
**CHAPTER 24 – UTILITY USE REQUIREMENTS FOR THE BALDWIN LAKE
WATER AND SEWER SERVICES AREAS**

ARTICLE I. DEFINITIONS

Section 1. Definitions.

A. “Agreement” as used herein shall mean a certain Water and Sanitary Sewer Service Agreement between the City of Greenville and the Charter Township of Eureka, dated ____, 2021, an executed copy of which is on file with the Township Clerk.

B. “Sewer Service Area”, “Sewer System”, “Water Service Area”, and “Water System” shall have the same meaning as those terms are defined in the Agreement.

C. “Township” shall mean the Charter Township of Eureka.

D. “City” shall mean the City of Greenville.

E. “City Manager” shall mean the City Manager then appointed and serving in the City.

Section 2. Delegation of Authority.

For all purposes allowed by law, the Township hereby appoints and delegates to the City and its designee(s) the authority on behalf of the Township to administer and enforce the requirements and regulations set forth in this Ordinance with respect to the Water System and Sewer System in the Water Service Area and Sewer Service Area, respectively, and further authorizes the City Manager or his/her designee to take all actions reasonably necessary to operate and maintain those systems as otherwise authorized in this Ordinance.

Section 3. Scope of Ordinance.

This Ordinance is intended to apply to all portions of the Water Service Area and Sewer Service Area located in the Township, which areas are served by the City’s Water System and/or Sewer System, respectively.

Sections 4 — 18. Reserved.

ARTICLE II. WATER CROSS CONNECTION CONTROL

Section 19. Violations.

Violations of this article posing an imminent and extreme hazard will be corrected immediately or termination of water service shall occur.

Section 20. State rules adopted.

The Township adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality being Mich. Admin. Code R 325.11401—325.11407.

Section 21. Reserved.

Section 22. Right of access.

The representative of the City Manager shall have the right to enter at any reasonable time any property served by a connection to the Water System for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees, or occupants of any property so served, shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

Section 23. Discontinue service; reasonable notice.

The City's Water System may discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this article.

Section 24. Testing assemblies/devices.

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 city water department and in accordance with state department of environmental quality requirements. Only individuals that hold a valid state plumbing license and/or have successfully passed an approved backflow testing class shall perform such testing. Each tester shall be also approved by the city water department. Individuals performing assembly testing shall certify the results of his testing.

Section 25. Posted notice; unsafe water.

The potable water supply made available on the properties served by the Water System shall be protected from possible contamination as specified by this article 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: WATER UNSAFE FOR DRINKING.

Sections 26 – 55. Reserved.

ARTICLE III. WATER SERVICE

Section 56. Rules and regulations authorized.

Rules and regulations for the Water System shall be as determined from time to time by resolution of the City Council.

Section 57. Water department employees; access to buildings.

Employees of the City water department shall have access at all reasonable hours to all parts of houses or buildings in which water is delivered or consumed to examine the pipes and fixtures, and no person or persons shall interfere with such employees or refuse them access.

Section 58. Nonresident service.

The City shall not be required to furnish services to premises located outside the City except pursuant to and in accordance with written agreements between the Township and City.

Section 59. Service deposits for service.

No deposit shall be required of property owners on application for water or sewer service with proof of ownership. Deposits shall be required of all other users as determined by the City Manager.

Section 60. Tampering with meters.

No person or persons shall install, remove, connect, disconnect, alter or tamper with any water meter or the incoming pipes carrying water to such meter, unless such person be authorized so to do by the properly constituted authority of the City.

Section 61. Use of hydrants.

No person or persons shall turn on or use water from any hydrant, open or close any valve on a water main, or open or close any curb stop valve unless authorized by the City.

Sections 62—80. Reserved.

Section 81. Establishment.

Water rates for all users within the Water Service Area shall be as authorized and set in accordance with the terms of the Agreement.

Section 82. Billing; frequency; turn on and off; costs.

Water bills shall be paid monthly or quarterly, as determined by the City water department, for the water used in the preceding month or quarter. If said water bills are not paid within 30 days of the date of billing, a billing service charge of five percent of the outstanding balance of the bill shall be added. If the bill continues to be delinquent for 25 days past the due date, the water shall be shut off from the premises of the consumer in default and shall not be turned on again until the

full amount due, together with a service charge in the amount established by the City for the cost of turning the water off and for the cost of turning the water on again, has been paid.

Section 83. Service fees.

A service fee in the amount established by the City shall be charged for turning on and for turning off yard meters used for lawn sprinkling. This fee shall be included in the final bill for the year. Also, a service fee in the amount established by the City shall be charged for turning off water service for temporary or long term service if requested by the customer, for the cost of turning the water service back on as well. This fee will be added to the ensuing water bill.

Section 84. Water tap and connection fees.

The water tap fees or connection fees as established by the City shall be the same for users in the water Service Area.

Section 85. Responsibility and liability for payment of water bills.

A condition of receiving water service from the Water System is a recognition that water service to a premises or structure benefits of the owner of the premises or structure in that sanitation, fire protection and property value are added to a premises or structure by having water service at and upon such premises or structure. Therefore, the owner of a premises or structure and the premises or structure shall itself be ultimately responsible and liable for payment of water bills as is provided hereinafter.

Section 86. Delinquent charges; lien.

Charges for water services furnished by the Water System to any premises shall be a lien upon said premises and the City water superintendent shall certify in writing any charges which have been delinquent for six months or more, said certification to be made to the Township Treasurer. The Treasurer shall thereafter immediately enter the amount of the delinquency for water charges upon the next tax roll, said charge to be against the premises to which the water service has been rendered and said charges shall be collected and said lien shall be enforced in the same manner as is provided in respect to real property taxes assessed upon such premises and stated in the Township tax rolls.

Sections 87—115. Reserved.

ARTICLE IV. SEWER SYSTEM USE AND PRETREATMENT

Section 116. Reserved.

Section 117. Definitions.

The terms used in this Article IV shall have the same meanings as are used and defined in the City's adopted Code of Ordinances, Chapter 44, Article IV, as amended from time to time.

Section 118. Reserved.

Section 119. Discharge prohibited without required approvals, permits, and treatment.

Except as otherwise expressly permitted by local, state and federal laws and regulations, and subject to obtaining all required permits and approvals from governmental agencies (including, without limitation, the city, the MDEQ, and the U.S. EPA) and providing any required treatment, it shall be unlawful to discharge, or permit or cause to be discharged, either directly or indirectly:

- (a) Polluted water, sewage or wastewater to any natural outlet within the city, to any waters of the state (or waters of the United States), or to any public sewer; or
- (b) Unpolluted water of any kind, including, without limitation, storm water, surface water, groundwater, roof runoff, artesian well water, drainage water (surface or subsurface), industrial non-contact cooling water, air-conditioning water, swimming pool water, or industrial process waters to any sanitary sewer. Unpolluted water may be discharged only to a sewer that is specifically designated as a storm sewer or to a natural outlet, and only if all applicable permits and approvals have first been obtained from the POTW and other governmental bodies or agencies, and only if not prohibited by applicable local, state or federal laws or regulations.
- (c) If any person drains or discharges any unpolluted water by means of conductors, eaves troughs, roof downspouts, footing drains, or otherwise, directly or indirectly, into a storm sewer, or natural outlet in violation of applicable laws or regulations, or into a sanitary sewer, the POTW shall order its disconnection at the property owner's expense, and if the property owner refuses to obey the order of the POTW, then the POTW shall disconnect the connection and the costs shall be charged to the property owner.

Section 120. Unlawful construction.

Except as hereinafter provided, and unless specifically authorized by the county health department, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of wastewater.

Section 121. Required connection to available sanitary sewer.

- (a) The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the Sewer Service Area and abutting on any street, alley or right-of-way in which there is now located a public sanitary or combined sewer of the Sewer Service Area, is hereby required at his or her expense to install suitable toilet facilities and other sanitary conveniences, therein and to connect such facilities directly with the available public sewer in accordance with this Ordinance, Michigan law and Michigan health regulations or codes.
- (b) The requirement of public sewer connection set forth in subsection (a) shall not apply to premises in the Sewer Service Area with properly operating and legally installed septic systems to continue use of those septic systems until the first of the following occurs: (i) the septic system needs repairs, replacement or improvement requiring the issuance of a permit by the Montcalm County Health Department in order to lawfully serve the premises; (ii) the

residence is sold to a third-party; or (iii) the residence is converted to use other than as a single family residence.

Section 122. Waste discharge prohibited except through approved sewer connection.

All discharges to a public sewer shall be through an approved sewer connection or at another discharge point expressly approved by the City in accordance with its regulations and ordinances.

Section 123. Reserved.

Section 124. Additional public health requirements.

Nothing in this division shall be construed to interfere with any additional requirements that maybe imposed by the City, the Michigan Department of Public Health, or any other governmental agency.

Section 125. Public sewer becomes available.

At such time as a public sewer becomes available to a premises served by a private sewage disposal system, which premises is required to connect to the Sewer System in compliance with this Ordinance, then at the user's sole expense any septic tanks, cesspools or similar private sewage disposal facilities shall be cleaned of any sludge, abandoned, and filled with clean bank-run gravel or dirt and such connection to the Sewer System shall be made.

Section 126. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any part or appurtenance of the Sewer System without first obtaining a written building sewer connection permit from the City consistent with City regulations and ordinance provisions.

Sections 127 - 128. Reserved.

Section 129. Multiple buildings; separate uses within buildings.

A separate and independent building sewer shall be provided for each building. However, if any existing building is located on an interior lot so that a separate, independent building sewer is not available for the building, and one cannot be constructed to the building through an adjoining alley, courtyard or driveway, more than one building may be served with the same building sewer, subject to approval by the City Manager. In areas where laterals have not been made, or where unusual lot splits have occurred, leaving only one lateral for two properties, joint use of this lateral may be approved by the City Manager with the connection to the Sewer System being allowed if determined consistent with the purposes and objectives of this Ordinance by the City Manager. Independent building sewers and/or control manholes may also be required for separate uses within a building, as determined necessary by the City Manager. All discharge limits contained in this Ordinance shall apply to that portion of the lateral emanating from a single building or from each separate use within a building, as applicable. Compliance with pretreatment standards or local

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discharge limits prescribed by this Ordinance shall be determined based on each separate discharge to the common lateral prior to commingling with discharges from other sources.

Section 130. Existing building sewers.

Old building sewers may be used in connection with new buildings only if they are found, on examination and tested by the City to meet all requirements of this Ordinance and other applicable laws and regulations. If an inspection by the City reveals that a connection may create a health or environmental hazard, nuisance, or is otherwise inconsistent with the purposes and requirements of this Ordinance, the building sewer shall be reconstructed or repaired at the owner's expense.

Sections 44-131. Construction specifications, Building sewer elevation and location.

Construction specifications, connection specifications, building sewer design and elevations and locations must all comply with adopted resolutions and ordinances of the City as amended from time to time.

Section 132. Reserved.

Section 133. Floor drains; backflow valve devices.

Floor drains connected to the building sewer shall be required for all basements or cellars if the elevation of the public sanitary sewer will service the building. All required floor drains shall have check valves or backflow preventers that meet current laws and regulations as determined by the City.

Sections 134 - 135. Reserved.

Section 136. Notification; building sewer inspection.

The applicant for the building sewer connection permit shall notify the City when the building sewer is ready for inspection and connection to the Sewer System. The connection shall be made under the supervision of the City or its designated agent.

Sections 137 - 138. Reserved.

Sections 139. Connection to sources of runoff prohibited.

No person shall connect (or allow to remain connected) roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer. Any such connection shall be permanently disconnected at the sole expense of the owner of the premises.

Section 140. Pretreatment of any discharge may be required.

Pretreatment of any discharge to the public sewer, including, but not limited to, grease, oil, and sand interceptors, shall be provided when, in the opinion of the POTW, they are necessary.

Section 141. Responsibilities and liabilities for private sewer lines.

- (a) All costs and expenses incident to the installation, connection, maintenance, and repair of a building sewer, lateral sewer, and any other private sewer lines shall be borne solely by the property owner. Further, the property owner shall indemnify the City and Township from any loss or damage that may directly or indirectly be occasioned by the installation of any private sewer line.
- (b) The City or a contractor hired or approved by the City shall construct any needed lateral sewer from the trunk line to the property line. The property owner shall pay all costs of such construction, including costs to construct any portion of the lateral within the public right-of-way.
- (c) The property owner shall maintain, clean and repair any private sewer lines on the property at the property owner's expense as necessary to keep the private lines free and clear of obstructions and in good working order, and shall maintain and keep clear of obstructions the lateral sewers servicing the property.
- (d) The City shall maintain, clean, and repair as necessary and at the City's expense the sewer trunk lines, but shall not be responsible for cleaning, maintenance, repair of, or liability for, private sewer lines, including, but not limited to, the building sewer and the lateral sewer.
- (e) If there is a dispute as to whether needed maintenance, cleaning, or repair of a portion of sewer line is the responsibility of the property owner or the City under the provisions of this Ordinance, it shall be the duty of the property owner to establish that the obstruction, disrepair, or defect has occurred in that portion of the public sewer for which the city is responsible. If the property owner fails to establish the City's responsibility, it shall be the property owner's responsibility to perform the necessary cleaning, maintenance, and repair as provided in this Ordinance. If the City's responsibility is established, the City shall perform the necessary cleaning, maintenance, or repair and shall reimburse the property owner for reasonable expenses incurred in locating the defect in the line or in otherwise establishing the City's responsibility.

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- (f) Any property owner who violates the provisions of this Ordinance shall be liable to the City for all costs, expenses, and damages incurred by the City in correcting the problem. Further, if any property owner fails to maintain a private sewer line as required by this Ordinance, in addition to the other penalties prescribed, the private sewer may be declared a public nuisance by the county health department and the problem may be corrected by the City. Any costs so incurred by the City shall be assessed against the property and become a lien on the property if not timely paid.

Section 142. Water meters.

All users shall have meters on all water sources that ultimately discharge into the POTW or shall meter the liquid wastes at the point of discharge into the POTW. All meters shall be approved by the City.

Section 143. Disruption of service.

Neither the City nor Township shall not be held responsible for claims made by reason of the breaking of any sewer or service laterals, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

Section 144. Service inspections.

All premises receiving sanitary sewer service shall at all times be subject to inspection by duly authorized personnel of the City.

Section 145. Discharge prohibitions.

Restrictions and prohibitions on discharges into the Sewer System, as well as associated permitting, notification requirements and similar matters associated with the City's adopted industrial pretreatment programs, shall be as are adopted and applied by the City pursuant to its Code of Ordinances, Chapter 44, Article IV, as amended from time to time.

Sections 146 - 148. Reserved.

Section 149. Most restrictive standards and requirements apply.

Notwithstanding any provision of this Ordinance to the contrary, the most stringent or restrictive standard or requirement applicable to a user's discharge shall control, whether established by the City's ordinances, by any notice, order, permit, decision or determination promulgated, issued or made by the POTW, by state laws or regulations, including the POTW's NPDES permit, or by federal laws or regulations. Further, if state or federal laws or regulations provide for standards and requirements not covered by this Ordinance that are otherwise applicable to a user's discharge, those standards and requirements shall apply to the user in addition to those required by this Ordinance, and the most restrictive of those additional standards or requirements shall control and shall be complied with by the user immediately or within the time period specified by the law or regulation.

Sections 150 - 205. Reserved.

Section 206. Operation and management of POTW.

Except as otherwise expressly provided by this Ordinance, the operation, maintenance, alteration, repair and management of the POTW shall be under the direct supervision and control of the City. The City has the exclusive right to establish, maintain and collect rates, charges and surcharges for use of the POTW which rates, charges and surcharges may be established and amended from time to time by resolution of the City, and the City may employ the persons in the capacities as it deems necessary and advisable to ensure the efficient establishment, operation, maintenance, and management of the POTW, to comply with the POTW's NPDES permit, and to discharge its financial obligations. The City may establish any rules, regulations and procedures as determined necessary to assure the efficient management and operation of the POTW.

Section 207. Powers of city manager.

As directed by the City, the City Manager is authorized (either directly through or in conjunction with other authorized representatives of the City) to take the following actions relative the Sewer System:

- (a) Supervise the implementation of this Ordinance.
- (b) Institute necessary civil or criminal judicial legal actions and proceedings in a court of competent jurisdiction on behalf of the City and Township as to violations of this Ordinance, to compel the abatement or prevention of violations, to compel compliance with this Ordinance and any order, determination, permit or agreement issued or entered into under this Ordinance, and to pursue any other necessary or advisable legal and/or equitable judicial relief or remedies with respect to violations of this Ordinance.
- (c) In conjunction with the Township's legal counsel, commence a municipal civil infraction action against any user violating this Ordinance, and issue municipal civil infraction citations and municipal civil infraction violation notices for violations of this Ordinance.
- (d) Perform any other actions authorized by this Ordinance, or as necessary or advisable for the supervision, management and operation of the Sewer System and the enforcement of this Ordinance and other applicable laws and regulations.

Sections 208 - 221. Reserved.

Section 222. POTW inspection, surveillance and monitoring authority; right of entry.

- (a) *In general.* The City is authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information

supplied by users or any other persons, compliance or non-compliance with applicable pretreatment standards and requirements, with this Ordinance, and with other applicable laws and regulations.

- (b) *Right of entry.* The City Manager and other authorized representatives of the City bearing proper credentials and identification are authorized to enter a user's premises to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this Ordinance.
- (c) *Access without delay required.* Persons shall allow the City ready access at all times to all parts of the person's facility or premises where wastewater governed by this Ordinance is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this Ordinance could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the POTW's duties. If a person has security measures in force that would require proper identification and clearance before entry into the premises by the POTW, the person shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the POTW (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (d) *Refusal to allow entry.* If a person refuses to permit access (or unreasonably delays access) to an authorized City representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this Ordinance, the City may order the termination of the discharge of wastewater to the Sewer System; order the person to permit access within a time certain; issue the person a notice of violation of this section; or take other appropriate action as provided by this Ordinance and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this section shall constitute a violation of this Ordinance.

Section 223. Notice of violation.

- (a) Any person found to be violating a provision of this Ordinance may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by this Ordinance.
- (b) Unless otherwise specified by the NOV, the following provisions shall apply: Within 30 days of the date of the NOV, the person shall submit to the POTW a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the person of liability for any violations occurring before or after receipt of the notice of violation.

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- (c) Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation, or otherwise require the City to first issue a notice of violation before initiating a civil or criminal action against a person for violating this Ordinance. Further, receipt, or non-receipt, of a notice of violation shall in no way relieve the affected user of any and all liability associated with any violation.
 - (d) Failure to comply with any requirement of a notice of violation shall constitute a separate violation of this Ordinance.

Section 224. Orders and supplemental enforcement tools.

The City may issue an order to any person as determined by the City Manager to be appropriate under the circumstances, as provided by this section. Multiple orders may be issued simultaneously or in combination as a single order with respect to a single person.

- (a) *Service.* An order shall be served upon a person and shall contain the information as provided by this Ordinance. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment, or the Sewer System, may be oral and may be served by telephone, to be followed within five days by written confirmation of the oral order by the City Manager.
- (b) *Types of orders.* The City may issue the following types of orders:
 - (1) *Order to immediately cease and desist discharge.* The City Manager may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Ordinance. The order shall have immediate effect if the City Manager determines that the actual or threatened discharge to the Sewer System presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment; or causes, or may cause, interference or pass through; or may cause the Sewer System to violate any term or condition of its NPDES permit. The City Manager shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The person shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Ordinance.
 - (2) *Order to cease discharge within a time certain.* The City may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Ordinance by a certain time and date.

The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the City, an order may be issued for the failure to pay applicable permit fees or to comply with any term of a user permit.

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- (3) *Order to effect pretreatment.* The City may issue an order to a user requiring the user to pretreat its discharge in accordance with this Ordinance. Any user subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the discharge complies with the requirements of the City's ordinances.
- (5) *Order to terminate sewer services.* The City may issue an order to terminate the sewer services of a user, including, but not limited to, immediate physical blockage of the user's sewer connection, for reasons including, without limitation, the following:
- a. A discharge that violates any general or specific discharge prohibition.
 - b. Failure of a user to notify the City of any discharge as required by this Ordinance.
 - c. A knowing, willful violation of any term, condition or requirement of an order or user permit, or any provision of this Ordinance.
- (6) *Order to show cause.* The City may issue an order requiring a person to appear and explain any non-compliance with the requirements of this Ordinance or any permit, order, decision or determination promulgated, issued or made under this Ordinance, and to show cause why more severe enforcement actions against the person should not go forward. A show cause hearing shall be held within ten days after the order to show cause is issued.
- (c) *Amendment, suspension and revocation of orders.* An order shall be subject to amendment, suspension or revocation as determined appropriate by the City. Notice of the amendment, suspension or revocation shall be served upon the person in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Ordinance.
- (d) *Consent orders and agreements.* The City may enter into a consent order or agreement with a person to resolve disputed claims and address identified and potential deficiencies in the person's compliance status. The order or agreement shall be in the form of a written agreement.

Section 225. Service of notices of violations, orders and notices of assessments.

Except as otherwise expressly provided by this Ordinance, all orders, notices of violations and notices of assessments shall be served upon persons and shall contain the information as provided by this section.

- (a) *Service.* Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable, at the person's last known address as shown by Seer System's records. The person served shall sign and date the order or notice and shall return the signed original copy to the Sewer System; provided, that the failure to do so shall not affect in any way the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not

actually be received by the person, but this shall not nullify in any way any enforcement action subsequently taken by the city against the person under authority of this Ordinance. Receipt, or nonreceipt, of a notice or order shall not in any way relieve the affected person of any liability associated with the violation. Further, the issuance of a notice or order will not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected person.

- (b) *Contents.* All orders and notices shall contain at least the following information, to the extent known by the Sewer System as applicable to the situation:
- (1) The name and address of the violator;
 - (2) The location and time that the violation occurred or was observed, and the duration of the violation;
 - (3) The nature of the violation, including the provisions of this Ordinance or of any permit, order, decision, determination or agreement violated;
 - (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
 - (5) The amount of the fine, penalty or charge assessed or due, if any;
 - (6) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;
 - (7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.
 - (8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.
 - (9) The date and time the order or notice was issued.
- (c) *Request for additional information.* A person served may request additional information from the City regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

Section 226. Reserved.

Section 227. Municipal civil infractions and administrative fines.

- (a) *Violation; municipal civil infraction.* Except as provided by section 44-228, and notwithstanding any other provision of the Township's laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.

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- (b) *Repeat offenses; increased fines.* Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance (i) committed by a person within any 90-day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:
- (1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.
 - (2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.
- (c) *Amount of fines.* Subject to the minimum fine amounts specified in sections 44-227(a) and 44-227(b), the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- (d) *Authorized local official.* Notwithstanding any other provision of the Township's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials on behalf of the Township to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this Ordinance or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): the City Manager, any sworn law enforcement officer, and any other persons so designated by the City.
- (e) *Other Requirements and Procedures.* Except as otherwise provided by this section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.
- (f) *Administrative fines.* Notwithstanding any other section of this Ordinance, any user who is found to have violated any provision of this Ordinance, or permits and orders issued hereunder, shall be fined in an amount not to exceed \$500.00 per violation. Each day on which non-compliance shall occur or continue shall be deemed a separate and distinctive violation. Such assessments may be added to the user's next scheduled sewer service charge and the

City manager shall have other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the user's property.

Section 228. Criminal penalties; imprisonment.

Any person who:

- (1) At the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the City under this Ordinance; or
- (2) Intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the Sewer System regarding matters regulated by this Ordinance; or
- (3) Intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or
- (4) Commits any other act that is punishable under state law by imprisonment for more than 93 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 93 days, or both in the discretion of the court.

Section 229. Continuing violation.

Each act of violation, and each day or portion of a day that a violation of this Ordinance (or of any permit, order, notice or agreement issued or entered into under this Ordinance) exists or occurs, constitutes a separate violation subject to the fines, penalties and other sanctions and remedies as provided by this Ordinance.

Section 230. Reserved.

Section 231. Nuisance.

A violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance, is deemed to be a public nuisance and shall be corrected or abated as directed by the city. In addition to any other legal or equitable remedies available under the law, any person creating a public nuisance shall be subject to the provisions of state law, this Ordinance, or other ordinance of the city governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance, as applicable.

Sections 232 - 233. Reserved.

Section 234. Severance or suspension of sewer and/or water service.

If a user violates or continues to violate any provision of this Ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the

City Manager under this Ordinance), or if the City determines that the user's actual or proposed discharge may present an imminent or substantial endangerment to the health or welfare of persons or the environment, the city may immediately, and without notice, sever or suspend sewer and/or water service provided to the user by the City. If severed or suspended, the sewer and/or water service shall recommence only after the user has satisfactorily demonstrated to the City the user's ability to comply with all applicable provisions of this Ordinance, and only at the user's sole expense.

Section 235. Judicial relief.

With the approval of the City, in conjunction with the Township's legal counsel, the City Manager may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. Enforcement may also include the collection of surcharges, fines, penalties and any other amounts due to the Sewer System that a person has not paid.

Section 236. Cumulative remedies.

The imposition of a single penalty, fine, notice, order, damage, or surcharge upon any person for a violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance, shall not preclude (or be a prerequisite for) the imposition by the City or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

Section 237. Procedures available.

Any person aggrieved by a notice of violation, order, or other action taken by the City under this Ordinance may request review and reconsideration by the City as set forth herein. If review and reconsideration or appeal is not properly and timely requested in connection with an action as provided by herein, the action shall be deemed final. The person requesting the appeal shall pay an appeal fee in the amount determined from time to time by the City. The appeal fee shall be paid at the time that the appeal is requested.

Section 238. Review and reconsideration by the city manager.

A request for a review and reconsideration by the City Manager must be made in writing within seven days from the date of the City's action in question. The request must state the reasons for the review and shall include all supporting documents and dates. A hearing on the request shall be scheduled at the earliest practicable date as determined by the City Manager. The hearing shall be conducted on an informal basis at the City's wastewater treatment plant or at another location

designated by the City Manager. The City Manager shall conduct the hearing. Following the informal hearing, the City Manager may affirm or reverse, in whole or in part, the action appealed from, or may make any order, requirement, decision or determination as, in the City Manager's opinion, ought to be made in the case under consideration. The City Manager shall notify the aggrieved person of the decision on the request within 14 days of the hearing. The City Manager may request additional information and extend the time for his/her decision by an additional seven days following the submission of the additional information. The decision of the City Manager may be appealed to the City's wastewater board of appeals (WBA) consistent with provisions of the City's adopted Code of Ordinances, Chapter 44, Article IV, as amended from time to time, the authority for which is delegated by the Township through the adoption of this Ordinance.

Sections 239 - 240. Reserved.

Section 241. Finality of action.

If an appeal is not demanded as provided by this division within the periods specified by this division, the City Manager's action shall be deemed final. If an appeal is properly demanded, the action appealed shall be suspended until a final determination has been made by the WBA, except for orders to immediately cease and desist discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the Sewer System; and as otherwise expressly provided by this Ordinance.

Section 242. Appeals from determination of WBA.

Appeals from a final determination of the WBA may be made to circuit court as provided by law. All findings of fact made by the WBA, if supported by the evidence, shall be deemed conclusive.

Section 243. Protection from damage.

It is a misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment that is part of the Sewer System. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct, and shall be subject to other sanctions and remedies as provided by this Ordinance, including, but not limited to, reimbursement of the Sewer System.

Section 244. Municipal liability.

Neither the City, the Sewer System nor the Township (including, but not limited to, city staff, employees, and officials) shall be responsible for interruptions of service due to natural calamities, equipment failures, or the actions of users. It shall be the responsibility of the users that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

Section 245. Use of public sewers conditional.

The use of the Sewer System is conditional upon the user complying with all applicable provisions of this Ordinance, the rules and regulations promulgated pursuant to this Ordinance, user permits and all other applicable federal, state and local laws, rules, regulations, standards and requirements. Use of the public sewer is also conditional upon the payment of all applicable charges, surcharges, rates, fees and penalties.

Sections 246 - 251. Reserved.

Section 252. Sewer service and connection fees.

Sewer service and other associated fees and charges shall be as established by the City from time to time and consistent with the provisions of the Agreement.

Section 253. Delinquent accounts.

If any moneys owed to the City remain unpaid on their due date, the City may collect them by one or more of the following methods:

- (a) The City may shut off and disconnect sewer or water, or both services, to the premises.
- (b) The City Clerk or City Treasurer may turn any delinquent amounts to the Township Clerk and Township Treasurer for settlement with the county treasurer in the same way as delinquent ad valorem property taxes are reported and/or add them to the tax rolls and collect them in the same manner as ad valorem property taxes.
- (c) The City may take all appropriate legal or equitable actions to collect any amounts due under this Ordinance.