and a delinquent reconnection charge is paid in full.

The charges for service of system pursuant to the provisions of Act 94 shall be made a lien on all premises served thereby, unless notice is given that a tenant is responsible for the payment of all such user charges, whenever such charges against the premises shall be delinquent for six months. Township officials in charge of the collection of water and sewer service charges shall certify the delinquency annually; by May 15th to the Township Treasurer and Assessor who shall enter the lien on the tax roll as a charge against the premises. The lien shall be enforced in the same manner as general Township taxes. In addition to other remedies provided, the Township shall have the right to shut off and discontinue the supply of water or sewer service or both to any premises for the nonpayment of water and/or sewer charges when due as provided in this section.

Water and/or sewer service will not be placed in an individual's name until all previous balances due from the individual are paid in full.

### **28.36 Affidavit Filed by Landlord, Tenant Responsibility to Pay.**

If a landlord files an affidavit, pursuant to MCL 123.161 *et seq.*, (Michigan Municipal Water Liens Act) that a tenant is responsible for water and/or sewer charges related to a rental premises, no lien shall attach to the premises served after the filing of the affidavit and security deposit and the water and/or sewer service shall be placed in the name of the tenant. The amount of a security deposit made pursuant to this section shall be established by Township Supervisor pursuant to resolution or chapter and shall be made at the time of filing of the affidavit.

Payment by a tenant of a security deposit for water or sewer service does not relieve the tenant of the obligation to pay for water and sewer charges as required by this chapter in the same manner and on the same terms as any other uses of Township water and sewer services.

If a tenant, or owner, shall fail to pay for water and sewer charges when due, all water and sewer services to the affected premises shall be terminated in accordance with this chapter and any deposit paid to the Township by a tenant or landlord shall be forfeited to the Township and be applied against any unpaid water and sewer charges and against any unpaid fees and any remaining security deposit shall be turned over to the party who made the deposit.

The affidavit process described in this section is not available for rental properties with multiple units unless there is a separately metered service for each unit and the unit's shutoff is accessible to the Township from the outside of the building.

**28.37 Suspension and Termination of Service; Violations; Enforcement Actions; Other Remedies.**

- (A) The Township may suspend wastewater treatment services to any user when such suspension is necessary, in the opinion of the Township, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, causes or may cause interference to the POTW, or causes or may cause the Township to violate any condition of the City's NPDES Permit.
- (B) The Township may revoke, suspend, or terminate the wastewater discharge permit of any user which
  - (1) fails to accurately report the wastewater constituents and characteristics of its discharge;
  - (2) fails to report significant changes in wastewater constituents or characteristics;
  - (3) refuses reasonable access to the user's premises by representatives of the Township for the purpose of inspection or monitoring; or
  - (4) violates the conditions of this chapter or any final judicial order entered with respect thereto.
- (C) Any person notified of a suspension of wastewater treatment service shall immediately stop or eliminate contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Township shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Township shall reinstate the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Township within 15 days of the date of occurrence.
  - (a) Whenever the Township finds that a user has violated any provision of this chapter, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the Township Supervisor will issue a Notice of Violation to formally document the noncompliance. This document will specify the nature of the violation, establish a date by which the violation shall be corrected, and notify the affected user that failure to correct the violation would constitute a further violation which may result in additional enforcement action. A Notice of Violation will be sent via first-class mail or personally served on an Authorized Representative of the user. Receipt, or non-receipt, of a Notice of Violation shall in no way relieve the affected user of any and all liability associated with the violation.

Issuance of a Notice of Violation shall not be a bar against, or a prerequisite for, any other enforcement actions by the Township against the affected user.

- (b) When the Township finds that a user has violated any provision of this chapter, Industrial Waste Permit or Order issued hereunder, or other Pretreatment Standard or Requirement, the Township Supervisor may issue an Administrative Order to Show Cause requiring the affected user to appear at a hearing to demonstrate why escalated enforcement action should not be pursued. This document will specify the nature of the violation, establish the time and place for the hearing, and notify the affected user that failure to comply would constitute a violation of this chapter which may result in additional enforcement action. An Order to Show Cause will be issued at least ten days prior to the hearing, and will be sent via certified mail/return receipt requested or personally served on an Authorized Representative of the user. Receipt, or non-receipt, of an Order to Show Cause shall in no way relieve the affected user of any and all liability associated with the violation. Issuance of an Order to Show Cause or conducting of the show cause hearing shall not be a bar against, or prerequisite for, any other enforcement actions by the Township against the affected user.
- (c) When the Township and an affected user agree to a violation and to the remedial solution, the Township Supervisor may issue an Order of Consent or similar document to formally establish such agreement. This document will specify the nature of the violation and required actions such as compliance schedules, stipulated fines, additional self-monitoring, and improvements to treatment facilities or management practices designed to control the user's discharge to the sewer. An Order of consent will be sent via certified mail/return receipt requested, or personally served on an Authorized Representative of the user, and will require signatures of representatives from both the Township and the affected user. An Order of consent or similar document shall have the same force and effect as other administrative orders issued by the Township pursuant to this chapter, shall be judicially enforceable, and shall not modify the requirements or extend the deadline for compliance established by a Pretreatment Standard or Requirements. Receipt, or non-receipt, of an Order of Consent or similar document shall in no way relieve the affected user of any and all liability associated with the violation. Issuance of a Consent Order or similar document shall not be a bar against, or a prerequisite for, any other enforcement actions by the Township against the affected user.
- (d) When the Township and affected user do not agree to the violation or to the remedial solution, the Township Supervisor may issue an Order to Achieve Compliance. This document will specify the nature of the violation and include required actions such as compliance schedules, stipulated fines, additional self-monitoring, and improvements to treatment facilities or

management practices designed to control the user's discharge to the sewer. An Order to Achieve Compliance will be issued unilaterally in that terms need not be agreed to by the affected user, and will be sent via certified mail/return receipt requested, or personally served on an Authorized Representative of the user. An Order to Achieve Compliance shall have the same force and effect as other administrative orders issued by the Township pursuant to this chapter, shall be judicially enforceable, and shall not modify the requirements or extend the deadline for compliance established by the Pretreatment Standard or Requirement. Receipt, or non-receipt, of an Order to Achieve Compliance shall in no way relieve the affected user of any and all liability associated with the violation. Issuance of an Order to Achieve compliance shall not be a bar against, or prerequisite for, any other enforcement actions by the Township against the affected user.

- (e) When the Township finds that a user has violated and continues to violate any provision of this chapter, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the Township Supervisor and Township Attorney may jointly issue a Cease and Desist Order requiring the affected user to eliminate the violation within 24 hours following issuance of the order, the Township may suspend sewer service without further notice until such time as the affected user is able to demonstrate to the Township that it can comply with the discharge requirements. A Cease and Desist Order will be personally served on an Authorized Representative of the user. Receipt, or non-receipt, of a Cease and Desist Order shall in no way relive the affected user of any and all liability associated with the violation. Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, any other enforcement actions by the Township against the user.
- (f) Whenever the Township finds that a user's discharge is in violation of any provision of this chapter or any permit issued hereunder and that the violation creates or threatens to create an emergency situation such as damage to the sanitary sewer system, pass-through or interference to the wastewater treatment plant, hazard to Manistee Lake, endangerment to the public health and safety, or violation of any condition of the City's NPDES permit, the Township Supervisor and Township Attorney will jointly issue an Emergency cease and desist order notifying the affected user to eliminate the violating discharge immediately or face service severance via a temporary plug in its sewer connection at any time and without further warning this document will specify the nature of the violation, an require that the violating discharge cease until such time as the affected user is able to demonstrate to the Township that it can comply with the discharge requirements. This document will also establish the time and place for a hearing where the affected user shall present a written statement regarding the causes of the violation and measures taken to prevent future occurrences, and further will notify the affected user of its liability for any costs incurred by the Township to conduct this enforcement action. An

Emergency Cease and Desist Order will be personally served to an Authorized Representative of the user, or may be delivered verbally via telephone to an Authorized Representative of the user and then served personally. Receipt, or non-receipt, of an Emergency Cease and Desist Order shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an Emergency Cease and Desist Order shall not be a bar against, or a prerequisite for, any other enforcement actions by the Township against the affected user.

- (g) Except for emergency situations, whenever the Township finds that a user's continuing violation warrants revocation of its permit or privilege to discharge into the Wastewater System, the Township Supervisor and Township Attorney will jointly issue a Notice of Termination to warn of the impending suspension of the sewer service up to and including severance via temporary plug in the affected user's sewer connection. This document will specify the date and time of scheduled service suspension in order to allow the affected user to either voluntarily cease the violating discharge or arrange appropriate actions such as production shutdown or alternative means of wastewater disposal. This document will also establish the time and place for a hearing where the affected user shall present a written statement regarding the causes of the violation and measures taken to prevent future occurrences, and further will notify the affected user of its liability for any costs incurred by the Township to conduct this enforcement action. A Notice of Termination will be personally served on an Authorized Representative of the user at least ten days before the scheduled service suspension. Receipt, or non-receipt, of a Notice of Termination shall in no way relieve the affected user of any and all liability associated with the violation. Issuance of a Notice of Termination shall not be a bar against, or a prerequisite for, any other enforcement actions by the Township against the affected user.
- (h) In addition to the sanctions, orders, liabilities, and other remedies prescribed in this section, a user shall be liable to the Township for any and all fines, penalties, and associated legal and other costs incurred or expended by the Township as the result of any violation of the City's NPDES permit that is attributable, in whole or in part, to the user's violation of this chapter or a permit issued to the user hereunder.
- (D) When the Township finds that a user has violated or continues to violate any provision of this chapter, an Industrial Waste Permit or Order issued hereunder, or other Pretreatment Standard or Requirement, and administrative fine may be assessed against the affected user in an amount up to \$500 per violation. Each day during which the violation occurred or continues to occur may be deemed a separate violation and, in the case of a violation of monthly or other long-term average discharge limits, the fine may be assessed for each day during the period of averaging. Receipt, or non-receipt, of an administrative fine shall in no way relieve the affected user of any and all liability associated with the violation. Issuance of

an administrative fine shall not be a bar against, or a prerequisite for, any other enforcement actions by the Township against the affected User.

- (E) Except for emergency situations, any user desiring to dispute a Notice of Violation or order of the Township, pursuant to this chapter, including but not limited to fines, may present a written request for reconsideration. Such a request shall be submitted to the Township Supervisor within ten days of first being notified of the corresponding order for all but a Notice of Termination, where such a request shall be submitted within five days of notification. If, in the opinion of the Township Supervisor, the request has merit, he will convene a hearing on the matter as soon as possible to collect testimony of appropriate persons, take evidence, and render a final determination. In the event the affected user's appeal is unsuccessful, any original fine will become immediately due and the Township may also add any additional costs incurred to administer this appeal. Further appeal of the Township Supervisor's final determination shall be to the Township Board. Submittal of an appeal in no way relieves the affected user of any and all liability associated with the violation. An appeal shall not stay the corresponding order, or limit any other reinforcement proceedings by the Township against the affected user.
- (F) When the Township finds that a user has violated or continues to violate any provision of this chapter, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the Township Attorney may petition the Circuit Court of Manistee County for appropriate legal and/or equitable relief.
  - (a) A user who has violated or continues to violate any provision of this chapter, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable to issuance of a preliminary injunction or permanent injunction, or both as may be appropriate. This action will be sought to restrain or compel activities on the part of the affected user. A petition of injunctive relief shall in no way relieve the affected user of any and all liability associated with the violation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, any other actions by the Township against the affected user.
  - (b) A user who has violated or continues to violate any provision of this chapter, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable for a civil penalty of up to \$500 per violation. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of the averaging. The affected user will also be liable for all costs incurred by the Township for associated enforcement action such as reasonable attorney's fees, court costs, additional sampling and monitoring expenses, as well as costs or any environmental damage and any fines imposed upon the Township or City for NPDES permit violations that result in whole or in part from the User's violation and expenses associated with remediation of sites thereby

contaminated. The Township Attorney may petition the court to impose, assess, and recover sums up to this limit of liability. In determining the appropriate amount of civil penalty to seek, the Township may take into account all relevant circumstances including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained by the affected user as a result of the violation, corrective actions implemented or proposed to be implemented by the affected user, and history of compliance or noncompliance by the affected user. A suit for civil penalties shall not be a bar against, or a prerequisite for, any other actions by the Township against the affected user.

- (c) A user who has willfully or negligently violated or continues to willfully or negligently violate any provision of this chapter, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable to criminal prosecution. If convicted, the affected user will be guilty of a misdemeanor and may be punished by a monetary penalty of up to \$500 per violation, imprisonment for up to 90 days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of averaging. Criminal prosecution shall not be a bar against, or a prerequisite for, any other actions by the Township against the affected user.
- (d) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, Industrial Waste Permit or order issued hereunder, or Pretreatment Standard or Requirement will be liable to criminal prosecution. If convicted, the affected user will be guilty of a misdemeanor and may be punished by a monetary penalty of up to \$500 per violation, imprisonment for up to 90 days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of averaging. Criminal prosecution shall not be a bar against, or a prerequisite for, other actions by the Township against the affected user.
- (e) A user who falsifies, tampers with, or knowingly renders inaccurate any data device or test method used to monitor a discharge pursuant to this chapter, Industrial Waste Permit or order issued hereunder, or Pretreatment Standard or Requirement will be liable to criminal prosecution. If convicted, the affected user will be guilty of a misdemeanor and may be punished by a monetary penalty of up to \$500 per violation, imprisonment for up to 90 days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits,



the penalty may be assessed for each day during the period of averaging. Criminal prosecution shall not be a bar against, or a prerequisite for, any other actions by the Township against the affected user.

### **28.38 Publication of Names of Industrial Users in Significant Noncompliance; Records of Compliance.**

The Township will annually publish in the major local newspaper a list of the users subject to Categorical Standards which were in significant noncompliance with any pretreatment requirements or standards at any time during the previous 12 months. The notification will also summarize any enforcement actions taken against such users during the same 12 months.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or the Michigan Department of Environmental Quality upon request.

### **28.39 Confidential Information.**

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

When requested by the person furnishing a report, the portion of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the City NPDES permit or the pretreatment programs, provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the Township as confidential shall not be transmitted to any government agency or to the general public by the Township until and unless a ten-day notification is given to the user.

### **28.40 Signing of Reports; Certification Statement.**

All reports required by this section shall be signed by the authorized representative of an industrial user and include the following certification statement:

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

If the authorized representative of an industrial user changes because a different individual has responsibility for the overall operation of the facility or for environmental matters of the company, a new authorization satisfying the requirements of Section 28.02(3)(C) must be submitted to the Township prior to or together with any reports to be signed by that representative.

#### **28.41 Tampering with or Destruction of Sewer System.**

No person shall meddle, tamper, interfere, deface or damage the sewer collection system of the Township or any part of the facilities of the system.

#### **28.42 Falsification.**

No person shall knowingly make any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this chapter.

#### **28.43 Retention of Records.**

All users subject to this chapter shall retain and preserve for no less than three years any records, books, documents, memoranda, reports and correspondence, and any and all summaries thereto, relating to monitoring, sampling and chemical analyses made by or in behalf of a user in connection with such user's discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the Township pursuant to this chapter shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

## **CHAPTER 29 OIL AND GAS FACILITIES**

### **29.01.01 Intent and Purpose.**

This chapter shall be known as the “Oil and Gas Facilities and Pipeline Hydrogen Sulfide Ordinance” (the “Ordinance”). The intent of the Charter Township of Filer (the “Township”) in enacting this Ordinance is to protect the health, safety and welfare of its residents and their property, and to protect its environment and the well-being of its neighborhoods and community. This Ordinance is adopted to protect these values by the regulation of oil and gas facilities and pipelines containing hydrogen sulfide within the limits of the Township.

### **29.02.01 Declarations.**

The Board of Supervisors for the Township state the following concerns, general findings and declarations regarding the enactment of this Ordinance:

- A. Hydrogen sulfide is a toxic and deadly gas which can pose a serious threat to, or which otherwise can endanger life, public health, safety and general welfare.
- B. Hydrogen sulfide is present in high concentrations throughout oil and gas formations underlying Filer Township.
- C. The risk of release of concentrations of hydrogen sulfide through activities related to oil and gas constitutes a nuisance and an endangerment to life, health and safety.
- D. There is currently no federal or state regulatory standard that protects citizens of the Township from being exposed to unacceptable levels of hydrogen sulfide that would result from a release from oil and gas exploration, development, production, or operation.
- E. At a hearing held on April 28, 1997, in case number 97-8384-CE, in which the Township was a party, the Manistee County Circuit Court made a number of factual and legal findings with respect to the dangers of hydrogen sulfide; the importance of protecting the public from risks associated with hydrogen sulfide; the lack of state regulation currently in place to sufficiently protect public health from oil and gas operations involving hydrogen sulfide; and the power of the Township to act legally to protect its citizens from the risks associated with hydrogen sulfide. Those finds are adopted by reference.
- F. The dangers of hydrogen sulfide, the risk of release, and the lack of regulation sufficient to protect the public have combined to create a need to protect immediately the public health, safety, general welfare, and property concerns in Filer Township.
- G. This emergency situation does not exist with respect to the extraction of mineral well brine as an end-product and/or for use in manufacturing another product for the following reasons:

First, because the extraction of mineral well brine is better regulated by state and federal authorities, under the Safe Drinking Water Act, 42 USC 300f, *et seq*, and its regulations, and the state Mineral Well Act, MCL 324.62501, *et seq*, than oil and gas activity involving hydrogen sulfide.

Second, because the extraction of mineral well brine poses a small risk to public health and safety than oil and gas activity involving hydrogen sulfide. Mineral well brine is extracted from shallower depths than oil and gas, resulting in lower concentrations and risks of hydrogen sulfide exposure, and less change of perforating the geological formations containing large amounts of pressurized hydrogen sulfide.

- H. The regulation of pipelines, processing facilities and other structures related to the development of oil and gas containing hazardous concentrations of hydrogen sulfide is required to protect the natural resources and the public trust therein and the public health, safety and general welfare of the people of the Township. Specifically, and not by way of limitation, such Township concerns are based upon the authority and duties imposed by the Michigan Constitution, 1963, article IV, sections 51 and 52; the Michigan Environmental Protection Act (now Part 17 of the Natural Resources and Environmental Protection Act), MCL 324.1701, *et seq*; and the Township police powers as provided by law.
- I. A hydrogen sulfide exposure of 10 parts per million has been established by the Federal Occupational Safety and Health Administration (“OSHA”) as the permissible exposure limit for workers. According to OSHA, this concentration exceeds the minimum concentration which causes unpleasant odor and irritation of the eyes, mucous membranes and upper respiratory system. OSHA also states that headaches and dizziness may occur at this concentration. The Michigan Public Service Commission sets a standard for hydrogen sulfide concentration is residential lines which is lower than 10 parts per million, at 4 parts per million.
- J. The use of a concentration of 10 parts per million as the hazardous exposure and as the concentration upon which the baseline radius of exposure and air dispersion models are generated shall not necessarily imply that the Township finds this standard to constitute an acceptable exposure limit for a diverse general public. There is a clear implication in the OSHA standard that for the 16 hour balance of the 24 hour day, the worker should not be exposed to a significant amount of additional hydrogen sulfide, at least beyond that which could be considered normal for ambient air. Therefore, the OSHA standard has been set forth as a reference value which can be used in the evaluation of the various structures regulated by this Ordinance. It is intended, for purposes of a reasonable regulatory approach, as a baseline number which will provide minimum assurance of an acceptable public risk to hydrogen sulfide exposure during facility or pipeline construction or operation, or in the event of an accident.
- K. The 1996 Ambient Air Quality Standards for hydrogen sulfide adopted by the State of Nebraska are among the best in the nation. Those standards, governing

concentrations for acute and chronic exposure situations, are designed to be appropriate for the general public. The standards are 10.0 parts per million for a one minute average exposure; 0.10 parts per million for a 30 minutes average exposure; and 0.005 parts per million for a 28 day rolling average exposure. The findings of the State of Nebraska in support of those standards were generated by a process which meticulously followed guidelines recommended for the development of such air quality standards in a report sponsored by Federal Environmental Protection Agency. These findings are adopted by reference.

### **29.03.01 Definitions.**

For the purposes of this chapter, certain terms and words are hereby defined as follows (words used in the present tense include the future; the singular includes the plural and the plural includes the singular);

- A. **Administrator** means the Supervisor of the Charter Township of Filer, or a person appointed Administrator by the Supervisor with the approval of the Township Board.
- B. **Administratively Complete** means an application for a permit that is submitted on a form and contains all of the information or documentation required by this chapter.
- C. **Applicant** means individuals, firms, corporations, or any political subdivision of the state, including any government authority created by statute, who seek a permit to conduct any of the activities regulated by this chapter.
- D. **Area of Exposure** means, in the case of a processing facility or other discrete structure, the area within a circle constructed with the point of escape as its center and the baseline radius of exposure as its radius. In the case of a pipeline or other linear or continuous structure, area of exposure means the area extending in both lateral directions from the structure out of the radius of exposure and continuing along the entire length of the structure, thereby forming a corridor of width equal to twice the baseline radius of exposure, and within which the pipeline is situated.
- E. **Certified to Meet** means that the structure is shown to meet the minimum standards for public health and safety by means of acceptable, quantitative models for the assessment of public health and safety risks arising from credible accidental releases.
- F. **Chronic Low-Level Exposure** means any release of hydrogen sulfide into a public area at concentrations greater than or equal to 0.005 parts per million but less than 0.1 parts per million where such release is continuous and lasts for more than seven days.
- G. **Credible** means a reasonably possible release or escape of hydrogen sulfide from the location, installation, construction, operation, maintenance, repair, moving, removal, shut down, or closure of any structure or structures, including but not

limited to: a complete line break due to excavation or construction, a puncture of pipeline, a leak or break arising from corrosion or stress of a pipeline, failure of gaskets, gauges, or fittings, any of which can be accompanied by failure of preventive safety measures, such as automatic shutoff valves, or blowout protection systems.

- H. **Credible Accident** means the worst case accidental release of hydrogen sulfide, in gas form, or in the form of bulk liquids, mists, fogs, in which hydrogen sulfide can be present in liquid solutions, from a pipeline or facility. The direction of the release can be arbitrary (vertical, horizontal) and the state of the liquids can range from bulk liquids, to sprays, mists or clouds, whichever appears to yield the most hazardous situation that threatens or endangers life or the public, health, safety, and welfare. "Worst case" implies conditions leading to the largest possible radius of exposure for a given release, which could include complete line breaks, control failures, long lasting undetected pinhole leaks and other reasonably foreseeable scenarios.
- I. **Dispersion Model** means a computer model for dispersion of gases and liquids containing hydrogen sulfide into the atmosphere, which can include fogs or mists in which the liquids contain hydrogen sulfide in solution. The dispersion model shall comport with the best available model or technique sanctioned by the United States Environmental Protection Agency, 40 CFR §68, for atmospheric dispersion of gas releases. At a minimum a dispersion model shall mean:
1. A model that represents the turbulent mixing of gases emerging from any credible accidental or intentional release of hydrogen sulfide gas, as defined in this chapter, from a structure subject to regulation under this chapter, and subject to wind variations, humidity variations, atmospheric temperature and pressure, and other scientifically recognized or reliable and significant influences as can be reasonably be expected to be present. Models should, when applicable, include dispersions of liquid fogs or mists, including the outgassing of dissolved hydrogen sulfide from the liquids, the dynamics of such clouds, and other factors which can yield more reliable and accurate information about the dispersion, provided such aspects of the model have been subject to experimental confirmation of the theory by the applicant, by the federal EPA or others having professional credentials in that area.
  2. A model that discloses and details a complete and thorough selection and use of the techniques relied upon by the applicant, and the input data employed for the computations. Any model which is not sanctioned by the federal EPA must be pre-approved by the Township.
  3. A model that demonstrates scientifically reliable containment of any hydrogen sulfide that may be released during any construction, production, processing, operation, maintenance, repair or other activity, with respect to any pipeline, production facility or other equipment regulated by this chapter. Generally, the utilization of pipeline or facility statistical models

to justify ignoring certain accidental dispersion situations will not be acceptable, and worst case scenarios for all such accidental releases should be considered, including complete line breaks, control failures, and other reasonably foreseeable scenarios, and in accord with sound engineering practices.

4. A model that exhibits a conservative and reliable method and technique so as to protect the health, safety and general welfare to the fullest extent that is reasonably possible from a technical standpoint.
- J. **Environment** means land, surface water, groundwater, air, fish, wildlife or biota within the state.
- K. **Environment Impact Report** means a written document that assesses and determines the likely adverse environmental or health, safety and welfare impacts from, and the feasible and prudent alternative locations, techniques, and methods to, a proposed pipeline, facility or equipment for which a permit is required under this chapter. The statement or report shall include the likely secondary and cumulative impacts from any related facilities, processes or activities.
- K-1. **Explosion Risk Assessment** means a mathematically-based analysis, conducted under the same or similar release scenarios used for the dispersion model, which assesses the flammability limit of such a release. An explosion risk assessment should recognize that essentially instantaneous gas concentrations, rather than time averages, will be important in determining flammability limits.
- K-2. **Flammability Limit** means the extent to which gas flammability would extend away from the pipeline or facility in the event of a credible accidental release.
- L. **Flowline** means a structure comprising pipes, fittings and valves for the purpose of transmitting gas and/or oil from a wellhead to the first processing equipment; it falls within the definition of pipeline as stated below in this section.
- M. **Gathering Line** means a structure comprising pipes, fitting and valves for the purpose of transporting gas from the first processing equipment of one or more wells to, or in the event of no first processing equipment then directly to, a sweetening or other oil and gas processing facility or related equipment; it falls within the definition of a pipeline as stated below in this section.
- N. **Hazardous Concentration** means any concentration of hydrogen sulfide in the ambient air greater than or equal to 10 parts per million.
- O. **Hydrogen Sulfide** means a substance containing the chemical compound commonly referred to as hydrogen sulfide (commonly abbreviated “H<sub>2</sub>S”), regardless of whether it takes the physical form of a gas, fog, mist or other mixture or form, or any combinations thereof, present at various concentrations, including components of natural gas mixtures and dissolved in hydrocarbon oils or in aqueous

solutions which may emerge from oil or gas wells or related facilities, pipelines or processing or production facilities.

- P. **Nomograph** means the chart used by the Township for determining the radius of exposure to 10 parts per million of hydrogen sulfide as provided in this chapter, a copy of which shall be attached to the permit application.
- Q. **Nuisance** means any release that violates any air pollution standards specified in the statutes, codes, or regulations that are now or hereafter established by the Michigan State Health Department, the Manistee County Health Department; the Michigan Department of Environmental Quality-Air Quality Division; Part 55, Natural Resources and Environmental Protection Act, MCL 324.5501, *et seq.* (“NREPA”); and any violation of the Michigan Environmental Protection Act (Part 17 of the NREPA), MCL 324.1701; *et seq.*, or any release that would be held a common-law nuisance by a court of competent jurisdiction or any other release that endangers the life, health, safety and general welfare, or the property of the Township.
- R. **Oil and/or Gas Well** means an exploratory or production well subject to or authorized under the authority of the Michigan Department of Environmental Quality - Supervisor of Wells as provided by law, or other federal or state regulatory agency as provided by law.
- S. **Permittee** means a person who has been granted a permit to conduct any one or more of the activities regulated by this chapter.
- T. **Person** means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.
- U. **Pipeline** means flowline or gathering line, together with ancillary equipment such as pigging stations and compressors which serve to transport any gas product.
- V. **Point of Escape** means any point on a structure from which a release of hydrogen sulfide is possible.
- W. **Process** means an action, operation, or series of actions or operations that emits or has the potential to emit or cause or a release hydrogen sulfide.
- X. **Process Equipment or Process Facility** means all equipment, devises, and auxiliary components, including pollution control equipment, flares, stacks, and other potential emission or release points, used or part of a process.
- Y. **Public Area** means any place of dwelling, business, commercial building, church, school, bus stop, hospital, office, part, public sidewalk or any other place where a person is likely to frequent other than an employee of the applicant.



- Z. **Radius of Exposure** means the distance from the point of escape to the outermost point at which a concentration of hydrogen sulfide equal to or greater than 10 parts per million can be expected.
- AA. **Rate of Release** means the maximum volume of gas containing hydrogen sulfide which could escape during a credible accident, in cubic feet per day. The rate of release shall encompass the worst-case release scenario referenced in the definition of “credible accident.”
- AB. **Release** means any spill, leak, escape, disposal, emission, pumping, pouring, emptying, discharge, escape, leaching, dumping or disposal of hydrogen sulfide into the environment, regardless of whether such event is intended or unintended, expected or unexpected, accidental or deliberate. “To release” means to effect or cause a release as defined above.
- AC. **Structure or process facility or process equipment** means any building, structure, machinery, and/or equipment used for or in connection with the production, processing or transmitting of natural gas, oil or allied products or substances, which includes but is not limited to any pipeline, storage wells, sweetening plants or similar treatment facilities, central processing facilities, compression facilities, carbon dioxide removal facilities, bulk storage plants, hydrogen sulfide removal facilities, dehydration facilities, compressor stations, pigging stations, metering facilities or any other facility distinguished from mere pipes, fittings and valves, oil and gas mud pits or brine disposal pits; except that the permitting and application requirements of this chapter shall not apply to an oil or gas well that has been lawfully permitted under Part 615 of the Natural Resources and Environmental Protection Act, MCL 324.101, *et seq.*, (“NREPA”). Section 4.01 and all other permitting requirements of this chapter shall not apply to injection wells permitted under the Safe Drinking Water Act, 42 USC 300f, *et seq.*, or its rules, and the state Mineral Well Act, MCL 324.62501, *et seq.*, for the disposal of salt water or spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts, unless (1) a federal or state permit has been revoked or terminated, or (2) hydrogen sulfide is present in the formation of quantities greater than 100 parts per million. Further, even though a permit is not required under this chapter for such activity, the owner or operator of the injection well must file a copy of federal and state permits, applications and supporting documentation with the Zoning Administrator of the Township. Section 4.02 shall apply to oil and gas wells, however, regardless of whether a well has been permitted under Part 615 of the NREPA. Processing or related oil and gas facility may also be referred to as any type of on-site or off-site “separating facilities” or “sweetening facilities” intended or designed to remove hydrogen sulfide.
- AD. **System** means the portion of any structure in which gas containing hydrogen sulfide is stored or used or through which gas containing hydrogen sulfide moves, circulates or is transported, or any gas or oil well that is connected to any such structure.

AE. **Township or Township Board** refers to Filer Charter Township or the Board of Supervisors of the Township, Manistee County, Michigan.

#### **29.04.01 Permits; Necessity.**

A person shall not install, construct, reconstruct, relocate, alter, modify, operate, or close and remove any pipeline, oil and gas sweetening or similar process facility, or process equipment that involves the release or potential credible accidental release of hydrogen sulfide within the Township without first filing an administratively complete application and obtaining a permit to install and operate the structure or equipment authorized and in compliance with the provisions and standards of Part 5 of this chapter.

#### **29.04.02 Prohibition on Release.**

It is hereby prohibited and declared to be unlawful to release hydrogen sulfide, or oil or natural gas containing a concentration of hydrogen sulfide greater than 0.1 parts per million, from any structure, including an oil or gas well, into any public area of the Township. Violation of this section shall be punishable by a fine not to exceed \$500 per day, which shall be levied on each and every day on which the release occurs and/or continues. Each day on which the release occurs or continues shall be a separate violation.

#### **29.05.01 Application Requirement.**

A person who is subject to this chapter must file an application for permit to install and operate any pipeline, oil and gas sweetening facility or similar process facility, or any process equipment. The application must be submitted in a form and with the information, data, determinations, calculations, analyses and documentation required by this section.

#### **29.05.02 Requirement of Administrative Completeness.**

No recommendation by the Administrator or decision by the Township Board on an application for a permit shall be made until it has been determined that the application is administratively complete as defined in Section 3.01.B of this chapter.

#### **29.05.03 Content of Application.**

No recommendation to approve or decision to approve or issue a permit shall be made unless the applicant demonstrates and the Administrator and Township Board determine that the administratively complete application, together with all other evidence compiled by the Township or made a part of the record before any hearing, meets all of the following:

- A. The applicant shall file a written application, together with a permit fee of \$2,000 or such other amount as determined by the Township Board by resolution, to cover the administration and review of a specific permit application. If a permit is withdrawn within 21 days, three-fourths of the fee shall be returned to applicant. If a permit is not granted, then one-fourth of the fee but not more than \$500 will be returned to the applicant. If, during the course of processing the application, it appears that additional expenditures shall be required, the same shall be reported

by the Administrator to the applicant and the Township Board. The Township may by resolution increase the permit fee to cover the expenses of analyzing and reviewing the application for permit, and applicant shall pay such amount to the Township before the permit process can be continued.

B. The application shall contain a minimum all of the following:

- 1) Names, address and phone number of applicant, engineer, attorney, scientist, contractor or other person engaged in or participating in the preparation of the application, including any information in support thereof, and names and qualifications of any person providing technical information and assistance in support of the application;
- 2) The legal description of the premises for which the permit is sought;
- 2.1) A description of the activity for which the permit is sought, including a description of the pipeline, facility and/or equipment that the applicant seeks to construct and operate;
- 3) Detailed description of any treatment or processing to be done on the permit premises or at other related locations within the Township;
- 4) A detailed statement of measures to be taken to control noise, vibration, dust, odors, erosion, emissions, discharges, or credible accidental release or other adverse environmental impacts;
- 5) A detailed description of any credible accidental or deliberate releases that may or are reasonably possible as a result of the construction, operation, maintenance, repair, monitoring or termination, closure, abandonment and removal of any facility, equipment or of the proposed activity;
- 6) A detailed description of all proposed monitoring and warning systems, equipment or devices, including but not limited to how they will operate, how they will be installed and maintained, and how the information from such equipment or devices will be made known to the public and Township.

C. The applicant also shall submit:

- 1) A copy of any permit from the Michigan Department of Environmental Quality, pursuant to Part 615 of the Natural Resources and Environmental Protection Act, MCL 324.61501, *et seq.*, and the rules promulgated under Part 615, for any oil and gas well, pipeline, process facility, process equipment, or other related activity required in conjunction with the overall well and processing or production system proposed by the applicant or person with whom applicant has entered into an agreement for all or part of such project, together with copies of any other permits, approvals, licenses, certifications or other approvals required by law or regulation for the

facilities, processes, equipment, structures or activities regulated by this chapter;

- 2) A site plan showing the exact location and topographical survey showing the exact elevation of any pipeline, process facility, process equipment or other activity for which a permit is sought;
- 3) The exact location and elevation of any oil or gas well that will connect to such pipeline, process or equipment;
- 4) A map showing the location of all occupied dwellings or structures, public roads, streets, schools, hospitals, parks or other places frequented by the public within two miles of the proposed site and its related system;
- 5) The location of any mud pit to be used for disposal or storage of liquids or solids containing hydrogen sulfide;
- 6) The proposed access, and at least one other access from a different direction to the proposed site or site system;
- 7) Proposed buffers and setbacks from any dwellings or structures not related to the proposed system or activity;
- 8) A map and description of the entire system that is part of or connected to, or will use or rely on the proposed structure process facility or equipment, or activity.

D. The applicant shall file written reports setting forth and addressing all of the following:

1. Determine all concentrations of hydrogen sulfide that will enter or pass through the system during its operating lifetime. Separate concentrations must be listed for any structure or activity for which a permit is required and sought under this chapter.
  - a) The determination of hydrogen sulfide concentrations shall be made from tests modeled and conducted in accordance with the American Society for Testing and Materials (ASTM) Standard D-2385-66 or the Gas Processors Association plan operation test manual, GPA publication 2265-68, or other methods pre-approved by the Administrator.
  - b) If testing is not available or insufficient data exists upon which to make a determination of hydrogen sulfide concentrations, in the case of an unexplored well, the applicant may estimate the concentration by demonstrating that a well of known hydrogen sulfide concentration which is in close proximity to the unexplored well has the same concentration of hydrogen sulfide as the unexplored well.

- c) If such a demonstration is not possible, and in all other cases where testing is not available or insufficient data exists upon which to make a determination of hydrogen sulfide concentrations, a concentration of 1,000 parts per million shall be presumed for purposes of generating the baseline radius of exposure required by Section 5.03.D.3, and, if desired by the applicant, for generating the dispersion model allowed by Section 5.04.A.
  - 2. Determine the rate of hydrogen sulfide in the event of a release that complies with the ASTM procedure, the GSA manual, or other suitable method pre-approved by the Administrator. If testing is not available or insufficient data exists upon which to make a determination of the rate of release of hydrogen sulfide, then the rate of release shall be presumed to be 500 million cubic feet per day.
  - 3. Determine the base line radius of exposure from a release of hydrogen sulfide. A baseline radius of exposure shall be calculated by plotting the concentration of hydrogen sulfide and the rate of release on a nomograph and connecting them with a straight line. The baseline radius of exposure shall then be measured as the point at which the straight line intercepts the axis for the radius of exposure.
  - 4. From the baseline radius of exposure, the area of exposure shall be drawn as specified in Section 3.01.D on a map of sufficient detail and accuracy to indicate all public areas in the vicinity.
  - 5. The applicant shall also submit an explosion risk assessment, as that term is defined by this chapter.
- E. If and when a well is drilled, which will be connected to any structure regulated by this chapter, the hydrogen sulfide concentration in the structure shall be determined in accordance with the procedures specified in this chapter. The baseline radius of exposure shall then be redetermined based on this figure and submitted in writing to the Township. The application and permit may then be reconsidered based upon this information, at the discretion of either the Township or the applicant. Any drilling, construction, site preparation or other commitment by the applicant of financial resources, materials or labor towards the well or any other related structure is undertaken at the applicant's own risk, and not in reliance upon any express or implied promise by the Township that necessary permits or approvals will be given.
- F. In order to meet the requirements of Section 5.04.A, the applicant must additionally submit the following:
- 1. A detailed dispersion model of a type which has been pre-approved by the Administrator and conforms with all of the requirements of Section 3.01.1 of this chapter.

2. An environmental impact report consistent with the requirements of the nature and scope of the duties imposed by the Michigan Environmental Protection Act (now Part 17 of the Natural Resources and Environmental Protection Act), MCL 324.1701, *et seq.*, and the National Environmental Policy Act, 42 USC 4332(c). If an applicant has prepared and filed such environmental impact report with the Michigan Department of Environmental Quality or other federal or state agency, it may file that report to satisfy this provision. If such report does not cover all of the requirements for an environmental impact report, as defined by this chapter, applicant shall file a supplemental report.
3. A description of any public facilities or services required for the installation and maintenance of a regulated use, such as roads or fire protection, whether such services exist, and if not, how application proposes that these services be financed and provided;
4. A detailed description of the measures which the applicant proposes to assure the public safety and health, emergency response, evacuation, emergency and safety plans, monitoring plans, and reporting and notification of any release or exposure to hydrogen sulfide.
5. A safety study for any pipeline, facility, or equipment to be used in applicant's system, certifying that credible accidental releases from the applicant will not result in health hazards in areas accessible to the public, and that the system complies with Section 5.04 of this chapter.
6. Proof that the system and structures, or any use thereof, shall meet any hydrogen sulfide public health and safety criteria or standards of federal or state public health officials for each type of credible accidental release.

#### **29.05.04 Approval and Denial Standards.**

The standards for approval or denial of a permit with respect to Section 5.03 of this chapter shall be as follows:

- A. If any portion of the area of exposure includes any part of a public area, as defined in this chapter, or if the baseline radius of exposure is greater than one kilometer in length, the permit shall be denied unless the applicant files a dispersion model and report that establishes that no person within the area of dispersion other than an employee of the applicant shall be exposed to more than 10 parts per million hydrogen sulfide.
- B. If no portion of the area of exposure includes any part of a public area, as defined in this chapter, the permit shall be granted unless the Township or other person establishes that a person within the area of exposure other than an employee of the applicant will be exposed to more than 10 parts per million hydrogen sulfide.

#### **29.05.05 Additional Evidence Required at Hearing.**

In addition to meeting the requirements of Section 5.04, no permit shall be approved or issued unless all of the following are determined to be satisfied by the evidence at the hearing process provided in Part 6 of this chapter:

- A. The threat or risk of a release of hydrogen sulfide in connection with the construction, use, operation, maintenance, repair, monitoring, abandonment, removal and closure of any proposed structure, pipeline, process facility or equipment will not constitute a nuisance as defined by this chapter or the law of the Michigan, or alternatively, that there is no feasible and prudent alternative and that that the proposed conduct is consistent with the promotion of the health, safety and general welfare.
- B. There is no likely pollution or impairment of the air or other natural resources of the public trust therein, contrary to the Michigan Environmental Protection Act (now Part 17 of the Natural Resources and Environmental Protection Act), MCL 324.1701, *et seq.*
- C. The proposed structure, use and operation has been permitted in accordance or complies with any other applicable federal or state statute or regulation concerning the risks of a release of or exposure to hydrogen sulfide.
- D. The emergency response plan, evacuation plan, and rescue plan, or other actions that are required or will be implemented in the event of a release are feasible, prudent and consistent with the public health, safety and general welfare.
- E. All requirements of the Filer Township Zoning Ordinance, if the Township conducts a coordinated review under Section 8604(K)(9) of that chapter.

#### **29.05.06 Terms and Conditions.**

If approved or issued a permit shall include terms and conditions necessary to assure compliance with all applicable requirements of this chapter, including those necessary to meet release or emission limits of hydrogen sulfide, and including at a minimum the following:

- A. The permittee shall file with the Township Clerk a performance bond in the penal sum of \$100,000, conditioned on and to reimburse and indemnify the Township/ Reimbursement or payment of an indemnity under the bond shall not release permittee from any claim the Township may have for reimbursement or otherwise. The bond shall be approved by the Township Attorney, and where necessary the Township may require the permittee to provide an additional amount or other security for the bond.
- B. The permittee before any construction shall provide and file a copy with the Township Clerk public liability insurance for claims of bodily injury, sickness, illness, disease, medical disorder, or death of any person to her than an employee. This insurance shall be at least \$1,000,000 per person/per occurrence and \$3,000

aggregate. Further, property insurance shall be at least in the same amounts for per occurrence and aggregate. The policy must be for at least one year, and copies of any change, modification, renewal or new policy must be filed with the Township Clerk. Any lapse or expiration of coverage whatsoever shall render the permit inoperative, null and void.

- C. The permittee shall sign a separate agreement in the permit in which the permittee agrees to release, indemnify and hold harmless the Township, its employees, agents and contractors from any and all liability arising out of the construction, operation, maintenance and repair of structures or equipment permitted under this chapter, including suits brought by third parties who have been subjected to any release or chronic low-level exposure. This indemnification provision shall be co-signed by the owner or lessor of the property on which structures or equipment are planned to be built, if that person is different from the applicant.
- D. The permittee shall develop and implement a plan to monitor and prevent chronic low-level exposure.
- E. The permit may not be assigned or otherwise transferred without written notification to the Township Clerk and approval of the Township Board, showing that the requirements of this chapter have been and will continued to be met. Failure to comply with this provision shall render the permit inoperative, null and void, and any operation pursuant to the permit shall cease and any pipeline, process facility, or process equipment shall be properly closed and shut down.
- F. The permit shall require applicant to establish within 14 days of issuance of the permit an escrow account or letter of credit for the closure and abandonment of any pipeline, facility, or equipment approved by the permit, and for any restoration of the property, air or environment where it is located or that has been harmed by operation and closure. The escrow shall or letter of credit shall be in the amount of \$50,000, or in such reasonable additional amount as determined by resolution of the Township Board, to pay for the expenses of the Township in the event the permittee defaults otherwise fails to perform as required by its permit or otherwise is required to clean up or restore property or the environment.
- G. The permit shall require the permittee to acknowledge that approval or issuance of a permit under this chapter does not excuse or obviate the permittee's compliance with all other local, state and federal laws and regulations.

#### **29.06.01 Procedures.**

The Administrator shall contact the Township Zoning and Planning Commission to review and recommendation with respect to the proposed structure, facility or equipment or activity.

- A. Prior to the granting of any permit hereunder, and not earlier than 56 days after the filing of the application nor later than 182 days after the application, the Administrator shall cause the Township Clerk to set a date for a public hearing,



which shall be held by the Township Board within 28 days of such request for hearing. A notice of the date, time, place and purpose shall be published in a newspaper of general circulation in the Township at least 14 but not more than 21 days prior to said hearing.

- B. At least seven days prior to said public hearing, the Administrator shall, whenever possible under reasonable constraints of time and resources, forward his written recommendation with respect to the determinations required of the Township Board under this chapter, supported by any information which is deemed necessary, including at least one copy of the complete application and any other relevant information which has been submitted or obtained with respect to the application.
- C. Upon the conclusion of such public hearing, the Township Board shall render a final determination based upon the facts and records before it, 56 days from the hearing, and such determination shall be in accordance with standards set forth in Parts 4 and 5 of this chapter. Such determination shall consist of a concise statement setting for the action taken and the reasons in support thereof. In the event that the Township Board cannot make such decision or determination within the said 56-day period, it shall notify all interested parties, including the applicant, of such fact and upon such notification, shall be deemed to have an additional 28 days in which to make such determination. At the expiration of 56 days, or the extended 28-day period, if the Township Board has not rendered a decision as required under the terms and provisions of this chapter, the application shall be deemed to be approved unless further extensions have otherwise been consented to in writing.

#### **29.07.01 Special Conditions and Restrictions.**

The Township Board may attach any special conditions, restrictions, requirements, or limitations to any permit which are reasonable and necessary to protect the public health, safety and general welfare, to prevent pollution, impairment or destruction of natural resources and avoid the creation of public or private nuisances. The Township may also set up such terms and conditions for bond or liability insurance protection as are reasonably necessary and appropriate to the extent that such insurance is obtainable.

#### **29.07.02 Monitoring.**

The Township may provide in the permit for the monitoring of the operation covered by the permit and for payment of the reasonable cost(s) of said monitoring activities. If the permittee fails to monitor as required by the permit, the Township may conduct its own monitoring and under special conditions which shall grant access to the Township and for such monitoring and the Township may recover from the permittee the reasonable and necessary costs of such shall be paid for by the applicant in accordance with the terms of the permit.

### **29.08.01 Suspension or Revocation.**

The Township may, upon recommendation of the Administrator, suspend any permit granted under this chapter upon a finding that the permittee has committed or is committing serious violations of any provision of this chapter or any term or condition of a permit approved under this chapter. The permit may also be revoked or suspended upon a finding that the permittee has failed to disclose a material fact that was known, or should reasonably have been known, to it at the time the application was made and the permit granted. The Township may suspend any permit without notice upon a determination that such suspension is necessary to prevent an imminent endangerment of life, health, safety or property. Except as provided in an emergency and imminent endangerment set forth in the preceding sentence, a permit shall be revoked or suspended only after the following proceedings are complied with:

- A. The permittee shall be served with a written notice of the intention of the Township to suspend the permit, which notice shall specify the alleged facts and reasons which form the basis for the proposed suspension or revocation, and shall specify the date, time and place when the Township shall meet to consider the proposed suspension or revocation. Such notice shall be served by first class mail, addressed to the permittee.
- B. At the time, place and date specified, which will be date least seven days after the service of the notice, the Township shall hear and consider evidence regarding the matters mentioned in the notice and shall afford the permittee an opportunity to be heard and to present evidence.
- C. The permit shall not be suspended unless the Township Board determines the existence of grounds for suspension or revocation as set forth above.
- D. Any suspended or revoked permit will be reinstated by the Township Board upon a finding that the reasons and grounds for the suspension or revocation no longer exists unless there are an underlying material facts which were not disclosed at the time the application was made and the permit granted and which would result in a determination by the Township Board that the conduct allowed by the original permit violates the standards established by this chapter.

### **29.09.01 Exceptions.**

Except as hereafter expressly set forth, nothing contained in this chapter shall be deemed to require a permit for any activity or operation or facility or pipeline, which is in existence prior to the effective date of this chapter so long as the activity, operation, facility, or pipeline does not introduce or increase the concentrations of hydrogen sulfide, or, so long as such activity, operation, facility pipeline, or conduct is not expanded beyond the nature, extent, scope and degree of that which exists on the effective date of this chapter. The Township does not by this provision recognize any preexisting uses, operations, activities, facilities, pipelines, or conduct as lawful or waive any other rights or remedies it has by law to protect the health, safety, welfare and the environment of the Township and its citizens.

## **TITLE THREE – ZONING AND LAND USE REGULATIONS**

- Chapter 30    Reserved for Future Use**
- Chapter 31    Zoning Ordinance**
- Chapter 32    Reserved for Future Use**
- Chapter 33    Junk**
- Chapter 34    Reserved for Future Use**
- Chapter 35    Short Term Rentals**
- Chapter 36    Division of Platted Lots**
- Chapter 37    Land Division**
- Chapter 38    Recreational Marijuana**
- Chapter 39    Medical Marihuana Facilities**

**CHAPTER 30**  
**RESERVED FOR FUTURE USE**

**CHAPTER 31  
ZONING ORDINANCE**

**[Available Under Separate Cover]**

**CHAPTER 32**  
**RESERVED FOR FUTURE USE**

## CHAPTER 33 JUNK

### 33.01.01 Definitions.

The following terms shall have the meanings herein assigned, unless the context clearly requires otherwise.

**Abandoned Vehicle** means any automobile or other motorized or non-motorized vehicle which has remained on the property of another for a period of 48 continuous hours or more, with or without the knowledge and/or consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant has been revoked.

**Blighted Structure or Building** means any dwelling, garage or outbuilding or any factory, shop, store, warehouse or any other structure or building, including mobile homes, travel trailers and converted vehicles intended for use as temporary or moveable dwellings, or part of a structure or building which, because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, or useful for the purpose for which it was originally constructed or intended.

**Farm** means a business enterprise engaged in agricultural production (and otherwise known as farms, ranches, dairies, nurseries, orchards) of crops, livestock and trees, and:

- a. Includes 40 or more acres of land in one ownership which is primarily devoted to agricultural use; or
- b. Has five or more acres of land in one ownership, but less than 40 acres, devoted primarily to agricultural use, which has produced a gross annual income from agriculture of \$200 per year or more per acre of cleared and tillable land; or
- c. Has been designated by the Michigan Department of Agriculture as a specialty farm in one ownership which has produced a gross annual income from an agricultural use of \$2,000 or more.

**Junk** means:

- d. Old scrap ferrous or nonferrous material, trash, rubber, worn tires, cloth, paper, rubbish, refuse, litter, unused furniture;
- e. Materials from demolition, waste building materials;
- f. Any junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, vehicles, farm equipment, boats, trailers, mobile homes, appliances and all other machines;

but, shall not include:

- a. Items being held for a customer while parts are being sought for its repair;
- b. Items that are classic or antique, kept and collected for their antique or collectable value; and
- c. Items and junk kept at a licensed Type I, II, or III landfill for purposes of disposal of solid waste, incineration, recycling and resource recovery.

**Junk Automobile** means any motor vehicle required to be licensed under the laws of the State of Michigan which is not licensed for a period in excess of 60 days, except stock-in-trade of a duly licensed new or used automobile dealer, or, whether licensed or not, is inoperative for a period in excess of 60 days, and is visible from roads or adjacent parcels and which because of damage or deterioration is or threatens to become a potential harm to the public health, safety or welfare by reason of the threat or presence of vermin or wild animals, leakage of fluids or gases, attractiveness to children, or other similar causes.

**Junkyard** means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion, or recovery of junk, and is a business which is included in the Standard Industrial Classification Manual of 1972 prepared by the U. S. Office of Management and Budget, classification 5093 and some enterprises in classification 5931, whether a part of a licensed landfill operation or not; but shall not include any part of a landfill as defined in the Solid Waste Management Act. Junkyard shall specifically include any business or operation required to have a Class C License (used vehicle parts dealer) under MCL 257.248, MSA 9.1948, as amended.

**Township** means the Charter Township of Filer.

**Parcel** means any tract or contiguous tracts of land in the same ownership, whether one or more platted lots or parts of lots, as identified by a single property tax parcel number in the Township assessment roll.

**Person** means any natural person, firm, partnership, corporation, limited liability company, or other unincorporated association of persons, and shall include all agents, servants and employees of such persons.

**Road** means a public or private road, highway, street, or right-of-way which affords the means of ingress or egress to abutting property and the means of travel past a parcel.

**Solid Waste Management Act** means the Michigan Solid Waste Management Act, originally enacted as 1978 PA 641 and now Part 115 of the Natural Resources and Environmental Protection Act, MCL 324.11501, *et seq.*, as amended.

### **33.02.01 Unlawful to Maintain Blighted Structure.**

It shall be unlawful for a person to maintain or permit to be maintained any blighted structure or building.



### **33.02.02 Unlawful to Accumulate Junk.**

It shall be unlawful for a person to store or accumulate junk except in the following manner:

1. So that no more than two large items of junk, as herein defined, are on the parcel;
2. So that junk is consolidated on one part of the parcel;
3. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building; and
4. So that it is not a nuisance.

### **33.02.03 Storage of Junk on Farms.**

Section 3.02 of this chapter shall not apply to farms, provided the storage of junk on a farm meets the following standards:

1. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building;
2. All junk from the operation of the farm is being kept on the premises for possible future use of the farm;
3. The depositing of the junk is not a violation of the Michigan Solid Waste Management Act or does not constitute fill in violation of any other state or local law; and
4. So that it is not a nuisance.

### **33.03.01 Junkyards.**

It shall be unlawful for any junkyard to accept business or to do business unless it is:

1. Permitted under the Township Zoning Ordinance in effect for the area by land use permit, special use permit, or certified as a non-conforming use;
2. Meets all of the following conditions:
  - a. Has a Michigan Sales Tax license;
  - b. If applicable to the junkyard in question, has records of sales and other transactions which are required by 1917 PA 350, the Second Hand Junk Dealers Act, being MCL 445.401, *et seq.* as amended;
  - c. If applicable to the junkyard in question, has a valid Class C (used vehicle parts dealer) license issued by the Michigan Department of State, under MCL 257.248, as amended.

3. Is constructed, designed and operated according to all of the following standards:
  - a. It is screened from view of all roads and from all adjacent parcels by means of an opaque fence or earth berm not less than eight feet in height, or another form of screening, or a combination of the above;
  - b. It is set back from parcel boundaries at least 100 feet, and is set back 100 feet from all road rights-of-way or 133 feet from the centerline of any road, whichever is greater;
  - c. It is designed and operated so that noise, under normal operational circumstances, does not exceed 60 decibels at the boundary of the parcel and at the nearest road;
  - d. It is operated so that burning or incineration of junk or any other material does not result in smoke;
  - e. It is designed and operated to meet or exceed all applicable state and federal air pollution, surface and ground water quality standards, and otherwise is in compliance with all other state and federal laws intended for the protection of the environment or the protection of the public health, safety, welfare and morals.
  - f. It complies with 1966 PA 219, the Control of Junkyards Adjacent to Highways Act, being MCL 252.201 *et seq* as amended; 1917 PA 350, the Second Hand Junk Dealers Act, being MCL 445.401, *et seq* as amended; the Solid Waste Management Act; and if applicable, 1949 PA 300, licensing of dealers in vehicles, etc., being MCL 267.248, as amended.
  - g. No part of it is a landfill, as defined in the Solid Waste Management Act, even as an accessory function or use of the junkyard.
  - h. It is more than 1,000 feet from a school, campground, or park.
  - i. It is not otherwise adverse to the public health, safety, morals and welfare of the Township.

#### **33.04.01 Pre-Existing Inventory.**

Upon the enactment of this chapter, the Township Planning Commission shall cause to be made an inventory of all junkyards presently in business in the unincorporated portions of the Township. Such inventory shall include a site plan of each junkyard, a general inventory of the nature and extent of junk, and such other information as the Township Planning Commission deems relevant.

#### **33.04.02 Pre-Existing Allowance.**

Any junkyard in business in the Township at the time of enactment of this chapter shall be allowed to continue in business as a junkyard on the parcel of land, or portion of the parcel of land, where it is presently located and in operation, except as otherwise provided in Sections 5.03 and 5.04 of this chapter.

#### **33.04.03 Pre-Existing Compliance.**

A junkyard in business under Section 5.02 of this chapter, which:

1. Ceases to operate for one year or more;
2. Enlarges so as to occupy more land than was occupied and used at the time of enactment of this chapter, as shown on the inventory site plan made pursuant to Section 5.01 of this chapter; or
3. Relocates to different land than was occupied and used at the time of enactment of this chapter, as shown on the inventory site plan made pursuant to Section 5.01 of this chapter;

shall be required to comply with all aspects of this chapter.

#### **33.04.04 Effective Date Compliance.**

A junkyard in business in the Township at the time of enactment of this chapter shall, by six months after the effective date of this chapter, be brought into compliance with Section 4.01.1, 4.01.2, 4.01.3a, b, c, d, e, f, g and i.

#### **33.05.01 Violations: Hearing.**

If the Township Board, upon the complaint of any person or upon its own motion, finds that there is reasonable cause to believe that a violation of the chapter is occurring, it may determine the parcel or parcels of land on which such violation is occurring and may notify each owner of such parcel, in the manner hereinafter set forth, of the nature of the alleged violations and the date and time of a hearing at which the issue of the alleged violations of this chapter shall be brought before the Township Board. The hearing shall be held not less than 21 days after the date of the notice. The owner or lessee of the parcel shall be invited to attend such hearing, in person or through counsel, and show cause, if any there might be, why the Township Board should not order such violations to cease immediately and the parcel in question be restored to a condition which is not in violation of the chapter.

#### **33.05.02 Notice of Hearing.**

Notice of the hearing shall be in writing and served upon the persons shown as the owners of the parcel or parcels in question on the most recent tax assessment roll and any known lessee of the parcel and any other person known to have any interest in the parcel. The Township Clerk shall cause such notice to be served by personal delivery to such persons, by anyone of suitable

age and discretion, or by certified or registered mail, return receipt requested. If any of the persons entitled to notice cannot be ascertained or located, then the Township Clerk shall cause such notice to be conspicuously posted on the parcel. An Affidavit of Service or Posting shall be maintained. Service of the notice shall be accomplished not less than ten days before the hearing.

### **33.05.03 Hearing Before Township Board.**

The hearing shall be conducted before the Township Board with the Township Supervisor presiding. If the Township Board determines it to be necessary, the Township Clerk shall administer oaths to all witnesses appearing before the Township Board. The Township Board shall receive such testimony and other evidence as it deems reasonably reliable and relevant to the issue of the violation of this chapter and shall render a decision and order in such matter within ten days of the hearing. The owners and the Township Board may agree to extend the date for the hearing to such other date as they may mutually agree.

### **33.05.04 Determination.**

The Township Board shall determine whether a violation of this chapter exists and, if so, what shall be done to restore the parcel in question to a condition that is not in violation of this chapter, which decision may include, but shall not be limited to, ordering the owner of the parcel to remove and lawfully dispose of all junk from the parcel, the demolition and removal of a blighted structure or building or the owner of a junkyard to comply with the provisions of Sections 4 and 5 of this chapter. All persons entitled to notice of hearing shall be notified of the Township Board's decision, which decision shall be in writing and served, in person or by certified or registered mail, return receipt requested, at such person's last known address or the address where the service of the notice of hearing was accomplished.

### **33.05.05 Compliance.**

If the owner of the parcel fails, refuses or neglects to comply with the decision and order of the Township Board within 30 days after service of the order upon them, the Township Board may, in its sole discretion, cause junk to be removed from the parcel and lawfully disposed, may cause a blighted structure or building to be demolished and removed or repaired and rehabilitated to a condition of safety or may cause a junkyard to be brought into compliance with this chapter. The cost of such actions shall be billed to each of the owners of the parcel who shall be jointly and severally liable therefor. If the owners of the parcel refuse, neglect or fail to pay such costs within 60 days of the Township's invoice to them, the Township Clerk shall report such costs to the Township Treasurer who shall cause such costs to be assessed against the parcel in question. The costs so assessed shall become a lien against the parcel in the same manner as other *ad valorem* taxes and interest, penalties and fees shall be charged and collected in the same manner as other *ad valorem* taxes.

### **33.05.06 Prevent Immediate Enforcement.**

The procedures set forth in this section of the chapter are optional and nothing in this chapter shall be construed to prevent the Township from seeking immediate enforcement of this chapter under Sections 7 and 8 nor shall the fact that the Township has employed the procedures set forth in this section of the chapter be a bar to later enforcement hereof under Sections 7 and 8.

## **CHAPTER 34 REGULATION OF NOISE**

### **34.01 Definitions.**

The following terms used in this chapter are defined as follows:

### **34.02 Anti-Noise Regulations.**

- A. **General Regulation.** No person, firm or corporation shall cause or create any unreasonable or unnecessary loud noise or disturbance, injurious to the health, peace, or quiet of the residents and property owners of the Township.
- B. **Specific Violations.** The following noises and disturbances that shall cause or create any unreasonable noise or disturbance are hereby declared to be a violation of this chapter; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of this chapter not specifically enumerated:
  - 1. The playing of any radio, phonograph, television, or other electronic or mechanical sound-producing device, including any musical instrument, loud speaker or other instrument or sound amplifying device between the hours of 11 p.m. and 7 a.m. in such a manner or with such volume as to unreasonably interfere with any other person's quiet enjoyment of his or her property.
  - 2. Yelling, shouting, hooting or singing on the public streets between the hours of 11 p.m. and 7 a.m., or at any time or place so as to unreasonably interfere with any person's quiet enjoyment of his or her property.
  - 3. The emission or creation of any excessive noise which unreasonably interferes with the operation of a school, church, hospital or court.
  - 4. The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably interfere with any other person's quiet enjoyment of his or her property; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
  - 5. The operation of any automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably interferes with any other person's enjoyment of his or her property. The modification of any noise abatement device or any motor vehicle engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.

6. The sounding of any horn or other device on any motor vehicle which emanates frequent or extended noise which shall unreasonably interfere with any other person's quiet enjoyment of his or her property, unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.
7. The discharging of the exhaust of any steam engine, internal combustion engine, motor vehicle, motor boat engine, or drilling rigs except through a muffler or other similar device which will effectively prevent loud or explosive noises. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so the noise emitted by such vehicle or engine is increased above that emitted by such a vehicle as originally manufactured and which emanates frequent extended noise which shall unreasonably interfere with any other person's quiet enjoyment of his or her property, shall be in violation of this section.
8. The erection, excavation, demolition alteration or repair of any building or premises, including streets and highways, in such a manner as unreasonably interfere with any other person's quiet enjoyment of his or her property, other than between the hours of 7:00 a.m. and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such case, a permit shall be obtained from the zoning administrator or ordinance enforcement officer of the Township, which permit shall limit the periods that the activity may continue.
9. The creation of a loud or excessive noise which unreasonably interferes with any other person's quiet enjoyment of his or her property in connection with the operation, loading or unloading of any vehicle, trailer, railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.
10. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose between the hours of 11 p.m. and 7 a.m. which unreasonably interferes with any other person's quiet enjoyment of his or her property.
11. The operation of any machinery, equipment or mechanical device so as to emit loud noise which unreasonably interferes with any other person's quiet enjoyment of his or her property.
12. The operation of any race track, proving ground, testing area or obstacle course for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind or nature where the noise emanating therefrom unreasonably interferes with any other person's quiet enjoyment of his or her property. Under no circumstances shall any race track, proving ground, testing area or obstacle course operate after 11 p.m. on any evening.

C. **Exceptions.** None of the prohibitions hereinbefore enumerated shall apply to the following:

1. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
2. Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, Charter Township of Filer, or the County of Manistee, between sundown and 7 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours.
3. Warning devices emitting sound for warning purposes as authorized by law.



## CHAPTER 35 SHORT TERM RENTALS

### 35.01 Intent.

The intent of this chapter is to secure the public health, safety and general welfare of Township residents and property owners, as well as visitors to the Township, by regulating short-term rental properties to prevent nuisances and safety hazards that interfere with Township residents' or property owners' rights to conduct normal, daily activities without unreasonable interference and to provide safe and healthy living arrangements for visitors who rent property on a short-term basis.

### 35.02 Definitions.

As used in this chapter, the following terms shall have the meanings hereinafter stated:

- A. **Bedroom** means a room in a dwelling which is intended, arranged, or designed to be occupied by one or more persons primarily for sleeping purposes.
- B. **Dwelling** means a building or a portion thereof which is occupied as the home, residence or sleeping place of one or more individuals. In no case shall a travel trailer, recreational vehicle, vehicle chassis or tent be considered a dwelling.
- C. **Driveway** means the route of access for vehicles from a public or private street or alley across a premises to a parking or loading area, garage, dwelling or other structure or area on the same premises, and that is located and constructed in accordance with the requirements of this chapter.
- D. **License** means a short-term rental license issued by the Township to the owner of a premises authorized to be used as a short term rental.
- E. **Licensee** means the owner(s) holding a license.
- F. **Limited short-term rental** means the rental of any premises for not more than two rental periods of up to 14 days, not to exceed 14 days total, in any calendar year.
- G. **Maximum occupancy** means the maximum number of allowable occupants for the premises.
- H. **Nuisance** means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects an individual, or the generation of an excessive or concentrated effects from movement of people or things including but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibration; objectionable effluent; noise from a congregation of people, particularly at night; passing traffic; or invasion of street frontage by traffic generated from an adjacent premises which lacks sufficient parking and vehicle circulation facilities.

- I. **Occupant** means a non-owner individual living in, sleeping in, or otherwise having possession of a premises.
- J. **Owner** means a person holding legal or equitable title to the premises. An owner may designate an agent to perform duties or receive notice under this chapter.
- K. **Person** means any individual, company, partnership, corporation, limited liability company, trust or other entity having the legal capacity to own or lease real property.
- L. **Premises** means real property, and all fixtures and improvements, including the dwelling, located on it.
- M. **Rent or rental** means to permit, provide for, or offer possession or occupancy of a premises on which the owner does not reside for a period of time to a person who is not the owner, pursuant to a written or unwritten agreement.
- N. **Short-term rental** means the rental or subletting of any premises for a term of 27 days or less.
- O. **Township** means the Charter Township of Filer.

### **35.03 Regulations.**

- A. **General Regulations.** It shall be unlawful for any person to conduct a short-term rental operation without a short-term rental license issued by the Township.
- B. **Specific Regulations.** Persons seeking to operate a short-term rental operation must be registered with and licensed by the Township prior to the commencement of any short term rental activity. All short term rental operations shall comply at all times with the requirements specified in Section 35.05.

### **35.04 Exemptions.**

This chapter shall not apply to the following:

- A. **Family occupancy.** A member of the owner's family, as well as that family member's guests, may occupy a premises as long as a member of that family retains ownership of the premises. The family occupancy exemption also exempts family occupancy of guest houses or similarly separate dwellings lawfully located on the same premises, when occupied by family guests, exchange students, visitors, medical caregivers, and child caregivers, without remuneration to the owner.
- B. **House sitting.** During the temporary absence of the owner and the owner's family, the owner may permit non-owner occupancy without remuneration to the owner.

- C. **Dwelling Sales.** Occupancy of up to 90 days following closing by a prior owner after the sale of a premises.
- D. **Estate Representative.** Occupancy by a personal representative, trustee, or guardian (including family members) of the estate of the owner, with or without remuneration. The estate shall notify the township of the owner's name, date of death or incapacity, and name of the person occupying the premises.
- E. **Inns, Bed and Breakfasts.** Occupancy of a structure originally constructed for residential purposes and used as temporary lodging and meals for travelers or guests where bedrooms are rented on a nightly basis and managed by an on-site owner or resident manager, subject to the limitations outlined in this chapter and pursuant to a valid land use or special use permit issued by the Township Zoning Administrator or Planning Commission under the Chapter 31, the Township Zoning Ordinance. Meals may or may not be included in the price of the room.
- F. **Commercial/Non-Profit Facilities.** Licensed campgrounds, hotels and motels transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinic, mental-health facility, or other health-care related clinic.
- G. **Limited Short-Term Rentals.**

### **35.05 Licensing Procedure and Criteria.**

- A. **Application.** Applicants for a short term rental license shall file an application to conduct a short-term rental operation with the Township Zoning Administrator on a form provided for that purpose. The application shall include:
  - 1. The name, mailing address, and phone number of the owners of the premises to be licensed.
  - 2. The name, mailing address, and phone number of the applicant if different than the owner.
  - 3. A notarized letter of authorization from owner to applicant if applicant is different than the property owner.
  - 4. A description of the premises proposed to be used for short term rentals, including but not limited to:
    - a. Site plan meeting the requirements of Chapter 31 (Zoning Ordinance) for site plans subject to administrative review, showing all dwellings and other structures, all driveways and parking areas, and the square footage of all principal rooms, including all bedrooms, in each dwelling.

- b. Number of bedrooms.
  - c. Number of bathrooms.
  - d. Number of off-street, paved parking spaces.
  - e. Tax parcel ID number and legal description.
  - f. Copy of currently effective well permit and septic permit, describing the size of the septic tank and drain field.
- B. **Inspection.** Upon receipt of a completed application, the Township will schedule an inspection of the premises with the Township Zoning Administrator. The Zoning Administrator will visit the premises and assess its fitness and safety for short term rental operations using the standards contained in this Ordinance. The owner(s) of the premises described in the application shall be the only permitted short term rental licensee, but may designate in writing to the Township a local agent for purposes of receiving notices under this chapter and shall do so if required by Section 35.06.

### **35.06 Criteria and Requirements.**

A premises used for short term rentals shall meet all of the following requirements in order to be licensed.

- A. **Firepits.** All outdoor fire pits shall be located at least 10 feet from any structure and 20 feet from all lot lines of the premises.
- B. **Nature of Rental.** The nature of the proposed rental activity must be consistent with single-family homes in the surrounding residential neighborhood and may not include any commercial activities such as yard sales, festivals, retreats, home occupations or similar uses.
- C. **Parking.** The owner must provide off-street parking on a paved or gravel driveway or parking lot, located on the premises, which is large enough to accommodate all of the occupants' vehicles, including but not limited to motor vehicles, trailers, recreational vehicles, and watercraft, and all such vehicles, trailers and watercraft shall be parked only on such driveway or parking lot. Parking spaces shall be not less than 200 square feet (10' x 20') in size.
- D. **Septic Systems.** The owner must demonstrate that the septic system for the property is appropriately sized and maintained for the number of occupants proposed to be permitted in the license, according to the standards of the District #10 Health Department sanitary code.
- E. **Trash Removal.** The owner must provide secure trash receptacles accessible by weekly trash removal services for occupants' use. Receptacles must be designed to

prevent intrusion by animals and to ensure proper trash removal from the premises. Commercial dumpsters are not allowed on any premises used for short term rentals.

- F. **Nuisances.** The owner shall be responsible for all nuisance activity occurring on the premises licensed for short term rentals and when notified by the Township or a police agency, shall take immediate steps to abate all nuisances and nuisance conditions occurring on or about the premises. Failure of the owner to control nuisance activity by occupants shall be grounds for the termination of the short term rental license.
- G. **Maximum Occupancy.** Maximum occupancy of a premises used for short term rentals shall be not more than two persons, not including pre-school children, per bedroom. In no case shall the number of persons occupying a short term rental dwelling, including all guests of the occupants, exceed 10 regardless of the number of bedrooms.
- H. **Exterior Notice.** The owner shall post and maintain on the exterior of the premises near the main entrance, a weather-proof sign containing all of the following information: (i) the name, address and phone number of the owner or the owner's local agent for purposes of receiving notice of complaints concerning the condition of the premises or the activities of the occupants, (ii) the maximum occupancy permitted on the premises, and (iii) the day of regular trash collection at the premises. Owners who do not reside permanently in Manistee County or otherwise within 30 miles of the premises shall designate a local person or company to act as the owner's agent for purposes of this chapter and for receiving notice and such local agent's name and local phone number shall be displayed on the exterior notice.

### **35.07 Duty to Remedy Violations.**

The licensee and/or the licensee's local agent shall have the duty to remedy any violations of this chapter, Chapters 40 through 42 of the Code, or Chapter 54A of the Code, by the occupants of a short-term rental and/or the guests of such occupants. For any violation of the foregoing chapters of the Code, the Township may (in addition to other remedies) notify the licensee and/or local agent of such violation by telephone or return receipt email at the phone number and address posted on the exterior notice. The licensee and/or local agent shall be deemed to have received notice of the violation upon receiving the telephone call or when a return receipt email message is received by the Township, whichever is soonest. Upon receiving notice of the violation, the owner and/or local agent shall ensure that the violation is remedied within two (2) hours of receipt of such notice. Failure to remedy the violation within two (2) hours after receiving notice of the violation, without good cause, shall constitute a material violation of this chapter and may subject the license to a civil infraction citation and court enforcement proceedings and the penalties under Section 35.08 of this chapter.

### 35.08 Suspension and Revocation of License.

- A. **Violation Notice.** If the Township Zoning Administrator has reason to believe the application material on which a license was issued contained false, incorrect, or misleading information and/or statements; that the short-term rental no longer complies with the standards for approval of a new license; and/or the short-term rental is in violation of the regulations in this chapter, the Township Zoning Administrator may, but is not required to, prepare or cause to be prepared a written notice specifying the false, incorrect, or misleading information and/or statements in the application material or specifying the approval standards or regulations that are allegedly being violated and the factual basis for this belief.
- B. **Service of Notice.** The written notice, along with the time, date, and place of the hearing before the Township Board, shall be served on the licensee either personally or by certified mail, restricted delivery and return receipt requested, no less than 21 days before the hearing.
- C. **Violation Hearing.** If such a violation notice is prepared and served, the Township Board shall hold a hearing at which time the licensee shall be given an opportunity to show cause why the license issued under this chapter should not be suspended or revoked. At the hearing before the Township Board, the licensee shall be given an opportunity to confront adverse witnesses and present evidence and legal arguments. The licensee may also be represented by an attorney. The Township Board's decision shall be in writing, shall specify the factual evidence upon which it is based and shall be a final decision. A copy of the Township Board's written decision shall then be provided to the licensee.
- D. **Subsequent Violations.** After a license has been suspended, any additional violation(s) committed by the licensee and/or local agent within two years of the expiration of the last suspension shall be grounds for a second suspension. If it has been more than two years since the expiration of an initial suspension of a license, a subsequent violation shall be deemed to be a first violation. Upon a determination that the licensee has committed a total of three or more violations of this chapter within five years, the Township Board may permanently revoke the license.
- E. **Length and Timing of Suspensions and/or Revocations.** Suspensions and revocations shall generally be effective immediately, provided, however, if any portion of the suspension times falls outside the primary tourist season (May 1 through September 30), then the balance of the suspension time shall carry over to the next primary tourist season. Suspensions/revocations shall be for the following periods:
  - 1. First suspension – three (3) months.
  - 2. Second suspension – six (6) months.
  - 3. Revocation – permanent.

- F. **Existing Contracts.** Existing short-term rental contracts extending up to 60 days beyond the beginning date of any suspension/revocation may be honored by the licensee with approval by the Township Board. Those existing contracts extending beyond 60 days shall not be honored by the licensee. The time period approved to honor existing contracts shall be added to the end of any suspension period.
- G. **Fraudulent Complaints.** Any person who knowingly files a fraudulent, false, or fictitious complaint about a short-term rental shall be deemed to be in violation of this chapter and may be found responsible for a civil infraction and penalties under Section 35.09 of this chapter.

### **35.09 Violations and Penalties.**

- A. Any person who violates any provision of this chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101 – 600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than \$500 plus the costs and attorney fees of the Township in the enforcement. In addition, this chapter shall be specifically enforceable by order of the Court to prohibit or enjoin future activities on or about the premises in violation of this chapter. Each day this chapter is violated shall be considered as a separate violation.
- B. The Township Zoning Administrator, any police officer having jurisdiction in the Township, and other persons as may be appointed by the Township Board are hereby designated as the authorized local officials to issue municipal civil infraction citations for violation of this chapter.
- C. A violation of this chapter is hereby declared to be a public nuisance and a nuisance per se and is declared to be offensive to the public health, safety, and welfare.
- D. In addition to enforcing this chapter through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this chapter.

### **35.10 New License Required Upon Transfer of Ownership.**

A license issued under this Ordinance shall become void upon the transfer of ownership of the premises described in the license, or upon the transfer of a controlling interest in a partnership, corporation, limited liability company, trust, or other legal entity that owns the premises. A new license must be obtained from the Township pursuant to the requirements and regulations set forth in this chapter before short-term rentals may be resumed on the premises.

## **CHAPTER 36**

### **DIVISION OF PLATTED LOTS**

#### **36.01 Lot Division.**

No lot in a recorded subdivision, which encompasses lands located in Filer Township, Michigan, shall be further partitioned unless such partition is conducted in accordance with the provisions of this section. When an owner desires to partition a lot, that owner shall file an application with the Zoning Administrator. The petition shall contain the following:

- A. The exact legal description of the lot to be partitioned.
- B. A description of all improvements located on said lot.
- C. In the event that there are improvements of any nature, the owner shall submit with said petition a survey of the lot. The survey shall set forth to scale all improvements located thereon, including measurements between all improvements or between improvements and the boundary lines of said lot, as then constituted. A mortgage survey is acceptable to comply with this section.
- D. All proposed new boundary lines, which will be effective if the lot is partitioned.
- E. A statement of the reasons for requesting approval to partition such lot.

#### **36.02 Planning Commission Review.**

Upon receipt of a complete application, Zoning Administrator shall forward the same to the Planning Commission which shall proceed to review the petition and shall report its findings, conclusions and recommendations to the Township Board. In conducting its review, the Planning Commission shall give consideration to the following:

- A. The width, depth and area of the resulting lots, which will result if the lot division is permitted. Except as set forth in Section 36.05 below, no partition of a lot shall be approved, unless the lots which will result after the partitioning of the lot comply fully with the set-back, side yard, width, depth and area requirements, as the case may be, of the Land Division Act, of this Ordinance, and of any other Township ordinance.
- B. The existence of adequate public sewer and water facilities for the two resulting lots. If public sewer and/or public water are not available, then partition shall not be permitted unless the Manistee County Health Department shall first approve both of the resulting parcels for the establishment of on-site waste water disposal and on-site water acquisition.
- C. Whether each resulting lot abuts a public road or approved access.



- D. Any relevant factors of density, topography, or physical conditions with respect to the resulting parcels which might affect the compatibility of the resulting lots, outlots or other parcels of land with surrounding lands.
- E. Any factors which may have caused the governmental officials who originally approved the original Subdivision or Condominium to require that the original lot contain a greater than usual area, width or depth.
- F. Any other relevant factors in keeping with the spirit and intent of the Land Division Act or Condominium Act, this Ordinance, or any other Township ordinance.

### **36.03 Approval.**

The Planning Commission shall submit a report to the Township Board addressing all the factors referred to above, within 40 days following receipt of the completed application filed by the property owner. The completed application shall be deemed received by the Planning Commission on the date of its first regular meeting following the date the Zoning Administrator determines the application to be complete. The Township Board shall either approve or disapprove the proposed partition of the lot, giving consideration to the recommendations of the Planning Commission. The Township Board shall not approve such partition unless it makes a finding that all of the considerations contained above have been resolved favorably.

### **36.04 Recording.**

If the Township Board approves partition of the lot described in the application, then it shall cause a resolution of approval to be recorded with the Manistee County Register of Deeds.

### **36.05 Approval of Fractional Lots.**

If a proposed partition fails to comply with the provisions contained in Section 36.02 above, the partition may nevertheless be permitted, if any resulting lot which does not meet the requirements of Section 36.02.A is permanently attached to another platted lot under common ownership and if the resulting parcel complies with the requirements of Section 36.02.A above. In the event that a partition of a lot is approved based upon this section, then the resolution of approval adopted by the Township Board shall set forth the lot to which any parcel not complying with Section 36.02.A will be attached, and the Township Board, as a condition to its granting approval to partition the lot, may require the owner of the parcel to which the fractional lot is being attached to execute a covenant that such owner will, in the future, convey such fractional lot only in association with the lot to which it is being attached.

## **CHAPTER 37 LAND DIVISION**

### **37.01 Purpose.**

- A. The purpose of this chapter is to carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended (the “Act”), including without limitation Sections 105 and 109(5) thereof, in order to prevent the creation of parcels of land which do not comply with the Act or with applicable Township ordinance; to provide for the orderly development of land and otherwise to provide for the health, safety and welfare of the residents and property owners of the Township by establishing minimum requirements for review and approval of certain land divisions within the Township.

### **37.02 Definitions.**

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

**Accessible** is reference to a parcel, unless the context clearly indicates otherwise, means that 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 county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the Township, or has an area where a driveway can provide vehicular access to an exiting road or street and meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the Township, or has an existing road or street and meet all such application 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 county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the Township, 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 location standards.

**Administrator** means the Township Land Division Act Administrator.

**Development Site** means any parcel or lot on which exists or which is intended for building development other than the following:

1. Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops and field crops; dairy and dairy products; poultry and poultry products; livestock, including

breeding and grazing of cattle, swine, and similar animals; berries; herbs, flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

2. Forestry use involving the planting, management or harvesting of timber.

**Division or Land Division** means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrator, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent (as defined by the Act), and that satisfies the requirements of Sections 108 and 109 of the Act. Division does not include a property transfer between two or more adjacent parcels, if the land taken from one parcel is added to an adjacent parcel.

**Exempt Split** means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular traffic and utilities from existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

**Forty Acres or the Equivalent** means either 40 acres, a quarter-quarter section containing less than 30 acres, or a government lot containing not less than 30 acres.

**Parcel** means a contiguous area of land which can be described as stated in Section 102(g) of the Act.

**Parent Parcel or Parent Tract** means a parcel or tract, respectively, lawfully in existence on March 31, 1997.

**Road Authority** means the governmental authority having jurisdiction of a public road or public street.

**Resulting Parcel(s)** means one or more parcels which result from a land division.

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

### **37.03 Land Division Approval Required.**

Land in the Township shall not be divided without the prior review and approval of the Administrator in accordance with this chapter and the state Land Division Act; provided that the following shall be exempt from this requirement:

1. A parcel proposed for subdivision through a recorded plat pursuant to the Township Subdivision Control Ordinance and the state Land Division Act.
2. A lot in a recorded plat proposed to be divided in accordance with the Township's Subdivision Control Act and the state Land Division Act.

3. An exempt split as defined in this chapter.

#### **37.04 Application for Land Division Approval.**

- A. A proposed land division shall be filed with the Administrator and shall include the following:
  - a) A completed application, on such written form as the Township may provide, including any exhibits described therein;
  - b) Proof of ownership in the land which is subject to the proposed division;
  - c) A land title search, abstract of title, or other evidence of land title acceptable to the Administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997;
  - d) A copy of each deed or other instrument of conveyance which contains the right to make further divisions;
  - e) Three copies of a tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. The tentative parcel map, including the resulting parcels, shall be accurately and clearly drawn to the scale of not less than that provided on the application form. A tentative parcel map shall include:
    1. Date, north arrow, scale and the name of the person or firm responsible for the preparation of the tentative parcel map;
    2. Proposed parcel lines and the dimensions of each parcel;
    3. An adequate and accurate legal description of each resulting parcel;
    4. A drawing or written description of all previous land divisions from the same parent parcel or parent tract identifying the number, area and date of such divisions;
    5. The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets; and
    6. The location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.

- f) The requirements of subparagraph (e) do not apply to any resulting parcel which is 40 acres or larger, as long as such parcel satisfies the requirements of Section 5.1(b) below.
  - g) Other information reasonably required by the Administrator in order to determine whether the proposed land division qualifies for approval.
  - h) Payment of the application fee and other applicable fees and charges established by resolution of the Township Board.
- B. A proposed division shall not be considered filed with the Township, nor shall the time period stated in subsection 5.3 commence, until all of the requirements for an application for land division approval have been complied with by the applicant.

### **37.05 Minimum Requirements for Approval of Land Divisions.**

- A. A proposed land division shall be approved by the Administrator upon satisfaction of all the following requirements:
- a) The applications requirements of Section 4.
  - b) Each resulting parcel shall have a means of vehicular access to an existing street or road from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road. If a driveway or access easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the requirements of subsection 5.2.
  - c) The proposed division, together with any previous divisions of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
  - d) Each resulting parcel that is a development site shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.
  - e) Each resulting parcel shall have the depth to width ration specified by the Township Zoning Ordinance for the zoning district(s) in which the resulting parcel is located. If the Township Zoning Ordinance does not specify a depth to width ratio, each parcel which is ten acres or less in area shall have a depth which is not more than four times the width of the parcel. The width and depth of the resulting parcel shall be measured in the same manner provided by the Township Zoning Ordinance for the measuring of the minimum width and maximum depth of parcels.
  - f) All rustling parcels to be created by the proposed land divisions shall fully comply with the applicable lot area and lot width requirements of the

Township Zoning Ordinance for the zoning district(s) in which the resulting parcels are located.

- B. If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the following requirements are satisfied:
- a) If a driveway is proposed as a means of access, each resulting parcel shall have an area where a driveway will lawfully provide vehicular access in compliance with applicable Township ordinances.
  - b) If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(s) within which the easement is to be located. Such easement shall provide a lawful means of access over and across such parcel(s), in compliance with applicable Township ordinances.
  - c) If a new street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith.
- C. The Administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of a proposed division with the Administrator, and shall provide the applicant with written notice of such approval or disapproval. If disapproved, the Administrator shall provide the applicant with a written description of the reasons for disapproval. Any notice of approval for a resulting parcel of less than one acre in size shall contain a statement that the Township is not liable if a building permit is not issued for the parcel for the reason that the parcel fails to satisfy the requirements of Section 109a of the Act, including approval of on-site water supply and on-site sewage disposal under the standards set forth in Section 105(g) of the Act.
- D. An applicant aggrieved by the decision of the Administrator may, within 30 days of the decision, file a written appeal of the decision to the Township Board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. At least ten days written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first-class mail, directed to the applicant's address as shown in the application or in the written appeal. The Township Board may affirm or reverse the decision of the Administrator, in whole or in part, and its decision shall be final.

### **37.06 Approval of Land Divisions.**

- A. The Administrator shall maintain a record of all land division approved by the Township.

- B. A decision approving a land division shall be effective for 180 days after such approval by the Administrator or, if appealed, by the Township board, unless either of the following requirement is satisfied within such 180-day period:
- a) A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s) other than the remainder of the parent parcel or parent tract retained by the applicant, shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator; or
  - b) A survey accurately showing the resulting parcel(s) shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.
- If neither paragraph (a) nor paragraph (b) is satisfied, such land division approval shall, with no further action on the part of the Township, be deemed revoked and of no further effect after the 180th day following such approval by the Administrator or, if appealed, by the Township Board.
- C. All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 5.1 shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map. The Administrator shall mark the date of approval of the proposed land division on all deeds, other recordable instruments of conveyance and surveys which are in conformity with the approved tentative parcel map and which otherwise comply with the requirements of this chapter. Such documents shall be maintained by the Administrator in the Township record of the approved land division.
- D. The approval of a land division shall not, of itself, constitute an approval or permit required under other applicable Township ordinances. Approval of a division is not a determination that the resulting parcels comply with other Township ordinance or regulations.
- E. Any parcel crated inconsistent with or in violation of this chapter, where approval hereunder is required, shall not be eligible for issuance of building permits, zoning ordinance approvals or other land use or building approvals under other Township ordinances, nor shall any such parcel be established as a separate parcel on the tax assessment role.

## **CHAPTER 38 RECREATIONAL MARIJUANA**

### **38.01 Definitions**

Words and phrases used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, (hereafter, the “Act”) as the same may be amended from time to time, which words and phrases are incorporated herein by reference.

### **38.02 No Marihuana Establishments**

The Township hereby prohibits all marihuana establishments within the boundaries of the Township pursuant to section 6.1. of the Act.

### **38.03 Violations and Penalties**

1. Any person who disobeys, neglects, or refuses to comply with any provision of this chapter or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this chapter. A violation of this chapter is deemed to be a nuisance per se.
2. A violation of this chapter is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this chapter, and such other relief as may be provided by law.
5. This chapter shall be administered and enforced by the Manistee County Sheriff and the Zoning Administrator of the Township, or by such other person(s) as designated by the Township Board of Trustees from time to time.



## **CHAPTER 39**

### **MEDICAL MARIHUANA FACILITIES**

#### **39.01 Purpose.**

- A. It is the intent of this Ordinance to authorize the establishment of certain types of medical marihuana facilities in the Charter Township of Filer and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this Ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the Charter Township of Filer through imposition of an annual, nonrefundable permit application fee of not more than \$5,000 for each permit.
- B. Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Medical Marihuana Act, MCL 333.26421 *et seq.* (MMA); the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* (MMFLA); the Marihuana Tracking Act, MCL 333.27901 *et seq.* (MTA); the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, *et seq.* (MRTM); and all other applicable rules promulgated by the state of Michigan.
- C. As of the effective date of this Ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 *et seq.*, which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under federal law.

#### **39.02 Definitions.**

For the purposes of this Ordinance:

- A. Any term defined by the MMA shall have the definition given in the MMA.
- B. Any term defined by the MMFLA shall have the definition given in the MMFLA.
- C. Any term defined by the MTA, shall have the definition given in the MTA.
- D. Any term defined by the MRTM, shall have the definition given in the MRTM.
- E. “Township” means the Charter Township of Filer.
- F. “Township Board” means the Filer Township Board of Trustees.

- G. “Grower” means a licensee that is a commercial entity located in Michigan that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- H. “Licensee” means a person holding a state operating license issued under the MMFLA.
- I. “Marijuana” or “marihuana” means that term as defined in the Michigan Public Health Code, MCL 333.1101 *et seq.*; the MMA; the MMFLA; and the MTA.
- J. “Marihuana facility” means an enterprise at a specific location at which a licensee is licensed to operate under the MMFLA, including a marihuana grower, marihuana processor, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the MMA.
- K. “Permit” means the authorization granted by the Township for a licensee’s operation of a marihuana facility in the Township pursuant to this Ordinance.
- L. “Permittee” means a person issued a permit to operate a marihuana facility in the Township pursuant to this Ordinance.
- M. “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, trust, or other legal entity.
- N. “Processor” means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower, or also holds a grower’s license, and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a “safety compliance facility”.
- O. “Safety compliance facility” means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- P. “Secure transporter” means a licensee that is a commercial entity located in Michigan that stores marihuana and transports marihuana between marihuana facilities for a fee.
- Q. “Stakeholder” means members of a limited liability company, shareholders of a corporation, partners of a partnership or investors in the proposed permittee.
- R. “Provisioning center” means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a

registered primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this Ordinance.

- S. "Zoning Ordinance" means Chapter 31 of the Charter Township of Filer Code of Ordinances, as amended.

### **39.03 Authorization of Facilities and Fee.**

- A. The maximum number of each type of marihuana facility permits allowed in the Township shall be as follows:

Facility	Number
Grower	4
Processor	2
Secure Transporter	2
Safety Compliance	2
Provisioning Center	1

- B. A nonrefundable permit application fee shall be paid by each marihuana facility permitted under this Ordinance in an annual amount of not more than \$5,000 as set by resolution of the Township Board to defray the administrative and enforcement costs of the Township associated with the operation of the licensed marihuana facility. The application fee is in addition to any other fees required, including, but not limited to, zoning fees.
- C. Should the Township grant a marihuana facility permit, the permit application fee shall be considered as the nonrefundable fee imposed for the first year the permit is granted. Prior to the expiration of the first year of the permit, and as provided in this Ordinance in Section 39.12, the permittee may apply for an extension/renewal of the permit for an additional one year period at a nonrefundable fee of not more than \$5,000 as set by resolution of the Township Board.

### **39.04 Requirements and Procedure for Issuing Permit.**

- A. No person shall operate a marihuana facility in the Township without a valid permit issued by the Township pursuant to the provisions of this Ordinance.
- B. No person shall be issued a permit by the Township without first having obtained from the Charter Township of Filer Planning Commission a special use permit authorizing the operation of the facility pursuant to the Zoning Ordinance.
- C. Every applicant for a permit to operate a marihuana facility shall file an application in the Township Clerk's office upon a form provided by the Township. The application shall include:

1. The appropriate nonrefundable permit application fee in the amount determined by the Township.
2. If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information.
3. If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation.
4. The name and address of the proposed marihuana facility.
5. For the applicant and for each stakeholder and employee of the applicant, an affirmation that each and every person is at least 18 years of age and has not been convicted of or pled guilty or no contest to a felony or controlled-substance-related misdemeanor.
6. Before hiring a prospective agent or employee of the applicant, the holder of a license to operate shall conduct a background check of the prospective employee or agent. If the background check indicates a pending charge or conviction within the past ten (10) years for a controlled substance-related felony, the applicant shall not hire the prospective employee or agent without written permission from the Township Clerk.
7. A signed release authorizing the Charter Township of Filer Zoning Administrator or Code Officer to perform a criminal background check to ascertain whether the applicant, each stakeholder of the applicant, and each employee of the applicant meet the criteria set forth in this chapter, the cost of which will be charged to the applicant. Alternatively, the applicant may satisfy this requirement by providing to the Township a criminal background check conducted by the Michigan State Police or other law enforcement agency.
8. The name, date of birth, physical address (residential and any business address), copy of photo identification, and email address for any managerial employee of the marihuana facility, if other than the applicant or stakeholder of applicant.

9. An affirmation under oath as to whether the applicant or stakeholder of applicant has ever applied for or been granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
10. One of the following: (a) proof of ownership of the entire premises wherein the marihuana facility is to be operated; or (b) written consent from the property owner for use of the premises as outlined in the application, along with a copy of the lease for the premises.
11. A description of the security plan for the marihuana facility, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification and details of each piece of security equipment. Each medical marihuana establishment must have a security guard present during business hours or alternative security procedures shall be proposed in the business plan.
12. A crisis response plan.
13. A copy of the special use permit issued by the Charter Township of Filer Planning Commission.
14. A floor plan of the marihuana facility, as well as a scale diagram illustrating the property upon which the marihuana facility is to be operated, and the location of the Material Safety Data Sheets.
15. A list of any chemicals that are or will be stored on the premises.
16. An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the Township. Specifically, that neither the applicant nor stakeholder of the applicant has failed to pay any property taxes, special assessments, fines, fee, or other financial obligations to the Township.
17. An affidavit that the transfer of marihuana to and from the marihuana facility shall be in compliance with the MMA and the MMFLA and all other applicable Michigan law.
18. An estimate of the number and type of jobs that the medical marihuana establishment is expected to create and the amount and type of compensation expected to be paid for such jobs.

19. A business plan which contains, but is not limited to, the following:
  - a. The applicant's experience in operating other similarly permitted or licensed businesses and the applicant's general business management experience;
  - b. The proposed ownership structure of the establishment, including percentage ownership of each person or entity;
  - c. A current organizational chart that includes position descriptions and the names of each person holding each position;
  - d. Planned tangible capital investment in the Township, including if multiple permits are proposed, an explanation of the economic benefits to the Township and job creation, if any, to be achieved through the award of such multiple permits, with supporting factual data;
  - e. Expected job creation from the proposed medical marihuana establishment(s);
  - f. Financial structure and financing of the proposed medical marihuana establishment(s);
  - g. If a medical marihuana grower facility is proposed, the number of plants anticipated; and
  - h. Community outreach/education plans and strategies.
20. A written description of the training and education that the applicant will provide to all employees, including planned continuing education for existing employees. Further, a written description of the method(s) for record retention of all training provided to existing and former employees.
21. A location area map of the marihuana facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana facility's building) to the closest real property comprising a public or private elementary, vocational or secondary school; and church or religious institution, if recognized as a tax-exempt entity by the Township Assessor's Office.
22. A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction into the sewerage system is prohibited.

23. A description of procedures for testing of contaminants, including mold and pesticides.
  24. A signed acknowledgment that the applicant is aware and understands that all matters related to marihuana growing, cultivation, possession, testing, safety compliance and transporting, are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a permit hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or exposure to any penalties associated therewith; and further, the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the Township, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the applicant may incur as a result of the violation by the applicant, its stakeholders and agents of those laws, rules, and regulations.
  25. All cultivation must be performed within an enclosed, locked facility and there shall be no illumination from the operation outside of the facility. The applicant shall specifically acknowledge this provision.
  26. As it relates to a marihuana grower facility, the following additional items shall be required:
    - a. A grower/cultivation plan that includes, at a minimum, a description of the cultivation methods to be used, including plans for the growing mediums, treatments, and/or additives.
    - b. A production testing plan that includes, at a minimum, a description of how and when samples for laboratory testing by a state-approved safety compliance facility will be selected, what type of testing will be requested, and how the test results will be used.
    - c. An affidavit that all operations will be conducted in conformance with the MMA, the MMFLA, MTA, and/or other applicable Michigan law.
    - d. A chemical and pesticide storage plan that states the names of chemicals and pesticides to be used in cultivation, and where and how pesticides and chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides and chemicals.
  27. Any other information which may be required by the Township Clerk.
- D. Upon an applicant's completion of the above-described form and furnishing of all required information and documentation, the Township Clerk shall file the same and assign it a sequential application number by facility type based on the date and time of acceptance. The Township Clerk shall act to approve or deny an application

not later than 21 days from the date the completed application is filed. If approved, the Township Clerk shall issue the applicant a provisional permit and subsequently a final permit after issuance by the state of Michigan of an operating license. If the application is denied, the Township Clerk shall issue a written notice of denial to the applicant and mail the same by first class mail to the address for the applicant provided in the application.

- E. Should the Township Clerk deny an application, the applicant shall have 14 days from the mailing of the denial to appeal the denial to the Township Supervisor by filing a notice of appeal with the Township Supervisor's Office. The Township Supervisor may require additional information or act upon the appeal based upon the information supplied to the Township Clerk. Should the Township Supervisor reverse the decision of the Township Clerk, the Township Clerk shall issue a provisional permit. Should the Township Supervisor affirm the decision of the Township Clerk, the Township Supervisor shall mail a written notice affirming the decision by first class mail to the address for the applicant provided in the application.
- F. The applicant shall have 14 days from the mailing of a decision by the Township Supervisor affirming the decision of the Township Clerk to appeal to the Township Board. To appeal the decision of the Township Supervisor the applicant must file a notice of appeal with the Township Clerk. Township Board shall hear the appeal at its next regular meeting, but not sooner than seven days from the receipt of the appeal.
- G. Maintaining a valid license issued by the state is a condition for the maintenance of a permit under this Ordinance and continued operation of a marihuana facility. A provisional permit does not authorize operations until a final permit is issued, which will only occur upon issuance of the appropriate license by the state of Michigan and the issuance of a Certificate of Occupancy.
- H. A permit issued under this Ordinance is not transferable without the prior approval of the Township under the same terms and conditions required for the initial issuance of a permit under this Ordinance.

### **39.05 Minimum Operational Standards for all Marihuana Facilities Within the Charter Township of Filer.**

The following minimum standards shall apply to all marihuana facilities within the Township:

- A. Marihuana facilities shall comply at all times and in all circumstances with the MMA, MMFLA, MRTM, and applicable Michigan law, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MMFLA. The Township bears no responsibility for failure of the owner to be unaware of changes in the MMFLA.



- B. Consumption and/or use of marihuana shall be prohibited at the facility.
- C. The facility shall be open, at all times, to any Michigan Medical Marihuana Licensing Board investigator, agent, auditor, state police officer, or Charter Township of Filer Police Officer, without a warrant and without notice to the licensee, and said individual(s) may enter the premises, offices, facilities, or other places of business of a permittee, for the following purposes:
  - 1. To inspect and examine all premises of marihuana facilities.
  - 2. To inspect, examine, and audit relevant records of the permittee and, if the permittee or any employee fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.
  - 3. To inspect persons, and inspect or examine personal effects present in a marihuana facility.
  - 4. To investigate alleged violations of the MMA, MMFLA, MRTM, this Ordinance and applicable Michigan law.
- D. The marihuana facility shall be continuously monitored with a surveillance system that includes security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days and be available upon request of the Charter Township of Filer Zoning Administrator or Code Officer. The storage facility shall not be used for any other commercial purpose.
- E. The marihuana facility shall not be open or accessible to the general public.
- F. The marihuana facility shall be maintained and operated so as to comply with all state and local rules, regulations and Ordinances. All marihuana facilities shall comply with applicable requirements of the Zoning Ordinance, including obtaining and maintaining a special use permit.
- G. All marihuana shall be contained within an enclosed, locked facility.
- H. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the grower, growing or harvesting of marihuana are located.
- I. All persons working in direct contact with marihuana shall conform to acceptable hygienic practices while on duty, including, but not limited to:

1. Maintaining adequate personal cleanliness.
  2. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when their hands may have become soiled or contaminated.
  3. Refraining from having direct contact with marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- J. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination.
- K. Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- L. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage or breeding place for pests.
- M. Marihuana that can support the rapid growth of undesirable microorganisms including but not limited to mold shall be held in a manner that prevents the growth of these microorganisms.
- N. All building fixtures and other facilities shall be maintained in a sanitary condition.
- O. The dispensing of marihuana at the facility is strictly prohibited.
- P. Exterior signage or advertising identifying the facility is prohibited.
- Q. Odor from operations shall be controlled as provided in the Zoning Ordinance and as may be required under the special use permit issued to the permittee.

### **39.06 Minimum Operational Standards for Grower Facilities.**

The following minimum standards for grower facilities shall apply:

- A. Grower facilities shall maintain a log book and/or database indicating the number of marihuana plants therein;
- B. The facility shall be subject to inspection by the Charter Township of Filer Fire Department to insure compliance with all applicable statutes, codes and ordinances; and

- C. Multiple grower facility permits in a single location shall be permitted, subject to approval of the same by the Township Clerk.

### **39.07 Minimum Operational Standards for Safety Compliance Facilities.**

The following minimum standards for safety compliance facilities shall apply:

- A. Safety compliance facilities shall maintain a log book and/or database which complies with the MMA and MMFLA or applicable Michigan law; and
- B. There shall be no other accessory uses permitted within the same facility other than those associated with testing marihuana.

### **39.08 Minimum Operational Standards of Processor Facilities.**

The following minimum standards for Processor Facilities shall apply:

- A. All activity related to the Processor Facility shall occur indoors;
- B. Processor Facilities shall maintain a log book and/or database which complies with the MMA, as amended, and MMFLA or other applicable state laws;
- C. All marihuana shall be tagged as required by the MMA, the MMFLA or applicable state laws;
- D. The structure shall be subject to inspection at any time by the Charter Township of Filer Fire Department to insure compliance with all applicable statutes, codes and Ordinances; and
- E. Processor Facilities shall produce no products other than useable marihuana intended for human consumption.

### **39.09 Minimum Operational Standards for Secure Transporter Facilities.**

The following minimum standards for secure transporter facilities shall apply:

- A. Secure transporters and each secure transporter stakeholder shall not have an interest in a grower, processor, provisioning center or safety compliance facility and shall not be a registered qualifying patient or a registered primary caregiver.
- B. A secure transporter shall enter all transactions, current inventory, and other information as required by the state into the statewide monitoring system.
- C. A secure transporter shall comply with all of the following:
  - 1. Each driver transporting marihuana shall have a chauffeur's license issued by the state.

2. Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past five years or have been convicted of a misdemeanor involving a controlled substance within the past five years, or as may be otherwise required by the State of Michigan.
  3. Each vehicle shall be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana.
  4. A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.
  5. The marihuana shall be transported by one or more sealed containers and shall not be accessible while in transit.
  6. A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana infused product.
- D. A vehicle used by a secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with all state and local laws, rules, regulations and ordinances.

### **39.10 Minimum Operational Standards for Provisioning Centers.**

The following minimum standards for provisioning centers shall apply:

- A. An applicant for permit and all stakeholders may not have an interest in a secure transporter or safety compliance facility;
- B. There shall be no sale, consumption or use of alcohol or tobacco products on the permitted premises; and
- C. Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, the provisioning center shall inquire of the State of Michigan through the statewide monitoring system to determine whether the patient and, if applicable, caregiver, hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily and monthly purchasing limit established by the Medical Marihuana Licensing Board under the MMFLA.

**39.11 Location of Grower Facility, Safety Compliance Facility, Processor Facility and Secure Transporter Facility.**

- A. All grower facilities, safety compliance facilities, processor facilities, secure transporter facilities, and provisioning centers shall only operate and be located within the permitted areas as provided for in the Zoning Ordinance.
- B. Multiple facility permits at a single location shall be permitted subject to the review and approval by the Township Clerk and subject to the requirements of the State of Michigan.

**39.12 Denial and Revocation.**

- A. A permit issued under this Ordinance may be revoked after an administrative hearing at which the Township Clerk determines that grounds for revocation under this Ordinance exist. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of a permit at least five days prior to the date of the hearing, by first class mail to the address given on the permit application; a licensee whose permit is the subject of such hearing may present evidence and/or call witnesses at the hearing;
- B. A permit applied for or issued under this Ordinance may be denied or revoked on any of the following bases:
  - 1. Any violation of this Ordinance;
  - 2. Any conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past five years by the applicant or any stakeholder of the applicant as measured from the date of the Application or the date of becoming a stakeholder, whichever occurs later, or while licensed under this Ordinance; or any conviction of the applicant or any stakeholder of the applicant of a controlled substance-related felony at any time, including prior to and after permitted under this Ordinance;
  - 3. Township Clerk finding of fraud, misrepresentation or the making of a false statement by the applicant or any stakeholder of the applicant while engaging in any activity for which this Ordinance requires a permit or in connection with the Application for a permit or request to renew a permit;
  - 4. Material failure to fulfill the business plan described in Section 39.04 C.19 of this Ordinance.
  - 5. Sufficient evidence that the permittee lacks, or has failed to demonstrate, the requisite professionalism and/or business experience required to assure strict adherence to this Ordinance, and the rules and regulations governing the Medical Marihuana Program in the state of Michigan;

6. The permit holder or any of its stakeholders is in default to the Township personally or in connection with any business in which they hold an ownership interest, for failure to pay property taxes, special assessments, fines, fees or other financial obligation;
  7. The marihuana facility is determined by the Township to have become a public nuisance; or
  8. The Michigan Medical Marihuana Licensing Board has denied, revoked or suspended the applicant's state operating license.
- C. Should the Township Clerk revoke a permit, the permittee shall have 14 days from the mailing of the written notice of revocation to appeal the decision to the Township Supervisor. The Township Supervisor may require additional information or act upon the appeal based upon the information supplied to the Township Clerk. Should the Township Supervisor reverse the decision of the Township Clerk, the Township Clerk shall reinstate permit. Should the Township Supervisor affirm the decision of the Township Clerk, he/she shall mail by first class mail a written notice affirming the decision to the address for the permittee contained in the Clerk's records.
- D. Should the Township Supervisor affirm the denial, revocation or suspension of a permit by the Township Clerk, the permittee shall have 14 days from the mailing of the decision of the Township Supervisor to appeal the decision to the Township Board, by filing with the Township Clerk a written notice of appeal. The Township Board shall hear the appeal at its next regularly scheduled meeting, but no sooner than seven days from the receipt of the appeal.

### **39.13 Permit Renewal.**

- A. A permit shall be valid for one year from the date of issuance, unless revoked as provided by law, including this Ordinance.
- B. A valid permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the Township and payment of the annual permit fee. Applications to renew a permit shall be filed with the Township Clerk at least 30 days prior to the date of its expiration. As long as no changes to the permittee have occurred and there is no pending request to revoke or suspend a permit, and the permittee has paid the permit renewal fee, the Township Clerk shall renew the permit.

### **39.14 Applicability.**

The provisions of this Ordinance shall be applicable to all persons and facilities described herein, including if the operations or activities associated with a marihuana facility were established without authorization before the effective date of this Ordinance.

### **39.15 Penalties and Enforcement.**

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of \$500, plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the Township may bring an action for an injunction or other process against a permittee to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the Township Clerk, Charter Township of Filer Police Officer, Township Supervisor or such other Township official as may be designated from time to time by resolution of the Township Board.

## **TITLE FOUR – PUBLIC PEACE, HEALTH, SAFETY, AND WELFARE**

- Chapter 40    Nuisances**
- Chapter 41    Noxious Weeds**
- Chapter 42    Burning of Certain Materials Prohibited**
- Chapter 43    Unsightly, Unsanitary and Dangerous Buildings**
- Chapter 44    Outdoor Parking or Storage of Motor Vehicles,  
Trailers and Other Miscellaneous Items**
- Chapter 45    Garbage and Rubbish Collection**
- Chapter 46    Regulation and Licensing of Junk Yards and  
Dealers**
- Chapter 47    Regulation of the Removal and Dumping of Topsoil,  
Subsoil, Clay, Sand, Gravel, Earth and Other  
Materials**
- Chapter 48    Regulations of Playground Equipment, Beaches and  
Parks**
- Chapter 49    Curfew**



## **CHAPTER 40 NUISANCES**

### **40.01 Conditions or Actions.**

The following conditions or actions which create a hazard to the peace, health, safety and welfare of the residents, property owners and general public, or any property thereof, as a result of inadequate care, maintenance, dilapidation, obsolescence, abandonment, negligence or permissive use, are hereby declared to be and shall constitute a nuisance, to-wit:

- a) Noxious weeds and other uncontrolled vegetation;
- b) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, vehicles, lumber or other things;
- c) Any condition which provides harborage for rats, mice, snakes or other vermin;
- d) Any building, structure or other place which has been damaged by fire, wind, flood or has become so dilapidated or deteriorated that it is unfit for human habitation, or because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is likely to be a menace to the health, safety or welfare of people working or residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;
- e) Any building or structure because of dilapidation, damage or vacancy, that is open at door or window, leaving the interior of the building or structure to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants or criminals, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful acts;
- f) All unnecessary or unauthorized noises and annoying vibrations, including animal noises;
- g) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
- h) The carcasses of animals or fowl not disposed of within a reasonable time after death;
- i) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes or other substances;
- j) Any accumulation of stagnant water permitted or maintained on any lot, plot or parcel of land;

- k) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities provided, however, that the foregoing enumeration shall not be deemed or construed to be conclusive, limiting or restrictive.

#### **40.02 Prohibitions.**

It shall be unlawful for any person, firm or corporation to cause, permit, maintain or allow the creation and/or maintenance of a nuisance.

#### **40.03 Examination of Premises and Notice to Owners.**

The Township Manager, or other officer designated by the Township Board, shall examine or cause to be examined, any property, public or private, upon which an alleged nuisance exists, and, if in the opinion of the Township Manager, or other officer designated by the Township Board, a nuisance exists, said Township Manager or officer shall issue a written notice to the owner in whose name the property appears, in the last assessment roll, upon which such nuisance exists, stating the nuisance, and a copy of such written notice shall also be submitted to the Filer Township Board.

#### **40.04 Posting of Signs.**

The Township Manager or other officer designated by the Township Board, shall cause to be posted at each entrance to any building or structure, or in the absence of any building or structure, at some other conspicuous place on the premises, upon which a nuisance has been determined to exist, a notice to read: **DO NOT ENTER. UNSAFE TO OCCUPY. UNSAFE FOR INGRESS.** Township Manager or other officer designated by the Township Board, Township of Filer, Manistee County, Michigan. Such notice shall not be removed without written permission of the Township Manager or other officer designated by the Township Board and no person shall enter the building or premises except for the purpose of making the required repairs or demolishing the building, and/or abating the nuisance.

#### **40.05 Contents of Notice.**

The notice shall contain the following, to-wit:

- a) A description of what constitute the nuisance;
- b) The location of the nuisance if the same is stationary;
- c) A statement of acts necessary to abate the nuisance;
- d) An order to abate the nuisance within a reasonable stated time;
- e) A specific time and place for a hearing before the Township Board, in the event the nuisance is not abated, as directed, at which time the person to whom the notice is directed shall have the opportunity to show cause why the nuisance should not be ordered to be abated.

- f) A statement that if the nuisance is not abated as directed, the Township may, after the hearing provided for, abate the nuisance and the costs incurred shall become a lien against the real property, to be paid within 30 days or added to the next tax roll of the Township.

#### **40.06 Service of Notice.**

Service of the above notice shall be by personal service upon the owner to whom said notice is directed, in whose name the property appears in the last assessment roll, if said owner shall be found in the Township of Filer; otherwise substituted service shall be made by certified mail, return receipt requested, addressed to said owner at the address shown on the last assessment roll, at least 15 days before the date of the hearing described in the notice. If any owner to whom said notice is directed is not personally served, in addition to mailing the notice, a copy of the notice shall be posted, at least 15 days before the date of said hearing, upon a conspicuous part of the building, structure or property upon which the nuisance exists.

#### **40.07 Refusal to Comply with Notice.**

Upon the failure of the owner, upon whom the above notice was served, to abate the nuisance, in accordance with the terms of this chapter, the Township Board may, at the hearing provided for in said notice, by resolution, order the Township Manager, or a designated officer of the Township, to enter upon the premises and proceed with the work specified. The Township Board shall have the authority, in its discretion, to order or employ any private person, firm or corporation to enter upon the premises and perform such work as is necessary to correct, remedy and abate said nuisance.

#### **40.08 Costs.**

Costs incurred by the Township to enforce the provisions of this chapter shall be paid from Township general funds and after the completion of work necessary to remove or remedy said nuisance, the costs and expenses thereof shall be reported to the Township Board, and the Township Board shall thereupon, by resolution, declare the sum so expended, to become a special assessment and lien upon such premises, lot or parcel of land. The Township Board shall thereafter notify the owner, in whose name the property appears upon the last assessment roll, of the amount of such cost by first class mail at the address shown on the tax roll. If the owner fails to pay the sum within 30 days after mailing of the notice of the amount thereof, the assessor shall add the sum to the next tax roll of the Township and the sum shall be collected in the same manner in all respects as provided by law for the collection of taxes by the Township.

## **CHAPTER 41 NOXIOUS WEEDS**

### **41.01 Weeds; Definition.**

For the purpose of this chapter, “weeds” include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard, and Indian mustard, species of *Brassica* or *Sinapis* ), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), giant hogweed (*Heracleum mantegazzianum*), ragweed (*Ambrosia elatior*), poison ivy (*Rhus toxicodendron*), and poison sumac (*Toxicodendron vernix*). In addition, the Township Board of Trustees hereby finds and determines that grasses in excess of 12 inches long shall be regarded as common nuisance in the Township and shall come within the scope of this chapter.

### **41.02 Duty of Owner or Occupant.**

All persons who own or manage, lease, rent or occupy any premises or vacant land within the designated areas as described in Section 41.06 shall be equally responsible for keeping the premises from having growths of weeds or grasses in excess of 12 inches in the Township and to prevent bushes, trees or shrubs from extending over the sidewalk, if any, adjacent to such premises.

### **41.03 Cutting or Trimming.**

It shall be the duty of the owner and occupant of every premises or vacant land within a designated area to cut and remove or destroy by lawful means all such weeds or grass, and to trim bushes, trees and shrubs as often as may be necessary to comply with Sections 41.01 and 41.02.

### **41.04 Notice to Remedy Prohibited Conditions.**

Upon the discovery of a prohibited condition existing as set out in Sections 41.01 and 41.02, the Township Supervisor, or his or her designee, shall notify the owner of the property as shown on the tax rolls of such condition and require that it be remedied within 10 days. Such notice shall be given in person or by certified U.S. mail, addressed to the last known address of the owner as shown on the tax rolls and shall advise such owner that unless corrected, an agent of the Township may enter upon the owner’s property and destroy the weeds or grasses in excess of 12 inches by cutting. Alternatively, the Township may publish a notice in a newspaper of general circulation in the Township during the month of March that grasses in excess of 12 inches or weeds not cut by May 1 of that year may be cut by the Township, and the owner of the property charged with the cost. The notice shall state that the Township may enter the property of anyone determined to be in violation of Sections 41.01 and 41.02 to cut the grass or weeds and charge the cost thereof to the owners of the property and place a lien on the property for such costs, which lien may be enforced in accordance with the laws of this state providing for the enforcement of tax liens. The supervisor or his designee shall notify the Township Treasurer by October 1 of each year of those parcels against whom the lien for costs remains unpaid and thereafter the Treasurer shall add such costs to the winter tax bill for the delinquent parcel. The Township may cut grass or weeds that are in violation of Section 41.01 or 41.02 as many times as is necessary and charge the cost to the property owner.

#### **41.05 Remediating Condition at Expense of Property Owner.**

If the owner fails to remedy the condition after notice as described in Section 41.04, the Township Supervisor, or his or her designee, shall thereupon remedy the condition or abate the nuisance or cause such to be done by Township personnel or private contractor. The Township shall bill the owner at the address for the property listed on the tax rolls of the Township for the actual cost of remedying the prohibited condition plus 50 percent for inspection and overhead and other additional costs in connection therewith. If the owner fails to pay such amount in full within 30 days, a late fee equal to 10 percent of the bill shall be imposed and thereafter the full unpaid amount shall become a lien against the property and shall be collected in the same manner as taxes. Levying or collecting such costs shall not relieve any person offending against this chapter from the penalty prescribed for violation of the Code in Chapter 61 of the Code.

#### **41.06 Designated Areas.**

This Chapter 41 of the Code shall apply to all premises located in whole or in part in the following designated areas:

- A. **Oak Hill Area.** All that area bounded generally by Merkey Road lying east of US-31, as extended along the north line of the Township, on the north; by Filer City Road on the east; by 28th Street on the south (both sides); and by US-31 on the west; including both sides of the following additional streets: Prospect, 21st Street, Madison Street (both segments), and Nelson Street north of Madison Street.
- B. **Filer City Area.** All that area bounded generally by Falleen Street, east of Filer City Road, on the north; Sheridan, Mee and Grant Streets on the north and east; Warren Street along the south; Sherman Street between Warren and Hilty Street, Hilty Street west of Sherman to Sheridan Street, Sheridan Street to Avenue F, Avenue F to Avenue B, Avenue B to Filer Avenue, Filer Avenue to Staunton, Staunton to Avenue E, Avenue E to Avenue A, Avenue A to Mee Street and Mee Street to Filer City Road, thence along Filer City Road to Falleen Street, along the south and west.
- C. **Maple Street Area.** Both sides of Maple Street lying between 12th Street on the north Merkey Road on the south, also the south side of 12th Street, both sides of 13th, 14th, 15th, 16th, 17th and 18th Streets, and Lexington Street.

#### **41.07 Municipal Civil Infraction.**

In addition to any other penalty or sanction imposed in this chapter, a violation of this chapter shall also constitute a municipal civil infraction subject to the penalties provided in Chapter 61 of the Code.

## CHAPTER 42 BURNING OF CERTAIN MATERIALS PROHIBITED

### 42.01 Prohibited Actions.

It shall be unlawful for any person, firm or corporation to burn, permit to be burned, or cause to be burned, outside of any structure, in the Township of Filer, any solid waste materials including building materials, junk, refuse or miscellaneous debris.

### 42.02 Prohibited Actions without Permit.

It shall be unlawful for any person, firm or corporation to burn or cause to be burned outside of any structure, in the Township of Filer, the following, to-wit:

- (a) Brush, stumps, wood, leaves, lawn clippings, yard waste (woody and vine growth, vegetation and paper products).
- (b) Bonfires which are kindles for a civic, social, or athletic purpose, made from wood products may be allowed providing they do not create a nuisance and the following precautions are met:
  - (i) **Location.** The location of the fire must be a reasonable distance from any structure and adequate provisions must be made to prevent the fire from spreading to any structure.
  - (ii) **Attendants.** A bonfire shall be constantly attended by a competent adult of 18 years or older until such fire is extinguished. This person shall have a garden hose connected to a water supply or other fire extinguishing equipment readily available for use. The Fire Chief or Assistant Fire Chief may require that particular types of firefighting equipment be available at the bonfire site.
  - (iii) **Safety.** The Fire Chief or Assistant Fire Chief may prohibit any and all bonfires when atmospheric conditions or circumstances make such a fire hazardous or when in the opinion of the Fire Chief or Assistant Fire Chief, the bonfire would constitute a fire hazard or will endanger the life or property of any person.
- (c) Fires set to agricultural lands for disease and pest control and other accepted agricultural and wildlife management practices.

except after having received a permit to do same from the Filer Township Fire Chief or the Assistant Fire Chief. The Fire Chief or Assistant Fire Chief shall not issue said permit unless or until he (she) is satisfied that such burning will not cause a public nuisance from smoke, odor or other factors and that said burning shall not create any public safety hazard through threat of the fire spreading. Thereafter, if the Fire Chief or Assistant Fire Chief determines that the burning has created a public nuisance or hazard, the permit shall be revoked and the burning shall immediately cease.

#### **42.03 Permissible Exceptions.**

1. Nothing in this chapter shall be interpreted to limit the following, to-wit: barbecues, cook fires or other similar fires, for the cooking of food, suitably contained on private property or in established stoves, grills or fixture on public property.
2. Fires to provide heating on construction sites, confined to the work areas, providing that such burning does not create a public nuisance or hazard.
3. Fires set for the instruction and training of public and industrial fire-fighting personnel.

## **CHAPTER 43**

### **UNSIGHTLY, UNSANITARY AND DANGEROUS BUILDINGS**

#### **43.01 Duties – General.**

It shall be the duty of the Township Board of Filer Township, Manistee County, Michigan, to determine by resolution whenever any condition exists upon any premises, lots, or parcels of land within the Township limits that is unsightly, unsanitary or dangerous and constituting a menace to the health and safety of any citizens, or of any adjoining property.

#### **43.02 Duties – Fire.**

It shall be the duty of the Township Board of Filer Township, Manistee County, Michigan, to determine by resolution whenever any condition exists upon premises, lots or parcels of land in the Township where a fire may have occurred that has resulted in a complete or partial destruction of any buildings upon said premises, lots or parcels of land that an unsightly, unsanitary or dangerous condition results or remains.

#### **43.03 Serving and Publication of Resolution.**

Such resolution shall state the lot or lots or parcels upon which such condition exists, the name of the owner or owners, if known, and shall direct said owner or owners to correct and remedy such conditions, to remove any buildings, wreckage or condition that tends to create any unsightly, unsanitary or dangerous condition. A copy of such resolution shall be served upon the owner or owners of said lot or lots by any constable of the Township of Filer, or said resolution shall be published in some newspaper, circulated within said Township, in at least one issue thereof. Said resolution shall also state the date upon which such buildings, wreckage or conditions which constitute the unsightly, unsanitary or dangerous condition, shall be removed, which said day shall not be less than ten days or more than 60 days after service, or publication of said resolution as shall be in the discretion of the Township Board of Filer Township, Manistee County, Michigan.

#### **43.04 Authority.**

If, after service of said resolution or the publication thereof, and after the times stated in said resolution for the removal of the unsightly, unsanitary or dangerous conditions has elapsed, the owner or owners of said lots shall fail, refuse or neglect to remove or remedy said conditions, it shall become the duty of the Township Board of Filer Township by resolution, to order any officer or employee of said Township to enter upon said premises and remove or remedy such unsightly, unsanitary or dangerous conditions, as may exist. Said Township Board shall also have the authority, in its discretion, to order or employ any private persons to enter upon said premises and perform such work as is necessary to correct and remedy such conditions.

#### **43.05 Cost.**

After completion of such work necessary to the removal or remedy of said unsightly, unsanitary or dangerous conditions, the cost and expense thereof, shall be reported by the Township Clerk to the Township Board of Filer Township, and it shall, thereupon, by resolution,



declare the same to be and become special assessment and lien upon such lot or lots in the manner provided by law for Special Assessments. Said Special Assessment shall be reported to the Supervisor and shall be placed upon the tax rolls of said Township and collected in the manner provided by law.

**CHAPTER 44**  
**OUTDOOR PARKING OR STORAGE OF MOTOR VEHICLES,**  
**TRAILERS, AND OTHER MISCELLANEOUS ITEMS**

**44.01 Purpose.**

The purpose of this chapter is to limit and restrict the outdoor storage, parking, or accumulation of junk, unused, partially dismantled or non-operating vehicles such as cars, trucks, house trailers, or tractor trailers, etc., or new or used parts thereof, and to limit and restrict parking on local streets in a zoned area within the Township; to thereby avoid injury and hazards to children and others attracted to such vehicles or trailers and the devaluation of property values.

**44.02 Definitions.**

Terms and phrases used in this Ordinance shall have the same definitions as provided in the Michigan Vehicle Code, Act 300 P.A. 1949, as amended.

**44.03 Regulations.**

- (a) No person, firm, or corporation shall park, store, or place upon any public right-of-way or public property, or upon a zoned area within the Township, any vehicle, such as cars, trucks, house trailers, or tractor trailers; or new or used parts or junk therefrom, unless the same is wholly contained within a fully enclosed building and does not violate any zoning or building laws of the Township, county, or State of Michigan, except for the following:
  - (1) Duly licensed and operable vehicles or trailers with substantially all main component parts attached.
  - (2) Not more than one vehicle or trailer that is temporarily inoperable, because of minor mechanical failure, but which is not, in any manner dismantled and has substantially all main component parts attached, or not more than one vehicle in fully operating condition such as a stock car or modified car that has been re-designed or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall such vehicle be parked in the front or side street yard area of any such residential premises.
- (b) No repairing, re-designing, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or public property or any property primarily used or zoned for any type of residential purpose for a period in excess of 24 hours except such as shall be accomplished within fully enclosed buildings; will not constitute a nuisance or annoyance to adjoining property owners or occupants; and does not violate any provisions of the Filer Township Zoning Ordinance. Any such work within such 24 hour period heretofore allowed shall not, however, consist of any major repair,

re-designing, modifying or dismantling work, but only such occasional minor work as may infrequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition.

- (c) In the event the foregoing regulations create any special or peculiar hardship beyond the control of a particular violator thereof because of unforeseen circumstances, the zoning Inspector of the Township is hereby given the authority to grant permission to an applicant to operate contrary to the provisions hereof for a limited period provided no adjoining property owner or occupant is unreasonably adversely affected thereby and the spirit and purpose of the chapter are still substantially observed.
- (d) No automobile, truck or vehicle shall be parked in a place or in a manner that blocks access to a space designated as a fire lane.
- (e) No truck, truck tractor, or trailer, other than a pickup truck or van shall be parked on any local street, within the Township of Filer for a period of longer than 30 days.
- (f) A driver shall not leave a motor vehicle exceeding a gross vehicle weight of 30,000 pounds or three axles, with the motor running between the hours of 11:00 p.m. and 7:00 a.m. in the High Density Residential, Medium Density Residential, Agricultural Residential, and Forest Recreational Residential Districts.
- (g) In a manner consistent with law, the Charter Township of Filer may from time to time designate “no parking” zones. Twenty-one days after the Manistee County Road Commission erects signage indicating a “no parking” zone, the parking of any automobile, truck or other vehicle contrary thereto shall be a violation of this Ordinance.

#### **44.04 Exceptions.**

The provisions of 44.03 hereof shall not apply to:

- (a) The stopping or standing of school buses in accordance with the provisions of Section 682 of the Michigan Vehicle Code being 257.682.
- (b) The stopping, standing or parking of an authorized emergency vehicle or vehicles and other equipment while actually engaged in the performance of their respective duties as provided by Section 603 of the Michigan Vehicle Code, being MCL 257.603.
- (c) The stopping, standing or parking of a vehicle where necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer.

#### **44.05 Nuisance.**

Any parking, storage, placement, or operation in violation of the provisions of this chapter are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to civil damages and the fines and penalties herein provided for.

#### **44.06 Construction.**

This chapter shall not prevent the operation of any licensed junk yard, salvage yard, garage, body, or paint shop legally operating within a proper zone as defined in the Filer Township Zoning Ordinance, and shall be in addition to any other laws or ordinances respecting rubbish, refuse, litter, trash, or junk control and regulations.

## **CHAPTER 45**

### **GARBAGE AND RUBBISH COLLECTION**

#### **45.01 Definitions.**

- (a) “Garbage” shall be construed an animal or vegetable waste which arises from the use, preparation or storage of food for human consumption, not including waste from industrial processes and manufacturing operations.
- (b) “Rubbish” shall be construed to mean non-putrescible material from residential, commercial and institutional property, such as ashes, paper, cartons, boxes, barrels, wood excelsior, yard trimmings, bedding, furniture, metal, tin cans, dirt, glass, crockery and miscellaneous mineral refuse, not including gravel, sand, earth, leaves, tree branches, tree stumps or building materials.
- (c) “Frequency of collection” within the meaning of this chapter shall be construed to mean the time elapsing between two successive collections as established by the Township Supervisor, pursuant to the authority vested in him in Section 6 of this chapter.

#### **45.02 General Provisions.**

From and after the passage and taking effect of this chapter, it shall be unlawful for any person to deposit or place any garbage or rubbish within the meaning of this chapter in any alley, street, river or other public place within the Township of Filer; nor shall any person deposit or place any rubbish or garbage upon private property, whether owned by such person or not, within the limits of the Township of Filer, unless the same shall be enclosed in a suitable bundle, can, vessel, tank or container as defined herein. Provided, however, that any person who immediately destroys such garbage or rubbish on his own premises by cremation or otherwise to the satisfaction of the health officer of the County of Manistee shall not be required to place such garbage in any such bundle, can, vessel, tank or container.

#### **45.03 Garbage and Rubbish Preparation for Pick-Up.**

All garbage placed in receptacles for collection shall be drained of surplus liquids, and all residential garbage shall be securely wrapped in paper. Provided, that no tin can, wire or metal of any kind, glass, china, crockery or rubbish shall be placed in any garbage can or receptacle.

All rubbish shall be broken up, cut up or otherwise reduced in size and placed in convenient handling in bundles, securely tied, or in boxes, barrels, or other receptacles.

#### **45.04 Suitable Container or Bundle for Pick-Up.**

All garbage containers shall be of metal, shall be leak proof, shall have tight fitting covers, and shall be kept in a clean and sanitary condition by the owner. They shall be equipped with two handles or with a suitable bail. Receptacles for ashes or rubbish shall be fitted with suitable handles or bails. No garbage or rubbish receptacle shall exceed 20 gallons in capacity nor shall it be so loaded that it cannot be conveniently handled without spilling its contents. The weight of any

bundle or the combined weight or any receptacle and its contents shall not exceed one hundred pounds. The size of any bundle shall not be greater than can be conveniently handled and disposed of by the collector.

#### **45.05 Licensing.**

No person, firm, partnership or corporation shall engage in collecting, hauling or transporting garbage in the Township of Filer, unless they shall have first obtained a license from the Township Clerk and then only pursuant to such rules and regulations as are prescribed by the Township Supervisor to properly effectuate the purposes hereof.

## CHAPTER 46 REGULATION AND LICENSING OF JUNK YARDS AND DEALERS

### 46.01 Definitions.

**Junk.** Any personal property which is or may be salvaged for reuse, resale, reduction or similar disposition or which is possessed, transported, owned, accumulated, dismantled or assorted for any of the aforesaid reasons. Without limiting the definition of Junk, the term shall include used or salvaged metals and their compounds or combinations, used or salvaged ropes, bags, papers, rags, glass, rubber and similar articles or property and used motor vehicles which are used, owned or possessed for the purpose of wrecking or salvaging parts therefrom, except that this definition shall not apply to retail merchants who repossess their own merchandise sold on a title-retaining construct or chattel mortgage basis.

**Junk Dealer.** A person who engages in the business of buying, exchanging, accumulating, receiving, storing or selling any article or article which may reasonably be defined as Junk, except that this definition shall not apply to retain merchants who repossess their own merchandise sold on a title-retaining contract or chattel mortgage basis.

**Junk Shop or Yard.** Any place at which a Junk Dealer buys, exchanges, accumulates, receives, stores, sells or otherwise handles Junk.

**Person.** Any individual person, partnership, firm or corporation.

**Second-Hand Dealer.** Any person who engages in the business of buying, exchanging, accumulating, receiving, storing or selling any Second-Hand property, except that this definition shall not apply to retail merchants who repossess their own merchandise sold on a title-retaining contract or chattel mortgage basis.

**Second-Hand Property.** Any used household furniture, used wearing apparel, used lumber, brick or tile, used plumbing fixtures, used electrical fixtures, used articles made of metals, used jewelry, used tools and any other used articles or personal property bought and sold by other than the original user.

**Second-Hand Store.** Any place at which a Second-Hand Dealer buys, exchanges, accumulates, receives, stores or sells Second-Hand property.

### 46.02 Licenses.

No person shall maintain or operate a Junk Yard or Second-Hand Store without first obtaining a license therefore. Applications for such a license shall be made to the Township Clerk. The applicant shall state his name, whether person, firm or corporation, the place or places where the business is to be or is conducted or maintained, and the applicant's residence for a period of three years preceding such application. All applications so received shall be referred to the Zoning Board for recommendation.

After receipt of the Zoning Board's recommendations, the application shall be submitted to the Filer Township Board. The sole power to grant licenses hereunder is vested in said Filer Township Board and licenses so granted shall be issued by the Filer Township Clerk.

Any applicant seeking to establish a Junk Yard in a locality not previously used for the purpose, or any licensee seeking to move or establish a Junk Yard in a locality not previously used for that purpose shall first obtain the consent in writing of 60 percent of the owners of all property and who own collectively at least 60 percent by area of the property within 300 feet of any boundary line of the property on which the proposed business is to be conducted.

All licenses issued hereunder shall expire on the 30th day of April of each year.

#### **46.03 Fees.**

Each person engaged in or carrying on the business of a Junk Dealer or Second-Hand Dealer shall pay the sum of \$15 license fee per annum, provided that a separate license shall be taken out for each store, yard or location at which such a business is conducted.

#### **46.04 General Provisions.**

- A. The business of a Second-Hand Store shall be conducted entirely within the confines of a building provided for the same.
- B. **Lot Size.** The minimum lot size of a Junk Yard shall be three acres and the maximum lot size of a junk yard shall be ten acres, provided, however, that any land or premises now in actual use of a junk yard which exceeds the maximum of ten acres may continue but there shall be no enlargement thereof.
- C. **Set Backs.** All Junk Yard buildings, fences and greenstrips shall be set back a minimum of 100 feet from all property lines fronting on any road, street or highway.
- D. All Junk Yards shall be completely enclosed by a tight board fence, or solid metal fence which is well maintained and eight feet in height or by a thickly planted and well-maintained greenstrip eight feet in height and no less than 15 feet in width except for gates and places of ingress and the main building in which the business is conducted.

Barbed wire may be installed on the tops of such fences on arms or supports projecting over the private property side of the fence.

Gates for access to said premises shall swing inward and such gates shall be closed when the premises are not open for business.

- E. **Business Hours.** No Junk Yard or Second-Hand Store shall be open to the public for the transaction of business before the hour of 7:00 a.m. or remain open later than 9:00 p.m.



- F. All burning of whatever kind or nature, smelting, rendering or reducing by heat shall be carried on between the hours of 6:00 a.m. and 10:00 a.m., Tuesdays through Fridays and shall be done in compliance with fire and health regulations.
- G. All premises used as a Junk Yard shall be kept and maintained in a clean, sanitary and neat condition and so used that rats, vermin, and fire hazards are reduced to a minimum. Such Junk Dealer or Second-Hand Dealer shall post a conspicuous place in or upon his shop, store or other place of business, a sign having his name and occupation legibly inscribed thereon.
- H. It shall be unlawful for any Second-Hand Dealer or Junk Dealer to sell or deliver or cause to be sold or delivered, any bed mattress which is stained or discolored or the contents of which are musty or to sell or deliver any second-hand clothing or bedding until the same has been thoroughly cleaned and disinfected or to sell or deliver any second-hand linen until the same has been laundered. Such provisions are inapplicable when such articles are to be sold or delivered for reprocessing.

**CHAPTER 47**  
**REGULATION OF THE REMOVAL AND DUMPING OF TOPSOIL, SUBSOIL,  
CLAY, SAND, GRAVEL, EARTH, AND OTHER MATERIALS**

**47.01 Definitions.**

- A. **General.** When not inconsistent with the context, words used in present tense, include the future tense, and words used in the singular number include the plural number, and words used in the plural number include the singular number. The word “shall” is always mandatory, and not merely directory. Terms not herein defined shall have the meanings customarily assigned to them.
- B. **Specific Terms.** The following terms shall have the following meanings when used in the within chapter.
- (a) **Soil.** The word “soil” as used herein shall mean soil, topsoil, clay, sand, gravel, land, earth or any other similar material proposed to be moved from or on to the land.
- (b) **Quarry.** The word “quarry” as used herein shall mean any tract or parcel of land or part thereof used for the purpose of searching for or the extraction of stone, gravel, marl, clay, sand, peat, topsoil, or other similar materials including stripping and pit type operations.

**47.02 Quarrying and Removal of Soil or Similar Material.**

From and after the effective date of this chapter, it shall be unlawful for any person to operate a quarry as hereinbefore defined or strip any soil, as herein before defined or similar material without a permit from the Township Board. No permit will be required where the moving, grading or leveling of the aforesaid materials is carried on for the immediate use or development of the land pursuant to a land use permit issued by the Township Zoning Administrator.

- A. **Application.** Before a permit is approved, the Township Planning Commission shall conduct a public hearing concerning such application and file its recommendation with the Township Board. A separate permit shall be required for each separate site. Each application for a permit (five copies to be submitted) shall be made to the Township Clerk and shall contain the following information as a condition precedent to the obligation to consider such request:
1. Names and address of parties of interest in said premises setting forth their legal interest in said premises.
  2. Full legal description of the premises wherein operations are proposed.
  3. Detailed statement as to method of operation, type of machinery or equipment, and estimated period of time that such operation will cover.

4. Statement as to method of filling excavation where quarrying results in extensive under-surface excavation.
  5. Such other information as may be reasonably required by the Township Planning Commission to base an opinion as to whether a permit should be issued or not.
- B. **Permit Fees.** The sum of \$500 shall accompany the application for a permit. Said sum is to be used to defray the cost of engineering services, investigation, publication charges and other miscellaneous administrative expenses occasioned by processing such application. Permits issued by the Township Board shall be for a period of one year expiring on December 31st of each year, and such permits may be renewed by the payment of an annual \$50 dollar inspection fee. Such permits shall be renewable as herein provided for so long as the permittee complies with all of the provisions of the chapter or other conditions of this permit.
- C. **Permits.** After reviewing all of the information submitted by the applicant and such other information as may be in the hands of the Township Planning Commission, the Township Board shall at a regular or special meeting determine whether or not a permit will be issued. The permit shall be issued in the event the Township Board shall determine that the issuance of the permit would not detrimentally affect the public health, safety, morals and general welfare of the citizens of Filer Township.
- D. **Mandatory Requirements.** The following requirements shall be mandatory:
1. Where an excavation in excess of five feet will result from such operations, the applicant shall erect a fence completely surrounding the portion of the site where the excavation extends, said fence to be not less than five feet in height, complete with gates, which gates shall be kept locked when operations are not being carried on.
  2. Any roads used for the purpose of ingress and egress to said excavation site, which are located within 500 feet of occupied residences shall be kept dust free by hardtopping with cement, bituminous substance or chemical treatment.
  3. The slopes of the banks of the excavation shall in no event exceed a minimum of two feet to one foot. (Seven feet horizontal to one foot vertical.)
  4. No cut or excavation shall be made closer than 50 feet from the nearest street or highway right-of-way line nor nearer than 20 feet to the nearest property line; provided, however, that the Township Board may prescribe more strict requirements in order to give sublater support to surrounding property where soil or geographic conditions warrant it.

5. The Township Board shall require such other performance standards where, because of peculiar conditions, they deem it necessary for the protection of health, safety, morals and well-being of the citizens of the Township.

#### **47.03 Regulations for Stripping Operations.**

- A. No soil, as used herein, or similar materials shall be removed below a point six inches above the mean elevation of the center line of the nearest existing or proposed street or road established or approved by the Manistee County Road Commission, except as required for the installation of utilities and pavements.
- B. No soil, as used herein, or similar materials shall be removed in such manner as to cause water to collect or to result in a place of danger or a menace to the public health. The premises shall at all times be graded so that surface water drainage is not interfered with.
- C. Sufficient topsoil shall be stockpiled on said site so that the entire site, when stripping operations are completed, may be recovered with a minimum of three inches of topsoil and the replacement of such topsoil shall be made immediately following the termination of the stripping operations, and seeded. In the event, however, that such stripping operations continue over a period of time greater than 30 days, the operator shall replace the stored topsoil over the stripped areas as he progresses.
- D. The Township Board shall require such other and further requirements as is deemed necessary in the interest of the public health, safety, morals and general welfare of the citizens of the Township of Filer.
- E. **Surety Bond.** The Township Board shall, to insure strict compliance with any regulations contained herein or required as a condition of the issuance of a permit either for quarrying or soil stripping, require the permittee to furnish a surety bond executed by a reputable surety company authorized to do business in the State of Michigan in an amount determined by the Township Board to be reasonably necessary to insure compliance hereunder. In fixing size and scope of the proposed operation, probable cost of rehabilitating the premises upon default of the operator, estimated expenses to compel operator to comply by court decrees, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
- F. The cost of aforesaid permit will be all expenses incurred in the issuance of denial of said application. Permits shall be not more than one year in duration expiring on December 31st of each year, and such permits may be renewed by the payment of an annual \$10 dollar inspection fee. Such permits shall be renewable as herein provided for so long as the permittee complies with all of the provisions of the chapter or other conditions of said permit.

#### **47.04 Dumping of Soil, as Used Herein, or Other Similar Materials.**

- A. Solid or liquid waste landfill operations are strictly prohibited in Filer Township.
- B. Commercial, industrial or governmental waste or by-products shall not be dumped in Filer Township unless said waste or by-product is deemed non-toxic and bio-degradable by the Environmental Protection Agency of the State of Michigan and the Township Board. The applicant shall also show approval for dispersal from the Department of Natural Resources of the State of Michigan.
- C. The dumping of any soil, as used herein, or other materials within the Township of Filer is hereby prohibited unless a permit for said operation is received from the Filer Township Board. The procedure pertaining to a permit shall be those as aforehand mentioned under Section 47.02.
  - 1. A surety bond shall be required by the Township Board to insure adherence to the herein specified provisions. Such bond shall be in an amount as specifically required in this chapter or if not otherwise specified, equal to the estimated cost of restoring the site to a safe, healthy and sightless condition.

#### **47.05 Excavation or Holes.**

The existence within the limits of the Township of Filer of any unprotected, unbarricated, open or dangerous excavations, holes, pits, well, or of any excavations, holes, pits, or wells, which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare, are hereby prohibited and declared a public nuisance, provided, however, that this chapter shall not prevent the construction of excavations under a permit issued pursuant to the provisions of this chapter or the Building Code of the County of Manistee where such excavations are properly protected and warning signs and lights located in such manner as may be approved by the Filer Township Board, and provided, further, that this section shall not apply to drains created or existing by authority of the State of Michigan, County of Manistee, Township of Filer, or other governmental agency.

Where the Township Board shall determine a nuisance to exist as herein defined, the Township Clerk shall notify the owner as shown on the latest tax rolls in writing of such finding and require the owner to abate such nuisance within a reasonable time, in no event less than 30 days. In the event the property owner fails to abate or cause to be abated such nuisance and the cost or reasonable value of such work shall be placed as an assessment against said property on the next assessment roll.

## **CHAPTER 48**

### **REGULATION OF PLAYGROUND EQUIPMENT, BEACHES AND PARKS**

#### **48.01 Noise Regulations.**

The playing of any radio, phonograph or musical instrument between certain hours on any beach, park or recreation area, or in any parking area adjacent or adjoining these areas, is prohibited in the Township. The hours of prohibition shall be set by resolution of the Township Board and they may be changed or revised, from time to time, as conditions may warrant.

#### **48.02 Alcoholic Beverages During Certain Hours.**

The use of alcoholic beverages, beer, wine or liquor on any beach, park, recreation area or in any parking area adjacent or adjoining these areas, during certain hours, is prohibited in the Township. The hours of prohibition shall be set by resolution of the Township Board and they may be changed or revised, from time to time, as conditions may warrant.

#### **48.03 General Rules and Regulations for Use of Playground Equipment and Other Rules for Good Order of Beaches, Parks and Recreation Areas.**

The Township Board shall establish rules and regulations governing the use of playground equipment and hours for its use and other regulations that are necessary for the protection, safety and welfare of persons in and around beaches, parks and recreation areas in the Township. These rules and regulations shall be set by resolution of the Township Board and they may be changed or revised from time to time, as conditions may warrant.

## **CHAPTER 49 CURFEW**

### **49.01 Purpose.**

This Chapter 49 is enacted to prevent juvenile criminal activity in the late night and early morning hours, for furtherance of family responsibility, and for the public good, health, safety, and welfare.

### **49.02 Curfew.**

Except as stated in Section 3, it shall be unlawful for any person under the age of 17 years to be or remain in or upon the streets or public places within the Charter Township of Filer between the hours of 11 p.m. and 7:00 a.m. the following day.

### **49.03 Exceptions.**

The provisions of Section 2 shall not apply:

- A. When the minor is accompanied by a parent, guardian or other person having legal care or custody of such minor;
- B. When the minor is on an emergency errand;
- C. When the minor is on the sidewalk adjacent to his residence or on the sidewalk of a next-door neighbor with the approval of that neighbor;
- D. When the minor is in the course of lawful employment with approval from employer;
- E. When the minor is, with parental consent, in a motor vehicle. This Ordinance contemplates normal travel. This provision clearly excepts bona fide interstate travel along major thoroughfares within the Charter Township of Filer.
- F. When the minor is returning home from and within one hour after a school or municipally sponsored activity or the activity of a religious or other volunteer organization.

### **49.04 Parental Responsibility.**

It shall be unlawful for any parent, guardian or person having legal care or custody of a minor to allow or permit such minor to violate any of the provisions of this Chapter 49 without legal justification therefore.

## **TITLE FIVE – CRIMES**

<b>Chapter 50</b>	<b>Reserved for Future Use</b>
<b>Chapter 51</b>	<b>Obscenity</b>
<b>Chapter 52</b>	<b>Reserved for Future Use</b>
<b>Chapter 53</b>	<b>Littering</b>
<b>Chapter 54</b>	<b>Liquor Control Ordinance</b>
<b>Chapter 54A</b>	<b>Fireworks Ordinance</b>
<b>Chapter 55</b>	<b>Operation of Motor Vehicles on Areas Other Than Those Maintained for Vehicular Travel</b>
<b>Chapter 56</b>	<b>Reserved for Future Use</b>
<b>Chapter 57</b>	<b>Reserved for Future Use</b>
<b>Chapter 58</b>	<b>Reserved for Future Use</b>
<b>Chapter 59</b>	<b>Reserved for Future Use</b>



**CHAPTER 50**  
**RESERVED FOR FUTURE USE**

## **CHAPTER 51 OBSCENITY**

### **51.01 Obscenity Defined.**

As used in this section, material is obscene when:

- (a) It depicts or describes any of the following types of sexual conduct:
  - (1) Ultimate sexual acts, normal or perverted, or simulated;
  - (2) Masturbation;
  - (3) Excretory functions; or
  - (4) Lewd exhibition of the genitals; and
- (b) To the average person, applying contemporary community standards, the dominant theme of the material taken as whole appeals to the prurient interest in sex; and
- (c) The material is patently offensive because it affronts contemporary community standards in its description or representation of the sexual conduct; and
- (d) The material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

### **51.02 Prohibited Acts.**

A person commits obscenity when, with knowledge of the nature of contents thereof, or recklessly failing to exercise reasonable inspection which would disclose the nature of contents thereof;

- (a) This person sells within the Township, any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, phonograph record, film strip or slide.
- (b) This person offers or attempts to sell within the Township, any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, phonograph record, film strip or slide.
- (c) This person distributes or gives away within the Township any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, phonograph record, film strip or slide.
- (d) This person offers to or attempts to give away within the Township, any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, phonograph record, film strip or slide.

- (e) This person prints or publishes within the Township any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, film strip or slide.
- (f) This person exhibits or shows within the Township any obscene photograph, drawing, motion picture, film strip or slide.
- (g) This person produces, directs, or plays a part within the Township, in any obscene play.
- (h) This person advertises for sale within the Township, any obscene book, magazine, pamphlet, paper, photograph, motion picture film, phonograph record, film strip or slide.
- (i) This person advertises for viewing within the Township any obscene motion picture, play, film strip or slide.
- (j) This person publicly performs an obscene act or otherwise publicly presents an obscene exhibition of his body within the Township.
- (k) This person buys or procures in the Township, for resale in the Township, any obscene book, magazine, pamphlet, paper, photograph, motion picture film, film strip, slide or phonograph record.
- (l) This person buys, leases or procures in the Township, for showing in the Township for gain, any obscene motion picture, film strip or slide.

**CHAPTER 52**  
**RESERVED FOR FUTURE USE**

## **CHAPTER 53 LITTERING**

### **53.01 Littering.**

That it shall be unlawful for any person, firm or corporation to litter or permit to be littered on any of the streets, alleys, sidewalks, highways, or other public premises within the Township of Filer by throwing, depositing, dropping, dumping, spilling, leaving or scattering any trash, paper, dirt, mud, ashes, glass, scrap, bottles, cans, garbage, refuse, debris or other materials.

### **53.02 Waste.**

It shall be unlawful to discharge any commercial or industrial waste or any polluted or contaminated waste upon any of the streets, alleys, sidewalks, highways, or other public or private premises within the Township of Filer.

### **53.03 Transportation.**

Vehicles used in the transportation of trash, paper, dirt, mud, ashes, glass, scrap, bottles, cans, garbage, refuse, debris, industrial waste, commercial waste, polluted waste, contaminated waste, or other materials shall be constructed and maintained so that no portion of the contents therefrom shall be deposited, dropped, dumped, spilled, left or scattered upon any street, alley, sidewalk, highway, or any other public place within the Township of Filer.

## **CHAPTER 54**

### **LIQUOR CONTROL ORDINANCE**

#### **54.01 Liquor Control Code of the State of Michigan.**

All alcoholic liquor traffic, including, among other things, the manufacture, sale, offer for sale, storage for sale, possession and/or transportation thereof within the Charter Township of Filer, Manistee County, Michigan, shall comply with the provisions of the Michigan Liquor Control Code of 1998, being Public Act 58 of 1998, as amended (MCL 436.1101, *et seq.*).

#### **54.02 Enforcement.**

For the purpose of the enforcement of the Michigan Liquor Control Code within the Township, there is hereby established a Liquor Control Code Enforcement Department with full power, authority, and duty to see that the provisions of the Code and the rules and regulations of the Michigan Liquor Control Commission adopted pursuant to the Code are enforced within the Township.

Such department shall consist of the Manistee County Sheriff, or his designee, and such other personnel as the Township Board may, in its discretion, appoint. The personnel of such department shall be entitled to such compensation as the Township Board may determine.

Such department or a member thereof shall be available at all times to investigate complaints received under this chapter and enforce the provisions thereof.

#### **54.03 Inspection.**

The Township Liquor Control Enforcement Department shall inspect, not less than monthly, all liquor establishments licenses under the Liquor Control Code of the State of Michigan and report the results of all inspections promptly to the Township Board.

The Township Liquor Control Enforcement Department shall further promptly investigate all complaints received by it concerning violations of the Michigan Liquor Control Code or improper operations and practices concerning alcoholic liquor traffic with the Township and report the same to the Township Board and, where appropriate under the Michigan Liquor Control Code, the Michigan Liquor Control Commission, for appropriate proceedings against the violator.

All Inspectors shall carry appropriate cards issued by the Township Clerk clearly identifying them as Township Liquor Control Inspectors and shall present the cards to the owner or manager of every place inspected by them when making an inspection upon demand for identification by such owner or manager.

Inspectors shall have the right to inspect any place in the Township where alcoholic liquor is manufactured, sold, offered for sale, kept for sale, possessed or transported, or where the inspector suspects the same is being thus manufactured, sold offered for sale, kept for sale, possessed or transported.

Whenever possible, all inspection reports shall be made on liquor law enforcement forms furnished by the Michigan Liquor Control Commission or on similar forms otherwise obtained by the Township Liquor Control Enforcement Department.

#### **54.04 Appropriation.**

For the purpose of carrying out the provisions of this ordinance and establishing the Liquor Control Enforcement Department herein provided for, the Township Board shall annually appropriate such an amount as will, in its discretion, be sufficient to maintain and operate such Liquor Control Enforcement Department for the ensuing fiscal year of the Township not exceeding, however, 10 mills of the assessed valuation of the Township in any one year for vehicles, apparatus and equipment and housing for the same, plus an amount necessary per year for the maintenance and operation of the department.

#### **54.05 Penalties.**

Any person, other than persons required to be licensed under the Michigan Liquor Control Code, who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor.

Any licensees who shall violate any of the provisions of the Michigan Liquor Control Code or any rule or regulation of the Michigan Liquor Control Commission promulgated thereunder, or who shall violate any of the provisions of this chapter, and any person who shall prohibit or interfere with the authorized inspection of a member of the Township Liquor Control Enforcement Department shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 90 days or by a fine of not more than \$100 or both, in the discretion of the county. Each day that a violation continues to exist shall constitute a separate offense.

It is the intent of the Township Board that the court, in imposing punishment under the provisions of this chapter, should discriminate between casual or slight violations and habitual sales of alcoholic liquor or attempts to commercialize violations of this ordinance of any of the rules or regulations of the Michigan Liquor Control Commission promulgated under the Michigan Liquor Control Code.

## **CHAPTER 54A FIREWORKS ORDINANCE**

### **54A.01 Definitions**

Words and phrases used in this Chapter 54A shall have the meaning ascribed to them by 2011 PA 256, as amended, being MCL 28.451, *et seq.*, including the following:

- A. “APA standard 87-1” means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American pyrotechnics association of Bethesda, Maryland
- B. “Consumer fireworks” means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.
- C. “Low –impact fireworks” means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

### **54A.02 Use of Consumer Fireworks and Luminaries Prohibited**

- A. No person shall at any time ignite, discharge or use consumer fireworks within the Charter Township of Filer except during the following periods, all of which start at 11:00 a.m.:
  - 1. December 31 until 1 a.m. on January 1.
  - 2. The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
  - 3. June 29 to July 4, until 11:45 p.m. on each of those days.
  - 4. July 5, if that date is a Friday or Saturday, until 11:45 p.m.
  - 5. The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- B. No person shall, at any time, use or launch in the Township an unmanned flying device, commonly known as a “sky lantern”, “luminary” or “flying lantern” by which a flame or other open heat source heats air within a balloon or similar envelope to achieve flight, provided, however, that if any such devices are hereafter classified as consumer fireworks within the meaning of Act 256 of the Public Acts of 2011, they shall be subject to the same restrictions applicable to other consumer fireworks.



### **54A.03      Violation**

Any person violating the provisions of this chapter shall be guilty of a civil infraction and shall pay a civil fine of not more than \$1000 for each violation but no other penalty shall be imposed.

**CHAPTER 55**  
**OPERATION OF MOTOR VEHICLES ON AREAS OTHER THAN THOSE**  
**MAINTAINED FOR THE PURPOSE OF VEHICULAR TRAVEL**

**55.01 Definition.**

**Motor Vehicle** means every vehicle which is self-propelled and every vehicle which is propelled by electric power.

**55.02 Unlawful Operation.**

It shall be unlawful for any motor vehicle, as defined in Section 1, license or unlicensed, to be operated in any posted public areas in the Township of Filer, except on roads that are maintained for the purpose of travel by motor vehicles. No motor vehicles, licensed or unlicensed, shall make an entrance or exit within the posted areas within the Township of Filer, excepting motor vehicles which are used and/or operated in the maintenance of recreation and beach areas.

**CHAPTER 56**  
**RESERVED FOR FUTURE USE**

**CHAPTER 57**  
**RESERVED FOR FUTURE USE**

**CHAPTER 58**  
**RESERVED FOR FUTURE USE**

**CHAPTER 59**  
**RESERVED FOR FUTURE USE**

## **TITLE SIX – PENALTY PROVISION**

- Chapter 60    Reserved for Future Use**
- Chapter 61    Civil Infractions**
- Chapter 62    Reserved for Future Use**
- Chapter 63    Civil Action**
- Chapter 64    Reserved for Future Use**
- Chapter 65    Powers of Township Constables**
- Chapter 66    Reserved for Future Use**
- Chapter 67    Reserved for Future Use**
- Chapter 68    Reserved for Future Use**
- Chapter 69    Reserved for Future Use**

**CHAPTER 60**  
**RESERVED FOR FUTURE USE**



## **CHAPTER 61 CIVIL INFRACTIONS**

### **61.01 Authorized Local Officials.**

Title Three, Title Four and Title Five of these Codified Ordinances, and any other chapter of these Codified Ordinances which specifically provide that a violation thereof is a civil infraction are enforceable by all law enforcement agencies and officers authorized to act within the Township, by the duly elected Township Constables and by the duly appointed Township Enforcement Officer. In addition, Title Three of these Codified Ordinances is enforceable by the Township Zoning Administrator; and Chapter 42 of these Codified Ordinances is enforceable by the Township Fire Chief or the Assistant Fire Chief. All of the foregoing are hereby designated as the Authorized Local Officials to issue civil infraction citations.

### **61.02 Violations; Civil Infraction.**

Whoever violates any of the provisions of Title Three, Title Four or Title Five of these Codified Ordinances or any other chapter hereof, a violation of which is specifically designated as a civil infraction, or whoever violates any technical or other code adopted by reference in Title Three, Title Four or Title Five of these Codified Ordinances, or of any rule, regulation or order promulgated or made under authority of any provision of Title Three, Title Four or Title Five of these Codified Ordinances or under authority of any technical or other code adopted by reference in Title Three, Title Four or Title Five of these Codified Ordinances, or under authority of state law for which no penalty is otherwise specifically provided, shall be guilty of a civil infraction and shall be fined in an amount to be determined by the 85<sup>th</sup> Judicial District Court but not more than \$500 for each offense. In addition, such person shall pay costs as determined in accordance with MCL 600.8727; MSA 27A.8727 and, if applicable, damages and expenses as provided in MCL 600.8733; MSA 27A.8733. Unless otherwise specifically provided in these Codified Ordinances, a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

### **61.03 Aiding and Abetting.**

Every person concerned in the commission of an offense under these Codified Ordinances, whether he or she directly commits the act constituting the offense or procures, counsels, aids or abets in its commission, may be prosecuted, indicted, tried or found responsible and, on conviction thereof, shall be punished as if he or she had directly committed such offense.

**CHAPTER 62**  
**RESERVED FOR FUTURE USE**

## **CHAPTER 63 CIVIL ACTION**

### **63.01 General.**

Notwithstanding Chapter 61 of these Codified Ordinances, the Township may commence an action in the Circuit Court for Manistee County for an injunction or other appropriate remedy to prevent, enjoin, abate, correct or remove a violation of any of the provisions of these Codified Ordinances and to prevent, enjoin, abate or otherwise prohibit the continuation of such violation.

### **63.02 Private Right of Action.**

Any person adversely affected by a violation of Chapter 31 or Chapter 33 of these Codified Ordinances may commence an action in the Circuit Court for Manistee County for an injunction or other appropriate remedy to prevent, enjoin, abate, correct or remove a violation of Chapter 31 or Chapter 33 of these Codified Ordinances, and to prevent, enjoin, abate or otherwise prohibit the continuation of such violation.

### **63.03 Cumulative Remedies.**

The rights and remedies provided herein are cumulative in addition to all other remedies provided by law.

**CHAPTER 64**  
**RESERVED FOR FUTURE USE**

## **CHAPTER 65**

### **POWERS OF TOWNSHIP CONSTABLES**

#### **65.01 Constable's Authority to Arrest.**

Notwithstanding any provision of law to the contrary, the constables of the Charter Township of Filer shall not have the authority to effectuate an arrest of a person, either with or without a warrant, including a bench warrant issued by a court of record of this state.

#### **65.02 Firearms.**

Notwithstanding any provision of law to the contrary, the constables of the Charter Township of Filer shall not carry firearms during or in the course of performance of their duties as Township Constables.

#### **65.03 Other Writs and Powers.**

Nothing in this chapter shall be construed as prohibiting a constable of the Charter Township of Filer from serving any writ, process or order lawfully directed to him or her, or from issuing any civil infraction citation in the enforcement of this Code provided the same does not require the constable to effectuate an arrest of a person. Except as otherwise stated in this chapter, a constable of the Charter Township of Filer shall have all powers and authority granted by law.

**CHAPTER 66**  
**RESERVED FOR FUTURE USE**

**CHAPTER 67**  
**RESERVED FOR FUTURE USE**

**CHAPTER 68**  
**RESERVED FOR FUTURE USE**



**CHAPTER 69**  
**RESERVED FOR FUTURE USE**

## **TITLE SEVEN – MISCELLANEOUS**

- Chapter 70    Reserved for Future Use**
- Chapter 71    Township Emergency Services**
- Chapter 72    Reserved for Future Use**
- Chapter 73    Rejection of Fluoride to Water**
- Chapter 74    Reserved for Future Use**
- Chapter 75    Severability**
- Chapter 76    Reserved for Future Use**
- Chapter 77    Reserved for Future Use**
- Chapter 78    Reserved for Future Use**
- Chapter 79    Reserved for Future Use**

**CHAPTER 70**  
**RESERVED FOR FUTURE USE**

## **CHAPTER 71 TOWNSHIP EMERGENCY SERVICES**

### **71.01 “Hazardous Materials” Defined.**

For purposes of this chapter, “hazardous materials” include, but are not limited to, a chemical that is a combustible liquid, a flammable gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable reactive or water reactive.

### **71.02 “Release” Defined.**

Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment.

### **71.03 “Responsible Party” Defined.**

Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release.

### **71.04 Charges Imposed Upon Responsible Party.**

- A. Where the Township fire department responds to a call for assistance in connection with a hazardous materials release, actual costs incurred by the Township responding to such a call shall be imposed upon responsible parties, including, but not limited to:
1. \$300 per hour, or fraction thereof, for each Township-owned fire department vehicle required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.
  2. All personnel-related costs incurred by the Township as a result of responding to the hazardous materials incident. Such costs may include, but are not limited to wages, salaries and fringe benefits and insurance for full-time and part-time fire fighters, overtime pay and related fringe benefit costs for hourly employees, and fire run fees paid to on-call fire fighters. Such personnel-related charges shall commence after the first hour that the fire department has responded to the hazardous materials incident, and shall continue until all Township personnel have concluded hazardous materials incident-related responsibilities.
  3. Other expenses incurred by the township in responding to the hazardous materials incident, including but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, medical and hospitalization costs, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies,

water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.

4. Charges to the township imposed by any local, state or federal government entities related to the hazardous materials incident.
5. Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.
6. Costs and expenses incurred for the decontamination, clean-up, disposal, and/or replacement of fire trucks, other vehicles and any and all equipment.

B. Charges will also be imposed upon the responsible parties for costs arising out of:

1. Evacuation of residents and their pets and livestock, as deemed necessary by any health or safety official, which includes the fire chief. Costs for evacuation shall include actual costs for transportation and labor relating to the evacuation, plus any other related costs.
2. Housing and boarding costs for evacuated residents and their pets and livestock.
3. Provisions of food and water for evacuated residents and their pets and livestock.

#### **71.05 Billing Procedures.**

Following the conclusion of the hazardous materials incident, the fire chief shall submit a detailed listing of all known expenses to the Township Treasurer, who shall prepare an invoice to the responsible party for payment. The treasurer's invoice shall demand full payment within 30 days of receipt of the bill. Any additional expenses that become known to the township fire chief following the transmittal of the bill to the responsible party shall be filled in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after 30 days, the township may impose a late charge of 1 percent per month, or fraction thereof.

#### **71.06 Other Remedies.**

The Township may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this chapter. The recovery of charges imposed under this chapter does not limit liability or responsible parties under local ordinance or state or federal law, rule or regulation.

**CHAPTER 72**  
**RESERVED FOR FUTURE USE**

**CHAPTER 73**  
**REJECTION OF FLUORIDE TO WATER**

**73.01 Rejection of Fluoride.**

That the Township of Filer, Manistee County, Michigan, rejects the addition of fluoride to water supplied to the public by Filer Township, Manistee County, Michigan.

**CHAPTER 74**  
**RESERVED FOR FUTURE USE**



## **CHAPTER 75 SEVERABILITY**

### **75.01 Severability.**

The titles, chapter, subchapters and sections of this Code of Ordinances are hereby declared to be several and independent and a determination by any Court of Competent jurisdiction declaring any part of this Code of Ordinances to be invalid or unenforceable shall not affect the validity or enforceability of the remainder of this Code of Ordinances.

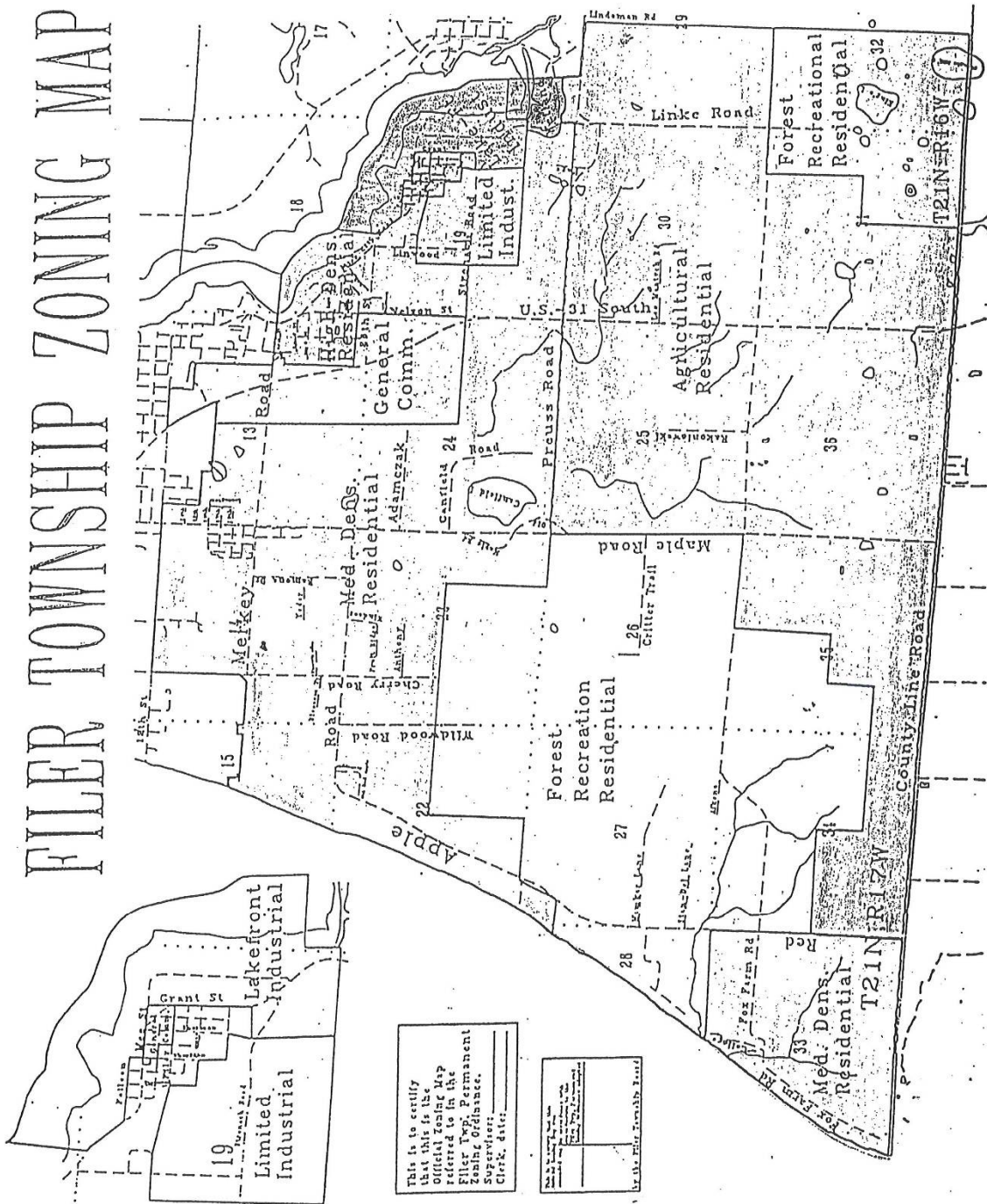
**CHAPTER 76**  
**RESERVED FOR FUTURE USE**

**CHAPTER 77**  
**RESERVED FOR FUTURE USE**

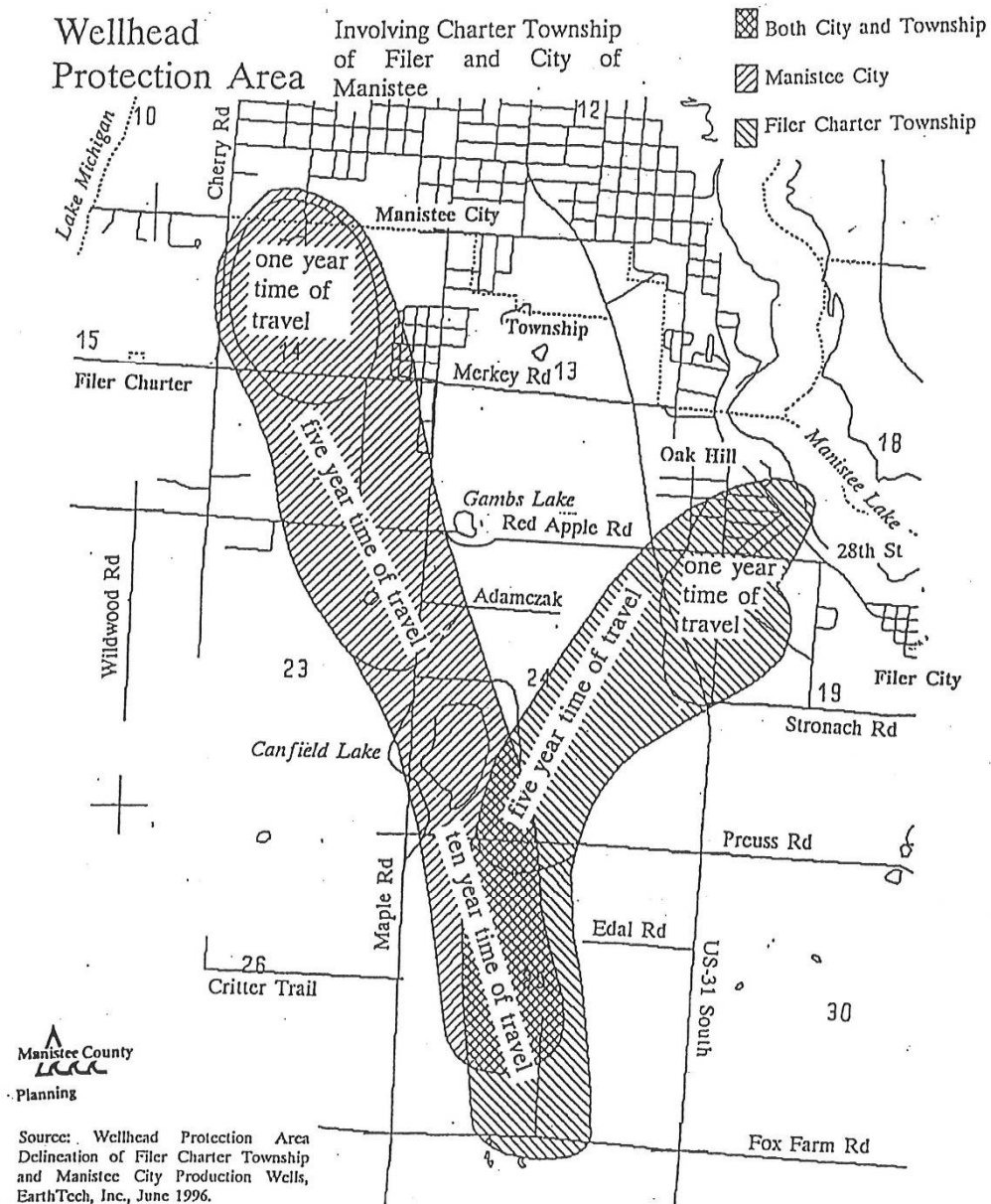
**CHAPTER 78**  
**RESERVED FOR FUTURE USE**

**CHAPTER 79**  
**RESERVED FOR FUTURE USE**

# APPENDIX A – OFFICIAL ZONING MAP



## APPENDIX B – WELLHEAD PROTECTION ZONE MAP



## **APPENDIX C – AMENDMENT HISTORY**

### **History and Editor's Notes**

#### **CHAPTER 1**

Adopted: March 5, 1996

Published: December 22 & 29 1995

Filed with Manistee County Clerk and Michigan Secretary of State March 5, 1996

#### **CHAPTER 3**

Source: Ordinance #9

Effective Date: March 6, 1979

Adopted: March 6, 1979

Published: March 15, 1979

Preamble of Ordinance 9 reads as follows:

AN ORDINANCE TO ESTABLISH THE FISCAL YEAR OF THE TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, AND THE ANNUAL SETTLEMENT DAY FOR SUCH TOWNSHIP PURSUANT TO MICHIGAN PUBLIC ACT 596 OF 1978.

Section 4 of Ordinance 9 contained the following statement: "This Ordinance shall take immediate effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed."

#### **CHAPTER 4**

Adopted: May 20, 1999

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO ESTABLISH THE PUBLIC, EDUCATION AND GOVERNMENT (P.E.G.) COMMISSION IN CONJUNCTION WITH THE CITY OF MANISTEE AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

WHEREAS, the City of Manistee has heretofore created the Public, Education and Government (P.E.G.) Commission as set forth in Chapter 288 of the Code of Ordinances of the City of Manistee; and

WHEREAS, the Charter Township of Filer has heretofore appointed members to serve on the P.E.G. Commission established by the City of Manistee but has not heretofore established the P.E.G. Commission as a commission of the Charter Township of Filer.



Section 3 of this Ordinance contained the following statement: “All Ordinances in conflict herewith are hereby repealed to the extent of the conflict.”

Section 4 of this Ordinance contained the following statement: “This Ordinance shall be effective upon its introduction, adoption and publication as required by law.”

Chapter 288 of the City of Manistee ordinance reads as follows:

## CHAPTER 288 P.E.G. Commission

288.01 Commission Established, Composition

288.02 Rate Regulation Authority.

288.03 Duties.

CROSS REFERENCES - Appointments to commissions generally – see ADM. 210.01(d)(1)  
Cable Television Systems – see Ch. 816

### **288.01 Commission Established, Composition.**

(a) The Public, Education, and Government (P.E.G.) commission is hereby created and established to advise the City Council, the Filer Township Board and staff on matters relating to cable television services and specifically public access.

(b) The commission shall consist of seven members which may include one member of the City council and one appointed officer of the City. Two members will be appointed by the Filer Township Board of Supervisors. Other appointees will be citizens at large appointed by the City Council provided, however, than, an employee of C-Tec or the P.E.G. operator, or a member of their immediate family, may not serve on the P.E.G. Commission. Employees of C-Tec and the P.E.G. operator will be provided notice of all meetings and invited to attend and participate in discussion of the P.E.G. commission.

(c) The term of each member shall be for a period of three years except that members first appointed shall be appointed for terms of one, two or three years, as evenly possible. Members shall serve without compensation. All terms shall expire at the end of the calendar year.

### **288.02 Rate Regulations Authority.**

(a) The P.E.G. Commission shall have no responsibility or authority for rate regulation, rate change processing, financial analysis, or any responsibilities relating to the cable franchise except to the extent that they relate to the P.E.G. channel(s).

### **288.03 Duties**

(a) The P.E.G. commission shall meet as often as is necessary to carry out its duties. The commission may elect its own officers and create its own rules of procedure so long as they are not inconsistent with rules or procedure adopted by the City Council or Township Board.

The duties of the Commission shall include:

(1) To gather information, including input from the public via public hearings, the practices of other communities and current developments in cable technology relating to the selection of an operator for the governmental access channel.

(2) To advise the attorneys regarding a contract or agreement by which a P.E.G. operator is selected for a term not to exceed five years, with the agreement providing appropriate methods of monitoring the operator's performance in creating and encouraging public access opportunity.

(3) To review and critique any plans of the cable operator for the development of new services.

(4) To review, monitor, suggest modification and generally evaluate scheduling and programming services and activities.

(5) To monitor complaints that may be filed regarding the operator and the provision of public access to the community.

(6) To submit an annual report to the City Council and Township Board describing the activities of the P.E.G. Commission during the preceding year.

(b) The P.E.G. commission shall insure that all rules, regulations, procedures and policies regulating the P.E.G. channel are content neutral except as standards established by the Federal Communications Commissions may otherwise allow.

(Ord. 94-3 Passed 8-3-94) (Ord. Unno., Passed 12-5-95)

## CHAPTER 5

Source: Ordinance #7

Adopted: June 6, 1978

Published: June 14, 1978

Articles of Incorporation Adopted: June 9, 1978

Articles of Incorporation Published: June 14, 1978

Preamble of Ordinance 7 reads as follows:

AN ORDINANCE APPROVING THE INCORPORATION OF THE  
ECONOMIC DEVELOPMENT CORPORATION OF THE TOWNSHIP OF  
FILER

WHEREAS, there exists in the Township of Filer the need for certain programs to alleviate and prevent conditions of unemployment, to assist and retain local industries and commercial enterprises to strengthen and revitalize the Township's economy; and

WHEREAS, it is therefore necessary to provide the means and methods for the encouragement and assistance of industrial and commercial enterprises in locating and expanding in the Township, to more conveniently provide needed services and facilities of such enterprises to the Township and its residents; and

WHEREAS, Act 338 of the Public Acts of Michigan of 1974, as amended (“Act 338”) provides for the incorporation of an economic development corporation for the Township to accomplish such purposes; and

WHEREAS, an application has been filed pursuant to Act 338 of the Public Acts of Michigan of 1974, as amended, for permission to incorporate an economic development corporation for the Township; and

WHEREAS, a public hearing on said application and any competing application has been held.

Section 3 of Ordinance 7 contained the following statement: “The Township Clerk be and is hereby further directed to publish this Ordinance once in the *Manistee News Advocate*, a newspaper of general circulation in the Township of Filer promptly after the passage of this Ordinance and after said publication record said ordinance in the official record of ordinances and certify in said record of ordinances to time and place of such publication.”

Section 4 of Ordinance 7 contained the following statement: “Upon passage of this Ordinance and its entry in the official record of ordinances, the Township Supervisor and Township Clerk are hereby directed to authenticate the same by their official signatures upon said record, and to take all other steps necessary in order for this Ordinance to become effective.”

Section 5 of Ordinance 7 contained the following statement: “All ordinances and parts of ordinances inconsistent with the provisions hereof be and are hereby declared repealed, revoked and rescinded.”

Section 6 of Ordinance 7 contained the following statement: “This Ordinance shall become effective at the earliest date after its publication and recordation permissible under applicable provisions of law.”

## **CHAPTER 6**

Introduced: December 2, 2008

Published: December 4, 2008

Adopted: January 6, 2009

Published: January 10, 2009

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO CREATE A PLANNING COMMISSION AS AUTHORIZED BY P.A. 33 OF 2008, AS AMENDED, BEING THE MICHIGAN PLANNING ENABLING ACT, MCL 125.3801, ET. SEQ. FOR THE PURPOSE OF PLANNING AND ZONING IN THE CHARTER TOWNSHIP OF FILER, TO

ENUMERATE THE POWERS OF THE COMMISSION, AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Section 2 of this Ordinance contained the following statement: “All ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed to the extent of conflict.”

Section 3 of this Ordinance contained the following statement: “This ordinance shall take effect 63 days after its introduction, adoption and publication as required by law.”

## CHAPTER 7

Adopted: March 9, 1993

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO ESTABLISH THE TOWNSHIP OF FILER DOWNTOWN DEVELOPMENT AUTHORITY AND TO DESIGNATE THE BOUNDARIES OF AUTHORITY DISTRICT NO. 1

Section 9 of this Ordinance contained the following statement: “**Effective Date - Publication and Filing.** This Ordinance shall be effective upon (a) the publication of the ordinance, one time, in full, in the *Manistee News Advocate*, a newspaper of general circulation in the Township, and (b) filing of a certified copy of the ordinance with the Secretary of State.”

Section 10 of this Ordinance contained the following statement: “**Prior Resolutions.** All resolutions or ordinances and parts of resolutions or ordinances in conflict herewith shall be and the same are hereby rescinded.”

Amended Exhibit “A” Adopted: February 3, 1998

Amended Exhibit “A” Published: February 9, 1998

Section 2 of Amended Exhibit “A” in this Ordinance contained the following statement: “All ordinances in conflict herewith are hereby repealed to the extent of the conflict.”

Section 3 of Amended Exhibit “A” in this Ordinance contained the following statement: “This Ordinance shall be effective immediately upon publication in the *Manistee News Advocate* as required by law.”

Introduced: Dec. 2, 2003

Published: Dec. 5, 2003

Adopted: Jan. 6, 2004

Published: Jan. 9, 2004

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 7 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Section 2 of this Ordinance contained the following statement: “All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of conflict.”

Section 3 of this Ordinance contained the following statement: “This Ordinance shall be effective upon its introduction and publication as required by law.”

Adopted: Sept. 3, 2019

Published: Sept. 9, 2019

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 7 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES TO ELIMINATE THE NECESSITY OF ESTABLISHING A DEVELOPMENT AREA CITIZENS COUNCIL, TO UPDATE CERTAIN STATUTORY REFERENCES, AND TO REPEAL ALL ORDINANCES IN CONFLICT HERewith

Section 2 of this ordinance provided for a new Section 7.09 which reads as follows: “Section 7.09 Development Area Citizens Council. After the date of the ordinance that added this Section 7.09 to the Code, the Authority may consider and propose to the Township Board amendments to Development Plan and Tax Increment Financing Plan, No. 1993-1, as amended through 2012, without the creation of or input from a Development Area Citizens Council the need for which is hereby eliminated.”

Section 3 of this ordinance contained the following statement: “All references in Chapter 7 of the Code to “Act 197” in reference to the Downtown Development Authority Act, being Act 197 of the Public Acts of 1975, are hereby replaced by reference to “Act 57” in reference to Act 57 of the Public Acts of 2018 which repealed Act 57 and recodified it as Part 2 of the Recodified Tax Increment Financing Act, being MCL 125.4201 *et seq.*”

## CHAPTER 8

Introduced: Sept. 5, 2000

Published: Sept. 9, 2000

Adopted: Oct. 3, 2000

Published: Oct. 7, 2000

Preamble of this Ordinance reads as follows:

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CHARTER TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, PROVIDING FOR THE REPEAL OF ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE PRESERVATION OF CERTAIN OFFENSES, FRANCHISES, BONDS AND OTHER MATTERS; PROVIDING FOR THE MANNER OF AMENDING THE CODE; PROVIDING FOR THE CONTINUATION OF ALL FEES AND CHARGES ESTABLISHED BY RESOLUTION OF THE TOWNSHIP BOARD; PROVIDING FOR THE PUBLICATION OF A SYNOPSIS OF THE CODE; AND, PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE

Section 8 of this Ordinance contained the following statement: “This ordinance upon adoption shall become Chapter 8 of the Code of Ordinances.”

Section 9 of this Ordinance contained the following statement: “This ordinance is hereby declared to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health and safety and shall become effective immediately upon publication as required by law.”

## **CHAPTER 10**

Introduced: Sept. 5, 2000

Published: Sept. 9, 2000

Adopted: Oct. 3, 2000

Published: Oct. 7, 2000

## **CHAPTER 12**

Introduced: October 3, 2000

Published: October 7, 2000

Adopted: November 8, 2000

Published: November 11, 2000

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP CODE OF ORDINANCES TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR DWELLING UNITS FOR LOW INCOME ELDERLY PERSONS OVER 55 YEARS OF AGE PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966

Section 2 of this Ordinance contained the following statement: “Effective Date. This Ordinance shall take effect upon its introduction and publication, as required by law.”

## **CHAPTER 14**

Introduced: August 8, 2007

Notice of Introduction Published: August 16, 2007

Adopted: September 4, 2007

Published: September 7, 2007

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDAINS TO ADD CHAPTER 14, TO DESCRIBE CERTAIN BENEFITS TO BE PROVIDED TO TOWNSHIP EMPLOYEES AND OFFICERS, TO AUTHORIZE THE TOWNSHIP SUPERVISOR AND TOWNSHIP CLERK TO TAKE CERTAIN ACTIONS; TO PROVIDE FOR TOWNSHIP CONTRIBUTIONS TO THE COST THEREOF AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Sec. 2 of this Ordinance contained the following statement: “All ordinances and provisions of the Charter Township of Filer Code of Ordinances in conflict herewith are hereby repealed to the extent of the conflict.”

Sec. 3 of this Ordinance contained the following statement: “This Ordinance shall take effect on the date of its publication as required by law.”

Introduced: October 7, 2008

Notice of Introduction Published: October 10, 2008

Adopted: November 6, 2008

Published: November 12, 2008

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 14 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY ADDING A NEW SECTION 14.09, WAGE CONTINUATION BENEFIT, AND BY REPEALING ALL ORDINANCES IN CONFLICT HEREWITH

Sec. 2 of this Ordinance contained the following statement: “All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but only to the extent of such conflict or inconsistency.”

Sec. 3 of this Ordinance contained the following statement: “This Ordinance shall be effective upon its introduction, adoption and publication as required by law.”

## **CHAPTER 20**

Ordinance No. 20

Introduced: April 6, 2016

Notice of Introduction Published: April 8, 2016

Adopted: April 12, 2016

Published: April 19, 2016

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY ADDING CHAPTER 20 TO PROVIDE FOR THE ENTRY AND NOTICE OF MANDATORY RUN WATER ORDERS BY THE TOWNSHIP SUPERVISOR OR DESIGNEE TO AVOID DAMAGE TO THE TOWNSHIP WATER DISTRIBUTION SYSTEM FROM FREEZING OR FROST CONDITIONS, TO PROVIDE WATER SYSTEM CUSTOMERS WITH A CREDIT FOR EXCESS WATER USED DURING PERIODS WHEN RUN WATER ORDERS ARE IN EFFECT, AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

THE CHARTER TOWNSHIP OF FILER ORDAINS:

Section 1. Amendment.

Title Two of the Charter Township of Filer Code of Ordinances is hereby amended by adding new Chapter 20, which shall read, in its entirety, as follows:

- 20.01 Purpose and Title**
- 20.02 Authority**
- 20.03 Notice**
- 20.04 Credit for Excess Water Usage**
- 20.05 Activities for Which Credit is Not Given**

Section 2. Repeal.

All ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict.

Section 3. Effective Date.

This ordinance shall be effective on the day following its introduction, adoption and publication as required by law.

THOSE VOTING IN FAVOR: Walker, Ball, Skiera, Kolanowski, Kruse, Chycinski and Williams

THOSE VOTING AGAINST: None

THOSE ABSENT OR ABSTAINING: None

ORDINANCE DECLARED PASSED

/s/ \_\_\_\_\_  
Shirley Ball, Township Clerk

CERTIFICATION

The undersigned, Clerk of the Charter Township of Filer, Manistee County, Michigan, do hereby CERTIFY that the foregoing is a true and correct copy of the Ordinance adopted by the Township Board at a special meeting held on the 12th day of April, 2016.

/s/ \_\_\_\_\_  
Shirley Ball  
Township Clerk

**CHAPTER 21**

Source: Ordinance #10

Adopted: June 5, 1979

Published: June 8, 1979

Filed with County Clerk: July 9, 1979

Preamble of Ordinance 10 reads as follows:



AN ORDINANCE REGULATING CROSS CONNECTIONS WITH THE PUBLIC WATER SUPPLY SYSTEM, I.E., A CONNECTION OR ARRANGEMENT OF PIPING OR APPURTENANCES THROUGH WHICH WATER OF QUESTIONABLE QUALITY, WASTES OR OTHER CONTAMINANTS CAN ENTER THE PUBLIC WATER SUPPLY SYSTEM

Section 7 of Ordinance 10 contained the following statement: “That any person or customer found guilty of violating any of the provisions of this Ordinance, or any written order of the Filer Township Water Department, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail not to exceed 90 days or by both such fine and imprisonment for each violation in the discretion of the Court. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate and additional violation for the purpose of this Ordinance.”

Section 8 of Ordinance 10 contained the following statement: “This Ordinance shall be effective 30 days after the first publication of same as provided by law.”

Section 9 of Ordinance 10 contained the following statement: “All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.”

Adopted: September 1, 2020

Published: September 8, 2020

Effective: October 9, 2020

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 21 – PUBLIC WATER SUPPLY OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY UPDATING CERTAIN CROSS REFERENCES, ADDING PROVISIONS REGARDING BACKFLOW PREVENTERS AND ADDING PENALTIES FOR VIOLATION, AND TO REPEAL ALL ORDINANCES IN CONFLICT HERewith.

Section 1 of this ordinance amends Section 21.01 in its entirety.

Section 2 of this ordinance amends Section 21.05 in its entirety.

Section 3 of this ordinance adds new Section 21.08.

Section 4 of this ordinance rennumbers existing sections in Ch. 21.

Section 5 of this ordinance repeals all ordinances or parts of ordinances which conflict.

Section 6 of this ordinance proclaims effective date is 31st date after publication.

## CHAPTER 22

Adopted: \_\_\_\_\_, 1949

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO PROVIDE FOR ACQUIRING BY CONSTRUCTION A WATERWORKS FOR THE VILLAGES OF OAK HILL AND FILER CITY; AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF SELF-LIQUIDATING REVENUE BONDS FOR THE PURPOSE OF DEFRAYING THE COST THEREOF UNDER THE PROVISIONS OF ACT 94 PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED; PROVIDING FOR THE FIXING, COLLECTION, SEGREGATION AND DISPOSITION OF THE REVENUES OF SAID WATER SUPPLY SYSTEM AND PAYMENT OF SAID BONDS OUT OF THE REVENUES THEREOF; AND CREATING A STATUTORY LIEN ON SUCH REVENUES

Section 24 of this Ordinance contained the following statement: “All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.”

Section 25 of this Ordinance contained the following statement: “This Ordinance shall be published in full in the *Manistee News Advocate*, a newspaper of general circulation in the Filer Township, qualified under the state law to publish legal notices, within one week of its adoption.”

Section 26 of this Ordinance contained the following statement: “This Ordinance is declared to be effective immediately upon its adoption, to-wit: \_\_\_\_\_, 1949.”

## CHAPTER 23

Introduced: Sept. 6, 2000

Published: Sept. 9, 2000

Adopted: Oct. 3, 2000

Published: Oct. 6, 2000

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO PROVIDE FOR CONNECTION TO THE CHARTER TOWNSHIP OF FILER WATER SYSTEM; TO PROVIDE FOR THE IMPOSITION, COLLECTION AND ENFORCEMENT OF CHARGES AND FEES FOR CONNECTION TO THE WATER SYSTEM AND THE RECEIPT OF SERVICES THEREFROM; TO PROVIDE FOR OTHER MATTERS RELATIVE TO THE OPERATION, MAINTENANCE, REPAIR AND USE OF THE WATER SYSTEM; AND TO PROVIDE FOR PENALTIES, ADMINISTRATIVE LIABILITY AND REPEAL OF CONFLICTING ORDINANCES.

Section 1 of this Ordinance contained the following statement: “**Title.** This Ordinance shall be known as and may be cited as the ‘Charter Township of Filer Water System Rate and Administration Ordinance.’”

Section 23 of this Ordinance contained the following statement: “**Penalties.** Any person who shall violate a provision of this Ordinance or shall fail to comply with any of the requirements thereof, shall be responsible for a municipal civil infraction and a fine of \$150, plus costs and other sanctions, for each infraction. Each day during which any violation continues after due notice has been served shall be deemed a separate and distinct offense. Increased civil fines may be imposed for repeated violations of this Ordinance; a repeat violation means a second or subsequent municipal civil infraction violation committed by a person within any 12-month period and for which a person admits responsibility or is determined to be responsible. The increased civil fines for repeat violations shall be as follows:

(a) The fine for any offense which is a first repeat offense shall be \$300, plus costs and other sanctions;

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500, plus costs and other sanctions.

The Township Constable is hereby designated as the authorized local official for purposes of issuing a civil infraction citation.”

Section 25 of this Ordinance contained the following statement: “**Severability and Captions.** This Ordinance and the various sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected thereby. Pronouns shall be read as masculine, feminine or neuter as may be appropriate. Captions appearing at the beginning of any section shall not be deemed a part of this Ordinance and shall have no independent significance.”

Section 26 of this Ordinance contained the following statement: “**Repeal.** All other ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance, are hereby repealed to the extent of such conflict.”

Section 27 of this Ordinance contained the following statement: “**Effective Date.** This Ordinance shall be effective 30 days following its introduction, approval and publication as required by law.”

Section 28 of this Ordinance contained the following statement: “**Inclusion in Code of Ordinances.** In the event an ordinance entitled “An Ordinance Enacting a Code of Ordinances for the Charter Township of Filer, etc.” is adopted contemporaneously with this Ordinance, this Ordinance shall become Chapter 23 of such Code of Ordinances.”

Introduced: June 3, 2003

Published: June 13, 2003

Adopted: August 5, 2003

Published: August 8, 2003

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND SECTION 23.05 OF THE CHARTER  
TOWNSHIP OF FILER CODE OF ORDINANCES CONCERNING WATER  
RATES

Section 2 of this Ordinance provides it shall become effective 30 days following its introduction, approval and publication as required by law.

Adopted: December 1, 2020

Published: December 8, 2020

Effective: December 9, 2020

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 23 OF THE CHARTER TOWNSHIP  
OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING  
SECTION 23.06 TO PROVIDE FOR ALTERNATE METHODS OF BILLING  
AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Section 1 of this ordinance amends 23.06 in its entirety.

Section 2 repeals conflicting ordinances or parts of ordinances.

Section 3 outlines effective date as first day following publication.

## **CHAPTER 24**

Introduced: December 7, 2004

Published: December 18, 2004

Adopted: December 16, 2004

Published: December 22, 2004

Effective Date: January 16, 2005

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CHARTER TOWNSHIP  
OF FILER CODE OF ORDINANCES; TO REPEAL SUBCHAPTERS 1, 2 AND 3  
OF CHAPTER 24 OF THE CHARTER TOWNSHIP OF FILER CODE OF  
ORDINANCES; TO AUTHORIZE THE GRANTING OF NON-EXCLUSIVE  
CABLE TELEVISION FRANCHISE TO CC MICHIGAN, LLC, DOING  
BUSINESS AS CHARTER COMMUNICATIONS; TO AUTHORIZE CERTAIN  
TOWNSHIP OFFICIALS TO TAKE ACTIONS TO IMPLEMENT THE  
FRANCHISE; AND TO REPEAL ALL ORDINANCES IN CONFLICT  
HEREWITH

Section 3 of this Ordinance contained the following statement: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of the conflict.

Section 4 of this Ordinance contained the following statement: This Ordinance shall be effective 30 days following its introduction, adoption and publication as required by law.

**Former Provision Repealed by Ordinance:**

**Subchapter 1  
CATV Ordinance**

24.01.01 Definitions	24.01.09 Term
24.01.02 Grant of Rights	24.01.10 Transfers, Ownership and Control
24.01.03 Public Ways	24.01.11 Defaults
24.01.04 Customer Service	24.01.12 Remedies
24.01.05 Access to the System	24.01.13 Provisions of Information
24.01.06 Indemnity and Insurance	24.01.14 General
24.01.07 Fees and Payments	
24.01.08 Rates and Regulations	

**24.01.01 Definitions**

**24.01.01.1 Additional Insureds** shall have the meaning defined in Part 6.

**24.01.01.2 Authorized Area** shall mean the entire area from time to time within the corporate limits of the municipality, excluding, however, (a) all areas that are within such limits solely due to agreements executed under the authority of Michigan Act 425 of 1984, and (b) all areas not served by Company on the Effective Date (shown generally on Exhibit G) unless Company notifies Municipality in writing of its intent to serve such areas and does so within 6 months of such notice.

**24.01.01.3 Cable Services** shall mean only

**24.01.01.3.1** the one-way transmission to all subscribers of (i) video programming, or (ii) other programming services, such as digital cable radio service, and

**24.01.01.3.2** subscriber interaction, if any, which is required for the selection of such video programming or other programming service, where “video programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

**24.01.01.4 Cable Television Business** shall mean the provision by the Company of Cable Services solely by means of the Cable Television System.

**24.01.01.5 Cable Television System or System** shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed and used solely to provide Cable Services to subscribers within the Authorized Area, but such term does not include (i) a facility that serves only to re-transmit the television signals of one or more television broadcast stations; (ii) a facility that serves only subscribers in 1 or more multiple unit dwellings unless such facility uses any public right-of-way, (iii) a facility of a common or private carrier which is subject in whole or in part to the provisions of Title II of the

Communications Act of 1934, as amended, except that such a facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers.

The term “Cable Television System” when used to refer to the system of Company authorized by this franchise shall in addition mean a system meeting the description set forth on Exhibit A.

**24.01.01.6 Company** shall mean C-TEC Cable Systems of Michigan, Inc.

**24.01.01.7 County** shall mean the County of Manistee, a municipal corporation, including but not limited to its Road Commission.

**24.01.01.8 E and G Channels** shall have the meaning set forth in Part 5.

**24.01.01.9 Effective Date** shall be the date in Section 14.14.

**24.01.01.10 Event of Default** shall have the meaning defined in Part 11.

**24.01.01.11 Excluded Services** shall mean the direct or indirect provision of services other than Cable Services.

**24.01.01.12 FCC** shall mean Federal Communications Commission.

**24.01.01.13 Franchise** shall mean this document.

**24.01.01.14 Gross Revenues** shall mean all amounts earned or accrued by Company, or any entity in any way affiliated with Company, in whatever form and from all sources which are in connection with or attributable to the operation of the Cable Television System within Municipality or Company’s provision within Municipality of Cable Services.

**24.01.01.14.1** Gross Revenues shall include, without limitation, all subscriber and customer revenues (including those for basic cable services; additional tiers; premium services; pay per view; program guides; deposits (net of any deposits returned to subscribers in the applicable time period); installation, disconnection or service call fees; fees for the provision, sale, rental or lease of converters, remote controls, additional outlets and other customer premises equipment), revenues from the use of leased access channels, advertising revenues (national, regional or local); leased access rentals, commissions, per inquiry fees and all other monies or consideration received from home shopping services, entities providing programming used on the Cable Television System or the like.

**24.01.01.14.2** Gross Revenues shall include amounts earned or accrued during a period regardless of whether (1) received or not; (2) the amounts are to be paid in cash, in trade, or by means of some other benefit to Company or any entity in any way affiliated with Company; (3) the goods or services with which the revenue is associated are provided at cost or the revenue amount can be matched against an equivalent expenditure; (4) the amounts are characterized, separately identified, or accounted as being for goods, services, or fees to be paid to units of government or government agencies; or (5) the amounts are initially recorded or received by

Company or by an entity in any way affiliated with Company. However, Gross Revenues shall exclude uncollected accounts during the period, computed on a fair basis consistently applied.

**24.01.01.14.3** Gross Revenues shall be computed at the level where first received from an entity not in any way affiliated with Company and shall not be net of (1) any operating expenses; (2) any accrual, including without limitation, any accrual for commissions; or (3) any other expenditure.

**24.01.01.14.4** Advertising revenues, tower rental revenues, Home Shopping Network revenues or other revenues whose source cannot be specifically identified with a particular subscriber shall be allocated among the units of government served by Company from the cable system “headend” serving Municipality in proportion to the number of subscribers in each.

**24.01.01.15 Indemnitees** shall have the meaning defined in Part 6.

**24.01.01.16 Municipality** shall mean Filer Township.

**24.01.01.17 Municipal Charter** shall mean Municipality’s charter, if Municipality has a locally adopted charter.

**24.01.01.18 Municipal Manager** shall mean Village President.

**24.01.01.19 Normal Business Hours** shall have the meanings set forth in Section 4.12 and 4.13 of Part 4.

**24.01.01.20 Normal Operating Conditions** shall mean those service conditions which are within the control of Company. Those conditions which are not within the control of Company include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Company include, but are not limited to, special promotions, pay-per-view events, rate increases, regular or seasonal demand periods, changes in the billing cycle, and maintenance or upgrade of the Cable Television System.

**24.01.01.21 Public Ways** shall mean all dedicated public rights-of-way, streets, highways, and alleys. “Public Ways” shall not include property of Municipality which is not a dedicated public right-of-way, street, highway, or alley.

**24.01.01.22 School System** shall mean Manistee Area Schools.

**24.01.01.23 Service Interruption** shall have the meaning set forth in Section 4.18.

**24.01.01.24 Transfer or Transferred** shall mean any form of sale, conveyance, assignment, lease, sublease, merger, pledge, deed, grant, mortgage, transfer in trust, encumbrance or hypothecation in whole or in part, whether voluntary or involuntary, other than to secure indebtedness, of any right, title or interest of Company in or to this Franchise or to the Cable

Television System, excluding, however, the replacement of portions of the Cable Television System in the course of ordinary operation and maintenance.

**24.01.01.25    Uncured Event of Default** shall have the meaning defined Part 11.

**24.01.02        Grand of Rights**

**24.01.02.1      Permission/Franchise.** Subject to all terms and conditions contained herein, to the Municipal Charter and to Municipal ordinances as from time to time in effect, Municipality hereby grants Company permission to erect, construct, install and maintain a Cable Television System in, over, under, along and across the Public Ways in the Authorized Area and to transact a Cable Television Business in such area. The permission and rights hereby granted do not include the following:

**24.01.02.1.1    Leasing or subleasing wires, poles, conduits or space or spectrum on or in same** (except as may be required by the so-called leased access provisions of 47 USC §532); allowing wires or any other facilities to be overlashed, affixed or attached to any portion of the Cable Television System; or other actions with a similar result.

**24.01.02.1.2    Any connection of the Cable Television System, electronically or physically with any other public utility, private utility, common carrier, private carrier, telecommunications system or telecommunications provider other than** (i) with a subscriber for the provision of service to that subscriber, (ii) pole attachments and conduit rentals by Company necessary for it to string and run its lines, and (iii) obtaining electricity and telephone service to run the Cable Television System.

**24.01.02.1.3    Any Excluded Services.**

**24.01.02.2      Nonexclusive.** This Franchise and all rights granted thereunder are nonexclusive. Municipality reserves the right to grant such other and future franchises as it deems appropriate. This Franchise does not establish any priority for the use of the public rights-of-way by Company or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the public rights-of-way, the first priority shall be to the public generally, the second priority to municipality, county, the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter, as between franchisees and other permit holders, as determined by Municipality (or where applicable, the County Road Commission) in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

**24.01.02.3      Programming Services:** Company shall include in the video programming it offers subscribers the following:

**24.01.02.3.1    All television stations whose Grade B signal contour encompasses part or all of Municipality or which have “significantly viewed” status in Municipality, excluding, however,**

**24.01.02.3.1.1** Stations 30 percent or more of whose programming consists of home shopping networks, infomercials or the like and



**24.01.02.3.1.2** Stations which utilize the retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992, and

**24.01.02.3.1.3** Stations whose programming substantially duplicate each other, such as more than two affiliates of the same network, and

**24.01.02.3.1.4** Stations from other communities that are little viewed in the community (e.g.—Lansing stations in the Grand Rapids area).

**24.01.02.3.2** At least one channel each for the following categories of programming:

**24.01.02.3.2.1** Weather channel with both video and audio coverage of weather matters nationwide.

**24.01.02.3.2.2** 24 hour news channel.

**24.01.02.3.2.3** Channels providing coverage of the U.S. House, U.S. Senate and other major governmental activities.

**24.01.02.3.2.4** Sports channel.

**24.01.02.3.2.5** Religious channel.

**24.01.02.4 Access to Service:** Company shall not deny service, deny access, or otherwise discriminate on the availability or rates, terms or conditions of Cable Services provided to subscribers on the basis of race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status, location within Municipality, or status with regard to public assistance. Company shall comply at all times with all applicable federal, state and local laws and regulations relating to nondiscrimination. Company shall not deny or discriminate against any group of actual or potential subscribers in Municipality on access to or the rates, terms and conditions of Cable Services because of the income level or other demographics of the local area in which such group may be located.

**24.01.02.5 Universal Service:** Subject to the next section and its rates for service as from time to time in effect, Company shall provide Cable Services to any and all persons requesting same at any location within the Authorized Area.

**24.01.02.6 Line Extension:** No line extension charge or comparable charge shall be imposed on any current or potential subscriber for

**24.01.02.6.1** “Drops” from the distribution portion or tap on the Cable Television System to the subscriber’s residence premises which

**24.01.02.6.1.1** Are less than 300 feet if the System has less than 330 MHz of usable bandwidth in use, and

**24.01.02.6.1.2** Are less than 200 feet if the System has more than 330 MHz of usable bandwidth in use. In addition, if the System is upgraded to more than 330 MHz existing customers and installations will not be charged for any modifications or extensions to the System necessary to reduce the length of the drop serving them or otherwise provide Cable Service in compliance with this Franchise and applicable FCC standards.

**24.01.02.6.2** Extensions of the Cable Television System (excluding drops to dwelling units) of 300 feet or less, or

**24.01.02.6.3** Extensions of the Cable Television System where the extension would pass “X” occupied dwelling units per cable mile of distribution or trunk cable (excluding drops to dwelling units) where “X” is as set forth below. The preceding figures shall be pro-rated for distances more or less than one mile. “X” shall be the smaller of:

**24.01.02.6.3.1** 30 through calendar 1997; 25 in 1998 and 1999; and 20 after calendar 1999,

**24.01.02.6.3.2** The homes per mile figure for Municipality (if any) set forth on Exhibit B.

**24.01.02.6.4** A potential subscriber located beyond the area where the Cable Television System is extended free of charge under the preceding provisions may obtain service by making a contribution in aid of construction to extend the System to a point at which such potential subscriber is entitled to service without additional charge for line extensions. Annually during the five-year period commencing at the completion of such a subscriber-funded line extension, as new subscribers are added to such line extension, Company shall collect funds from such new subscribers and refund shall be made by Company to subscribers who made such contribution in aid of construction. The amount of the collection and refund shall be determined by applying the provision of this Section 2.6 to compare what the contribution (if any) would have been with the new subscribers compared to the contribution actually made, with the difference reduced to zero at the rate of 20 percent per year over the five years. Examples of the application of this section are set forth in Exhibit I.

The preceding shall apply whether the cable would be located in Public Ways or in private ways/easements (the latter being generally available to Company under its statutory ability to use existing utility easements for cable purposes). For line extensions or drops exceeding the preceding standards the subscriber(s) shall only be charged for the increment by which the extension/drop exceeds the standard. Unless waived in writing by Municipality, for all new plats, planned unit developments or subdivisions (collectively “plats”) within 1.5 miles of Company’s existing Cable Television System or where Company is paid or reimbursed for same by the owner/developer Company shall install the portion of the Cable Televisions System to be physically located in such plats at the same time as other utilities are installed.

**24.01.02.7 Construction Timetable:** On or before September 1, 1995 Company shall extend its Cable Television System to all areas of Municipality which as of September 1, 1994 meet the dwelling units/mile standard set forth in the preceding section.

**24.01.02.7.1** As new or additional areas of Municipality meet the dwelling units/mile standard, Company shall extend the Cable Television System to such areas within 90 days of their meeting the standard (or longer if due to circumstances beyond Company's control).

**24.01.02.7.2** As Municipality may from time to time reasonably request, Company shall investigate and respond in writing whether areas within Municipality do/do not meet the standard of the preceding section.

**24.01.02.8 Free Service:** Where the following are within 500 feet of Company's Cable Television System, Company will provide without any installation charge (except as specified below) or monthly charge one free outlet in each Municipal building or facility; in each public, private and parochial K-12 school or college; and will allow Municipality and each such school without additional charge, to extend such service to some or all rooms, classrooms and auditoriums, but not to dormitories. Company shall give each such customer a credit towards installation charges of \$1,000, escalated by the Gross National Product Price Index (GNP-PI) from the Effective Date, and the customer shall pay the amount by which actual charges exceed such credit. None of the preceding shall be charged any fee during the term of this Franchise for the greater of those channels comprising (1) basic service, (2) expanded basic service, or (3) Premium Customer Choice channels.

**24.01.02.9 Uniform Rates:** Company's rates for service shall be the same at all times in all areas of Municipality.

**24.01.02.10 System Changes:** Company's Cable Television System shall not deviate from the general description set forth on Exhibit A except as follows: Company shall notify Municipality in writing in advance of any proposed change and its effect (if any) on the rates to be paid by subscribers for Cable Services. Such change shall be deemed approved unless rejected by Municipality within 120 days of Municipality's receipt of such notice. A proposed change can be rejected by Municipality only if it will materially increase Company's rates.

**24.01.02.11 Interconnection:** The existing interconnection (if any) of the Cable Television System with another cable television system (such as for E and G Channels or public access purposes) shall continue, and Company shall continue under the terms presently in effect for same, including responsibilities for the maintenance and repair of the interconnect.

**24.01.02.12 Continuity of Service:** Company shall interrupt the provision of service only with good cause and for the shortest time possible and, except in emergency situations, only after periodic cablecasting notice of service interruption, including at the same time as the anticipated interruption. Services may be interrupted between 1:00 a.m. and 5:00 a.m. for routine testing, maintenance and repair, without notification, any night except Friday, Saturday, or Sunday, or the night preceding a holiday.

**24.01.02.13 Emergencies:** Municipality may remove or damage the Cable Television System in the case of fire, disaster, or other emergencies, as determined by the Mayor, Municipal Manager, Police Chief, Fire Chief or Director of Public Safety. In such event neither the Municipality nor any agent, contractor or employee thereof shall be liable to the Company for any damages caused to the Company or the Cable Television System, such as for, or in connection

with, protecting, breaking through, moving, removal, altering, tearing down, or relocating any part of the Cable Television System.

**24.01.02.14 Alert System:** If and when the Cable Television System, which for the purposes of this section, the following section and Section 14.2 shall include all other portions of Company's system served from the same "headend" which feeds this System, serves more than 15,000 subscribers, Company shall include an all channel alert system so as to allow simultaneous audio and character generated emergency announcements on all channels. Municipality and Company will agree on the procedures for Municipality or the applicable County Emergency Director to follow to expeditiously use such facility in the event of an emergency and Municipality shall hold Company harmless for any harm caused Company by the improper use of such alert system by Municipality.

**24.01.02.15 Backup Power:** Company shall provide continuous backup or standby electric power (such as from batteries or from electric generators) at locations on Company's Cable Television System which experience more than 12 hours of outages per year, excluding storms and major outages, such that that portion of the Cable Television System will operate for at least two hours even if electric service from conventional utility lines is interrupted. If the System (as defined in the prior section) serves more than 15,000 subscribers it shall have an electric generator with automatic start capability to provide electric service to the head-end and associated equipment. If certain areas served by the Cable Television System experience persistent outage problems, Company will promptly take action to prevent such problems from recurring.

**24.01.02.16 Compliance with Applicable Law:** In constructing, maintaining and operating the Cable Television System, Company will act in a good and workmanlike manner, observing high standards of engineering and workmanship and using materials of good and durable quality. Company shall comply in all respects with the National Electrical Safety Code (latest edition) and National Electric Code (latest edition); all standards, practices, procedures and the like of the FCC and National Cable Television Association; the requirements of other utilities whose poles and conduits it uses, and all applicable federal, state and local laws.

**24.01.02.17 Maintenance and Repair:** Company will keep and maintain a proper and adequate inventory of maintenance and repair parts for the Cable Television System, and a workforce of skilled technicians for its repair and maintenance. Company by 1995 will complete the "sweep" currently being conducted of this and other Cable Television Systems in Michigan to bring their design, construction and operation into compliance with FCC, industry and Company standards.

**24.01.02.18 Other Permits:** This Franchise does not relive Company of the obligation to obtain permits, licenses and other approvals from Municipality or other units of government, such as the County Road Commission, which are necessary for the construction, repair or maintenance of the Cable Television System or provision of Cable Services; or from compliance with applicable municipal ordinances such as zoning and land use ordinances, Pavement Cut Ordinances, curb cut permits, building permits and the like.

### **24.01.03 Public Ways**

**24.01.03.1 No Burden on Public Ways:** Company shall not erect, install, construct, repair, replace or maintain its Cable Television System in such a fashion as to unduly burden the present or future use of the Public Ways. If Municipality or the County Road Commission in its sole judgment determines that any portion of the Cable Television System is an undue burden, Company at its expense shall modify its system or take such other actions as the Municipality or Road Commission may determine is in the public interest to remove or alleviate the burden, and Company shall do so within the time period established by the Municipality or Road Commission.

**24.01.03.2 Minimum Interference:** The Cable Television System shall be erected and maintained by Company so as to cause the minimum interference with the use of the Public Ways and with the rights or reasonable convenience of property owners who adjoin any of the Public Ways.

**24.01.03.3 Restoration of Property:** Company immediately restore at its sole cost and expense, in a manner approved by Municipality, any portion of the Public Ways that is in any way disturbed by the construction, operation, maintenance or removal of the Cable Television System to as good or better condition than that which existed prior to the disturbance, and shall at its sole cost and expense immediately restore and replace any other property, real or personal, disturbed, damaged or in any way injured by or on account of Company or by its acts or omissions, to as good or better the same condition as such property was in immediately prior to the disturbance, damage or injury.

**24.01.03.4 Tree Trimming:** Company may trim trees upon and overhanging the Public Ways so as to prevent the branches of such trees from coming into contact with the Cable Television System. No trimming shall be performed in the Public Ways without previously informing Municipality. Except in emergencies all trimming of trees on public property shall have the advance approval of Municipality and all trimming of trees on private property shall require notice to the property owner.

**24.01.03.5 Relocation of Facilities:** Company shall, at its own cost and expense, protect, support, disconnect, relocate in or remove from the Public Ways any portion of the Cable Television System when required to do so by Municipality or County due to street or other public excavation, construction, repair, grading, regrading, traffic conditions; the installation of sewers, drains, water pipes, or municipally-owned facilities of any kind; the vacation, construction or relocation of streets; or other public improvements by a unit of government.

**24.01.03.6 Joint Use:** Company shall permit the joint use of its poles, conduits and facilities located in the Public Ways by utilities and by the Municipality or other governmental entities to the extent reasonably practicable and upon payment of a reasonable fee.

**24.01.03.7 Easements:** Any easements over or under private property necessary for the construction or operation of the Cable Television System shall be arranged and paid for by Company. Any easements over or under property owned by Municipality other than the Public Ways shall be separately negotiated with Municipality. Municipality shall not unreasonably withhold the grant of such easements.

**24.01.03.8 Compliance with Law:** Company shall be subject to all laws, ordinances or regulations of Municipality in the course of constructing, installing, operating or maintaining the Cable Television System in Municipality. Company shall comply with all zoning and land use restrictions as may exist or may hereafter be amended.

**24.01.03.9 Underground Facilities:** If Municipality in the future requires that, in a specific area of Municipality, public utilities shall place their cables, wires, or other equipment underground, then Company also shall in a reasonable period of time place its existing and its future cables, wires, or other equipment in such area underground without expense or liability therefore to Municipality.

**24.01.03.10 Temporary Relocation:** Upon four business days notice, Company shall either temporarily raise or lower its wires or other equipment upon the request of any person, including without limitation, a person holding a building moving permit issued by Municipality or for good cause may specify a time certain within 30 days when the preceding shall occur. Company may charge a reasonable rate for this service, not to exceed its actual direct costs.

**24.01.03.11 Vacation:** If a Public Way is vacated, eliminated, discontinued or closed, all rights of Company under this Franchise to use same shall terminate and Company at its expense shall immediately remove the Cable Television System from such Public Way unless Company obtains easements from the property owners to use the former Public Way.

**24.01.012 As-Built:** Company shall keep accurate, complete and current maps and records of the Cable Television System and its facilities. Company shall furnish two complete sets of “as-built” maps and records to Municipality or County upon request, and upon request by either entity as soon as possible but no more than one business day from the request shall inform Municipality or County of any changes. Such maps and records shall be available for inspection by the public at the offices of Municipality.

**24.01.03.13 Location of Facilities/Miss Dig:** Company shall provide Municipality and Road Commission upon request copies of any new “as-built” or comparable drawings as and if they are generated for portions of Company’s facilities and Cable Television System located within Municipality. Upon request by Municipality or County Company shall mark up maps provided by Municipality or County so as to show the location of Company’s facilities and Cable Television System. Company shall notify Municipality in advance of any underground construction by it in Municipality if Municipality is not part of Miss Dig.

**24.01.03.14 Discontinuance and Removal of the Cable Television System:** Upon the revocation, termination, or expiration of this Franchise, Company either (a) by mutual agreement of Municipality and Company, (b) by Company’s acquiescence or failure to challenge same, or (c) by a final order of a court which Company either does not appeal or from which there is no further right of appeal then the following shall occur: Company shall immediately discontinue the provision of Cable Services and all rights of Company to use the Public Ways shall cease. Company, at the direction of Municipality, shall remove its Cable Television System, including all supporting structures, poles, transmission and distribution system and other appurtenances, fixtures or property from the Public Ways, in, over, under, along, or through which they are installed within six months of the revocation, termination, or expiration. Company shall also

restore any property, public or private, to the condition in which it existed prior to the installation, erection or construction of its Cable Television System, including any improvements made to such property subsequent to the construction of its Cable Television System. Restoration of Municipal property, including, but not limited to, the Public Ways, shall be in accordance with the directions and specifications of Municipality, and all applicable laws, ordinances and regulations, at Company's sole expense. If such removal and restoration is not completed within six months after the revocation, termination, or expiration, all of Company's property remaining in the affected Public Rights-of-Way shall, at the option of Municipality, be deemed abandoned and shall, at the option of Municipality, become its property or Municipality may obtain a court order compelling Company to remove same. In the event Company fails or refuses to remove its Cable Television System or to satisfactorily restore all areas to the condition in which they existed prior to the original construction of the Cable Television System, Municipality, at its option, may perform such work and collect the costs thereof from Company. No surety on any performance bond nor any letter of credit shall be discharged until Municipality has certified to Company in writing that the Cable Television System has been dismantled, removed, and all other property restored, to the satisfaction of Municipality.

**24.01.03.15 Failure to Discontinue Service:** In the event that Company fails to continue the provision of Cable Services pursuant to the terms set forth in Section 3.14 then Company shall deposit into an escrow account acceptable to Municipality one half of all Gross Revenues generated from such continuing operations. Such monies shall be deposited into such escrow account immediately upon receipt of such Gross Revenues by Company. Company consents to Municipality obtaining court orders in aid of this provision. This obligation shall survive the revocation, termination, or expiration of this Franchise.

#### **24.01.04 Customer Service**

**24.01.04.1 Customer Standards:** Company will comply with the more stringent of the customer service and consumer protection provisions of this Franchise; those from time to time adopted by the Company; those from time to time adopted by the FCC; or the service and consumer protection standards from time to time adopted by the National Cable Television Association.

**24.01.04.2 Reservation:** Municipality reserves the right by ordinance to alter or amend the customer service and consumer protection matters set forth in this Part, including adopting ordinances stricter than or covering items not presently set forth in this Part. Municipality agrees to meet with Company on the matters in question prior to taking such action, and to provide Company with one at least two weeks notice of such action. Company may challenge any action taken by Municipality under this section in court if it is unreasonable, unduly burdensome or prohibited by law.

**24.01.04.3 Undergrounding:** For new installations, if a subscriber requests underground cable service, Company may charge the subscriber the differential between the cost of aerial and underground installation of the drop to the subscriber. This provision shall not apply where undergrounding is required by Municipality ordinance or policy for all utilities.

**24.01.04.4 Seasonal Service:** Company shall offer seasonal service at a significant reduction, computed annually, from its standard rates for subscribers desiring only seasonal service. The seasonal rate currently offered by Company (described on Exhibit F) constitutes such a significant reduction and any future seasonal rates shall have comparable reductions. Customers selecting seasonal service shall not be subjected to annual disconnection and reconnection charges.

**24.01.04.5 Lockout Device:** Company shall provide all subscribers with the option of obtaining a device by which the subscriber can prohibit the viewing of a particular cable service during periods selected by the subscriber.

**24. 01.04.6 Pay Per View:** Subscribers shall be given the option of not having pay per view or per program service available at all or only having such service provided upon the subscriber providing a security number selected by an adult representative of subscriber.

**24.01.04.7 Blocking:** Upon request by a subscriber, Company shall entirely block such subscriber from receiving both the audio and video portion of a channel on which programming is provided on a per program or pay per view basis. Scrambling of the signal shall be insufficient to comply with this provision.

**24.01.04.8 Hearing Impaired:** Municipality may require and regulate the installation, sale or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

**24.01.04.9 Notification:** Company will provide written information on at least each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request.

**24.01.04.9.1** Products and services offered.

**24. 01.04.9.2** Prices (rates) and options for Cable Services and conditions of subscription to Cable Service. Prices shall include those for programming, equipment rental, program guides, installation, disconnection, late fees and other fees charged by Company.

**24.01.04.9.3** Installation and service maintenance policies.

**24.01.04.9.4** Instructions on how to use the Cable Service, including procedures and options for pay per view and premium channels.

**24.01.04.9.5** Channel positions of programming carried on the Cable Television System.

**24.01.04.9.6** Billing and complaint procedures, including the address and phone number of the person or position at Municipality responsible for cable matters.

**24.01.04.9.7** Applicable privacy requirements as set forth in this Franchise or otherwise provided for by law.



**24.01.04.10 Notice of Changes:** Subscribers and Municipality will be notified of any changes in rates, Cable Services or channel positions as soon as possible through announcements on the Cable Television System and in writing. Notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of Company and as soon as possible if not within the control of Company. In addition, Company shall notify subscribers and Municipality 30 days in advance of any significant changes in the other information required by the preceding section.

**24.01.04.11 Negative Options:** Company will not engage in the practice of “negative option” marketing, and will not charge a subscriber for any premium service or equipment beyond basic and expanded basic service which the subscriber has not affirmatively requested.

**24.01.04.12 Office:** Company shall maintain offices in or near Municipality as follows:

**24.01.4.12.1** An office in Manistee to serve the purpose of paying bills; receiving and responding to requests for service; receiving and resolving subscriber complaints regarding Cable Service, equipment malfunctions, billing and collection disputes; and similar matters. Such office of Company shall be open to receive inquiries or complaints in person and/or by telephone during “Normal Business Hours” which for purposes of this Section 4.12 mean 8 AM to 5 PM, Monday through Friday and one evening until 9 PM per week, excluding the holidays listed in the next section.

**24.01.04.13 Telephone Service**

**24.01.04.13.1** Company shall have a local telephone number or 800 number for use by subscribers toll-free 24 hours per day, seven days per week.

**24.01.04.13.2** Company’s numbers shall be listed in bold type, with appropriate explanations, in the directory published by the local telephone company (Michigan Bell, GTE and the like) and Company shall make reasonable efforts to be listed in significant private directories (Talking Directories and the like).

**24.01.04.13.3** Trained Company representatives will be available to respond to subscriber telephone inquiries 24 hours per day, although after Normal Business Hours such representatives shall only be required to respond to inquiries relating to outages, repairs or service calls, with other matters deferred until the next business day (unless low workload allows them to be handled then).

**24.01.04.13.4** After Normal Business Hours, calls relating to matters other than outages, repairs and service calls may be answered by a service or automated response system, including an answering machine. Such inquiries received after Normal Business Hours must be responded to by a trained Company representative on the next business day.

**24.01.04.13.5** Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under Normal Operating Conditions, measured on a quarterly basis.

**24.01.04.13.6** Company shall provide reports to Municipality quarterly (monthly if Municipality shall request same) showing on a consistent basis, fairly applied, the number of telephone calls originating from within Municipality or other appropriate area, and in addition measuring Company's compliance with the standards of this section. Such report shall show Company's performance excluding periods of abnormal operating conditions, and if Company contends any such conditions occurred during the period in question, it shall also describe the nature and extent of such conditions and show Company's performance excluding the time periods such conditions were in effect.

**24.01.04.13.7** Under Normal Operating Conditions, the subscriber will receive a busy signal less than 3 percent of the time.

**24.01.04.13.8** Normal Business Hours for the purpose of this Section 4.13 shall mean from 8:00 am to 8:00 p.m., Monday through Friday and 9 to 1 on Saturday, excluding Christmas, New Years Day, the Fourth of July, Labor Day, Memorial Day, Good Friday, December 24 and Thanksgiving.

**24.01.04.14 Identification:** All service personnel of Company or its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing their name and photograph. Company shall account for all identification cards at all times. In addition, such service personnel of Company shall wear uniforms with Company's name and logo. Every service vehicle of Company, its contractors or subcontractors shall be clearly identified as such to the public: Company vehicles shall have Company's logo and phone number plainly visible; those of contractors and subcontractors working for Company shall have the contractors/subcontractors name and phone number plus markings (such as a magnetic door sign) indicating they are under contract to Company and Company's phone number.

**24.01.04.15 Installations:** Under Normal Operating Conditions, installations located up to 125 feet from the existing distribution system will be performed within seven business days after an order has been placed at least 95 percent of the time on a quarterly basis. Installations shall be available from 8 AM to noon and 1 PM to 6 PM weekdays; on a first call of the day or a last call of the day basis (each first come, first served); on a call to meet basis, and; by appointment on Saturday and in the evening. The reports described in the preceding section shall also measure and report on Company's compliance with this section.

**24.01.04.16 Service Calls:** The following shall apply to subscribers requesting installations or service: Company shall at the subscriber's option either (1) schedule the subscriber to be the first call of the day or last call of the day on a first come, first served basis, (2) schedule the appointment for a date certain on a "call to meet" basis whereas the service technician finishes his/her prior task, the technician calls the subscriber and arranges to meet the subscriber shortly thereafter, or (3) establish a four hour appointment window with the subscriber (or adult representative of the subscriber). Such four hour window shall be entirely in the AM or entirely in the PM unless the subscriber requests and Company agree to the contrary.

**24.01.04.16.1** Company shall respond to the request for service in accordance with the option selected by the subscriber.

**24.01.04.16.2** Company may not cancel an appointment with a subscriber after 4 PM on the business day prior to the scheduled appointment.

**24.01.04.16.3** If Company's technician is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will promptly be contacted. The appointment will be rescheduled, as necessary, at a time certain which is convenient for the subscriber.

**24.01.04.16.4** In the event access to the subscriber's premises is not made available to Company's technician when the technician arrives during the established appointment window, the technician shall leave written notification stating the time of arrival and requesting that Company be contacted again to establish a new appointment window. In such case, the required response time for the request for service shall be twenty-four (24) hours from the time Company is contacted to establish the new appointment window.

**24.01.04.16.5** Notwithstanding the foregoing, if Company's technician telephones the subscriber's home during the appointment window and is advised that the technician will not be given access to the subscriber's premises during the appointment window, then the technician shall not be obliged to travel to the subscriber's premises or to leave the written notification referred to above, and the burden shall again be upon the subscriber (or adult representative of the subscriber) to contact Company to arrange for a new appointment window, in which case the required response time for the request for service shall again be 24 hours from the time Company is contacted to establish the new appointment window.

**24.01.04.16.6** Except as otherwise provided above, Company shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives at the service location.

**24.01.04.16.7** A violation by Company of the provisions of this section shall entitle the subscriber to one month's free basic service.

**24.01.04.17 Service Call Charges:** No charge shall be made to the subscriber for any service call unless the problem giving rise to the service request can be demonstrated by Company to have been:

**24.01.04.17.1** Caused by subscriber negligence, or

**24.01.04.17.2** Caused by malicious destruction of cable equipment, or

**24.01.04.17.3** A problem previously established as having been non-cable in origin.

**24.01.04.18 Service Interruption:** Under Normal Operating Conditions, Company will meet the following standard no less than 95 percent of the time measured on a quarterly basis:

**24.01.4.18.1** Excluding conditions beyond Company's control, Company will begin working on a Service Interruption promptly and in no event later than 24 hours after the interruption becomes known.

**24.01.04.18.2** “Service Interruption” means the loss of picture or sound on one or more cable channels, affecting one or more subscribers.

**24.01.04.18.3** Company’s report described above shall also measure and report on Company’s compliance with this standard.

**24.01.04.19 Response Times:** For purposes of this Section, “subscriber problem” shall mean any malfunction affecting a single subscriber; “outage” shall mean a complete loss of picture and/or sound affecting more than two subscribers in a geographically compact area; “system problem” shall mean any problem other than an outage which affects more than one subscriber. With respect to matters within Company’s control, Company shall maintain a repair force of technicians so as to respond to and start work on a subscriber request for service or to repair any malfunction within the following time frames:

**24.01.04.19.1** For an outage: Within five hours, including weekends and holidays, after receiving knowledge of such malfunction.

**24.01.04.19.2** For a subscriber problem: As soon as reasonably possible, but no later than the end of the next business day after Company receives the subscriber’s request for service.

**24.01.04.19.3** For a system problem: Within 48 hours, including weekends and holidays, of receiving a request for service identifying a problem concerning picture or sound quality affecting any two or more subscribers.

**24.01.04.20 Log of Complaints:** Company shall maintain a written log, or an equivalent stored in computer memory and capable of access and reproduction in printed form, of all subscriber complaints. Such log shall list the date and time of such complaints, identifying to the extent allowed by law the subscribers and describing the nature of the complaints and when and what actions were taken by Company in response thereto. Such log shall be kept at Company’s local or state office, reflecting the operations to date for a period of at least three years, and shall be available for public inspection during regular business hours and to Municipality upon request.

**24.01.04.21 Payment Options:** Company will provide all subscribers with the option of paying for service by (1) an automatic payment plan, where the amount of the bill is automatically deducted from a checking account designated by subscriber, or (2) by major credit card on a preauthorized basis.

**24.01.04.22 Prepayment:** Company will provide all subscribers with the option of prepaying for service 12 months in advance with a prepayment discount of 5 percent..

**24.01.04.23 Bills:** Company shall comply with the following:

**24.01.4.23.1** Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and, credits and late charges.

**24.01.04.23.2** In the case of a billing dispute, Company must respond to a written complaint from a subscriber within 30 days.

**24.01.4.23.3** Company may not disconnect a subscriber for failure to pay the contested charges during a billing dispute.

**24.01.04.24 Refunds:** Refund checks will be issued promptly, but no later than either:

**24.01.4.24.1** The subscriber's next billing cycle following resolution of the request or 30 days, whichever is earlier, or

**24.01.04.24.2** Where applicable the return of the equipment supplied by Company if service is terminated.

**24.01.04.25 Credits:** Credits for service will be issued no later than the subscriber's next billing cycle following a determination that a credit is warranted.

**24.01.04.26 Late Payment:**

**24.01.04.26.1** Late payment charges imposed by Company upon subscribers shall be fair and shall be reasonably related to Company's cost of administering delinquent accounts.

**24.01.04.26.2** Late payment charges shall not exceed \$5, adjusted for inflation from 1993.

**24.01.04.27 Disconnection:**

**24.01.04.27.1** Company may only disconnect a subscriber for failure to pay if at least 60 days have elapsed after the due date for payment of the subscriber's bill and Company has provided at least 10 days written notice to the subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.

**24.01.04.27.2** Company may not disconnect a subscriber for failure to pay amounts that are in dispute during a billing dispute.

**24.01.04.27.3** Company may disconnect a subscriber at any time if Company in good faith believes that the subscriber has tampered with or abused Company's equipment, that there is a signal leakage problem (or other non-compliance with FCC or other standards which poses a risk to lives or property) on subscriber's premises, or that subscriber is or may be engaged in the theft of Cable Services.

**24.01.04.27.4** Company shall promptly disconnect any subscriber who so requests disconnection. No period of notice prior to request termination of service may be required of subscribers by Company. No charge may be imposed upon the subscriber for any cable service delivered after the effective date of the disconnect request (unless there is a delay in returning Company equipment). If the subscriber fails to specify an effective date for disconnection, the effective date shall be deemed to be the day following the date the disconnect request is received by Company.

**24.01.4.28 Privacy and Monitoring:** Neither Company and its agents nor Municipality and its agents shall tap or monitor, or arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, signal, input device, or subscriber facility for any purpose, without the written authorization of the affected subscriber. Such authorization shall be revocable at any time by the subscriber without penalty by delivering a written notice of revocation to Company; provided, however, that Company may conduct system-wide or individually addressed “sweeps” solely for the purpose of verifying system integrity, checking for illegal taps or billing.

**24.01.04.29 Subscriber Information:** Company shall not record or retain any information as to the programming actually watched by a subscriber. Company shall destroy all subscriber information of a personally-identifiable nature after a reasonable period of time except as authorized not to do so by the affected subscriber. Company shall not sell or otherwise provide to other persons, without the specific written authorization of the subscriber involved, or otherwise make available to any person or entity, lists of the names and addresses of subscribers.

**24.01.04.30 Performance Bond:** Company shall obtain a performance bond in favor of the municipalities listed on Exhibit H with the portion of the bond allocated solely to Municipality (and the only portion and amount on which Municipality can draw) being the dollar amount set forth by Municipality’s name on Exhibit H. Company shall post the bond at or before the time of acceptance of this Franchise. Company shall provide Municipality with a copy of such bond and Company shall continuously maintain such bond during the term of this Franchise. Such bond shall be issued by a bonding company licensed to do business in the State of Michigan. Such bond shall secure Company’s faithful performance in accordance with the terms and conditions of this Franchise.

**24.01.04.31 Small Claims Court:** If a subscriber files a claim with the Small Claims division/branch of Michigan’s State District Courts that is within such division/branch’s jurisdiction (as from time to time revised), Company agrees as follows:

**24.01.04.31.1** Company will not appear by counsel in or use lawyers in such court unless the subscriber/plaintiff is represented by counsel.

**24.01.04.31.2** Company will not remove or transfer such claim to District Court or any other court.

**24.01.04.31.3** Company will not appeal any such judgment rendered by the Small Claims branch/division.

**24.01.04.31.4** Municipality agrees to encourage cable subscribers to adhere to the same guidelines as Company and as set forth in Sections 4.31.1, 4.31.2 and 4.31.3 above.

**24.01.04.32 FCC Technical Standards:** The following shall apply to Company’s implementation of and compliance with the rules and regulations relating to cable television technical standards adopted by the FCC in MM Dockets 91-169 and 85-38 on February 13, 1992 and subsequent amendments thereto:

**24.01.4.32.1** All testing for compliance with the FCC technical standards shall be done by a person with the necessary expertise and substantial experience in cable television matters.

**24.01.04.32.2** Upon request Company shall provide Municipality with a report of such testing.

**24.01.04.32.3** Company shall establish the following procedure for resolving complaints from subscribers about the quality of the television signal delivered to them: All complaints shall go initially to the manager of Company's local office. All matters not resolved by the manager shall at Company's or the subscriber's option be referred to Municipality for it to resolve. All matters not resolved by Municipality shall be referred to the FCC for it to resolve.

**24.01.04.32.4** Company shall annually notify its subscribers of the preceding.

**24.01.04.32.5** Municipality at its expense may test the Cable Television System for compliance with the FCC technical standards twice per year and more frequently if it has received complaints or otherwise has reason to believe the standards are not being met. Company will reimburse Municipality for the expense of any test which shows a non-compliance with such standards if Municipality gave Company five days notice in advance of the test and its location.

#### **24.01.05 Access to the System**

**24.01.05.1 Channels Made Available:** Company shall provide on the Cable Television System in the basic tier of service (and in the lowest tier of service, if different) the greater of the following non-commercial channel options:

**24.01.05.1.1** Such public, educational and governmental channels as were provided on the system in June, 1993, or,

**24.01.05.1.2** At Municipality's option one channel (if the System has 330 MHz or less capability), and two channels (when the System has more than 330 MHz capability) for (at Municipality's option) educational, governmental, or a combined educational/governmental channels (collectively "E and G Channels")

**24.01.05.1.3** Municipality acknowledges that all municipalities served (as the case may be) downstream of a given fiber node, microwave relay point or headend through the comparable point (if any) downstream where different program insertion on such channels is possible must make (or not disagree with) the same election and share the same channel(s) Municipality agrees to share the E and G channels on an equitable basis with the other municipalities and school districts served by such channels. Company will advise Municipality when changes in fiber nodes or other changes on the System allow it or other municipalities served by the E and G channels to change their elections as to such channels.

**24.01.05.1.4** For the purpose of these sections,

**24.01.05.1.4.1** "Government channel" shall mean a channel administered by Municipality and on which the programming shall be provided by Municipality, Municipality's

designee or such other units of state or local government as Municipality may from time to time appoint, and

**24.01.05.1.4.2 “Educational channel”** shall mean a channel administered by the School System or its designee, and on which the programming shall be provided by the School System, its designees or other educational institutions upon each such entity both entering into a contract with Municipality regarding the provision of same and such agreements relating to indemnity and insurance with Company as Company may reasonable request.

**24.01.05.2 Company Use:** Municipality may from time to time adopt and revise rules and procedures as to when and how Company may use the E and G Channels for the provision of video programming when the E and G Channels are not being used for their respective purposes. Company will use the E and G Channels solely in accordance with such rules and procedures and otherwise shall have no responsibility or control with respect to the operation of such channels.

**24.01.05.3 Grants:** Upon request by Municipality Company will provide a one-time grant in an amount to be agreed on to Municipality to be used by it to purchase video and audio equipment for use in producing programming for distribution on the E and G Channels and prior to providing such grant shall advise Municipality, whether, to what extent, and in what manner such costs will or may be included in the rates and charges paid by cable subscribers, including the amount per subscriber per month, and how it may appear (if at all) on the subscriber’s bill.

**24.01.05.4 Charter Generator:** Company at no cost to Municipality shall provide and maintain a charter generator (which may be located either at Company or at Municipality) able to generate and transmit information 24 hours per day for immediate distribution on the E and G Channels, and if necessary, to be used on other channels in conjunction with the emergency alert system.

**24.01.05.5 Leased Access:** Company shall make available suitable channel capacity for leased access by third parties unaffiliated with Company to the extent from time to time required by federal law and regulations. Company shall have the sole responsibility for all operating aspects and for the fixing of rates and conditions for leased access use.

## **24.01.06 Indemnity and Insurance**

**24.01.06.1 Disclaimer of Liability:** Municipality shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Company’s construction, maintenance, repair, use, operation, condition or dismantling of Company’s Cable Television System or Company’s provision of Cable Services.

**24.01.06.2 Indemnification:** Company shall, at its sole cost and expense, indemnify and hold harmless Municipality and all associated, affiliated, allied and subsidiary entities of Municipality, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as “Indemnitees”), from and against:

**24.01.06.2.1** Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of



attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of Company, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, tradename, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance or condition of the Cable Television System (including those arising from any matter contained in or resulting from the transmission of programming over the System), the provision of Cable Services or the Company's failure to comply with any federal, state or local statute, ordinance or regulation.

**24.01.06.2.2** Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which is imposed upon, incurred by or asserted against the Indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to Company, its contractors or subcontractors, for the installation, construction, operation or maintenance of the Cable Television System or provision of Cable Services, and, upon the written request of Municipality, Company shall cause such claim or lien covering Municipality's property to be discharged or bonded within 15 30 days [sic] following such request.

**24.01.06.2.3** Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any financing or securities offering by Company or its affiliates for violations of the common law or any laws, statutes, or regulations of the State of Michigan or United States, including those of the Federal Securities and Exchange Commission, whether by Company or otherwise; excluding therefrom, however, claims which are solely based upon and shall arise solely out of information supplied by Municipality to Company in writing and included in the offering materials with the express written approval of Municipality prior to the offering.

**24.01.06.3 Assumption of Risk:** Company undertakes and assumes for its officers, agents, contractors and subcontractors and employees (collectively "Company" for the purpose of this section), all risk of dangerous conditions, if any, on or about any Municipality-owned or controlled property, including Public Ways, and Company hereby agrees to indemnify and hold harmless the Indemnitees against and from any claim asserted or liability imposed upon the Indemnitees for personal injury or property damage to any person arising out of the Company's installation, operation, maintenance or condition of the Cable Television System or company's failure to comply with any federal, state or local statute, ordinance or regulation.

**24.01.06.4 Defense of Indemnitees:** In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, Company shall, upon notice from any of the Indemnitees, at Company's sole cost and expense, resist and defend the same with legal counsel mutually selected by Company and

Municipality; provided further, however, that Company shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of Municipality.

**24.01.06.5 Notice, Cooperation and Expenses:** Municipality shall give Company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent Municipality from cooperating with Company and participating in the defense of any litigation by Municipality's own counsel. If Company requests Municipality to assist it in such defense then Company shall pay all expenses incurred by Municipality in response thereto, including defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the cost of any services rendered by the Municipality's attorney, and the actual expenses of Municipality's agents, employees or expert witnesses, and disbursements and liabilities assumed by Municipality in connection with such suits, actions or proceedings.

**24.01.06.6 Insurance:** During the term of the Franchise, Company shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance:

**24.01.06.6.1** Worker's compensation insurance meeting Michigan statutory requirements and employer's liability insurance with minimum limits of \$100,000 for each accident.

**24.01.06.6.2** Comprehensive commercial general liability insurance with minimum limits of \$5,000,000 as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability; coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage.

**24.01.06.6.3** Broadcasters liability coverage for loss or damage arising out of publications or utterances in the course of or related to advertising, broadcasting, telecasting or other communication activities conducted by or on behalf of Company with minimum limits of Ten Million Dollars (\$10,000,000) as the combined single limit for each occurrence of bodily injury, personal injury and property damage.

**24.01.06.6.4** Automobile liability insurance covering all owned, hired, and nonowned vehicles in use by Company, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of the Michigan No-Fault Insurance Law, including residual liability insurance with minimum limits of Two Million Dollars (\$2,000,000) as the combined single limit for each occurrence for bodily injury and property damage.

**24.01.06.6.5** At the start of and during the period of any construction, builders all-risk insurance, providing coverage on all building and structures which will be installed or constructed as part of the Cable Television System together with an installation floater or equivalent property coverage covering cables, materials, machinery and supplies of any nature

whatsoever which are to be used in or incidental to the construction of the Cable Television System. Upon completion of the construction of the Cable Television System, Company shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance on the entire Cable Television System. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

**24.01.06.6.6** Business interruption insurance coverage in an amount sufficient to cover such loss of revenues, for the period of time which it would take, under normal circumstances, to repair or replace that part(s) of the Cable Television System which is damaged and caused the loss of revenue.

**24.01.06.6.7** All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claims made basis.

**24.01.06.6.8** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

**24.01.06.7 Named Insureds:** All policies, except for business interruption and worker's compensation policies, shall name "Filer Township, a municipal corporation of the State of Michigan, all associated, affiliated, allied and subsidiary entities of the municipality now existing or hereafter created, and their respective officers, boards, commission, employees, agents and contractors, as their respective interests may appear" as additional insureds (Herein referred to as the "Additional Insureds"). Each policy which is to be endorsed to add Additional Insureds hereunder, shall contain cross-liability wording, as follows:

"In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder."

**24.01.06.8 Evidence of Insurance:** A certificate of insurance evidencing the preceding coverages is attached as Exhibit E. Certificates of insurance for each insurance policy required to be obtained by Company in compliance with this section, along with written evidence of payment of required premiums shall be filed and maintained with Municipality annually during the term of the Franchise. Company shall immediately advise Municipality of any claim or litigation that may result in liability to Municipality.

**24.01.06.9 Cancellation of Policies of Insurance:** All insurance policies maintained pursuant to this Franchise shall contain the following endorsement:

"At least 60 days prior written notice shall be given to Municipality by the insurer of any intention not to renew such policy or to cancel, replace or materially alter same, such notice to be given by registered mail to the parties named in Section 6 of the Franchise."

**24.01.06.10 Insurance Companies:** All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Michigan or surplus

line carriers on the Michigan Insurance Commissioner's approved list of companies qualified to do business in Michigan. All insurance carriers and surplus line carriers shall be rated A- or better by A.M. Best Company.

**24.01.06.11 Deductibles:** All insurance policies may be written with deductibles, not to exceed \$50,000 unless approved in advance by Municipality. Company agrees to indemnify and save harmless Municipality, the Indemnitees and Additional Insureds from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Franchise.

**24.01.06.12 Contractors:** Company shall require that each and every one of its contractors and their subcontractors carry, in full force and effect, workers' compensation, comprehensive public liability and automobile liability insurance coverages of the type which Company is required to obtain under the terms of this section with appropriate limits of insurance.

**24.01.06.13 Review of Limits:** Once during each calendar year during the term of this Franchise, Municipality may review the insurance coverages to be carried by Company. If Municipality determines that higher limits of coverage are necessary to protect the interests of Municipality or the Additional Insureds, Company shall be so notified and shall obtain the additional limits of insurance, at its sole cost and expense.

#### **24.01.07 Fees and Payments**

**24.01.07.1 Franchise Fee:** Company shall pay Municipality throughout the term of this Franchise fee in an amount equal to 5 percent of Company's Gross Revenues. Such payments shall be made by January 30 and July 31 based upon Gross Revenues in the preceding two calendar quarters.

**24.01.07.1.1** Each payment shall be accompanied by a written report to Municipality, verified by an officer of Company, containing an accurate statement in summarized form of Company's Gross Revenues and the computation of the payment amount.

**24.01.07.1.2** Municipality (by itself or in combination with other municipalities served by Company) may audit Company (or any entity affiliated with Company) to verify the accuracy of franchise fees paid Municipality. Any additional amount due Municipality shall be paid within 30 days of Municipality's submitting an invoice for such sum, and if such sum shall exceed 5 percent of the total franchise fee which the audit determines should have been paid for any calendar year, Company shall pay Municipality's cost of auditing that calendar year as well.

**24.01.07.2 Fee Reduction:** Municipality may elect to temporarily reduce the amount of the franchise fee to a lesser or no percentage. If Municipality so elects, it shall give Company at least 60 days written notice of same, and thereafter Company shall pass through to subscribers the amount of any decrease in the franchise fee pursuant to Section 622 (e) of the Cable Act. Municipality may revoke the election upon similar notice.

**24.01.07.3 Election:** If Company requests that this Franchise be submitted for approval in a referendum, then Company shall pay the cost of any special election to approve this

Franchise and shall pay its share of the cost of any general election at which this Franchise is referred to the people for their approval.

**24.01.07.4 Other Payments:** The preceding fees and payments are in addition to all sums which may be due Municipality for property taxes (real and personal), income taxes, license fees, permit fees or other fees, taxes or charges which Municipality may from time to time impose.

**24.01.07.5 Interest:** All sums not paid when due shall bear interest at a rate which is 1 percent over the prime rate then being charged by First of America Bank, and computed monthly.

#### **24.01.08 Rates and Regulations**

**24.01.08.1 Rates:** Company's rates and charges for the provision of Cable Services (and for related services, such as equipment rental, deposits, disconnect fees and downgrade fees) shall be subject to regulation by Municipality to the full extent from time to time authorized by federal law. Municipality may from time to time elect not to regulate Company's rates and charges, and any such election shall not waive Municipality's rights to regulate in the future.

**24.01.08.1.1** As to Cable Services, Municipality acknowledges that as of the date of this Franchise its ability to regulate rates and charges is limited by the Cable Communications Policy Act of 1984, as amended, and applicable FCC regulations.

**24.01.08.2 Regulations:** Municipality reserves the right to regulate Company, the Cable Television System, and the provision of Cable Services to the maximum extent from time to time permitted by federal law.

#### **24.01.09 Term**

**24.01.09.1 Term:** The term of this franchise shall be until December 31, 2003 except that this Franchise shall be revocable at the will of Municipality unless during the term thereof it is approved by a three-fifths vote of the electors voting thereon in a general or special election, as provided in the Municipal Charter.

**24.01.09.2 Termination:** This Franchise and all rights of Company thereunder shall automatically terminate on the expiration of the term of this franchise. No action by Municipality is necessary to effect such termination.

**24.01.09.2.1** Municipality acknowledges that as of the date of this Franchise its ability to enforce the preceding two sentences is limited by the Cable Communications Policy Act of 1984, as amended, and applicable FCC regulations.

**24.01.09.3 Reopeners:** Municipality at its option may reopen this Franchise as follows:

**24.01.09.3.1** Within six months of either (i) the passage of federal cable television legislation or (ii) the adoption of FCC regulations if such legislation or regulations affect Municipality's ability to (a) regulate Company in any respect or (b) act to protect subscribers (such

as on customer service matters, customer service standards or consumer protection matters). Such reopener shall be limited to the matters described in (a) and (b).

#### **24.01.10 Transfers, Ownership and Control**

**24.01.10.1 Management of the Cable Television System:** Company shall personally manage the Cable Television System and the provision of Cable Services within Municipality. It shall not directly or indirectly contract for, subcontract or assign in whole or in part, the management of the Cable Television System or the provision of Cable Services.

**24.01.10.2 Transfer Prohibited:** Neither this Franchise nor the Cable Television System may be transferred without the prior written consent of Municipality, which will not unreasonably be withheld. Municipality's granting of consent in one instance shall not require it to consent in other instances. The preceding prohibition shall not apply to:

**24.01.10.2.1** The replacement or sale of components of the Cable Television System in the course of ordinary maintenance or day-to-day operation, or

**24.01.10.2.2** A transfer to an entity 100 percent owned and controlled by C-TEC Cable Systems, Inc. where the new entity assumes all of Company's obligations and liabilities under this Agreement, has the legal, technical and financial ability to properly perform and discharge such obligations and liabilities, and Company is in no way relieved of its obligations to perform under this Agreement. Municipality shall be advised in writing of such transfer and of the new entity's qualifications at least 30 days before such transfer occurs.

**24.01.10.3 Ownership, Encumbrances:** Company represents and warrants that its current ownership is as set forth on Exhibit C; that it currently has full legal and equitable title to the Cable Television System, subject only to those liens and encumbrances described on Exhibit D; and that the only liens and encumbrances on this or any prior Franchise are described on Exhibit D.

**24.01.10.4 Transfer of Ownership and Control:** There shall be no change in, transfer of or acquisition of control of Company or of any entity, at any tier or level, which directly or indirectly controls Company (including, but not limited to, C-TEC Cable Systems, Inc. and C-TEC Corporation, collectively "C-TEC Companies") without the prior written consent of Municipality. The prior written consent of Municipality, in any of the foregoing instances, shall be evidenced by the formal adoption of an ordinance granting such consent.

**24.01.10.4.1** For the purposes of the Franchise, "...change in, transfer of or acquisition of control of Company..." shall mean any change in the identity of the entities, individuals or group which directly or indirectly directs, or has the power to direct, the management and policies of Company, whether through the ownership of voting securities or other equity interest, by contract or otherwise. Without limiting the generality of the foregoing, for the purposes hereof, such a change shall be deemed to have occurred at any point in time when there is (1) a change in working of effective voting control, in whatever manner effectuated, of Company or the C-TEC Companies; (2) an agreement of the holders of voting stock or rights of Company or the C-TEC Companies which effectively vests or assigns policy decision-making in any person

or entity other than Company; or (3) a sale, assignment or transfer of any shares or interest in Company or the C-TEC Companies which results in a change in the control of Company.

**24.01.10.5 Application for Consent:** If Company seeks to obtain the consent of Municipality to any transaction or matters otherwise prohibited by this Part 10, Company shall submit an application for such consent in the form required by Municipality and shall submit or caused to be submitted to Municipality all such documents and information as Municipality may request.

**24.01.10.5.1** In determining whether it shall consent to any matter described in the application, Municipality may inquire into such matters as it in its discretion deems relevant, which may include (but are not necessarily limited to) the capability and the experience of the proposed purchaser to provide Cable Services; the nature, quality and extent of the services provided and to be provided; the potential impact of the change, direct and indirect, on the rates, terms and conditions of service, customer service matters and consumer protection matters; and the resulting effect on the ownership, control, operation and management of the Cable Television System and provision of Cable Services; and any impact likely to make effective regulation complicated or difficult.

**24.01.10.5.2** Municipality shall have 120 days from the date of submission of a completed FCC Form 394, (or successor form) together with all exhibits, and any additional information required by this Agreement or applicable state or local law to act upon any such applications for consent. If Municipality fails to act upon such application for consent within 120 days, such application shall be deemed consented to unless the Municipality and Company otherwise agree to an extension of time.

## **24.01.11 Defaults**

**24.01.11.1 Events of Default:** The occurrence, at any time during the term of the Franchise, of any one or more of the following events, shall constitute an Event of Default by the Company under this Franchise.

**24.01.11.1.1** The failure of Company to pay the Franchise fee on or before the due dates specified herein.

**24.01.11.1.2** Company's breach or violation of any of the terms, covenants, representations or warranties contained herein or Company's failure to perform any obligation contained herein.

**24.01.11.1.3** Company's failure to pay or cause to be paid any governmentally imposed taxes of any kind whatsoever, including but not limited to real estate taxes, income taxes and personal property taxes on or before the due date for same; provided, however, Company shall not be in default hereunder with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.

**24.01.11.1.4** The entry of any judgment against Company in excess of \$100,000, which remains unpaid and is not stayed pending rehearing or appeal, for 45 or more days following entry thereof.

**24.01.11.1.5** The dissolution or termination, as a matter of law, of Company or any general partner of Company.

**24.01.11.1.6** If Company (or any general partner in Company) files a voluntary petition in bankruptcy; is adjudicated insolvent; obtains an order for relief under Section 301 of the Bankruptcy Code (11 USC §301); files any petition or fails to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeks or consents to or acquiesces in the appointment of any trustee, receiver, master, custodian or liquidator of Company, or any of Company's property and/or Franchise and/or of any and all of the revenues, issues, earnings, profits or income thereof; makes an assignment for the benefit of creditors; or fails to pay Company's debts generally as they become due.

**24.01.11.2      Uncured Events of Default:** Upon the occurrence of an event of Default which can be cured by the immediate payment of money to Municipality of a third party, the Company shall cure such default within 30 days of the date such sum of money was due and payable. Upon the occurrence of an Event of Default by Company which cannot be cured by the immediate payment of money to Municipality or a third party, Company shall have 90 days from written notice from Municipality to Company of an occurrence of such Event of Default to cure same before Municipality may exercise any of its rights or remedies provided for in Part 12.

**24.01.11.2.1** If any Event of Default is not cured within the time period allowed for curing the Event of Default, as provided for herein, such Event of Default shall, without notice, become an Uncured Event of Default, which shall entitle Municipality to exercise the remedies provided for in Part 12.

## **24.01.12      Remedies**

**24.01.12.1      Remedies:** Upon the occurrence of any Uncured Event of Default as described in Part 11, Municipality shall be entitled to exercise any and all of the following cumulative remedies:

**24.01.12.1.1** Municipality shall have the right to forfeit and terminate the Franchise and upon the forfeiture and termination thereof this Franchise shall be automatically deemed null and void and have no force or effect, Company shall remove the Cable Television System from Municipality as and when requested by Municipality and Municipality shall retain any portion of the Franchise Fee and other fees or payments paid to it, or which are due and payable to it, to the date of the forfeiture and termination. Municipality's right to forfeit and terminate the grant of the Franchise pursuant to this section is not a limitation on Municipality's right of revocation.

**24.01.12.1.2** The commencement of an action against Company at law for monetary damages.

## **24.01.13      Provision of Information**

**24.01.13.1      Financial Reports:** Company will provide Municipality on or before May 15 of each calendar year audited financial statements for the prior calendar year certified by



a nationally recognized accounting firm such as Coopers & Lybrand as having been prepared in accordance with Generally Accepted Accounting Principles fairly applied on a consistent basis and fairly reflecting the financial condition of Company.

**24.01.13.2 Filings:** Upon request, Company will provide Municipality or its attorneys with copies of all documents which Company sends to the FCC or Michigan Public Service Commission and all records required by Company to be maintained under § 76 of the FCC regulations (47 CFR §76) or successor sections.

**24.01.13.3 Books and Records:** The Municipality may review such of Company's books and records, during Normal Business Hours (as defined in Section 4.12) and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, records required to be kept by the Company pursuant to the rules and regulations of the FCC, and financial information underlying the written report accompanying the franchise fee. Notwithstanding anything to the contrary set forth herein, Company is not required to disclose personally identifiable subscriber information without the subscriber's consent in violation of Section 631 of the Cable Act, 47 U.S.C. Section 551, regarding the protection of subscriber privacy. To the extent permitted by law, the Municipality agrees to treat on a confidential basis any information disclosed by the Company to it under this section. In so according confidential treatment, disclosure of Company's records by the Municipality shall be limited to only those of its employees, representatives and agents that have a need to know, and that are in a confidential relationship with the Municipality.

#### **24.01.14 General**

**24.01.14.1 Entire Agreement:** This Franchise, including the Exhibits attached hereto, contain the entire agreement between the parties and all prior franchises, negotiations and agreements are merged herein and hereby superseded, except that Company shall pay all sums due under the prior franchise on or before March 15, 1994.

**24.01.14.2 Most Favored Nations:** If Company on or before January 1, 1996 enters into a franchise agreement with any municipal corporation in Michigan for a Cable Television System which serves a comparable number of subscribers and a comparable average number of subscribers per mile of cable line, compared to the Cable Television System which serves Municipality, and which Municipality deems to contain terms and conditions more beneficial than those contained herein, then Company upon request by Municipality shall within 90 days amend this franchise to include such terms and conditions. For the purpose of this section, "Cable Television System" shall have the meaning defined in Section 2.14.

**24.01.14.3 Taxes:** Nothing contained herein shall be construed to except Company from any tax, liability or assessment which may be authorized by law.

**24.01.14.4 Covenant Not to Sue/Claim:** As a condition of this Franchise, Company agrees to be bound by all the terms of it. In consideration of the substantial benefits they receive from this Franchise, Company and Municipality covenant that they will not, at any time sue or proceed against each other in any claim or proceeding challenging any term or provision of this Franchise as unreasonable, unlawful or arbitrary or that Municipality or Company did not have the

authority to impose or agree to such terms or conditions. Municipality and Company covenant and agree that this Franchise is in accordance with state and federal law and forever release and discharge each other from any claim that this Franchise is unenforceable as of the date hereof.

**24.01.14.5 Notices:** Except as otherwise specified herein, all notices, consents, approvals, requests and other communications (herein collectively “Notices”) required or permitted under this Franchise shall be given in writing and mailed by registered or certified first-class mail, return receipt requested, addressed as follows:

If to Company: Vice President and General Manager  
C-TEC Cable Systems, Inc.  
701 South Airport Road, West  
Traverse City, MI 49684

With copies to: General Counsel  
C-TEC Corporation  
46 Public Square  
PO Box 3000  
Wilkes-Barre, PA 18703  
2505 Filer City Road  
Manistee, MI 49660

All notices shall be deemed given on the day of mailing. Either party to this Franchise may change its address for the receipt of Notices at any time by giving notice thereof to the other as provided in this section. Any notice given by a party hereunder must be signed by an authorized representative of such party.

**24.01.14.6 Conferences:** The parties hereby agree to meet at reasonable times to discuss any aspect of the Franchise, the provision of Cable Services or the Cable Television System during the term of this Franchise. Municipality shall first request a meeting with Company’s local manager. Thereafter, upon reasonable request by the Manager of Municipality, the Company representative at such meeting shall be the State Vice President for the Company. At all meetings Company shall make available personnel qualified for the issues to be discussed and such meetings shall be at Municipality’s offices unless otherwise agreed.

**24.01.14.7 Governing Law:** This Franchise shall be construed pursuant to the laws of the State of Michigan.

**24.01.14.8 Waiver of Compliance:** No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Franchise, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Franchise, but each and every covenant, agreement, term or condition of this Franchise shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

**24.01.14.8.1** Municipality may waive any provision of this Franchise such as upon a claim or showing by Company that the costs associated therewith are an “external cost” which allow Company to increase its rates under the FCC rules.

**24.01.14.9 Independent Contractor Relationship:** The relationship of Company to Municipality is and shall continue to be an independent contractual relationship, and no liability or benefits, such as worker’s compensation, pension rights or liabilities, insurance rights or liabilities or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or to either party’s agents or employees as a result of the performance of this Franchise, unless expressly stated in this Franchise.

**24.01.14.10 Severability:** If any section, paragraph, or provision of this Franchise shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Franchise.

**24.01.14.11 Reserved Rights:** In addition to all rights provided in this Franchise, Municipality and Company reserve all rights and powers conferred by federal law, the Michigan Constitution, Michigan statutes and decisions, the Municipal Charter and Municipal ordinances which Municipality and Company are allowed to exercise.

**24.01.14.12 Construction:** This Franchise shall be subordinate to federal law, state law, the Municipal Charter or Municipal ordinances in the event of any conflict between them and this Franchise.

**24.01.14.13 Execution Copies:** This Franchise is executed in duplicate, each of which shall constitute an original instrument.

**24.01.14.14 Effective Date:** This Franchise shall be effective January 1, 1995.

#### EXHIBIT A—SYSTEM DESCRIPTION

A one-way analog cable system utilizing coaxial cables in a “tree and branch” configuration which provides 6 MHz NTSC signals and digital cable radio signals to all points on the Cable Television System. The cable system shall have the MHz capability and provide the number of 6MHz NTSC signals as indicated for Municipality from the following table. These figures reflect the current capability of the cable system.

<u><b>Municipality</b></u>	<u><b>MHz Capability</b></u>	<u><b>Number of Channels</b></u>
Algoma Township	300	36
Allendale Township	330	42
Brooks Township	00	36
Caledonia Township	300	36
Cannon Township	300	36
City of Belding	300	36
City of Cadillac	400	54
City of Coldwater	450	61

City of Coopersville	330	42
City of Durand	330	42
City of Evart	220	23
City of Frankfort	400	54
City of Gladwin	300	36
City of Grand Haven	330	42
City of Grayling	450	61
City of Greenville	300	36
City of Hudsonville	400	54
City of Ionia	300	36
City of Manistee	400	54
City of Manton	220	23
City of Newaygo	300	36
City of Otsego	450	61
City of Plainwell	450	61
City of Reed City	450	61
City of Rockford	300	36
City of Sturgis	400	54
City of Wayland	330	
City of West Branch	300	36
City of Zeeland	330	42
Coldwater Township	450	61
Courtland Township	300	36
Dorr Township	330	
Eureka Township	300	36
Filer Township	400	54
Gaines Charter Township	300	36
Grand Haven Charter Township	330	42
Holland Township	330	42
Laketown Township	330	42
Leighton Township		
Mills Township	300	36
Milton Township	300	36
Park Township	300	42
Plainfield Township	300	36
Richmond Township	450	61
Robinson Township	330	42
Sparta Township	300	36
Spring Lake Township	330	42
Village of Byron	330	42
Village of Pentwater	270	31
Village of Quincy	450	61
Village of Ravenna	330	42
Village of Sparta	300	36
Village of Spring Lake	330	42
Wayland Township	330	

## **EXHIBIT B—HOMES PER MILE**

Not Applicable

## **EXHIBIT C—OWNERSHIP OF COMPANY**

Peter Kiewit and Sons, Inc.  
a privately held company  
which, through wholly owned subsidiaries,  
controls 57 percent of the voting shares of  
**C-TEC Corporation**  
a publicly traded company  
which owns 100 percent of  
**C-TEC Cable Systems of Michigan, Inc.**  
defined as “Company” herein

## **EXHIBIT D—LIENS AND ENCUMBRANCES**

*None.*

## **EXHIBIT E—EVIDENCE OF INSURANCE**

[To be supplied by CTEC]

## **EXHIBIT F—SEASONAL RATE**

A subscriber desiring seasonal service must take service at the standard rate [currently about \$22 for basic and Premium Customer Choice] at least three months per year, and then is eligible to receive at the rate of \$7/month for the remaining months.

The seasonal rate may be terminated and the subscriber required to pay the full rate for the period when seasonal service was taken if Company by phone or in person determines that subscriber’s premises are occupied during any portion of the time that seasonal service is being taken.

## **EXHIBIT G—MAP OF SERVICE AREA**

## **EXHIBIT H—PRORATION OF \$500,000 BOND**

Municipality’s share of the \$500,00 bond is the amount shown below.

<b>City/Twp/Village</b>	<b>Bond Proration</b>
Algoma Township	\$3,031.92
Allendale Township	7,299.33
Brooks Township	4,487.23
Caledonia Township	7,223.53
Cannon Township	10,005.31
City of Belding	11,225.65
City of Cadillac	23,815.66
City of Coldwater	22,792.39
City of Coopersville	6,397.33
City of Durand	7,784.43
City of Evart	3,797.47
City of Frankfort	4,585.77
City of Gladwin	5,912.23
City of Grand Haven	30,129.61
City of Grayling	4,669.14
City of Greenville	18,206.62
City of Hudsonville	8,246.80
City of Ionia	13,878.57
City of Manistee	19,123.78
City of Manton	2,607.44
City of Newaygo	2,342.15
City of Otsego	8,337.75
City of Plainwell	7,837.49
City of Reed City	5,245.21
City of Rockford	9,285.23
City of Sturgis	22,890.93
City of Wayland	4,995.07
City of West Branch	5,593.88
City of Zeeland	10,520.73
Coldwater Township	7,253.85
Courtland Township	3,153.19
Dorr Township	3,577.65
Eureka Township	3,645.87
Filer Township	4,403.85
Gaines Charter Township	1,622.07
Grand Haven Charter Township	21,951.03
Holland Township	34,192.37
Laketown Township	5,176.99
Leighton Township	2,865.16
Mills Township	8,663.69
Park Township	32,858.33
Plainfield Township	6,245.74
Richmond Township	909.57
Robinson Township	5,624.19
Sparta Township	5,427.12

Spring Lake Township	19,101.04
Village of Pentwater	3,880.85
Village of Quincy	4,055.18
Village of Ravenna	2,092.02
Village of Sparta	8,527.25
Village of Spring Lake	6,655.04
Wayland Township	1,265.82
Whitewater Township	3,426.06
Yankee Springs Township	5,108.77
Zeeland Township	6,048.66

### EXHIBIT I—CONTRIBUTION IN AID OF CONSTRUCTION

Example 1: Subscriber 1 pays \$1,000 for a line extension in year one. In year two a second subscriber is added to the extension. Even with both subscribers the homes per mile standard for a free extension is not met. Company in year two collects \$400 ( $\$1000/2$  less 20 percent) from subscriber 2 and pays it to subscriber 1.

Example 2: Subscriber 1 pays \$1,000 for a line extension in year one. In year three two subscribers are added to the extension and with both the homes per mile standard for a free extension is met. Company in year three collects zero from subscribers 2 and 3 but refunds \$600 ( $\$1,000$  less 40 percent) to subscriber 1.

Adopted: \_\_\_\_\_, 1994

Effective: January 1, 1995

Preamble of this Ordinance reads as follows:

**THIS FRANCHISE** made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 1994 and between FILER TOWNSHIP, a municipal corporation duly organized under the laws of the State of Michigan (hereinafter called “Municipality”) and C-TEC CABLE SYSTEMS OF MICHIGAN, INC. a corporation organized and existing under the laws of the State of Pennsylvania with its Principal office located at 701 South Airport Road, West, Traverse City, Michigan (hereinafter referred to as “Company”).

### WITNESSETH

WHEREAS, Company currently provides cable service in Municipality under a pre-existing cable franchise or similar rights, and

WHEREAS, application or request has been duly made by Company for renewal of such franchise with amendments such as to conform said franchise to federal statutes, rules and regulations governing cable television systems; and

WHEREAS, Company represents that it will provide adequate service to the residents of Municipality; and

WHEREAS, Municipality has negotiated this franchise renewal jointly with those other municipalities served by Company that are listed on Exhibit H, and in

such negotiations has reached agreement with Company on this form of franchise, and

WHEREAS, Municipality has duly considered and concluded that renewal of the franchise on the terms set forth herein is in the public interest and would meet the needs and interest of the community;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto agree as follows:

### **History and Editor's Notes**

Introduced: December 7, 2004

Published: December 18, 2004

Adopted: December 16, 2004

Published: December 22, 2004

Effective Date: January 16, 2005

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES; TO REPEAL SUBCHAPTERS 1, 2 AND 3 OF CHAPTER 24 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES; TO AUTHORIZE THE GRANTING OF NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO CC MICHIGAN, LLC, DOING BUSINESS AS CHARTER COMMUNICATIONS; TO AUTHORIZE CERTAIN TOWNSHIP OFFICIALS TO TAKE ACTIONS TO IMPLEMENT THE FRANCHISE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Section 3 of this Ordinance contained the following statement: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of the conflict.

Section 4 of this Ordinance contained the following statement: This Ordinance shall be effective 30 days following its introduction, adoption and publication as required by law.

### **Former Provision Repealed by Ordinance:**

#### **Subchapter 2 Ordinance Granting Consent**

24.02.1 Consent to Transfer

24.02.2 Amendment

NOW, THEREFORE, BE IT ORDAINED:

#### **24.02.1 Consent to Transfer**

The Township does hereby consent to the transfer of control of the Franchise and the cable television system in the Township in the manner proposed, subject to the following:



a) Execution by Cable Michigan, Inc. and Avalon Cable of Michigan, Inc. of an Acceptance Agreement in substantially the form attached hereto as Exhibit “1”;

b) Execution by Avalon Cable of Michigan Holdings, Inc. and Avalon Cable Holdings, L.L.C. of an agreement included in Exhibit “1” unconditionally guaranteeing the performance by Cable Michigan of the obligations of the Franchise and the Acceptance Agreement.

#### **24.02.2 Amendment**

To the extent that this chapter or the attached Acceptance Agreement modifies any of the terms and conditions of the Franchise the Franchise is hereby amended. Except as hereby amended, the provisions of the Franchise shall remain unchanged.

### **ACCEPTANCE AGREEMENT**

Cable Michigan, Inc. (“Cable Michigan”) is the surviving corporation in a merger (the “Transaction”) of Cable Michigan and Avalon Cable of Michigan, Inc., a Pennsylvania Corporation, pursuant to an Agreement and Plan of Merger dated as of June 3, 1998, as amended and restated on July 15, 1998. Cable Michigan is the current grantee under a cable television franchise granted by the Charter Township of Filer (“Municipality”). Cable Michigan and the Municipality enter into the following Agreement to amend the terms of the Franchise. Avalon Cable of Michigan Holdings, Inc. (“Avalon”) joins this Agreement for the purpose of guaranteeing performance of the Franchise and this Agreement by Cable Michigan. The term “Cable Michigan” when used in this Agreement refers collectively to Cable Michigan, Inc. and Mercom, Inc.

1. The promises, covenants, and conditions herein insure to the benefit of Municipality and are binding on Cable Michigan and Avalon.

2. Cable Michigan and Avalon represent and warrant that the ownership and control of the Franchise following the closing of the Merger will be set forth on Exhibit A.

3. **Franchise Extension.** In consideration of the covenants and promises of Cable Michigan set forth herein, Municipality and Cable Michigan agree to extend the term of the Franchise for two years from the date of expiration of its stated term.

4. **Upgrades.** Prior to the transfer of control, Cable Michigan’s strategic plan included a capital expenditure program to upgrade the Company’s cable television systems (including some partial rebuilds) to result in over 90 percent of the Company’s customers being served by systems with a capacity of 550 MHz or 750 MHz by the end of 2001, thereby allowing Cable Michigan to offer from 80 analog to more than 100 analog and digital channels to subscribers. Cable Michigan has informed Municipality that the System operated under the Franchise is included in the upgrade is presently projected for completion by December 31, 2002. Cable Michigan and Avalon Michigan agree that Cable Michigan will make commercially reasonable best efforts to complete the upgrade of the System by December 31, 2002. Within 45 days after the close of each calendar quarter Cable Michigan will provide Municipality with a report on the status of the upgrade of the System, including anticipated time of completion. “System” as used in this section means the cable system located within Municipality.

## 5. Customer Service.

(a) Cable Michigan acknowledges that under applicable law Municipality may establish and enforce customer service regulations that exceed or are not addressed by the standards established by the FCC or the standards currently established by the Franchise.

(b) Cable Michigan will provide at minimum the same quality of customer service that is currently being provided, but in all events no less than the quality of service required by the Franchise, any other applicable Municipal ordinance and applicable FCC regulations. As evidence of and to assist in compliance with such commitment, Cable Michigan agrees as follows in addition to any obligations in the Franchise:

(i) 30 days after closing the Transaction and then on a quarterly basis beginning with the quarter ended March 31, 1999 and continuing through year end 1999 Cable Michigan will provide Municipality with the customer service standards currently used and its procedures and forms used to measure compliance with applicable customer service standards.

(ii) Cable Michigan will provide such other information as Municipality reasonable requests relating to customer service matters.

(c) Cable Michigan and Avalon Michigan have informed Municipality that changes in the manner of providing customer service will occur following the transfer of control, including replacement of the existing arrangements for provision of certain customer service by RCN and establishment of a new call center in Michigan. At the same time Cable Michigan will be continuing to implement the system upgrades referred to in paragraph 4 above. Cable Michigan agrees to devote adequate personnel and resources to customer service during the transition and upgrade to ensure that customer service will not fall below existing or required levels.

(d) In addition to any other reports required by the Franchise, within 30 days of the close of each month through December, 1999, and each calendar quarter thereafter, Cable Michigan will provide Municipality with a report in the form attached hereto as Exhibit C, setting forth on a consistent basis, fairly applied, Cable Michigan's performance as compared to the four Franchise sections noted in section (e), below. Such report shall also show the number of subscribers in Municipality at the end of each quarter. Municipality may conduct an audit of any customer service report file hereunder and Cable Michigan will provide all requested documents and information reasonably related thereto. The transition related to the transfer of control shall not be considered an abnormal operating condition or unusual or extraordinary event and shall not excuse compliance with the customer service standards and liquidated damages provided herein.

(e) Cable Michigan acknowledges that noncompliance with the customer service provisions of the Franchise identified below will harm subscribers in Municipality and the amounts of actual damages will be difficult or impossible to ascertain. Municipality may therefore assess liquidated damages as described below against Cable Michigan for an "Event of Noncompliance" after the Transaction. For purposes of this subparagraph, and "Event of Noncompliance" shall mean the failure to meet the standards set forth in the sections identified below of the Franchise throughout any calendar quarter that commences after the Transaction. For

purposes of liquidated damages the standards set forth in the sections identified below shall be calculated and applied on a calendar basis.

- (i) Section 4.15.5 (Telephone Answer Time – 90 percent standard)
  - 80 percent or more, but less than 90 percent: \$0.20/subscriber
  - 70 percent or more, but less than 80 percent: \$0.40/subscriber
  - Less than 70 percent: \$0.60/subscriber
  - Until April 1, 1999 the preceding figures are each reduced by 10 percent (e.g., 80 percent becomes 70 percent)

- (ii) Section 4.13.7 (Busy Signal – 3 percent standard)
  - More than 3.0 percent, but less than 6 percent: \$0.20/subscriber
  - 6 percent or more, but less than 9 percent: \$0.40/subscriber
  - 9 percent or more: \$0.60/subscriber
  - Until April 1, 1999 the preceding figures are each increase by 3 percent (e.g., 3 percent becomes 6 percent)

- (iii) Section 4.15 (Standard Installation – 95 percent standard), and Section 4.18 (Service Interruption – 95 percent standard)
  - 85 percent or more but less than 95 percent: \$0.20/subscriber
  - 75 percent or more but less than 85 percent: \$0.40/subscriber
  - Less than 75 percent: \$0.60/subscriber

(iv) Liquidated damages shall be computed by multiplying the dollar amounts set forth above times the number of basic equivalent subscribers in Municipality at the end of the quarter in question. In no event, however, shall the aggregate amount of liquidated damages imposed by this section exceed \$1.50 per subscriber during the term of the Franchise.

(v) Liquidated damages may also be assessed in the amounts set forth above for failure to timely file the report required by subsection (d) above.

(vi) In the event Cable Michigan fails to pay within 30 days from the date of final notification of payment for liquidated damages, Municipality may collect liquidated from any bond furnished under the Franchise consistent with the requirements of 8(c)(vii) below.

(vii) Cable Michigan will accept procedures for consideration and assessment of liquidated damages under this Agreement that include at least the following:

- Notice in writing of non-compliance and proposed assessment of liquidated damages 14 days prior to any action of the governing body of Municipality; and
- An opportunity to be heard at a meeting of the governing body of Municipality prior to action being taken.
- Municipality must take action to assess liquidated damages prior to issuing a final notice of payment.

(viii) The provisions of this Section 5(e) shall be of no further force and effect upon Cable Michigan's satisfaction of the Franchise's customer service standards for four consecutive quarters following the Transaction.

6. **Rates.** Cable Michigan has informed Municipality that for financial planning purposes, it has estimated average basic rate increases of \$1.75 per customer in each year 1999, 2000 and 2001. Cable Michigan states, however, that the actual rates charged are influenced by a variety of factors outside of Cable Michigan's control, making any long-term agreement regarding rates virtually impossible. Nevertheless, as a binding expression of good faith, Cable Michigan agrees as follows:

(a) **Rate Freeze.** Except where related to products or services (including specific cable programming services) not currently offered over its cable system serving the Municipality, Cable Michigan will not increase the rates for its existing basic or cable programming services tier(s), as defined under federal law, prior to May 1, 1999.

(b) **Limit on 1999 Increases.** Cable Michigan's average rate increase in Municipality for the existing basic and cable programming services tier(s) (including new channels added to existing tiers) shall not exceed an average \$2.50 per equivalent subscriber per month for eight months ended December 31, 1999, exclusive of franchise or other fees imposed by the Municipality, state or federal government.

(c) In consideration of the above, the Municipality agrees that regardless of the status of rate regulation authorized and/or imposed by federal, state or local law, it will permit Cable Michigan to adjust its rates within the parameters outlined above.

7. The Federal Telecommunications Act of 1996 modified the definition of "cable services" in the Federal Cable Act (Title VI of the Communications Act of 1934, 47 U.S.C. § 115 and following). The change in general addresses cable companies' ability to provide cable modem service, high speed data service, internet access and internet service (such as that of an internet service provider) over a cable system as a cable service (and not as a telephone service, with accompanying telephone regulation).

Cable Michigan's Franchise with Municipality predates and does not contain this legislative change. To remove any question on Cable Michigan's authority to provide such services under the Franchise and to assure that the revenues therefrom are included in gross revenues for franchise fee purposes Cable Michigan and Municipality agree that:

(a) Section 1.4 of the Franchise (defining Cable Services) is hereby amended and restated to read as follows:

“Section 1.4 **Cable Television Business** shall mean (a) the provision by the Company of Cable Services solely means of the Cable Television System, and (b) unless and until ruled to the contrary by the FCC (not reversed on appeal) or by a court with jurisdiction over Municipality, the provision by the Company by means of the Cable Television System of non-cable services relating to subscriber interaction for the selection or use of video programming (as defined above) including cable modem service, high speed data service, Internet access and internet service (such as that of an Internet service provider).”

(b) Gross Revenues (as defined in Section 1.14 of the Franchise) includes revenues from the Cable Television Business as so amended.

(c) Section 1.5 of the Franchise is amended by adding the phrase “and services described in Section 1.4 (b)” after the words “Cable Services.”

8. **Prior Defaults.** Cable Michigan agrees on behalf of itself and its affiliates that it will not contend directly or indirectly that any defaults or failures to comply with the franchise or other matters set forth in 47 USC § 546 (c)(1)(A) (Communications Act of waived, including but not limited to the following:

(a) The ability of Municipality to obtain redress for prior defaults, such as recovery of any underpayment of franchise fees.

(b) The ability of Municipality to enforce in the future any Franchise terms which may have not been enforce in the past.

9. **Validity of Franchise.** Cable Michigan accepts and agrees to be bound by the terms and conditions of the Franchise and all other ordinances applicable to its operations after the transfer. Cable Michigan does not contend that any provision of the Franchise is unlawful or unenforceable, nor is it aware of any other ordinance or any provision in the Municipality which it contends is unlawful or unenforceable. Municipality acknowledges that the Franchise is in full force and effect.

10. **Access to Records.** The records and reports of the franchise grantee which are to be submitted to Municipality or otherwise made available for Municipality (such as for inspection by Municipality) pursuant to the Franchise or other ordinance or applicable law shall include records maintained by Avalon and shall also include records maintained by affiliates of Avalon to the extent necessary for Municipality to discharge its responsibilities under the Franchise, FCC rules or state or local law, or to insure compliance with the Franchise or this Agreement.

#### 11. **Franchise Requirement.**

(a) Cable Michigan will give Municipality 60 days notice in writing prior to allowing any telecommunications entity other than Cable Michigan to use or lease its facilities (other than towers or the provision of leased access pursuant to 47 USC § 532) in Municipality or capacity thereon or to amending any agreement with such an entity. No such arrangements or uses

are presently in existence except as set forth on Exhibit D. "Telecommunications entity" means any entity subject to the jurisdiction of or regulated by the Federal Communications Commission (such as under the Communications Act of 1934 as amended) or the Michigan Public Service Commission or their successors, including telephone, alternative access and cable companies.

(b) Cable Michigan will give Municipality 60 days notice in writing prior to providing telecommunications services within Municipality or making its facilities (other than towers) available to others for that purpose. "Telecommunications services" means conventional telephone service, such as switched local exchange service; and non-switched services, such as alternative access service which connect user locations and connect users to long distance companies.

(c) Nothing herein shall expand or modify any restrictions or limitations under the Franchise or applicable law on use for telecommunication purposes of the facilities being acquired by Cable Michigan.

#### 11. **Other Matters.**

(a) In the event of any conflict between the terms of this Agreement and the Franchise, the terms of this Acceptance Agreement shall control.

(b) The parties will join in obtaining from the FCC any waivers from time to time necessary in the opinion of either to effectuate the provisions of this Acceptance Agreement. The parties do not intend, however, that any aspect of this Acceptance Agreement will require such a waiver.

(c) **Entire Agreement.** This Agreement contains the entire agreement by the parties in connection with these matters and all other negotiations and agreements are merged herein and hereby superseded.

(d) **Force and Effect.** This Agreement shall be on no force and effect unless and until the Transaction is closed.

13. **Assignability.** This Agreement may be transferred and assigned by Cable Michigan and Avalon to an affiliate in accordance with the Franchise.

Adopted: November 4, 1998

Published: November 14, 1998

Preamble of this Ordinance reads as follows:

#### **AN ORDINANCE GRANTING CONSENT TO THE TRANSFER OF CONTROL OF A CABLE TELEVISION SYSTEM AND FRANCHISE**

**WHEREAS**, the Charter Township of the Township of Filer (the "Township"), has granted a cable television franchise to C-Tec Cable Michigan, Inc. ("Cable Michigan") pursuant to a Franchise dated as of January 1, 1995, (the "Franchise") and Cable Michigan, Inc. is the successor grantee of the Franchise; and

**WHEREAS**, by Agreement and Plan of Merger, dated as of June 3, 1998, as amended and restated on July 15, 1998, among Cable Michigan, Inc., Avalon Cable of Michigan Holdings, Inc., and Avalon Cable of Michigan, Inc. ("Agreement and Plan of Merger"), Cable Michigan will merge with Avalon Cable of Michigan, Inc. a Pennsylvania Corporation, with Cable Michigan, Inc., as the surviving entity, resulting in a transfer of control of the Franchise and system; and

**WHEREAS**, following the merger, Cable Michigan will be wholly owned subsidiary of Avalon Cable of Michigan Holding, Inc. a Delaware Corporation, which is a wholly owned subsidiary of Avalon Cable Holdings, L.L.C.

**WHEREAS**, Cable Michigan and Avalon Cable of Michigan Holdings, Inc. submitted an application for franchise authority consent on FCC Form 394 providing certain information with respect to the parties and the proposed transfer of control; and

**WHEREAS**, Cable Michigan and Avalon Cable of Michigan, Inc. and its affiliates submitted additional information and documents relating to the transaction and its affect on the provision of cable television service within the Township in response to requests made by the Township; and

**WHEREAS**, the Township is relying upon such information and documents in acting upon the application for franchising authority consent; and

**WHEREAS**, the Township intends to consent to the transfer of control, subject to acceptance of the terms and conditions set forth herein, having determined that such consent is in the best interest of and consistent with the public necessity and convenience of Township;

Section 3 of this Ordinance contained the following statement: "This Ordinance shall be introduced, adopted and published according to law."

Section 4 of this Ordinance contained the following statement: "This Ordinance shall be in full force and effect from and after its introduction, passage, and publication as required by law, and written acceptance as above specified; provided however that this Ordinance shall expire on December 31, 1998, and shall be of no further force and effect if the transactions described in the Agreement and Plan of Merger have not closed by that date."

### **History and Editor's Notes**

Introduced: December 7, 2004

Published: December 18, 2004

Adopted: December 16, 2004

Published: December 22, 2004

Effective Date: January 16, 2005

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CHARTER TOWNSHIP  
OF FILER CODE OF ORDINANCES; TO REPEAL SUBCHAPTERS 1, 2 AND 3

OF CHAPTER 24 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES; TO AUTHORIZE THE GRANTING OF NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO CC MICHIGAN, LLC, DOING BUSINESS AS CHARTER COMMUNICATIONS; TO AUTHORIZE CERTAIN TOWNSHIP OFFICIALS TO TAKE ACTIONS TO IMPLEMENT THE FRANCHISE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Section 3 of this Ordinance contained the following statement: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of the conflict.

Section 4 of this Ordinance contained the following statement: This Ordinance shall be effective 30 days following its introduction, adoption and publication as required by law.

**Former Provision Repealed by Ordinance:**

**Subchapter 3  
Ordinance Granting Consent to Transfer**

24.03.1 Consent to Transfer	24.03.4 Authorization
24.03.2 Confirmation	24.03.5 Costs
24.03.3 Transfer of Assets	24.03.6 Terms

NOW, THEREFORE, be it ordained:

**24.03.1 Consent to Transfer**

Municipality does hereby consent to the transfer of control of the Franchise granted to Cable Michigan by Municipality to CCH-LLC in the manner described in the Securities Purchase Agreement, except as hereinafter set forth.

**24.03.2 Confirmation**

Municipality confirms that (a) the Franchise is valid and outstanding and in full force and effect; (b) there have been no amendments or modifications to the Franchise, except as set forth herein; (c) to the best of Municipality's knowledge, Cable Michigan is materially in compliance with the provisions of the Franchise; and (d) to the best of Municipality's knowledge, there are no defaults under the Franchise, or events which, with the giving of notice or passage of time or both, could constitute events of default thereunder.

**24.03.3 Transfer of Assets**

CCH-LLC may (a) assign or transfer its assets, including the Franchise; provided however, that such assignment or transfer is to a parent or affiliate of CCH-LLC or another entity under direct or indirect control of Paul Allen; (b) restructure debt or change the ownership interests



among existing equity participants in CCH-LLC, and/or its affiliates; (c) from time to time in the ordinary course of business grant a security interest in or otherwise hypothecate the Franchise and the assets of the cable system located within Municipality, but the consent of Municipality shall be required for any realization on the security by the recipient, such as a foreclosure of a mortgage or a security interest. Municipality's consent shall not be withheld unreasonably.

#### **24.03.4 Authorization**

That the Clerk of the Township is hereby authorized to enter into, execute and deliver in the name and on behalf of the Township of Filer a certificate, along with such other documents as may be necessary, evidencing this chapter without further act or resolution of this governing body.

#### **24.03.5 Costs**

CCH-LLC shall cause Township to be reimbursed for all publication costs incurred by the Township in the adoption of this Ordinance. In addition, CCH-LLC shall reimburse the Township for attorney fees incurred by the Township in the adoption of the Ordinance in an amount not to exceed 50 cents per subscriber.

#### **24.03.6 Terms**

In the event CCH-LLC and other municipalities in the State of Michigan enter into an Acceptance Agreement, CCH-LLC will offer the Acceptance Agreement to the Municipality on the same terms and conditions.

Adopted: October 5, 1999

Published: October 9, 1999

Preamble of this Ordinance reads as follows:

### **ORDINANCE GRANTING CONSENT TO THE TRANSFER OF CONTROL OF A CABLE TELEVISION SYSTEM AND FRANCHISE**

The Charter Township of Filer Ordains:

**WHEREAS**, the Charter Township of Filer (the "Municipality") has granted a cable television franchise pursuant to Franchise dated as of January 1, 1995, as amended by Ordinance and Acceptance Agreement dated November 19, 1998, (the "Franchise") and Avalon Cable of Michigan, LLC ("Cable Michigan") is the current grantee under the Franchise; and

**WHEREAS**, Avalon Cable Holdings LLC, et al, and Charter Communications Holdings LLC entered into a Securities Purchase Agreement dated as of May 13, 1999 ("Securities Purchase Agreement"), whereby Charter Communications Holding Company, LLC ("CCH-LLC") will acquire all of the outstanding equity interests of Avalon Cable LLC, which owns and controls all of the outstanding equity interests of Cable Michigan; and

**WHEREAS**, Cable Michigan and CCH-LLC submitted an application on June 9, 1999, for franchise authority consent on FCC Form 394 providing certain

information and documents with respect to the parties and the proposed transfer of control; and

**WHEREAS**, Municipality is relying upon such information and documents in acting upon the application for franchising authority consent; and

**WHEREAS**, Municipality intends to consent to the transfer of control, subject to acceptance of the terms and conditions set forth herein, having determined that such consent is in the best interest of and consistent with the public necessity and convenience of Municipality.

Section 4 of this Ordinance contained the following statement: “This Ordinance shall take effect immediately upon introduction and publication as required by law.”

## **CHAPTER 25**

### **1 - First Power L.L.C.**

Adopted: February 3, 1998

Published: February 9, 1998

Preamble of this Ordinance reads as follows:

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO FIRST POWER L.L.C., TO USE LOCAL PUBLIC WAYS AND DO LOCAL ELECTRICAL BUSINESS; ESTABLISHING THE TERMS AND CONDITIONS OF SUCH FRANCHISE; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith

Section 8 of this Ordinance contained the following statement: “Effective Date. This Ordinance shall take effect 30 days after adoption by the Township Board, provided, however, it shall cease and be of no affect after 30 days from its adoption unless and until within said period Grantee files an acceptance in writing with the Township Clerk.”

Section 9 of this Ordinance contained the following statement: “Township Expenses. The Grantee as a condition to the grant of a franchise hereunder shall reimburse the Township for the costs of publication of this Ordinance and other reasonable expenses incurred by the Township in connection with the grant of the franchise.”

### **2 – Nordic Electric L.L.C.**

Adopted: February 3, 1998

Published: February 9, 1998

Preamble of this Ordinance reads as follows:

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO NORDIC ELECTRIC L.L.C., TO USE LOCAL PUBLIC WAYS AND DO LOCAL ELECTRICAL BUSINESS; ESTABLISHING THE TERMS AND CONDITIONS OF SUCH FRANCHISE; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith

Section 8 of this Ordinance contained the following statement: “Effective Date. This Ordinance shall take effect 30 days after adoption by the Township board, provided, however, it shall cease and be of no affect after 30 days from its adoption unless and until within said period Grantee files an acceptance in writing with the Township Clerk.”

Section 9 of this Ordinance contained the following statement: “Township Expenses. The Grantee as a condition to the grant of a franchise hereunder shall reimburse the Township for the costs of publication of this Ordinance and other reasonable expenses incurred by the Township in connection with the grant of the franchise.”

### **3 – Engage Energy US, L.P.**

Adopted: September 1, 1998

Published: September 11, 1998

Preamble of this Ordinance reads as follows:

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO ENGAGE ENERGY US, L.P., TO USE LOCAL PUBLIC WAYS AND DO LOCAL ELECTRICAL BUSINESS; ESTABLISHING THE TERMS AND CONDITIONS OF SUCH FRANCHISE; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH

Section 8 of this Ordinance contained the following statement: “Effective Date. This Ordinance shall take effect 30 days after adoption by the Township Board, provided, however, it shall cease and be of no affect after 30 days from its adoption unless and until within said period Grantee files an acceptance in writing with the Township Clerk.”

Section 9 of this Ordinance contained the following statement: “Township Expenses. The Grantee as a condition to the grant of a franchise hereunder shall reimburse the Township for the costs of publication of this Ordinance and other reasonable expenses incurred by the Township in connection with the grant of the franchise.”

### **4 – Consumers Energy Company**

Adopted: January 6, 1998

Published: January 19, 1998

Preamble of this Ordinance reads as follows:

AN ORDINANCE, GRANTING TO CONSUMERS ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER AND AUTHORITY TO CONSTRUCT, MAINTAIN AND COMMERCIALY USE ELECTRIC LINES CONSISTING OF TOWERS, MASTS, POLES, CROSSARMS, GUYS, BRACES, FEEDERS, TRANSMISSION AND DISTRIBUTION WIRES, TRANSFORMERS AND OTHER ELECTRICAL APPLIANCES 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 FILER, MANISTEE COUNTY, MICHIGAN, FOR A PERIOD OF 30 YEARS.

Section 10 of this Ordinance contained the following statement: “**Repealer.** This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of an electric ordinance adopted by the Township Board on January 30, 1968 entitled:

AN ORDINANCE, granting CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, wires, transformers and other electrical appliances on, along and across the highways, streets, alleys, bridges and other public places, and to do a local electric business in the TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, for a period of 30 years, and repealing the ordinance adopted by the Township Board of said Township on November 21, 1938, whereby an electric franchise was granted to Consumers Power Company, its successors and assigns.

and amendments, if any, to such ordinance whereby an electric franchise was granted to Consumers Power Company (now known as Consumers Energy Company).”

Section 11 of this Ordinance contained the following statement: “**Effective Date.** This ordinance shall take effect upon the day after the date of publication thereof, provided, 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 hereof, this Ordinance shall constitute a contract between said Township and said Grantee.”

Section 12 of this Ordinance contained the following statement: “**Costs of Adoptions.** Grantee shall reimburse Township for all publishing costs associated with adoption of this Ordinance.”

## **5 – DTE Energy Marketing, Inc.**

Adopted: June 6, 2000

Published: June 12, 2000

Preamble of this Ordinance reads as follows:

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO DTE ENERGY MARKETING, INC., TO USE LOCAL PUBLIC WAYS AND DO LOCAL ELECTRICAL BUSINESS; ESTABLISHING THE TERMS AND CONDITIONS OF SUCH FRANCHISE; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith

Section 8 of this Ordinance contained the following statement: “**Effective Date.** This Ordinance shall take effect 30 days after adoption by the Township Board, provided, however, it shall cease and be of no affect after 30 days from its adoption unless and until within said period Grantee files an acceptance in writing with the Township Clerk.”

Section 9 of this Ordinance contained the following statement: “**Township Expenses.** The Grantee as a condition to the grant of a franchise hereunder shall reimburse the Township for the costs of publication of this Ordinance and other reasonable expenses incurred by the Township in connection with the grant of the franchise.”

## CHAPTER 26

Introduced: October 22, 2002:

Published: October 26, 2002

Adopted: November 6, 2002

Published: November 20, 2002

Preamble of this Ordinance reads as follows:

AN ORDINANCE ENACTING CHAPTER 26 OF TITLE TWO OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES TO REGULATE ACCESS TO AND USE OF PUBLIC RIGHTS-OF-WAY BY IMPLEMENTING THE PROVISION OF THE METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT ACT (ACT No. 48 OF THE PUBLIC ACTS OF 2002)

Section 22 contained the following statement: “All chapters of the Code of Ordinances and portions of chapters inconsistent with this chapter are hereby repealed.”

Section 23 contained the following statement: “This chapter shall take effect immediately upon its introduction, adoption and publication as provided by law.”

Section 24 contained the following statement: “The foregoing provisions shall be codified as Chapter 26 of Title Two of the Charter Township of Filer Code of Ordinances.”

## CHAPTER 27

Source: Ordinance #5

Adopted: December 7, 1993

Published: January 5, 1994

Corrected Publication: March 2, 1994

Filed with County Clerk: March 3, 1994

Preamble of Ordinance 5 reads as follows:

AN ORDINANCE, GRANTING TO MICHIGAN CONSOLIDATED GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER, AND AUTHORITY TO LAY, MAINTAIN, AND OPERATE GAS MAINS, PIPES AND SERVICES ON, ALONG, ACROSS AND UNDER THE HIGHWAYS, STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC PLACES, AND TO DO A LOCAL GAS BUSINESS IN THE TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, FOR A PERIOD AS PROVIDED IN THIS ORDINANCE.

Section 6 of Ordinance 5 contained the following statement: “**Effective Date; Term of Franchise Ordinance; Acceptance by Company.** This Ordinance shall take effect the day following the date of publication thereof, which publication shall be made within 30 days after the date of its adoption, and shall continue in effect for a period of 30 years thereafter, subject to revocation at the will of the Township of Filer at any time during said 30 year period; provided, however, that

when this Ordinance shall become effective the Township Clerk shall deliver to the Company a certified copy of the ordinance accompanied by written evidence of publication and recording thereof as required by law, and the Company shall, 60 days after the date this Ordinance takes effect, file with the Township Clerk its written acceptance of the conditions and provisions hereof.”

Section 7 of Ordinance 5 contained the following statement: “**Effective and Interpretation of Ordinance.** All ordinances and resolutions, and parts thereof, which conflict with any of the terms of this Ordinance are hereby rescinded. In the case of conflict between this Ordinance and any such ordinances or resolutions, this Ordinance shall control. The catch line headings which precede each Section of this Ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this Ordinance.”

## **CHAPTER 28**

Source: Ordinance # \_\_\_\_\_

Adopted: December 7, 2016

Published: January 19, 2017

Preamble of the Ordinance reads as follows:

### **THE CHARTER TOWNSHIP OF FILER**

**Ordinance No. \_\_\_\_\_**

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES TO ADD NEW CHAPTER 28, TO PROVIDE FOR CONNECTION TO PUBLIC SEWERS WITHIN THE TOWNSHIP, TO REGULATE SUCH PUBLIC SEWER CONNECTIONS, TO PROHIBIT CERTAIN CONDUCT, TO PROVIDE FOR THE ASSESSMENT AND COLLECTION OF CHARGES AND FEES IN CONNECTION WITH SEWAGE DISPOSAL SERVICES, TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE AND TO REPEAL ALL ORDINANCES IN CONFLICT HERewith

The Charter Township of Filer ordains:

Section 1. The Charter Township of Filer Code of Ordinances is hereby amended by the addition of new Chapter 28 which shall read in its entirety as follows:

#### **CHAPTER 28 SEWER USE ORDINANCE**

- |  |  |
|--|--|
| <b>28.01 Purpose and Objectives</b>                  | <b>28.25 Dilution of Discharges</b>  |
| <b>28.02 Definitions</b>                             | <b>28.26 Accidental Discharges</b>   |
| <b>28.03 Abbreviations</b>                           | <b>28.27 Special Agreements for Acceptance of Unusual Industrial Waste</b>           |
| <b>28.04 Waste Deposits</b>                          | <b>28.28 Upsets</b>  |
| <b>28.05 Water Pollution</b>                         | <b>28.29 Bypasses</b>  |
| <b>28.06 Private Sewer Systems</b>                   | <b>28.30 Disclosure of Information from Industrial Users Prior to Connection and</b> |
| <b>28.07 Discontinuance of Private Sewer Systems</b> |  |

<b>28.08 Permit Required</b>	<b>Contribution to Township System;</b>
<b>28.09 Inspection</b>	<b>Additional Powers of Township regarding</b>
<b>28.10 Installation Costs; Repairs</b>	<b>Control of Discharges</b>
<b>Costs</b>	<b>28.31 Reporting Requirements</b>
<b>28.11 Separate Building Sewer</b>	<b>28.32 Discharge of Hazardous Waste</b>
<b>28.12 Old Sewers</b>	<b>28.33 Opening and Closing Holes in Sewers</b>
<b>28.13 Management of System</b>	<b>28.34 Rates and Charges for Sewer Disposal</b>
<b>28.14 Discharge Prohibitions</b>	<b>28.35 Billing; Failure to Pay; Discontinuance of</b>
<b>28.15 Incorporation of National</b>	<b>Services; Other Remedies</b>
<b>Categorical Pretreatment</b>	<b>28.36 Affidavit Filed by Landlord, Tenant</b>
<b>Standards</b>	<b>Responsibility to Pay</b>
<b>28.16 Pretreatment Facilities</b>	<b>28.37 Suspension and Termination of Service;</b>
<b>28.17 State Discharge Limit</b>	<b>Violations, Enforcement Actions, Other</b>
<b>28.18 Local Discharge</b>	<b>Remedies</b>
<b>Limitations</b>	<b>28.38 Publication of Names of Industrial Users in</b>
<b>28.19 Monitoring Facilities</b>	<b>Significant Noncompliance; Records of</b>
	<b>Compliance</b>
<b>28.20 Inspection and Sampling</b>	<b>28.39 Confidential Information</b>
<b>28.21 Interceptors</b>	<b>28.40 Signing of Reports; Certification Statement</b>
<b>28.22 Sand Interceptors</b>	<b>28.41 Tampering with or Destruction of Sewer</b>
	<b>System</b>
<b>28.23 Interceptor Maintenance</b>	<b>28.42 Falsification</b>
<b>28.24 Review and Approval</b>	<b>28.43 Retention of Records</b>
<b>Of Certain Discharges</b>	

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Section 2. Validity, Severability, Conflict. If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

Section 3. Effective Date. This chapter shall be effective thirty (30) days after its introduction, adoption and publication as required by law in a newspaper of general circulation within the Township.

Section 4. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

THOSE VOTING IN FAVOR: Stege, Gutowski, Kruse, Krus, Ball, Walker

THOSE VOTING AGAINST: None

THOSE ABSENT OR ABSTAINING: Kolanowski

## ORDINANCE DECLARED PASSED

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Kathy Gutowski, Clerk

Adopted: August 6, 2020

Published: August 13, 2020

Effective: September 14, 2020

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 28 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING SECTION 28.35 TO PROVIDE FOR ALTERNATE METHODS OF BILLING AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Section 1 of this ordinance amends Section 28.35 in its entirety.

Section 2 repeals conflicting ordinances or parts of ordinances.

Section 3 outlines effective date as first day following publication.

## CHAPTER 29

Adopted: June 11, 1998

Published: June 16, 1998

Preamble of this Ordinance reads as follows:

OIL AND GAS FACILITIES AND PIPELINE HYDROGEN SULFIDE  
ORDINANCE

Section 10.01 of this Ordinance contained the following statement: “Penalties. Violation of this Ordinance or any term or provision of a permit issued pursuant to this Ordinance shall be punished by imprisonment in the county jail for not more than 84 days or by a fine of not more than \$500, or by such fine and imprisonment. Each and every day on which a violation continues shall constitute a distinct and separately punishable violation. Any violation of any state or federal law or regulation arising out of or in the course of any business or activity regulated by this Ordinance shall also constitute a violation of this Ordinance. The Township is specifically authorized to pursue enforcement of this Ordinance or any term or provision of any permit issued pursuant to this Ordinance through criminal prosecution, or by the filing of a civil action in the circuit court or any other court of competent jurisdiction for declaratory, equitable, injunctive or any other equitable relief or order, or for monetary damages, fines, costs, expenses, including expert witness and attorney fees insured and reasonably necessary for such enforcement.”

Section 11.01 of this Ordinance contained the following statement: “**Severability**. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct and independent provision and such holding by such court shall not affect the validity of the remaining portions hereof.”



Section 12.01 of this Ordinance contained the following statement: “**Effective Date.** This Ordinance is immediately necessary to protect the public health, safety and general welfare of the residents and inhabitants of Filer Township, its lands and its resources. This Ordinance shall take effect immediately, effective after publication in a newspaper of general circulation in the Township following the adoption of this Ordinance as authorized and provided by law. In like manner, any amendments to this Ordinance shall take effect immediately after publication in a newspaper of general circulation in the Township following adoption of such amendments by the Township Board.”

Amended Ordinance Adopted: December 1, 1999

Amended Ordinance Published: December 10, 1999

Amended Ordinance Preamble reads as follows:

AN ORDINANCE TO AMEND AN ORDINANCE STYLED “OIL AND GAS FACILITIES AND PIPELINE HYDROGEN SULFIDE ORDINANCE” AND TO REPEAL ALL OTHER ORDINANCES IN CONFLICT HEREWITH

Amended Sections: 1.01; 3.01 K-1; 3.01 K-2; 5.03(A); 5.03(B) 2.1 and 5.03(D) 5.

Section 7 of the Amended Ordinance contained the following statement: “All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of the conflict.”

Section 8 of the Amended Ordinance contained the following statement: “This ordinance shall take effect at 12:01 a.m. on the day following its publication as required by law.”

## CHAPTER 33

Adopted: May 2, 2000

Published: May 17, 2000

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO REGULATE AND CONTROL THE STORAGE AND DISPOSAL OF JUNK WITHIN THE TOWNSHIP; TO PROVIDE FOR THE ELIMINATION OF BLIGHTED STRUCTURES AND BUILDINGS; TO REGULATE THE OPERATION OF JUNKYARDS; TO PROVIDE FOR THE ENFORCEMENT HEREOF AND TO PROSCRIBE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Section 1.01 of this Ordinance contained the following statement: “This chapter shall be known and may be cited as the “The Charter Township of Filer Junk Storage and Disposal Ordinance of 2000,” and shall be known in the short form as the “Junk Ordinance.”

Section 1.02 of this Ordinance contained the following statement: “The purpose of this chapter is to regulate and control the storage and disposal of junk within the unincorporated areas of the Charter Township of Filer, in order to promote the public health, safety and welfare; to protect land values; provide for safety for residents in the area from dangerous junk; to protect the groundwater lying beneath the Township; to reduce the incidence of blight and vermin; and to

protect aesthetics in the Township and to regulate matters of legitimate Township concern. This chapter is specifically designed to:

1. Define certain terms used herein
2. Regulate the volume and conditions under which a person may store junk on one's own land
3. Regulate and coordinate with the Township Zoning Ordinance the use and operation of junkyards in the Township
4. Provide for enforcement and a system of due process for removal of junk from one's land
5. Provide for other miscellaneous provisions necessary for regulation of the Township's affairs."

Section 1.03 of this Ordinance contained the following statement: "This chapter is enacted pursuant to Section 1 of 1945 PA 246, being MCL 41.181 as amended, and 1929 PA 12, being MCL 445.451 as amended;."

Section 7 of this Ordinance contained the following statement: "**Violations: Civil Infractions.** This Ordinance is enforceable by all law enforcement agencies and officers authorized to act within the Township and by a duly appointed Township Constable or Township Zoning Administrator who are hereby designated as the authorized local officials to issue civil infraction citations.

Any person who violates any provision of this Ordinance shall be guilty of a civil infraction and subject to penalties as follows:

A person who violates this Ordinance shall be guilty of a civil infraction, shall be fined not less than \$100, nor more than \$500 plus costs.

A person who violates this Ordinance shall be guilty of a civil infraction and when having been previously found responsible or admitted responsibility for a violation of this Ordinance in a civil infraction proceeding, shall be fined not less than \$250 nor more than \$500 plus costs.

A person who violates this Ordinance shall be guilty of a civil infraction and when having been found responsible or admitted responsibility on at least two prior occasions for violation of this Ordinance in a civil infraction proceeding, shall be fined \$500 plus costs.

Any person who violates this Ordinance will be ticketed by an authorized local official and required to appear in the 85<sup>th</sup> Judicial District Court."

Section 8 of this Ordinance contained the following statement: "**Violations: Civil Action.** The Township or any other person adversely affected by a violation of this Ordinance, may commence an action in the Circuit Court for Manistee County for an injunction, or other appropriate remedy, to prevent, enjoin, abate, correct or remove junk, blighted structures or buildings or junkyards operated, permitted, accumulated, stored or maintained in violation of this Ordinance, and to

prevent, enjoin, abate or otherwise prohibit the continuation of such violation. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.”

Section 9 of this Ordinance contained the following statement: “**Severability.** This Ordinance and the various parts, sections, subsection, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each section, subsection, phrase, sentence and clause therefore irrespective of the fact that any one or more sections, subsection, phrases, sentences or clauses be declared invalid.”

Section 10 of this Ordinance contained the following statement: “**Repeal.** All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but only to the extent of such conflict or inconsistency.”

Section 11 of this Ordinance contained the following statement: “**Effective Date.** This Ordinance shall take effect on the 30<sup>th</sup> day following its publication as required by law.”

## CHAPTER 34

Introduced: August 5, 2003

Published: August 13, 2003

Adopted: September 2, 2003

Published: September 8, 2003

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND TITLE THREE OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY ADDING CHAPTER 34 TO SECURE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, BY THE REGULATION OF NOISE WHICH CREATES A PUBLIC NUISANCE

Section 2 of this Ordinance contained the following statement: “All chapters of the Charter Township of Filer Code of Ordinances in conflict herewith are hereby repealed to the extent of the conflict.”

Section 3 of this Ordinance contained the following statement: “This Ordinance shall become effective immediately following its introduction, adoption and publication as required by law.”

Editor’s Note: §34.01 as introduced and adopted contained no definitions.

## **CHAPTER 35**

Adopted: January 7, 2020

Published: January 15, 2020

Effective: February 6, 2020

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY ADDING NEW CHAPTER 35, TO SECURE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF FILER AND VISITORS TO THE TOWNSHIP, BY REGULATING SHORT TERM RENTAL PROPERTIES TO PREVENT PUBLIC NUISANCES AND SAFETY HAZARDS AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Section 1 of this ordinance adds new Chapter 35, Short Term Rentals.

Section 2 missing.

Section 3 addresses severability.

Section 4 outlines effective date as 21 days following publication.

## **CHAPTER 36**

Introduced: June 5, 2007

Notice of Introduction Published: June 8 , 2007

Adopted: July 3, 2007

Published: July 7, 2008

Effective: July 8, 2007

Preamble of this Ordinance reads as follows:

AN ORDINANCE ADDING CHAPTER 36 TO THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES TO ESTABLISH PROCEDURE FOR THE DIVISION OF PLATTED LOTS AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Sec. 2 of this Ordinance contained the following statement: “Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.”

Sec. 3 of this Ordinance contained the following statement: “This Ordinance shall take effect on the day following its publication in the manner required by law.”

## CHAPTER 37

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO REGULATE THE PARTITIONING DIVISION OF PARCELS OR TRACTS OF LAND IN ORDER TO CARRY OUT THE PROVISIONS OF MICHIGAN PUBLIC ACT 288 OF 1967, AS AMENDED, BEING THE LAND DIVISION ACT, AND ACT 246 OF 1945, AS AMENDED, BEING THE TOWNSHIP GENERAL ORDINANCE STATUTE; TO PROVIDE A PROCEDURE THEREOF; TO REPEAL ANY CONFLICTING ORDINANCE OR PROVISION; TO ESTABLISH MINIMUM REQUIREMENTS AND PROCEDURES FOR THE APPROVAL OF SUCH LAND DIVISIONS AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

Section 1 A of this Ordinance contained the following statement: “This Ordinance shall be known and may be cited as the Charter Township of Filer Land Division Ordinance.”

Section 1 C of this Ordinance contained the following statement: “This Ordinance shall not be construed to repeal, abrogate, rescind, or otherwise to impair or interfere with provisions of other ordinances of the Township.”

Section 7 of this Ordinance contained the following statement: “A violation of this Ordinance, and sale of resulting parcel, is a municipal civil infraction, for which the fine shall not be more than \$500 for the first offense and not more than \$1,000 for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For the purpose of this section, a subsequent offense means a violation of this Ordinance committed by the same person or party within one year after a previous violation of the same provision of this Ordinance for which such person or party admitted responsibility or was determined by law to be responsible.”

Section 8 of this Ordinance contained the following statement: “The provisions of this Ordinance are severable and if any provision or other part hereof is determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect the remaining provisions or other parts of this Ordinance.”

Section 9 of this Ordinance contained the following statement: “**Effective Date.** This ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation.”

## CHAPTER 38

Adopted: January 3, 2019

Published: January 8, 2019

Filed with County Clerk: January \_\_\_, 2019

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY ADDING CHAPTER 38 TO DEFINE CERTAIN WORDS AND PHRASES; TO PROHIBIT MARIHUANA ESTABLISHMENTS WITHIN THE BOUNDARIES OF THE TOWNSHIP PURSUANT TO INITIATED LAW 1 OF 2018, MCL 333.27951 *ET SEQ.*; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

Section 1 of this Ordinance contained the following statement: “Code Amendment. The Charter Township of Filer Code of Ordinances is hereby amended to add Chapter 38 – RECREATIONAL MARIHUANA, which shall read in its entirety as follows:

### **38-01 Definitions**

Words and phrases used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, (hereafter, the “Act”) as the same may be amended from time to time, which words and phrases are incorporated herein by reference.

### **38-02. No Marihuana Establishments**

The Township hereby prohibits all marihuana establishments within the boundaries of the Township pursuant to section 6.1. of the Act.

### **38-03. Violations and Penalties**

1. Any person who disobeys, neglects, or refuses to comply with any provision of this chapter or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this chapter. A violation of this chapter is deemed to be a nuisance per se.
2. A violation of this chapter is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
3. Each day during which any violation continues shall be deemed a separate offense.

4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this chapter, and such other relief as may be provided by law.
5. This chapter shall be administered and enforced by the Manistee County Sheriff and the Zoning Administrator of the Township, or by such other person(s) as designated by the Township Board of Trustees from time to time.”

Section 2 of this Ordinance contained the following statement: “Severability. The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of this ordinance which shall continue in full force and effect.”

Section 3 of this Ordinance contained the following statement: “Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4 of this Ordinance contained the following statement: “Effective Date. This ordinance shall take effect twenty days following its introduction, adoption and publication as required by law.”

## **CHAPTER 39**

Adopted: October 1, 2020

Published: October 8, 2020

Effective: October 29, 2020

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 23 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY ADDING NEW CHAPTER 39, MEDICAL MARIHUANA FACILITIES, TO ESTABLISH REGULATIONS RELATING THERETO, TO PROSCRIBE PENALTIES FOR VIOLATING THE ORDINANCE AND TO REPEAL ALL ORDINANCES IN CONFLICT THEREWITH.

Section 1 of this ordinance adds new Chapter 39, Medical Marihuana Facilities.

Section 2 addresses severability.

Section 3 outlines effective date 20 days following publication.

Section 4 repeals conflicting ordinances or parts of ordinances.

## CHAPTER 40

Adopted: July 1, 1986

Published: July 29, 1986

Filed with County Clerk: August 11, 1986

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO SECURE THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE OF THE RESIDENTS, PROPERTY OWNERS AND GENERAL PUBLIC IN THE TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN; DECLARING CERTAIN CONDITIONS OR ACTIONS TO BE NUISANCES; PROVIDING FOR ABATEMENT OF SAID NUISANCES AND SPECIAL ASSESSMENTS FOR THE WORK SO DONE; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT OR INCONSISTENT HERewith

Section 9 of this Ordinance contained the following statement: “Notwithstanding the provisions of this Ordinance, the Township Board may, in its discretion, commence an action in a court of proper jurisdiction in Manistee County, to abate a nuisance and may obtain an Order directing the owner or occupant of premises on which a nuisance exists, to abate any nuisance, refrain from future nuisances, and obtain an Order authorizing the Township Board to abate the nuisance and assess the costs for the abatement to the owners or occupants.”

Section 10 of this Ordinance contained the following statement: “**Effective Date of Ordinance.** This Ordinance being necessary for the safety, health and general welfare of the residents of the Township of Filer, it is ordered to take effect on the day following the date of publication of said Ordinance.”

Section 11 of this Ordinance contained the following statement: “**Severability.** The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.”

Section 12 of this Ordinance contained the following statement: “**Repeal.** All Ordinances, or parts thereof conflicting or inconsistent with the provisions of this Ordinance, are hereby repealed insofar as same affect this Ordinance.”

## CHAPTER 41

Adopted: June 4, 1974

Published: June 7, 1974

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO SECURE THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, BY IMPOSING A DUTY UPON EVERY LAND OWNER OF PLATTED LANDS OR LANDS CONTIGUOUS OR ADJOINING PLATTED LANDS IN THE TOWNSHIP TO CUT DOWN OR



CAUSE TO BE CUT DOWN ALL NOXIOUS WEEDS WITHIN PLATTED LANDS OR LANDS CONTIGUOUS OR ADJOINING PLATTED LANDS WITHIN THE TOWNSHIP OF FILER; TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE AND TO REPEAL ANY ORDINANCE OR PARTS OF ORDINANCES IN CONFLICT HEREWITH

Section 3 of this Ordinance contained the following statement: “Any person who shall violate any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500 or by imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment in the discretion of the Court.”

Section 4 of this Ordinance contained the following statement: “All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.”

Section 5 of this Ordinance contained the following statement: “This Ordinance shall take effect 30 days after the publication of said Ordinance.”

Adopted: January 7, 2020

Published: January 14, 2020

Effective: February 10, 2020

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 41 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCE AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Section 1 of this ordinance amends Chapter 41, Noxious Weeds, in its entirety.

Section 2 repeals conflicting ordinances or parts of ordinances.

Section 3 outlines effective date 20 days following publication.

## **CHAPTER 42**

Adopted: March 7, 1995

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO SECURE THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE RESIDENTS, PROPERTY OWNERS AND GENERAL PUBLIC IN THE TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, BY PROHIBITING THE BURNING OF CERTAIN SOLID WASTE MATERIALS AND MISCELLANEOUS DEBRIS, AND REGULATING THE BURNING OF LEAVES, YARD WASTE, CERTAIN OTHER MATERIALS, IN THE INTEREST OF THE PRESERVATION OF THE PUBLIC HEALTH, SAFETY AND WELFARE, PROVIDING FOR THE ISSUANCE OF PERMITS, DECLARING CERTAIN CONDITIONS OR ACTIONS TO BE NUISANCES AND PROVIDING FOR THE ABATEMENT OF SAID NUISANCES, AND

PENALTIES FOR THE VIOLATION THEREOF, REPEALING ALL  
ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT OR  
INCONSISTENT HERewith

Section 4 of this Ordinance contained the following statement: “**Enforcement Penalties.** Any person, firm or corporation violating any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction be fined not more than \$250 for each such offense or shall be punished by imprisonment for a period not to exceed 30 days for each offense or by both such fine and imprisonment, in the discretion of the court, together with the costs of such prosecuting.”

Section 5 of this Ordinance contained the following statement: “**Separate Offense.** A separate offense shall be deemed committed upon each day a violation occurs or continues.”

Section 6 of this Ordinance contained the following statement: “**Severability.** The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.”

Section 7 of this Ordinance contained the following statement: “**Section Headings.** The section headings, as set forth in this Ordinance, are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any provision of this Ordinance.”

Section 8 of this Ordinance contained the following statement: “**Repeal of Conflicting Ordinances.** All Ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are repealed insofar as same affect this Ordinance.”

Section 9 of this Ordinance contained the following statement: “**Effective Date.** The provisions of this Ordinance are hereby declared to be necessary for preservation of public health, safety and welfare and are hereby ordered to take effect and be in force 30 days following publication of this Ordinance or a summary of same in the *Manistee News Advocate*, a newspaper circulated in the Township of Filer.”

## CHAPTER 43

Adopted: November 22, 1965

Published: November 24, 1965

Preamble of this Ordinance reads as follows:

AN ORDINANCE RELATIVE TO THE REMOVAL OF UNSIGHTLY, UNSANITARY AND DANGEROUS BUILDINGS, TO THE REMOVAL OF UNSANITARY, UNSIGHTLY AND DANGEROUS CONDITIONS, AND PROVIDING FOR SPECIAL ASSESSMENTS FOR WORK DONE BY THE TOWNSHIP

Section 6 of this Ordinance contained the following statement: "This Ordinance being necessary for the safety and general welfare of the residents of the Township of Filer, is hereby ordered to take effect immediately upon publication thereof as provided by law."

Section 7 of this Ordinance contained the following statement: "All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed."

## CHAPTER 44

Adopted: December 28, 1965

Published: January 3, 1966

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO SECURE THE PUBLIC PEACE, HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF THE TOWNSHIP OF FILER, MANISTEE COUNTY, MICHIGAN, BY REGULATION OF THE OUTDOOR PARKING AND STORAGE OF MOTOR VEHICLES, TRACTOR TRAILERS, HOUSE TRAILERS, AND NEW OR USED PARTS OR JUNK THEREFROM, WITHIN THE TOWNSHIP OF FILER; TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE AND TO REPEAL ANY ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH

Section 1 of this Ordinance contained the following statement: "This Ordinance shall be known and cited as the Filer Township Dismantled Car Ordinance."

Section 6 of this Ordinance contained the following statement: "**Savings Clause.** The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part or portion thereof."

Section 7 of this Ordinance contained the following statement: "**Penalty.** Any person, firm, or corporation who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$100 or by imprisonment in the county jail for not to exceed 90 days, or both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense."

In addition to the imposition of the foregoing fines and penalties, the Township Zoning Inspector, any Township police officer, or such other officer as the Township Board may designate, may cause any vehicle, trailer, or parts thereof, which violates the provisions of this Ordinance to be removed from the premises, impounded and destroyed or sold for junk, in the discretion of said officer, and the cost thereof assessed against the owner of such vehicle, trailer, or parts thereof, or of the premises on which the same are located. Any sums realized on the sale of the same may be retained by the Township to reimburse it for the costs incurred in such removal and sale, to the extent of such costs. Any balance of such sums remaining after such reimbursement shall be returned to the owner of such vehicle, trailer, or parts thereof.”

Section 8 of this Ordinance contained the following statement: “**Effective Date.** This Ordinance being an emergency Ordinance necessary to protect the health, welfare and public safety of the citizens of the Township of Filer, it is Ordered to take immediate effect upon publication thereof as provided by law.”

Introduced: November 2, 2006

Published: November 7, 2006

Adopted: January 2, 2007

Published: January 5, 2007

Effective Date: February 5, 2007

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 44 OF THE CHARTER TOWNSHIP  
OF FILER CODE OF ORDINANCES TO RESTRICT AND LIMIT THE  
PARKING OF VEHICLES WITHIN THE TOWNSHIP OF FILER

Section 8 of the Ordinance states as follows:

Section 8. Effective Date. This ordinance shall take effect on the 5<sup>th</sup> day of February, 2007.

## **CHAPTER 45**

Adopted: May 8, 1961

Published: May 15, 1961

Effective: June 15, 1961

Preamble of this Ordinance reads as follows:

AN ORDINANCE FOR THE REGULATION OF GARBAGE AND RUBBISH  
COLLECTION, DEFINING GARBAGE AND RUBBISH, TYPES OF  
CONTAINERS TO BE USED, PROVIDING FOR PERMITS, PENALTIES FOR  
VIOLATION HEREOF AND REPEALING INCONSISTENT ORDINANCES

Section 6 of this Ordinance contained the following statement: “It is the intention of the Filer Township Board that this Ordinance be liberally construed for the purpose of providing a sanitary and satisfactory method for the preparation, collection, and disposal of Municipal wastes. The Township Supervisor is hereby authorized to make such rules and regulations as from time to time appear to him necessary to carry out this intent. Provided, however, that such rules may not be in

conflict with this or any other ordinance of the Township of Filer, subject to approval by resolution by the Township Board.”

Section 7 of this Ordinance contained the following statement: “**Penalties for Violation.** Any person violating any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$100, and the costs of prosecution and in the default of the payment of such fine and costs such person shall be imprisoned in the county jail until such fine is paid, but not to exceed 60 days.”

Section 8 of this Ordinance contained the following statement: “**Effective Date.** This Ordinance being necessary for the preservation of the public peace, health and safety of the Township of Filer, the same shall be effective from and after June 15, 1961.”

## CHAPTER 46

Adopted: May 17, 1963

Posted At: Walt’s IGA, Filer Township Bulletin Board, Filer City Post Office on May 18, 1963

Preamble of this Ordinance reads as follows:

AN ORDINANCE OF FILER TOWNSHIP, MANISTEE COUNTY, MICHIGAN  
DEFINING, REGULATING AND LICENSING JUNK YARDS, JUNK SHOPS,  
JUNK DEALERS AND SECOND-HAND DEALERS, ESTABLISHING FEES  
FOR THE LICENSING THEREOF AND PROVIDING PENALTIES

Section 5 of this Ordinance contained the following statement: “**Penalties.** Any person violating any of the provisions of this Ordinance shall be punished by a fine of not exceeding \$100 or by imprisonment in the County Jail, at Manistee County, Michigan, not exceeding 90 days or by both such fine and imprisonment at the discretion of the Court trying the offender. Each day that said dealer is in violation shall be considered as a separate offense.”

Section 6 of this Ordinance contained the following statement: “**Validity.** Each and every section and provision of this Ordinance shall be deemed a separate, severable, independent and distinct section or provision hereof and the invalidity of any section or part thereof shall not affect the remaining sections or parts.”

Section 7 of this Ordinance contained the following statement: “This Ordinance, adopted this 17th day of May, 1963.”

## CHAPTER 47

Adopted: July 6, 1982

Preamble of this Ordinance reads as follows:

AN ORDINANCE ADOPTED PURSUANT TO THE PROVISIONS OF ACT NO. 246 OF THE PUBLIC ACTS OF 1945, AS AMENDED, TO REGULATE THE REMOVAL AND DUMPING OF TOPSOIL, SUBSOIL, CLAY, SAND, GRAVEL, EARTH AND OTHER MATERIALS FROM OR ON TO LANDS LOCATED IN THE TOWNSHIP OF FILER, PROVIDING FOR THE ISSUANCE OF PERMITS, TO PROVIDE FOR PAYMENT OF FEES, TO PRESCRIBE RULES AND REGULATIONS AND CONDITIONS FOR THE ISSUANCE OF PERMITS; AND TO PROVIDE FOR SURETY BONDS TO INSURE COMPLIANCE AND SATISFACTORY PERFORMANCE OF THE TERMS OF SAID ORDINANCE, TO PROVIDE FOR RENEWALS OF PERMITS AND TO PROVIDE FOR THE ENFORCEMENT OF PROVISIONS OF SAID ORDINANCE AND PENALTIES FOR THE VIOLATION OF SAID ORDINANCE

Section 1 of this Ordinance contained the following statement: “This chapter shall be known and cited as the “Filer Township Soil Removal Ordinance.”

Section 2 of this Ordinance contained the following statement: “This chapter is enacted for the purpose of promoting the public health, welfare and safety of the residents of Filer Township and to preserve the natural resources and to prevent the creation of nuisances and hazards to the public health, welfare and safety.”

Section 8 of this Ordinance contained the following statement: “**Enforcement Penalties.** A. Any person, firm, corporation or other organization, which violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of, any provision of this Ordinance, shall be fined upon conviction not more than \$100 together with the costs of prosecution, or shall be punished by imprisonment in the county jail for not more than 30 days for each offense, or may be both fined and imprisoned as provided herein in the discretion of the court. Each and every day during which such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.

B. The Township Board, or any member thereof, or Zoning Inspector, or Township Attorney, or Prosecuting Attorney of the County of Manistee may institute proceeding to prevent or enjoin any violation of the provisions of this Ordinance. The rights and remedies provided herein are cumulative and are in addition to other remedies provided by law.”

Section 9 of this Ordinance contained the following statement: “**Validity.** This ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby, and the Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, sentences, phrases and clauses are declared invalid.”

Section 10 of this Ordinance contained the following statement: “**Repeal of Conflicting Ordinance.** All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed, insofar as same affect this Ordinance.”

Section 11 of this Ordinance contained the following statement: “**Effective Date.** The provisions of this Ordinance are hereby declared to be necessary for the preservation of public peace, health and safety and are hereby ordered to take effect and be in force after 30 days from the publication of same, and this Ordinance is hereby Ordered to be published in the manner provided by law.”

## CHAPTER 48

Adopted: May 6, 1986

Published: May 13, 1986

Filed with County Clerk: May 14, 1986

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO REGULATE THE USE OF PLAYGROUND EQUIPMENT, BEACHES, PARKS AND RECREATION AREAS IN FILER TOWNSHIP AND TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE

Section 1 of this Ordinance contained the following statement: “To establish noise regulations, usage of alcoholic beverages during certain hours, and general rules for use of playground equipment, beaches, parks and recreation areas.”

Section 5 of this Ordinance contained the following statement: “**Penalty.** Any person, firm, or corporation who shall violate any of the provisions of this Ordinance or the regulations as adopted by resolution of the Township Board, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than \$500, or by imprisonment in the county jail for not more than 90 days, or both said fine and imprisonment in the discretion of the Court.”

Section 6 of this Ordinance contained the following statement: “**Construction.** Section headings that appear in this Ordinance are for convenience only, and shall not be deemed substantive parts of this Ordinance.”

Section 7 of this Ordinance contained the following statement: “**Repeal.** All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.”

Section 8 of this Ordinance contained the following statement: “**Effective Date.** The provisions of this Ordinance are hereby declared to be necessary for the public health, safety and general welfare and said Ordinance shall take effect 30 days after publication of same in the Manistee News-Advocate, a newspaper circulated in the Township of Filer.”

## CHAPTER 49

Introduced: December 6, 2006

Published: December 12, 2006

Adopted: January 2, 2007

Published: January 5, 2007

Effective Date: February 5, 2007

Preamble of this Ordinance reads as follows:

AN ORDINANCE ADDING CHAPTER 49 TO THE CHARTER TOWNSHIP OF  
FILER CODE OF ORDINANCES IN ORDER TO ESTABLISH A CURFEW,  
TO PROVIDE FOR PENALTIES, AND TO REPEAL ALL ORDINANCES IN  
CONFLICT HERewith

Section 4 of the Ordinance states as follows:

Section 4. Effective Date. This ordinance shall take effect on the 31<sup>st</sup> day following its publication in the manner required by law.

## CHAPTER 51

Adopted:

Published:

Section 2 of this Ordinance contained the following statement: “Any person who commits obscenity or any act thereof may be prosecuted and punished either by a fine not to exceed \$500 or by imprisonment for a term up to six months.”

Section 3 of this Ordinance contained the following statement: “That Filer Township is enacting this Ordinance under its Home Rule powers.”

Section 4 of this Ordinance contained the following statement: “That all Ordinance in conflict herewith are hereby repealed to the extent of said conflict.”

Section 5 of this Ordinance contained the following statement: “If any provision of this Ordinance or the application of any provision of this Ordinance or the application of any provision of this Ordinance shall be held invalid, such invalidity shall not affect other provisions of this Ordinance and to that end provisions hereof are declared to be severable.”

Section 6 of this Ordinance contained the following statement: “This Ordinance shall be in full force and effect from and after its passage and approval and publication according to law.”



## CHAPTER 53

Adopted: February 1, 1972

Published: February 14, 1972

Preamble of this Ordinance reads as follows:

ORDINANCE PROHIBITING LITTERING WITHIN THE TOWNSHIP OF  
FILER, MANISTEE COUNTY, MICHIGAN; REPEALING AN ORDINANCE  
PROHIBITING LITTERING WITHIN THE TOWNSHIP OF FILER ADOPTED  
ON THE 22<sup>nd</sup> DAY OF NOVEMBER, 1965

Section 4 of this Ordinance contained the following statement: “**Penalties.** Any person, firm or corporation violating any of the provisions of this Ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$25 nor more than \$100 or by imprisonment in the county jail for not more than 90 days or by both such fine and imprisonment at the discretion of the Court;”

Section 5 of this Ordinance contained the following statement: “**Repeal.** An Ordinance entitled “An Ordinance Prohibiting Littering within the Township of Filer,” adopted on the 22<sup>nd</sup> day of November, 1965, is hereby repealed and any other Ordinance or parts of Ordinance inconsistent with the provisions hereof are also hereby expressly repealed.”

Section 6 of this Ordinance contained the following statement: “**Effective Date.** This Ordinance being an emergency ordinance necessary to protect the health, welfare and public safety of the citizens of the Township of Filer, it is Ordered to take immediate effect upon publication thereof as provided by law.”

## CHAPTER 54

Adopted: December 3, 2015

Published: December 10, 2015

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO ADD CHAPTER 54 TO THE CHARTER TOWNSHIP OF  
FILER CODE OF ORDINANCES; TO PROVIDE FOR THE REGULATION OF  
ALCOHOLIC LIQUOR TRAFFIC WITHIN THE TOWNSHIP THROUGH THE  
ENFORCEMENT OF THE MICHIGAN LIQUOR CONTROL CODE OF THE  
STATE OF MICHIGAN WITHIN THE TOWNSHIP, TO PROVIDE  
PENALTIES FOR THE VIOLATION HEREOF, AND TO REPEAL ALL  
ORDINANCES AND PART OF ORDINANCE IN CONFLICT THEREWITH

Section 1. **Title.** This ordinance shall be known and cited as the Charter Township of Filer Liquor Control Ordinance.

Section 2. The Charter Township of Filer Code of Ordinances is hereby amended by the addition of Chapter 54, which shall read, in its entirety, as follows:

See p. 54-1 and 54-2

Section 3. **Effective Date; Repealer.** This ordinance shall take effect on the 3rd day of December, 2015. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

## CHAPTER 54

Adopted January 7, 2014.

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO ADD CHAPTER 54 TO THE CHARTER TOWNSHIP OF  
FILER CODE OF ORDINANCES; TO PROHIBIT THE IGNITION, DISCHARGE  
AND USE OF CONSUMER FIREWORKS WITHIN THE TOWNSHIP EXCEPT ON  
CERTAIN DAYS; TO PROVIDE FOR PENALTIES FOR VIOLATION HEREOF;  
AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Section 1. **New Chapter 54.** The Charter Township of Filer Code of Ordinances (“Code”) is hereby amended by the addition of a new Chapter 54, which shall read, in its entirety, as follows, to-wit:

## CHAPTER 54 FIREWORKS

54.01 Definitions

54.02 Use of Consumer Fireworks Prohibited

54.03 Violation

54.01 **Definitions.** Words and phrases used in this Chapter 54 shall have the meaning ascribed to them by 2011 PA 256, as amended, being MCL 28.451, *et seq.*, including the following:

A. “APA standard 87-1” means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American pyrotechnics association of Bethesda, Maryland.

B. “Consumer fireworks” means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

C. “Low –impact fireworks” means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

54.02 **Use of Consumer Fireworks Prohibited.** No person shall ignite, discharge or use consumer fireworks within the Township. This prohibition shall not preclude any person from igniting, discharging or using consumer fireworks on the day preceding, the day of or the day after

a national holiday, except between the hours of 1:00 a.m. and 8:00 a.m. on the day preceding, the day of or the day after a national holiday, as authorized by 2011 PA 256, as amended.

**54.03 Violation.** Any person violating the provisions of this chapter shall be guilty of a civil infraction and shall pay a civil fine of not more than \$500 for each violation but no other penalty shall be imposed.

**Section 2. Repeal.** All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but only to the extent of such conflict or inconsistency.

**Section 3. Effective Date.** This Ordinance shall be effective upon its introduction, adoption and publication as required by law.

## **CHAPTER 54A**

Adopted: September 3, 2019

Published: September 10, 2019

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO AMEND AND RENUMBER CHAPTER 54 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES TO PROHIBIT THE IGNITION, DISCHARGE AND USE OF LUMINARIES AND CONSUMER FIREWORKS WITHIN THE TOWNSHIP EXCEPT ON CERTAIN DAYS AND HOURS; TO PROVIDE FOR AMENDED PENALTIES FOR VIOLATION HEREOF; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

**Section 1** of this Ordinance contained the following statement: “Rename Chapter 54 Consumer Fireworks. The Charter Township of Filer Code of Ordinances (“Code”) is hereby amended by renumbering Chapter 54 relating to consumer fireworks as Chapter 54A in light of the fact that Chapter 54 is already assigned to the Township liquor control ordinance. Henceforth, the Sections of Chapter 54A shall be designated as follows:

## **CHAPTER 54A FIREWORKS**

54A.01 Definitions

54A.02 Use of Consumer Fireworks Prohibited

54A.03 Violation

**Section 2** of this Ordinance contained the following statement: “Section 54A.02 of the Code is hereby amended to read, in its entirety, as follows:”

See p. 54A-1

**Section 3** of this Ordinance contained the following statement: “Section 54A.03 of the Code is hereby amended to read, in its entirety, as follows:”

See p. 54A-2

## **CHAPTER 55**

Adopted: August 17, 1983

Published: September 1, 1983

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO SECURE THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF FILER TOWNSHIP, MANISTEE COUNTY, MICHIGAN, BY PROHIBITING THE OPERATION OF ANY MOTOR VEHICLE, LICENSED OR UNLICENSED, IN ANY POSTED PUBLIC AREAS IN THE TOWNSHIP OF FILER, EXCEPT ON ROADS THAT ARE MAINTAINED FOR THE PURPOSE OF TRAVEL BY MOTOR VEHICLES; TO REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE

Section 3 of this Ordinance contained the following statement: “Any person, firm or corporation who shall violate any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500 or by imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment in the discretion of the court.”

Section 4 of this Ordinance contained the following statement: “All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.”

Section 5 of this Ordinance contained the following statement: “This Ordinance shall take effect 30 days after publication of said Ordinance.”

## **CHAPTER 61**

Introduced: Sept. 5, 2000

Published: Sept. 9, 2000

Adopted: Oct. 3, 2000

Published: Oct. 7, 2000

As Amended:

Introduced: May 1, 2001

Published: May 5, 2001

Adopted: June 5, 2001

Published: June 11, 2001

As Amended:

Introduced: July 2, 2002

Published: July 9, 2002

Adopted: July 25, 2002

Published: July 31, 2002

## CHAPTER 63

Introduced: Sept. 5, 2000

Published: Sept. 9, 2000

Adopted: Oct. 3, 2000

Published: Oct. 7, 2000

## CHAPTER 65

Introduction: March 7, 2006

Published: March 9, 2006

Adopted: April 4, 2006

Published: April 11, 2006

Effective: April 11, 2006

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO ADD CHAPTER 65 TO THE CHARTER TOWNSHIP OF  
FILER CODE OF ORDINANCES TO RESTRICT AND LIMIT THE POWERS  
OF TOWNSHIP CONSTABLES AND TO REPEAL ALL ORDINANCES IN  
CONFLICT HEREWITH

## CHAPTER 72

Adopted: June 4, 1996

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO ESTABLISH CHARGES FOR TOWNSHIP  
EMERGENCY SERVICES RESPONDING TO AN INCIDENT INVOLVING  
HAZARDOUS MATERIALS UNDER PUBLIC ACT 102 OF 1990 (COMPILED  
LAW 41.806a) AND TO PROVIDE METHODS FOR THE COLLECTION OF  
SUCH CHARGES

Section 1 of this Ordinance contained the following statement: "In order to protect the Township from incurring extraordinary expenses resulting from the utilization of township resources to respond to an incident involving hazardous materials, the Township Board authorizes the imposition of charges to recover reasonable and actual costs incurred by the township in responding to calls for assistance in connection with a hazardous materials release."

Section 8 of this Ordinance contained the following statement: "**Severability.** Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance which shall remain in full force and effect."

Section 9 of this Ordinance contained the following statement: "**Effective Date.** This ordinance shall take effect immediately. All ordinances or parts of ordinances in conflict are hereby repealed."

## **CHAPTER 73**

Adopted: July 17, 1973

Effective: July 17, 1973

Preamble of this Ordinance reads as follows:

AN ORDINANCE TO REJECT THE ADDITION OF FLUORIDE TO WATER  
SUPPLIED TO THE PUBLIC BY FILER TOWNSHIP, MANISTEE COUNTY,  
MICHIGAN

Section 2 of this Ordinance contained the following statement: “This Ordinance is adopted pursuant to Act 346, Public Acts of the State of Michigan, 1969, as amended.”

Section 3 of this Ordinance contained the following statement: “That all Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as same affect this Ordinance.”

Section 4 of this Ordinance contained the following statement: “The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of public peace, health and safety, and are hereby ordered to take immediate effect and be in force from and after the 17th day of July, 1973, in accordance with the statutes in such case made and provided, and this Ordinance is hereby Ordered to be published in the manner provided by law.”

## **CHAPTER 75**

Introduced: Sept. 5, 2000

Published: Sept. 9, 2000

Adopted: Oct. 3, 2000

Published: Oct. 7, 2000

## APPENDIX D - AMENDMENT TABLE

Amendment Number	Effective Date	Chapter/ Section No.
1	November 11, 2000	Adds Chapter 12
2	June 12, 2001	61.01
3	February 11, 2002	31.10.31060
4	July 31, 2002	61.01
5	November 20, 2002	Adds Chapter 26
6	December 22, 2002	31.10.1051 Adds 31.88.8805
7	August 9, 2003	31.67.6704.H.1
8	September 7, 2003	23.05
9	September 8, 2003	Adds Chapter 34
10	January 9, 2004	7.05
11	March 12, 2004	31.67.6702 31.67.6703
12	January 16, 2005	Chapter 24
13	May 11, 2005	31.55.5502 31.55.5503
14	November 5, 2005	31.88.8802 31.88.8803 31.88.8804 31.98.9803
15	April 11, 2006	Adds Chapter 65
16	August 6, 2006	31.5.502 Adds 31.16.1602
17	August 8, 2006	31.5.502 31.10.1095.B 31.37.3702 31.37.3703 31.37.3704 31.40.4002 31.45.4502 31.45.4503 31.45.4504 31.67.6701 31.67.6702 31.67.6703 Deletes 31.67.6705
18	February 5, 2007	Adds Chapter 49
19	February 5, 2007	44.01 44.02 44.03

<b>Amendment Number</b>	<b>Effective Date</b>	<b>Chapter/ Section No.</b>
		44.04 44.05 44.06
20	July 8, 2007	Adds Chapter 36
21	September 7, 2007	Adds Chapter 14
22	November 18, 2007	31.67.6704.H.1.b
23	November 18, 2007	31.67.6704.H.1.b and H.3
24	November 12, 2008	Adds Chapter 14.09
25	March 14, 2009	Adds Chapter 6
26	May 21, 2009	31.60.6004
27	May 21, 2009	31.5.503 Adds 31.37.3703.I
28	August 6, 2010	31.5.502 31.10.1060.C.6; Schedule F 13.16.1602 Add Section 13.16.1603 31.35 31.80
29	February 12, 2011	31, Zoning Map
30	October 7, 2014	31.5.502 31.16.1602 Adds 31.37.3703.J
31	December 3, 2015	Adds Chapter 54, Liquor Control
32	April 20, 2016	Adds Chapter 20, Mandatory Run Water Ordinance
33	February 20, 2017	Adds Ch. 28, Sewer Use Ordinance
34	October 3, 2017	Adds 28.08(C)
35	January 28, 2019	Adds Chapter 38, Recreational Marijuana
36	September 10, 2019	Amends Chapter 7, Eliminates Necessity of a Development Area Citizens Council
37	September 10, 2019	Amends and Renumbers Chapter 54 to Chapter 54A Consumer Fireworks
	February 6, 2020	Adds Chapter 35, Short Term Rentals
	February 10, 2020	Amends Chapter 41, Noxious Weeds, in its entirety.
	September 14, 2020	Amends Chapter 28, Section 28.35
	October 9, 2020	Amends Chapter 21, Section 21.01, adds new Section 21.05, and renumbers old Sections 21.05 and 21.06 to 21.06 and 21.07
	October 29, 2019	Adds Chapter 39, Medical Marihuana Facilities
	December 9, 2020	Amends Chapter 23, Section 23.06 in its entirety