

APPROVED
(November 8, 2021)

EUREKA CHARTER
TOWNSHIP
CODE of ORDINANCES

November 8, 2021

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Chapter 1 – GENERAL PROVISIONS

Section 1. Designation and citation of Code.

The ordinances embraced in this and the following chapters shall collectively constitute and be designated as the "Code of Ordinances, Charter Township of Eureka, Montcalm County, Michigan," and may be so cited. Such ordinances may also be cited as the "Eureka Charter Township Code."

Section 2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all chapters unless the context requires otherwise:

“Generally” – When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the township board may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

“Civil infraction” – The term "civil infraction" means an act or omission prohibited by law which is not a crime and for which civil sanctions may be ordered.

“Code” – The term "Code" means the Code of Ordinances, Charter Township of Eureka, Montcalm County, Michigan, as designated in Section 1, above.

“Computation of time” – In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday, or legal holiday, the period or day is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

“Conjunctions” – In a provision involving two or more items, conditions, provisions, or events, which items, conditions, provisions, or events are connected by the conjunction "and," "or," or "either ... or," the conjunction shall be interpreted as follows:

- a. The term "and" indicates that all the connected terms, conditions, provisions, or events apply.
- b. The term "or" indicates that the connected terms, conditions, provisions, or events apply singly or in any combination.
- c. The term "either ... or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

“County” – The term "county" means Montcalm County, Michigan.

“Crime” – The term "crime" means an act or omission forbidden by law that is not designated as a civil infraction and that is punishable, upon conviction, by any one or more of the following:

- a. Imprisonment.
- b. A fine not designated as a civil fine.
- c. Other penal discipline.

“Delegation of authority” – A provision that authorizes or requires a Township officer or township employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

“Gender” – Words of one gender include the other genders.

“Health department and department of public health” – The terms "health department" and "department of public health" mean the county health department.

“Health officer” – The term "health officer" means the director of the county health department.

“Highway” – The term "highway" includes any street, road, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

“Includes and including” – The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

“Joint authority” – A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members as fixed by statute or ordinance.

“May” – The term "may" is to be construed as being permissive and not mandatory.

“May not” – The term "may not" states a prohibition.

“MCL” – The abbreviation "MCL" means the Michigan Compiled Laws, as amended.

“Month” – The term "month" means a calendar month.

“Must” – The term "must" is to be construed as being mandatory.

“Number” – The singular includes the plural and the plural includes the singular.

“Oath, affirmation, sworn, affirmed” – The term "oath" includes an affirmation in all cases where an affirmation may be substituted for an oath. In similar cases, the term "sworn" includes the term "affirmed."

“Officers, departments, etc.” – References to officers, departments, boards, commissions, or employees are to Township officers, Township departments, Township boards, Township commissions, and Township employees.

“Owner” – The term "owner," as applied to property, includes any part owner, joint owner, land contract purchaser and owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or part of such property. With respect to special assessments, however, the owner shall be considered to be the person whose name appears on the assessment roll for the purpose of giving notice and billing.

“Person” – The term "person" means any individual or human being, partnership, corporation, association, club, joint venture, estate, trust, entity, limited liability company,

governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

“Personal property” – The term "personal property" means any property other than real property.

“Preceding and following” – The terms "preceding" and "following" mean next before and next after, respectively.

“Premises” – The term "premises," as applied to real property, includes land and structures.

“Property” – The term "property" means real and personal property.

“Public acts” – References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 359 of 1947 is a reference to Act No. 359 of the Public Acts of Michigan of 1947.) Any reference to a public act, whether by act number or by short title, is a reference to the act as amended.

“Real property, real estate, land and lands” – The terms "real property," "real estate," "land," and "lands" include lands, tenements and hereditaments.

“Roadway” – The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

“Shall” – The term "shall" is to be construed as being mandatory.

“Sidewalk” – The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

“Signature and subscription” – The terms "signature" and "subscription" include a mark when the person cannot write.

“State” – The term "state" means the State of Michigan.

“Street” – The term "street" means any street, private street, road, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

“Swear” – The term "swear" includes the term "affirm."

“Tense” – The present tense includes the past and future tenses. The future tense includes the present tense.

“Township” – The term "township" means the Charter Township of Eureka, Montcalm County, Michigan.

“Township board, township board of trustees, board of trustees and board” – The terms "township board of trustees," "township board," "board of trustees" and "board" mean the governing body of the Charter Township of Eureka, Montcalm County, Michigan.

“Week” – The term "week" means seven consecutive days.

“Written” – The term "written" includes any representation of words, letters, symbols or figures.

“Year” – The term "year" means 12 consecutive months.

Section 3. Catchlines of sections; history notes; state law references.

- a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.
- b) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

Section 4. Effect of repeal of chapters.

- a) Unless specifically provided otherwise, the repeal of a repealing chapter does not revive the chapter originally repealed nor impair the effect of any saving provision in it.
- b) The repeal or amendment of a chapter does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any rights, privileges, suit, prosecution, or proceeding pending at the time of the amendment or repeal.

Section 5. Amendments to Code; effect of new chapters; amendatory language.

- a) All chapters adopted subsequent to this Code that amend, repeal, or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent chapters may be excluded from this Code by omission from reprinted pages affected thereby.
- b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division, or subdivision, as appropriate) _____ of the Code of Ordinances, Charter Township of Eureka, Montcalm County, Michigan, is hereby amended to read as follows:...."
- c) If a new section, subdivision, division, article, or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) _____ of the Code of Ordinances, Charter Township of Eureka, Montcalm County, Michigan, is hereby created to read as follows:...."
- d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article, or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing chapter.

Section 6. Severability.

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Code that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Code are severable. If any provision of this Code or its application to any person or circumstance is held to be over broad, that provision or application will nevertheless be enforced to the fullest extent permitted by law.

Section 7. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the Township relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Section 8. Code does not affect prior offenses or rights.

- a) Nothing in this Code or the chapter adopting this Code, affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises which was in violation of any Township chapter on the effective date of this Code.

Section 9. Certain ordinances not affected by Code.

- a) Nothing in this Code or the chapter adopting this Code affects the validity of any ordinance or portion of any ordinance:
 - 1. Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
 - 2. Authorizing or approving any contract, deed, or agreement.
 - 3. Granting any right or franchise.
 - 4. Making or approving any appropriation or budget.
 - 5. Providing for the duties of township officers or employees not codified in this Code.
 - 6. Providing for salaries or other employee benefits.
 - 7. Adopting or amending a comprehensive plan or master plan.
 - 8. Levying or imposing any special assessment.
 - 9. Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing, or vacating any street, sidewalk, or alley.
 - 10. Establishing the grade of any street or sidewalk.
 - 11. Dedicating, accepting, or vacating any plat or subdivision.
 - 12. Not codified in this Code that levies, imposes, or otherwise relates to taxes, exemptions from taxes and fees in lieu of taxes.
 - 13. Pertaining to water and sewer.
 - 14. Pertaining to zoning.
 - 15. That is temporary, although general in effect.
 - 16. That is special, although permanent in effect.

17. The purpose of which has been accomplished.
- b) The chapters or portions of chapters designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.

Section 10. General penalty; continuing violations.

- a) In this section, the term "violation of this Code" means any of the following:
 1. Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by chapter or by rule or regulation authorized by chapter.
 2. Failure to perform an act that is required to be performed by chapter or by rule or regulation authorized by chapter.
 3. Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or a violation or by chapter or by rule or regulation authorized by chapter.
 4. Aiding and abetting a violation.
- b) Any provision of this Code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.
- c) In this section, the term "violation of this Code" does not include the failure of a Township officer or Township employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- d) Except as specifically provided by state law, Township ordinance or a specific provision of this Code, all violations of this Code are municipal civil infractions. The fine shall be not less than \$50.00 nor more than \$500.00 for the first offense and not less than \$100.00 nor more than \$2,500.00 for subsequent offenses, in the discretion of the court, and such fine shall be in addition to all other costs, attorney fees, damages, expenses, and other remedies as provided by law. For purposes of this section, the term "subsequent offense" means a violation of the provisions of the same Code provision committed by the same person within 12 months of a previous violation of the same provision or similar of this Code for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.
- e) Except as otherwise provided by law or chapter, a person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed \$500.00 and costs of prosecution or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment. However, unless otherwise provided by law, a person convicted of a violation of this Code which substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine not to exceed \$500.00 and costs of prosecution or by imprisonment for a period of not more than 93 days or by both such fine and imprisonment.

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- f) Except as otherwise provided by law or chapter, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.
 - g) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
 - h) Violations of this Code that are intermittent or ongoing are a nuisance *per se* and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.
 - i) All remedies available to the township under this Code and state law shall be deemed to be cumulative and not exclusive.
 - j) Anyone who assists another in violating this Code, or who aids and abets another in violation of this Code, shall also be deemed to be in violation of this Code.
 - k) In addition to the above-mentioned remedies, the Township is also authorized (at its option and discretion) to pursue a civil lawsuit to enforce and/or ensure compliance with this Code in the Montcalm County Circuit Court. The remedies and penalties provided in this Code are cumulative and not exclusive.
 - l) Except when expressly stated otherwise in this Code, this Code may be enforced in court by the Township Zoning Administrator, the Township Building Inspector, the Township Zoning Enforcement Officer, a Deputy County Sheriff, a State Police Officer, and such other Township officials or agents as the Township Board may designate from time to time by resolution. Any such official may also issue one or more civil infraction citations or tickets pursuant to this Code.
 - m) A violation of this Code is also hereby declared to be a nuisance *per se* (which should be abated) and is also declared to be offensive to the public health, safety and welfare.

Section 11. Repeal

Any ordinance of the Township that existed prior to the adoption of this Code and which conflicts with any provision of this Code is hereby repealed but only to the extent of such express conflict.

Chapter 2 – DEMOLITION

Section 1. Purpose and Intent.

This Chapter is designed and intended to regulate and require permits for the demolition of buildings and structures. The Township Board finds that this Chapter is essential to the health, safety and welfare of property owners and residents of the Township and is necessary for the protection of properties within the Township.

Section 2. Demolitions.

- a) No building or structure exceeding three hundred (300) square feet shall be demolished or razed unless and until a demolition permit has been obtained from the Township. The Zoning Administrator shall be authorized to require a performance guarantee from the landowner in an amount not to exceed five thousand dollars (\$5,000) for each one thousand (1,000) square feet (or fraction thereof) of floor area of the building or structure to be demolished or razed. Such guarantee shall be conditioned on the landowner completing the razing or demolition within such reasonable period as shall be prescribed in the Township permit and complying with such regulations as to health and safety as the Zoning Administrator may, from time to time, impose, including filling of excavations, proper termination of utility connections, and other applicable codes. The razing or demolition of buildings, including those three hundred (300) square feet or less, shall also comply with all applicable building codes.
- b) Unless the time limit is extended by the Zoning Administrator in writing, all demolition and cleanup work shall be fully completed within 30 days of the date that the demolition work physically commences.
- c) Within 60 days of the date that demolition has been completed, the site where the former building or structure was located shall be fully cleaned up, all remnants of the former building or structure shall be lawfully disposed of off of the property, the area shall be graded and the area shall also be seeded with grass, rye or other fast growing ground cover.
- d) A demolition permit shall be valid for six (6) months.
- e) The Zoning Administrator can attach reasonable conditions to a demolition permit.
- f) All demolition work shall be done in a lawful and safe manner.
- g) The application for a Township demolition permit shall be signed by all of the then-owners of the property involved. The Township may require proof of such ownership (including the last recorded deed of record) before issuing a demolition permit.

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- h) The Zoning Administrator shall have the authority to visit and inspect the site during the demolition process and also after all work on site has been fully completed. The property owner shall notify the Zoning Administrator when the demolition has been completed.

Section 3. Nuisances are Prohibited.

Any activity or use that is in violation of this Chapter shall be a nuisance *per se*.

Chapter 3 – LAND DIVISIONS

Section 1. Title and Purpose

The purpose of this Chapter is to carry out the provisions of the Michigan Land Division Act (Public Act 288 of 1967, as amended, formerly known as the Subdivision Control Act), (the “Act”), to prevent the creation of parcels of property which do not comply with applicable Chapters and the Act, to minimize potential boundary disputes, to provide for the orderly development of land, and otherwise to provide for the health, safety and welfare of the residents and the property owners of the Township by establishing reasonable standards for prior review and approval of land divisions and lot line adjustments within the Township.

Section 2. Definitions

For purposes of this Chapter certain terms and words used herein shall have the meaning stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act.

“Administrator” – The Eureka Charter Township Zoning Administrator or other Township Board designated individual(s).

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

“Development Site” – Any parcel or lot on which exists or which is intended for building development other than the following, that are exempt per Section 102 of the Act:
Agricultural use involving the production of plants and animals useful to humans.
Forestry use involving the planting, management, or harvesting of timber.

“Divide or Division” – 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, for the purpose of sale, of lease of more than one year, or of building development that results in one or more parcels that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. Also, it includes any lot line adjustment or land transfer. (Each primary structure, dwelling, commercial building, or industrial building whether newly constructed on or relocated to property located in Eureka Charter Township where another primary structure already exists shall constitute a “Division” subject to provisions of this Chapter.)

“Lot Line Adjustment” – Property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel shall also be deemed to be a land division. All parcels altered by a lot line adjustment shall conform to the requirements of the Act, this Chapter, and other applicable chapters or regulations. All lot line adjustments are subject to provisions of this Chapter, including Township pre-approval following submission of a properly completed application. Platted lots may be divided and

platted lot lines may be altered using the Township review and approval or denial provisions set forth in this Chapter.

“Parcel” – A contiguous area of land which can be described as stated in Section 102 (g) of the Act.

“Parent Parcel or Parent Tract” – A parcel or tract, respectively, lawfully in existence on March 31, 1997.

“Resulting Parcel(s)” – One or more parcels which result from a land division.

“Tract” – Two or more parcels that share a common property line and are under the same ownership.

Section 3. Prior Approval Requirement for Land Divisions or Lot Line Adjustments

Land in the Township shall not be divided and parcel boundary lines shall not be reconfigured without the prior review and approval of the Administrator in accordance with this Chapter, the Act, and all other applicable Chapters or regulations.

Section 4. Application for Land Division Approval or Lot Line Adjustment

An applicant shall file all of the following with the Administrator for review and approval of a proposed land division (including any lot line adjustments to previously approved land divisions) before making any division or lot line adjustment either by deed, land contract, lease for more than one year, or by building development: (Some items listed below may be waived at the discretion of the Administrator.)

1. A completed Township application form, including any exhibits described therein.
2. Proof of fee ownership of the land proposed to be divided or reconfigured. If the applicant is not the owner, written consent to the application, signed by the owner of the land.
3. Certification from the Eureka Charter Township Zoning/Planning Official that the proposed parcels, and accesses thereto, comply with all requirements of the Eureka Charter Township Zoning Ordinance.
4. Detailed history of the land proposed to be divided sufficient to establish that the parent parcel or tract was lawfully in existence on March 31, 1997, and that the proposed division(s) complies with the requirements of the Act.
5. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer. No division rights shall be transferred with parcels that do not meet

the minimum required area and dimensions as set forth in the Eureka Charter Township Zoning Ordinance.

6. An adequate and accurate legal description for each parcel resulting from currently proposed division or lot line adjustment.
7. A tentative parcel map showing the parent parcel or parent tract which is the subject of the application. The tentative parcel map shall be drawn to scale of not less than 1 inch = fifty (50) feet for parent parcels or parent tracts of less than three (3) acres, and to scale of not less than 1 inch = two hundred (200) feet for parent parcels or parent tracts of three (3) acres or more. The Administrator shall have final determination on the acceptability of any tentative map. Each map shall include the following:
 - a. Date, north arrow, scale of the drawing, and the name of the person or firm responsible for the preparation of the tentative parcel map;
 - b. Boundary lines, dimensions, and area of parent parcel or tract as of March 31, 1997;
 - c. The distance from each proposed new boundary line to all existing structures, streets, easements, etc;
 - d. Boundary lines and dimensions of each division or reconfiguration since March 31, 1997, including indication of date when each division or reconfiguration was made;
 - e. Proposed boundary lines as well as dimensions and area of each currently proposed parcel;
 - f. The location, dimensions, and nature of proposed ingress to and egress from an existing public or private street to each resulting parcel (copies of the instruments describing and granting such easements shall be provided, if requested);
 - g. The location and nature of existing or proposed utility easements from an existing public utility facility to each resulting parcel (copies of the instruments describing and granting such easements shall be provided, if requested).
 - h. The location of any public or private street, driveway or utility easement to be located within any resulting parcel, along with related documents.

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8. Other information reasonably required by the Administrator in order to determine whether the proposed land divisions or reconfigurations qualify for approval under the Act.
 9. A fee established, and from time to time revised, by the Eureka Charter Township Board for land division reviews pursuant to this Chapter, to cover the costs of review of the application and administration of this Chapter, shall accompany the application for division or lot line adjustment when submitted to the Administrator.

An application shall not be considered filed with the Township, nor shall the time period for review stated herein commence, until the fee is paid, and all of the application requirements have been fulfilled.

Section 5. Minimum Requirements for Approval

- a) A proposed land division or lot line adjustment shall be approved by the Administrator if all of the following criteria are met:
 1. All application requirements of Section 4 are met.
 2. All the parcels to be created or reconfigured conform to all requirements set forth in the Eureka Charter Township Zoning Ordinance or a variance from such requirements(s) has been granted by the Zoning Board of Appeals. Parcels with a width, depth and/or area that do not conform to current zoning requirements and that do not have common ownership, may be altered without full compliance with current zoning requirements and without obtaining a variance so long as all of the revised parcels are equally or more conforming.
 3. The ratio of depth to width of any resulting parcel created by a division complies with requirements of the Eureka Charter Township Zoning Ordinance and does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of each affected parcel shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. If the width of a parcel is irregular, the average width of the parcel shall be calculated and used for many purposes of this provision. The depth-to-width ratio may be waived where necessary because of exceptional topographic or physical conditions or because of the unusual shape of the parent parcel or tract or for reasons of compatibility with surrounding lands (this may require a zoning variance).

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4. The proposed land division(s), together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
 5. Each resulting parcel that is a development site is accessible for public utility service through a recorded easement, right-of-way or other means from the resulting parcel to an existing public utility facility.
 6. Each resulting parcel shall have frontage on a public or private street or road and an approved driveway for access to the street or road. The driveway shall comply with all applicable location standards of the governmental authority having jurisdiction over the existing street or road. 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 applicant provides proof that the Eureka Charter Township Zoning/Planning Official and any other governmental entity having jurisdiction has approved the proposed layout and construction design of the road or street including utility easements and drainage facilities associated therewith.
- b) No private road, land division or lot line adjustment shall be approved by the Township unless each and every resulting parcel, private road easement or access easement and any other aspect of the property or properties involved fully comply with the lot or parcel area, frontage, private road, lot width, lot width-to-depth ratio requirement and other requirements of Eureka Charter Township Zoning Ordinance. No land division request involving or proposing to create, alter, or expand a private road shall be approved or implemented unless and until the new private road or private road change is approved by the Township. To the extent that any provision of this Chapter conflicts with or is less stringent than the requirements of the Eureka Charter Township Zoning Ordinance, the stricter requirements of the Eureka Charter Township Zoning Ordinance shall apply and govern.
- c) No land division or lot line adjustment shall be approved by the Township unless all delinquent taxes for the previous 5 years are paid and certified by the Montcalm County Treasurer. A certificate must be provided.

Section 6. Approval of Land Divisions or Lot Line Adjustments

- a) The Administrator shall approve, approve with reasonable conditions to assure compliance with all applicable Code and zoning requirements and the protection of public health, safety and general welfare, or disapprove the land division or reconfiguration applied for within 45 days after receipt of a properly and fully completed application package conforming to

the requirements of this Chapter and the Act. The applicant shall be promptly notified of the decision, and if denied, the reasons for such denial.

- b) Any person or entity aggrieved by the decision of the Administrator may, within 30 days of said decision, file a written appeal of the decision to the Eureka Charter Township Board which shall consider and resolve such appeal by a majority vote of the members present at a public meeting. At least 10 days written notice of the time, date and place of the meeting at which the appeal is to be considered shall be given to the appellant by regular, first-class mail, directed to the appellant'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.
- c) The Administrator shall maintain an official record of all Township-approved and accomplished divisions and reconfigurations and transfers.
- d) Approval of a division under the Act is not a determination that the resulting parcels comply with all possible Township ordinances or regulations. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.
- e) All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with this Chapter shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map and other requirements of this Chapter. Such documents shall be maintained by the Administrator in the Township record of the approved land division or reconfiguration.
- f) Any land division, lot line adjustment, etc. that has not been effectuated by filing of appropriate document or documents with the Montcalm County Register of Deeds within 90 days of the date of approval by the Township approval shall be null and void.
- g) Platted lots may be divided and platted lot lines may be altered using the Township review and approval or denial process set forth in this Chapter.

Chapter 4 – DANGEROUS AND DILAPIDATED BUILDINGS

Section 1. Purpose

The purpose of this Chapter is to regulate and prohibit the existence of dangerous and/or dilapidated buildings within Eureka Charter Township. Furthermore, it is the intent and purpose of this Chapter to promote the health, safety, and welfare of the people of Eureka Charter Township by regulating the maintenance, repair, alteration, health, safety, and improvement of buildings and structures and to establish remedies and provisions for the enforcement of this Chapter.

Section 2. Definitions of Terms

As used in this Chapter, including in this section, the following words and terms shall have the meanings stated herein:

“Building Code” – means the building code administered and enforced in the County or Township pursuant to the State Construction Code Commission Act, Act No. 230 of the Public Acts of 1972, as amended, being Section 125.1501 *et seq.* of the Michigan Compiled Laws; or adopted pursuant to any other state law.

“Dangerous or dilapidated building” – means any building or structure, residential or otherwise, that has one or more of the following defects or conditions or is in one or more of the following conditions:

- a. A door, aisle, passageway, stairway or other means of exit does not work or conform to the Fire Code or Building Code as enforced by Montcalm County.
- b. A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the Housing Law of the state of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being Section 125.401 *et seq.* of the Michigan Compiled Laws, or the Building Code for a new building or structure, purpose or location.
- c. A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property.
- d. A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind or the elements than is required in the case of new construction by the Housing Law of the state of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being Section 125.401 *et seq.* of the Michigan Compiled Laws, or the Building Code.
- e. The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, fire damage, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for any

other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.

- f. The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used or intended to be used.
- g. The building or structure is damaged by fire, ice, rain, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
- h. A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, which because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that a Township official or the health officer of Montcalm County determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling.
- i. A building or structure is vacant, dilapidated and open at the door, wall, roof, or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- j. Any portion of a building or structure is open to the elements, whether such opening occurs due to a broken, missing, or dilapidated door, wall, roof, window or other structural or exterior component of the building.
- k. The exterior paint, vinyl or aluminum siding, brick, wood, or other exterior component of a building or structure is in such disrepair, a dilapidated fashion, or such poor condition that the exterior building materials of the building or structure involved are directly exposed to the elements, insects, mold, or fungus.
- l. A deck, porch, walkway, or similar structure or item attached to a building or structure is unreasonably slippery and is likely to cause a person to slip or fall due to moss, deterioration, slimy or slippery material, or similar slippery condition.
- m. A mobile home or trailer is involved that is dilapidated, unsafe, rundown or unhealthy.

“Enforcing agency” – means Eureka Charter Township, through the Zoning Administrator, Zoning Enforcement Officer, and/or such other official(s) or agency as may be designated by the Township Board to enforce this Chapter.

Section 3. Prohibition of Dangerous or Dilapidated Buildings

It shall be unlawful for any person, entity, owner or agent thereof to keep, possess, control, own, or maintain any building or part thereof, which is a dangerous or dilapidated building as defined in this Chapter.

Section 4. Exemption for Bona Fide Farm Buildings

This Chapter shall not apply to any non-dwelling building which is actively and regularly used or maintained in conjunction with a bona fide ongoing farming operation and complies with the Michigan Right to Farm Act.

Chapter 5 – Consumers Energy Company Electric Franchise

Section 1. Grant, Term.

The CHARTER TOWNSHIP OF EUREKA, MONTCALM COUNTY, MICHIGAN, hereby grants the right, power and authority to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, 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 EUREKA, MONTCALM COUNTY, MICHIGAN, for a period of thirty years.

Section 2. Consideration

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

Section 3. Conditions

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.

Section 4. Hold Harmless

Said Grantee shall at all times keep and save the Charter 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 and equipment hereby authorized. In case any action is commenced against the Charter Township on account of the permission herein given, said Grantee shall, upon notice, defend the Charter Township and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

Section 5. Extensions

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

Section 6. Franchise not Exclusive

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

Section 7. Rates

Said Grantee shall be entitled to charge the inhabitants of said Charter Township for electricity 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 Charter Township, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Charter Township, acting by its Charter Township Board, or by said Grantee.

Section 8. Revocation

The franchise granted by this chapter is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

Section 9. Michigan Public Service Commission, Jurisdiction.

Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Charter Township.

Chapter 6 – SWIMMING POOLS

Section 1. Purpose

This Chapter applies only to private swimming pools. For the purposes of this Chapter, the term “swimming pool” shall mean any artificially-constructed pool or apparatus for the holding of water which is not completely enclosed as part of a dwelling, capable of holding a depth of two feet or more of water at any point. “Private” shall mean that the pool is not open for the use of the general public or that the pool is not publicly owned.

Section 2. Permanent and Temporary Pools

For purposes of this Chapter, “Permanent” pools shall be those pools left up for at least a year. “Temporary” swimming pools shall be those pools taken down within six months.

Section 3. Permits and Final Inspection

- a) Before any person, property owner or person in possession of real property may begin construction of a permanent swimming pool, a permit shall be obtained from the Township Zoning Administrator. The application for a permit shall be accompanied by a complete, detailed set of plans and specifications that show the location of the swimming pool and the construction thereof. In the case of a swimming pool to be constructed above the ground, the specifications and location must be in compliance with the requirements of this Chapter, with other governing state laws and other chapters of the Township. Before any permanent swimming pool shall be used, after the construction a final inspection and approval must be obtained from the office of the Township Zoning Administrator.
- b) All applications for permits to construct a permanent private swimming pool shall be accompanied by a fee, the amount of which shall be set annually by the Township Board.
- c) Temporary private swimming pools shall not require a permit but must meet all other requirements of any Township chapter or state law.

Section 4. Requirements for Construction and Maintenance of Private Swimming Pools

- a) Pools shall not be nearer than 10 feet from any side or rear lot line of the land upon which the pool is situated or to be situated. Pools shall not be located within the area required as front yard by the Eureka Charter Township Zoning Ordinance. A pool shall not be closer than 10 feet from any dwelling, garage or building.
- b) The construction and installation of electrical wiring for equipment in or adjacent to swimming pools, to metallic appurtenances within five feet of the pool and to auxiliary equipment such as pumps, filters and similar equipment must conform to current electrical codes.
- c) There shall be no cross-connection of the Township water supply with any other sources of water for the pool.

Section 5. Drainage of Swimming Pools

Drainage of a swimming pool must comply with all of the following regulations:

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1. The discharge pipe leading from any private swimming pool shall not exceed four inches in diameter.
 2. No private swimming pool shall be emptied in a manner which will cause or permit water to flow onto property owned or held by another person without the written consent of the owner of said adjacent property.
 3. The pool drain shall be connected to a storm sewer if a storm sewer is available. Where a storm sewer is available, the pool shall not be connected to a sanitary sewer.

Section 6. Minimum Standards for Cleanliness and Safety

- a) All permanent private swimming pools shall be equipped with a sanitation system that meets current Health Department standards. The pool owner should be instructed in the proper care and maintenance of the pool by the supplier or builder.
- b) The source of lights illuminating the pool shall be shielded so the lighting does not illuminate the yard or dwellings of adjacent property owners.
- c) Every person owning land on which a permanent private swimming pool is located shall construct and maintain an enclosure or fence either surrounding the property or the pool area. Such enclosure, including gates, must not be less than four feet in height and of a construction not easily climbed or penetrated by small children. All gates must be self-closing and latching with the latch on the inside of the gate or with the latch in a position inaccessible to small children from the outside of the gate. ***Above ground swimming pools 4' or higher will only require a secure 4' high self closing lockable gate at the entrance to the pool.*** (Rejected by Board 6/14/2010) ***Above ground swimming pools 4' or higher will only require a secure 4' high self closing lockable gate at the entrance to the pool or the ladder must be removed when the pool is not in use.*** (not recommended by the Planning Commission 6/16/2010). Permanent private swimming pools shall provide one or more ladders or set of steps to permit a person in the pool to exit from the pool.

Section 7. Township Inspection and Right of Access

The Township Zoning Administrator or his or her delegate shall have the right to inspect any premises for the purpose of determining that all provisions of this Chapter are complied with.

Chapter 7 – USED CAR LOTS

Section 1. Application

Any person, firm or corporation desiring to operate, establish or maintain a used car lot in the Charter Township of Eureka, shall before undertaking to so operate, establish or maintain the same, first procure a license from the Township Board for that purpose.

Section 2. Issuance of License

The Township Board, after being reasonably certain that the applicant has complied with all regulations and restrictions as hereinafter provided, shall approve said application. Each person, firm or corporation, before carrying on said business as provided in Section 1 hereof, shall pay to the Township Clerk of Eureka Charter Township a license fee based on the current Eureka Charter Township Fee Schedule, upon the approval of the application by the Township Board, and by January 15 of each year thereafter, subject only to the limitations of Section 3 hereof. The receipt of the Township Clerk for such payments shall be deemed to be the license of such applicant for any calendar year in which such receipt is issued.

Section 3. Revocation and Cancellation of License

In the event the Township Board is reasonably certain that any licensee under this Chapter shall have violated any of the provisions hereof or of the Code or Zoning Ordinance, the Township Board shall cancel and revoke the license of such licensee forthwith. Such licensee, at any time thereafter may re-apply for a new license under the same conditions and regulations applicable to any other applicant.

Section 4. Location

No person, firm or corporation licensed under this act, nor any other persons, shall operate, establish or maintain a used car lot, or any part thereof, within a distance of fifty (50) feet of the center of any traveled street or thoroughfare.

Section 5. Sign

Any licensee under this act operating, establishing and maintaining a used car lot shall display on the premises used therefore, a sign clearly visible to persons doing business with said licensee, stating the owner of said used car lot. The sign so displayed shall be a minimum of ten (10) square feet, with letters sufficiently large to be clearly readable at a distance of 100 feet.

Section 6. Buildings

All buildings erected or to be erected on the licensed premises of any licensee hereunder shall have a ground floor area of not less than 100 square feet. The use of any tents, shacks, or other out buildings of a temporary nature by any licensee on the licensed premises is expressly prohibited.

Section 7. Condition of Premises

Any licensee hereunder shall at all times keep his, hers or its licensed premises in a clean, neat and orderly condition. Any licensee hereunder who elects to cease operations, either temporarily or permanently, shall first remove from his premises all debris of whatever kind and description and shall leave said premises in a clean and orderly condition.

Chapter 8 – MARIJUANA ESTABLISHMENTS AND FACILITIES

Section 1. Title

This Chapter shall be known and may be cited as the “Charter Township of Eureka Marihuana Establishments and Facilities Ordinance.”

Section 2. Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“**IHRA**” – means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*

“**Marihuana establishment**” – means that term as defined in the MRTMA.

“**Marihuana facility**” – means that term as defined in the MMFLA.

“**MMFLA**” – means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.

“**MMMA**” – means the Michigan Medical Marihuana Act, 2008 IL 1, as amended.

“**MRTMA**” – means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

Section 3. Marijuana Establishments and Facilities Prohibited

- a) Pursuant to Section 6 of the MRTMA, marihuana establishments are prohibited within the boundaries of the Township.
- b) Marihuana facilities are also prohibited within the boundaries of the Township.

Section 4. Rights Unaffected by this Chapter

- a) This Chapter shall not affect the rights or privileges of any individual or other person under Section 5 of the MRTMA.
- b) This Chapter does not affect the rights or privileges of a marihuana facility outside of the Township to engage in activities within the Township that it is permitted to engage in under the MMFLA within a municipality that has not authorized marihuana facilities to operate within its boundaries.
- c) This Chapter does not affect the rights or privileges of registered qualifying patients or registered primary caregivers under the MMMA or the MMFLA.
- d) This Chapter does not affect the rights or privileges of any individual or other person under the IHRA.
- e) This Chapter does not affect the rights or privileges of any individual or other person under any other federal or state law, rule or regulation related to the medical use of marihuana.

Chapter 9- FIRE PREVENTION AND SUPPRESSION, POLICE PROTECTION, AND EMERGENCY VEHICLES

Section 1. Title

The Title of this Chapter is the “Eureka Charter Township - Fire Prevention and Suppression, Police Protection, and Emergency Services Ordinance.”

Section 2. Purpose

Its purpose is to identify methods and regulations for the safeguarding of life and property from the hazards of fires, explosions, environmental emergencies, and for providing enhanced Police Protection and Emergency Services within Eureka Charter Township.

Section 3. Definitions

“**Approved Burning Barrel**” – A container constructed of either metal or masonry with a metal covering device that does not have an opening greater than $\frac{3}{4}$ ”.

“**Campfire**” – A small outdoor fire intended for recreation or cooking which is outlined with brick, stone or other noncombustible material to contain the fire but not including a fire intended for disposal of waste, wood or refuse.

“**Clean Wood**” – Natural wood which has not been painted, varnished or coated with a similar material, has not been pressure –treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

“**Construction and Demolition Waste**” – Building waste materials, including but not limited to roofing shingles, insulation, treated wood, painted wood, wiring, plastics, packaging and rubble that results from construction, remodeling, repair and demolition operations on a house, commercial or industrial building or other structure.

“**Disaster Response**” – Responding to an emergency call including possible environmental, biological, or chemical releases which may pose a risk to human life, real or personal property, or the environment.

“**Emergency Services Organization (ESO)**” – Any public or private, governmental, or military organization that provides emergency response, fire suppression, and related activities.

“**Enhanced Police Protection**” – The use of trained deputized officers with a fully equipped police car, to operate solely within the geographical area of Eureka Charter Township to provide enhanced enforcement of State statutes, Township chapters, and timely response to protect the residents of Eureka Charter Township.

“**Fire Containment**” – The elimination and control of uncontrolled fires which are likely to cause danger to human life or damage to real or personal property or the environment.

“**Fire Suppression**” – The elimination of the process of burning or combustion.

“**HAZMAT Containment**” – To control and eliminate the release of a biological, chemical or any other potentially harmful substance and prevent further exposure to human life, real or personal property, or the environment.

“**HAZMAT**” – Hazardous Materials

“Municipality” – County, Township, City or Village.

“Open Burning” – Maintaining a fire where the products of combustion are emitted directly in ambient air without passing through a stack or chimney. (Approved camp fires and burning barrels with a grate to keep cinder from entering the air are exempt.)

“Outdoor Burning” – Open burning or burning of materials outside of an approved campfire, burning barrel, outdoor wood fired boiler or patio wood burning unit.

“Refuse” – Any waste material other than trees, logs brush, stumps, leaves or grass clippings.

“Rescue” – To set free, as from danger.

“Vehicle Extrication” – To release an occupant in a vehicle from an entanglement within the vehicle.

“Zoning Administrator” – The Eureka Charter Township Zoning Administrator hired by the Eureka Charter Township Board to manage the Eureka Charter Township Zoning Ordinances.

Section 4. Codes and Standards

Eureka Charter Township shall use, at a minimum, the following standards and codes to provide for inspection, and other services within the township.

- Michigan Residential code as amended
- Michigan Building Code as amended
- NFPA 101 Life Safety Code current adopted edition
- NFPA 72 National Fire Alarm Code as amended
- Act 203 of 1965 Commission on Law Enforcement Standards Act.
- Michigan Rehabilitation Code for Existing Buildings
- NFPA 1201 Standard for providing Emergency Services to the Public

Section 5. Plan Review and Inspections of Buildings and Premises for Fire Safe Conditions

- a) Eureka Charter Township shall review or make arrangements for review of all new construction documents prior to issuance of a building permit for fire safety compliance with the Michigan Residential Code (Residences), Michigan Building Code (Commercial), Michigan Rehabilitation Code for Existing Buildings, NFPA 101 National Life Safety Code current adopted edition, and the NFPA 72 National Fire Alarm Code as amended.
- b) Eureka Charter Township shall inspect or make arrangements for inspection, prior to issuance of a Certificate of Occupancy, all new construction in the Township for fire safety compliance with the Michigan Residential Code (Residences), Michigan Building Code (Commercial), NFPA 101 National Life Safety Code current adopted edition, Michigan Rehabilitation Code for Existing Buildings, and the NFPA 72 National Fire Alarm Code as amended.
- c) Eureka Charter Township shall inspect or make arrangements for inspection of, all existing buildings and premises in the Township if use conditions or complaints arise as to fire safety violations which could pose a fire threat to real or personal property or human life. Any Fire Safety code or Fire Safety standard violations identified during inspection shall immediately be given to the property owner in writing. The violation must be corrected within 30 days or a Citation may be issued for violation of this Chapter. Such violations

will be cited from the Michigan Residential Code, Michigan Building Code, NFPA 101 Life Safety Code, NFPA 72 national Fire alarm Code, or the Michigan Rehabilitation Code for Existing Buildings.

Section 6. Fire, Disaster Response, and Hazmat Containment

- a) The Eureka Charter Township Board shall make provisions for fire suppression and other necessary fire fighting and emergency response services for Eureka Charter Township. In the event a contract for these services is terminated, these services will be obtained from another properly equipped ESO.
- b) Fire Suppression and other necessary firefighting and emergency services shall be provided pursuant to the *NFPA 1201 Standard for providing Emergency Services to the Public*, and other prevalent fire prevention codes adopted by the State of Michigan.
- c) If an open burn requires an emergency response in the township, and a permit has not been issued by the Township, the owner, person responsible for the fire, or both may be cited for an infraction of this Chapter and may be subject to fines, court costs, and reimbursement for suppression of the fire. If a contracted ESO provides these services to the Township, the ESO shall provide the Township with a total cost for this run, which will include labor and material costs for purposes of establishing a fair value to bill the person in violation of this Chapter.
- d) If Emergency equipment is called to a vehicular accident where Emergency Services are required for fire suppression, vehicle extrication or HAZMAT containment and a ticket is issued, the Township or contracted ESO may issue a citation for those responsible for the accident. Those cited may be subject to fines, court costs and reimbursement for equipment and labor used to provide emergency services, extraction of people, or for HAZMAT containment.

Section 7. Enhanced Police Protection

Per the State of Michigan Public Act 35 of 1951 Compiled Laws 1948 , Section 124.1 being M.S.A. 5.4084, the Eureka Charter Township Board may provide for enhanced public safety and police protection consisting of trained deputized officers with a fully equipped police car to operate within the geographical area of Eureka Charter Township. Hours of operation shall be set by the township board to provide basic levels of service normally provided by the local County Sheriff Department. These enhanced services are to be conducted solely within the Eureka Township geographical area. Such services shall include the enforcement of State statutes and Township Chapters that are of the same type or nature as State statutes enforced within the unincorporated Territory of Montcalm County. Enhanced Police Protection may be funded through voter-approved millage. In the event a contract for these services is terminated, and funding is available, these services will be obtained from another properly equipped Police Department as long as funding is available.

Section 8. Open Burning

- a) Open, outdoor, and refuse burning are prohibited in Eureka Charter Township unless the burning is specifically permitted by this section:
- b) Open burning of refuse within all Zoning Districts is permitted if all of the following conditions are met:

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1. The burning does not create a nuisance
 2. The burning is conducted in an approved burning barrel
 3. The material being burned is not prohibited under Subsection C.
- c) Open burning of the following refuse material is prohibited in all Zoning Districts:
1. Construction and Demolition waste that is coated with any product to protect the wood.
 2. Hazardous substances, including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes and solvents.
 3. Furniture and appliances.
 4. Tires.
 5. Any plastic materials included but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 6. Treated or painted wood, including but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- d) The open burning of trees, logs, brush, stumps, leaves and grass clippings is allowed only in accordance with all of the following provisions:
1. With the exception of campfires and approved burning barrels as identified under the definitions in Section 3. 8 and 3. 18, a permit must be obtained in accordance with Section 8.F. of this Chapter prior to open burning under this section.
 2. Open burning of trees, logs, brush and stumps must be conducted at least 1,400 feet from an incorporated city or village limit.
 3. With the exception of barbecues, gas or charcoal grills, no open burning shall be undertaken during periods when the Governor of Michigan has issued a burning ban applicable to the area.
 4. All permitted open burning shall be conducted in a safe nuisance-free manner when wind and weather conditions minimize adverse effects and do not create a health or visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.
 5. Open burning shall only be conducted at a distance of at least 100 feet from the nearest building which is not on the same property.
 6. With the exception of campfires, open burning shall only be conducted between the hours of 8:00 a.m. and 8:00 p.m.
 7. Open burning shall be continuously attended and supervised by a competent person of at least 18 years of age until the fire is extinguished and cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.
 8. No materials may be burned upon any street, sidewalk, or on the ice of a lake, pond, designated wetland, stream, or other body of water.
 9. Except for barbecues, gas or charcoal grills, or approved burning barrel, no open burning shall be undertaken within 25 feet of any combustible material, combustible wall or partition, exterior window opening, or building access or exit.
 10. No open burning shall be conducted on days when the Department of Environmental Quality has declared an air quality action day or burning ban applicable to the County of Montcalm.

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- e) Agricultural Burning of brush and crop stubble on agricultural lands is allowed if conducted in accordance with other applicable provisions of this Chapter and a permit is issued.
 - f) Burning Permits:
 - 1. No person shall start or maintain any outdoor burning or open burning without a burning permit issued by the Eureka Township Zoning Administrator or other persons authorized by the Township Supervisor.
 - 2. Any person issued a permit for burning by the Eureka Township Zoning Administrator shall contact the Montcalm County Dispatch before starting the fire.
 - 3. Burning in properly installed campfires, and approved burning barrels, with appropriate screening on top, does not require a permit provided that the fire complies with all other applicable provisions of this Chapter.
 - 4. When weather conditions warrant, the Zoning Administrator or other persons authorized by the Township Supervisor may temporarily suspend issuing burning permits and may temporarily suspend previously-issued permits for open burning.
 - 5. A burning Permit issued under this section shall require compliance with all applicable provisions of this Chapter and any additional special restrictions deemed necessary to protect public health and safety.
 - 6. Any violations of the conditions of a burning permit shall be deemed a violation of this Chapter. Any violation of this Chapter or the burning permit shall void the permit.
 - g) Liability
 - 1. A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

Section 9. Contracting for Services

The Eureka Charter Township Board may contract for inspection, ESO and Enhanced Police Protection services, and may seek voter approval of additional millage to fund these services.

Chapter 10 - MINING

Section 1. Title

The title of this Chapter is the “Eureka Charter Township Mining Ordinance”

Section 2. Intent and Purpose

It has been recognized that there are activities and impacts which require regulation due to the noise, dirt, dust, temporary and permanent changes to the topography and environment and other negative impacts which are inherent in mineral mining operations. It is the intent of the Township to regulate, inspect and monitor mining operations within the Township in order to minimize the existence of dangerously steep slopes, shifting earth, impairments or pollution of ground water, water table, surface water, and the watershed, and to protect the air, water and natural resources and the public trust therein, and the health, safety and general welfare of the residents of Eureka Charter Township. To meet these objectives, such mineral mining operations shall be licensed by the Township and the fees required for licensure shall be utilized to offset the costs and expense of monitoring, inspection and administration under this Chapter. This Chapter is enacted by the Eureka Charter Township Board pursuant to the authority vested in it by Act 246 of the Public Acts of the State of Michigan for 1945, as amended (being MCL 41.181 *et seq.*), MCL 42.15 *et seq.*, and any other authorization legislation.

Section 3. Interpretation

It is not the intention of this Chapter to repeal, annul, or in any way repeal any existing law or ordinance unless expressly so stated in this Chapter. Furthermore, it is not the intention of this Chapter to unreasonably interfere with mining operations already existing, except that this Chapter sets forth minimum standards which shall apply to all such existing operations as well as new and future operations. To the extent that any restrictions or standards imposed by this Chapter are more stringent or restrictive than existing restrictions or standards, this Chapter shall control.

Section 4. Definitions

For the purposes of this Chapter, the following words, terms and phrases shall have the following meanings:

“**Active Mining Site**” – A mining site that was active as of the date of enactment of this Chapter (i.e., had mined or removed more than 10,000 cubic yards of minerals or mined materials during any of the three (3) calendar years immediately prior to the enactment of this Chapter).

“**Aggregate Crushing**” – The pulverizing, splitting, grinding, or cutting of rocks and stone mined from or found on site for use in producing gravel for construction of roads and other structures.

“**Expanding to a new development area**” – The extension or expansion of a mining operation or mining to a new or different parcel or lot upon which no mining had occurred before or during the prior 30 years.

“**Inactive Mining Site**” – A mining site that is not an active mining site. A mining site that had not mined or removed at least 10,000 cubic yards of minerals or mined materials in at least one of the three (3) calendar years immediately prior to the enactment of this Chapter.

“**Licensed Operator**” – The person(s) who obtain a license under this Chapter.

“Mining or mineral extraction” – The excavation, digging, mining, removal and/or processing of peat, earth, gravel, sand, clay, top soil, stone or other soils or materials, including overburden, or the storage or transporting of such items on, to or from a mining site, or the reclamation of the site after removal or excavation of such items. For the purposes of this Chapter, the following excavation or other activities are not included within the definition of mineral extraction or mining:

1. Excavation approved and conducted by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or publicly operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited solely to the public utility or improvement. Notwithstanding the preceding, any excavating, removal and/or processing of minerals which occurs in conjunction with the creation of a new public road or modification of an existing public road where the existing grade is modified or disturbed to more than three (3) feet from its present elevation or where such mining in excess of 500 cubic yards will occur beyond the boundaries of the road right-of-way, shall be considered mineral extraction or mining.
2. Excavation which by its nature is of limited scope and duration and which is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of constructing or installing buildings, septic tanks, swimming pools, graves, etc., so long as no more than 1000 cubic yards of material are mined or excavated in total.
3. Excavation in conjunction with commercial farming operations conducted in accordance with generally accepted agricultural practices, including agricultural drainage work incidental to farming operations and irrigation or stock watering ponds, if no material is removed from the property.
4. Other excavations not exceeding 5000 cubic yards in total where the Planning Commission determines, in its sole discretion, that the proposed excavation is unlikely to unreasonably interfere with the enjoyment of life or property and will not expose any person or property to the types of dangers inherent in mineral extraction or mining sought to be prevented by this Chapter. The Planning Commission’s determination may be based on a review of the purpose, location, extent or duration of the proposed excavation and other factors which may bear on the potential of any excavation activity to adversely affect the public health, safety, or general welfare of the community.
5. The transport or storage of mined materials (or materials frequently associated with mining operations) shall not be deemed “mining” or part of a “mineral extraction” if the materials transported or stored are not combined with minerals mined from the site to which the materials are transported or on which the transported materials are stored. The activity of transporting or storing mined materials that are not combined with other materials mined from the site to which the transporting occurs (or on which the transported materials are stored) shall constitute an industrial use and will not be considered mining or mineral extraction.

“Mining Site” – A site or property where mining or mineral mining occurs (whether dormant or active).

“Person” – Any person, firm, corporation, limited liability company, association, owner, operator, tenant, lessee, or other entity.

“Processing” – The crushing, blasting, sifting, washing or mixing (including mixing with crushed concrete, crushed asphalt, peat, clay, or other materials or chemicals) of sand, gravel, stone, or aggregate.

“Rubble Crushing” – The processing, pulverizing or grinding of concrete, asphalt or other solid materials brought into or onto the site from elsewhere for reuse on roads and other construction.

“Site” – A parcel, property, lot or unit of land.

“Topsoil” – The upper part or surface layer of the native soil before being disturbed by human alteration. Topsoil is usually black in color and rich in organic material.

“Township” – Eureka Charter Township.

“Township Board” – The Eureka Charter Township Board.

“Township Planning Commission” – The Eureka Charter Township Planning Commission.

Section 5. License Required

A. After January 14, 2013, no person shall commence, own, lease, keep, maintain, or operate a new mineral mining site in the Township or engage in mining within the Township except in full compliance with this Chapter and with a license issued under this Chapter. A license issued pursuant to this Chapter shall be nontransferable. All mining or mineral mining operations which existed in the Township as of January 14, 2013 (whether active or dormant) shall obtain a license from the Township under this Chapter and shall bring their operations into compliance with all of the requirements of this Chapter no later than June 1, 2013. Failure to obtain a license by June 1, 2013, shall constitute a violation of this Chapter.

Until a mining operation or mining site has been fully reclaimed, it shall be the responsibility of the owner of the property (as well as the operator of the mining operation, if different than the owner) to ensure that the license required under this Chapter is in effect at all times. It shall be a violation of this Chapter for the owner or operator of a mining site to allow a license hereunder to expire prior to reclamation being fully completed (and as the Township has approved the reclamation). Dormancy of a mining operation or mining site or the cessation of active mining without full reclamation (as approved by the Township) shall not relieve the owner and operator of the obligation to have a license under this Chapter in effect at all times.

If a license is revoked by the Eureka Township Planning Commission pursuant to Section 31 of this Chapter prior to reclamation being fully completed to the requirements of this

Chapter, all mining, processing and mining operations shall cease on the property (except for prompt reclamation efforts) until a new license has been issued.

If a license expires prior to reclamation being fully completed to the requirements of this Chapter, all mining, processing, and mining operations shall cease on the property (except for prompt reclamation efforts) until a new license has been issued by the Township.

If any mine or mining operation is dormant after the effective date of this Chapter for over eighteen (18) months, reclamation shall be undertaken by the Licensed Operator immediately and shall be fully completed within one hundred twenty (120) days thereafter.

Section 6. Licensing Procedure

- A. All applicants for a license under this Chapter shall use forms provided by the Township Clerk, accompanied by the documents required by that form and this Chapter. Except as otherwise provided below for new mining operations, all licenses are for ten (10) years and all licenses expire on May 15 of the applicable year. Licenses are nontransferable. To be considered for renewal, two (2) copies of the proper application (with required attachments and fee(s)) must be submitted to the Township Clerk on or before January 15 of the year in which the license expires. Upon receipt of the two (2) copies of the fully and properly completed application form together with the required documents attached and fee(s) paid to the Township, the Township Clerk shall retain an official copy in the Township Clerk's office and shall forthwith distribute the remaining copy to the Township Zoning Administrator. For any new mining operation (i.e., one that is not an active or inactive mining site or operation), the initial license shall be for three (3) years. Thereafter, the renewal (and any subsequent) license shall be for ten (10) years.
- B. Upon receipt of a fully complete application and all required fees and attachments, the Township Zoning Administrator shall review the application and attachments, physically inspect the premises to determine compliance with the prior reclamation plan(s) and operational plan(s) (if any), and report to the Planning Commission in writing on such compliance. The Township Zoning Administrator shall also estimate the cost of reclamation upon abandonment for monetary security amount purposes, and shall make such additional comments to the Planning Commission regarding general safety, drainage, equipment removal, and other engineering considerations pertaining to the license application as appropriate.
- C. The Planning Commission shall give final approval, approval with reasonable conditions, or disapproval of the submitted reclamation plan, operational plan, and the license.
- D. Before approving a new license or license renewal under this Chapter (or issuing any approval pursuant to this Chapter), the Planning Commission shall find that all of the following standards and requirements will be met for the mining use or operation, as well as the mining site:
 - 1. All requirements of this Chapter will be met, as well as all requirements of any other applicable Township chapters.

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2. The use will not have significant negative impacts upon any adjoining properties or uses.
 3. The use will be reasonable.
 4. The use will not negatively impact the groundwater or any nearby lake, stream or wetland.
 5. The use will not have significant negative impacts upon traffic safety or the quality of area public roads.
 6. The use will not have significant negative impacts upon the environment.
 7. The use will be reasonably safe.

Section 7. Application Contents

Every application for a license shall contain all of the following:

- A. Name of all of the owner(s) of the land from which removal is to be made or upon which mining operations will take place.
- B. Name and address of the applicant(s) making the request for the license.
- C. Name and address of the person, firm or corporation who will be conducting the actual removal and/or processing operation.
- D. Location, size, and legal description of the area from which the removal and/or processing is to be made.
- E. Type of materials or resources to be mined, stockpiled, processed or hauled away.
- F. Proposed method of removal, processing and general road haul route.
- G. General description of the types of equipment to be used.
- H. The estimated number of years to complete operations and number of phases where appropriate.
- I. Security:
 1. The applicant shall post a surety performance bond, cash deposit or irrevocable letter of credit naming the Township as the beneficiary thereof in a form and in an amount determined by the Planning Commission to be reasonably necessary to ensure compliance with all license and Chapter requirements (“security”), including reclamation and repair of damage to any public roads. The Township shall also approve the form of the security and the bank or financial institutions supplying the security. Mined material and other items shall not be used for such

security. Upon completion of the applicant's activities on the parcel, lot or land described in the application and the land has been reclaimed to the approved reclamation plan and to the satisfaction of the Planning Commission, the security shall be void; otherwise, the Township shall have the right to use the security proceeds to the extent necessary to reclaim the property and to comply with all other Chapter and any license requirements. This security shall be kept in effect at all times by the applicant until the parcel, lot or land has been fully restored as required by this Chapter and license or until such time that the Township (and its agents and contractors) is able to go on the applicant's premises to fulfill the security requirements. No security shall be discharged, returned or voided until the Township deems full compliance to have occurred. In fixing the amount of security, the Planning Commission shall take into account the size and scope of the proposed operation, current prevailing costs of reclaiming the premises upon default of the operator, and such other reasonable conditions and factors as might be relevant in determining what sum is reasonable in light of all facts and circumstances surrounding each application. The applicant shall notify the bank or financial institution providing the security and provide proof thereof that the Township be notified in the event of any lapse in the effectiveness of the security. The amount of the security shall apply to all lands occupied by mining areas, roadways, storage areas, equipment, stockpiles, and similar elements.

2. Active mining sites are exempt from the requirement for a performance bond, cash deposit or irrevocable letter of credit naming the Township as the beneficiary, if all of the following requirements are met:
 - (a) The Licensed Operator must demonstrate to the Township on an annual basis that there is sufficient topsoil onsite to reclaim all portions of the site that have been mined or disturbed in compliance with Section 20.0 of this Chapter.
 - (b) The Licensed Operator must annually file with the Township a letter from a certified public accountant licensed in the state of Michigan or a registered Michigan accounting firm stating that the Licensed Operator is solvent and has sufficient resources to fully reclaim the property pursuant to the requirements of this Chapter.
 - (c) The area involving the mining for which the exemption from the security requirement is claimed is located on a lot or parcel upon which mining was actively occurring on the date that this Chapter was enacted.
 - (d) There were no substantial violations of this Chapter on the site involved during the prior calendar year for which a court of competent jurisdiction found the Licensed Operator responsible or guilty.

If any of the above requirements, being (a) through (d), inclusive, is not met for a given calendar year, then the Planning Commission shall have the authority to require that the Licensed Operator post the security specified in Subsection 1 above and that such mining

site be treated as a new mining operation thereafter for purposes of the security requirement.

J. Plan of Operations

1. New Operations. As a part of the application, the applicant shall submit to the Township a plan of operation for approval by the Planning Commission prepared by a civil engineer or surveyor licensed by the state of Michigan and the applicant shall fully comply with the approved plan over the 10-year (or 3-year where applicable for a new mining operation or site) time period for which the license is issued. Said plan of operation shall include a topographic survey of the existing parcel, lot or land drawn to a scale of 1 inch = 50 feet for all sites or phases of excavation less than fifty (50) acres in area and not less than 1 inch = 100 feet for all sites or phases greater than fifty (50) acres and prepared by a registered civil engineer or registered land surveyor with contour intervals not to exceed five (5) feet based upon U.S.G.S. datum. The drawing shall also clearly show the area to be mined, including existing areas and roads within 100 feet of all property lines, areas for stockpiling, maintenance areas, berms, any proposed lake or pond, processing areas, fencing, and similar use areas. The plan of operation shall be accompanied by a projected schedule of mining operations, including the following specific dates:

- (e) Commencement and completion of mining and processing operations as provided by the plan of operation;
- (f) Commencement and completion of erosion and drainage control measures to be instituted during mining operations; and
- (g) Commencement and completion of fencing, roads, utilities, or any other structures or improvements to be located on the site as provided by the plan of operation.

2. Active Mining Sites.

As part of the license application, the Licensed Operator of an active mining site shall file with the Township the plan of operation specified in Subsection 1 above, but that document need not be prepared by a registered civil engineer or registered land surveyor. However, to the extent that the mining or mining operations of an active mining site expands onto another parcel or lot upon which active actual mining was not occurring at the time of the enactment of this Chapter, the plan of operation for such expanded or extended operations must comply with Subsection 1, above.

K. Reclamation Plan.

1. Generally.

The applicant shall also submit to the Township for approval by the Planning Commission a plan of reclamation prepared by a civil engineer or surveyor licensed by the state of Michigan. The plan of reclamation shall be submitted in three parts: (1) a recent aerial photograph with a general plan of reclamation as an overlay or as a separate drawing; (2) a reclamation contour plan; (3) and a description of reclamation methods and materials proposed for renewal of topsoil and replanting. The general plan of reclamation shall be presented at the same scale as the aerial photograph and shall provide all of the following information:

- (a) The general area of completely reclaimed land.
- (b) The general area of reclamation under way.
- (c) The general area currently used for topsoil and overburden storage.
- (d) The general area proposed for reclamation during the three year period of the license and for final reclamation.
- (e) The general area proposed for topsoil and overburden storage.
- (f) The acreage for each item shown on the overlay or separate drawing.
- (g) If a lake or pond is to be created, details of the same, including depth contours.
- (h) A reclamation contour plan with contour intervals not to exceed two (2) feet indicating the general grade and slopes to which excavated areas are to be reclaimed.
- (i) A description of the methods and materials proposed for restoration of topsoil to the required fertility and the amount of any type of planting as a part of the reclamation plan.
- (j) The projected schedule of reclamation operations, including the following specific dates:
 - (1) Commencement and completion of reclamation operations as provided by the reclamation plan;
 - (2) Commencement and completion of erosion and drainage control measures to be instituted under the reclamation plan; and
 - (3) Commencement and completion of final grading, topsoil replacement, and replanting or landscaping as provided by the reclamation plan.

2. Active Mining Sites.

As part of the license application, the Licensed Operator of an active mining site shall file with the Township the plan of reclamation specified in Subsection 1 above, but that document need not be prepared by a registered civil engineer or registered land surveyor. However, to the extent that the mining or mining operations of an active mining site expands onto another parcel or lot upon which active actual mining was not occurring at the time of the enactment of this Chapter, the plan of reclamation for such expanded or extended operations must comply with Subsection 1, above.

- L. Mining operational and reclamation plans shall be prepared to clearly depict and describe the sequence of mining operations including existing conditions, mining underway, mining completed, reclamation underway, reclamation completed, mining proposed, reclamation proposed, stockpiles, roadways, any lakes or ponds, and similar land use elements.
- M. All mining, operational and reclamation plans shall be reviewed by the Planning Commission and shall be subject to its approval, approval with reasonable conditions, or disapproval, renewal or nonrenewal together with the approval or denial of a license or a license renewal.

Section 8. Fees

Application, inspection, escrow, and permit fees for this Chapter shall be set by the Township Board from time to time by resolution. Such sums shall be used to defray the cost of Township engineering, legal, and planning services, as well as investigation, enforcement, publication charges, and other miscellaneous administrative costs and expenses occasioned by processing applications under this Chapter.

Section 9. Issuance of a License; Effect

- A. Upon finding that the applicant has complied with all of the terms and conditions of this Chapter, other applicable chapters and laws, and with the terms and conditions of prior licenses and prior submitted plans, if any, a license shall be issued by the Planning Commission.
- B. The issuance of a license by the Planning Commission pursuant to this Chapter does not negate the requirement that both the applicant and property owner must still comply with the Eureka Charter Township Zoning Ordinance, all other applicable Township chapters, and all other applicable county, state, and federal laws and regulations. Pursuant to the issuance or renewal of a license under this Chapter, the Planning Commission is without authority to approve a use, structure, or item that is unlawful under the Eureka Charter Township Zoning Ordinance or any other Township chapter or code.

Section 10. Conditions in a License; Performance Guarantees

- A. Upon the issuance or renewal of a license, the Planning Commission may impose as conditions of the license any reasonable restrictions or requirements related to the location, design or operation of a mining site, or other relevant facts, as are required to secure the public health, safety, and general welfare of the community or to ensure that the mining operations will not create a nuisance or unreasonably interfere with the enjoyment of life

or property. Such license conditions may be in addition to the express requirements of this Chapter.

- B. The Planning Commission shall require (unless specifically exempted in this Chapter under Section 7.0(I)(2)) that the Licensed Operator post or file with the Township a cash deposit, bond, or irrevocable letter of credit (in amounts, with language, and from a financial institution that are all approved by the Township) to ensure full compliance with this Chapter, any license issued hereunder, all reclamation requirements, and the payment of all escrow and other fees.
- C. In addition to other reasonable conditions, the Planning Commission may set a reasonable time limit for when all mining and related operations must be fully completed on a property and when reclamation must be commenced and completed.

Section 11. Fencing and Signage

- A. All excavated and mined areas shall be entirely fenced with a minimum four (4) foot high fence and shall be posted with appropriate signs so as to indicate the danger of trespassing in the mining area. Such signs shall be spaced a maximum of one hundred (100) feet apart. The minimum specifications for said fencing shall be as follows: #12 gauge top wire; #12 gauge bottom wire, with spacing of 6 inches by 12 inches. All stays shall be of 14 gauge wire, with spacing of support posts to be no greater than 16 feet apart. Gates shall be kept closed and locked when work is not occurring onsite. Generally, such fencing will be perimeter fencing and need only enclose excavated and mine areas that have not yet been fully reclaimed.
- B. Temporary slopes or hills need not have separate fencing so long as the perimeter fencing is in place under Subsection A above (or there is a waiver under Subsection C below) and the Licensed Operator keeps the temporary slopes and hills in a reasonable condition and at a safe slope.
- C. The Planning Commission may waive or modify the fencing requirements specified in Subsection A above, for an active mining site for part or all of that mining site, if the Planning Commission finds that any of the following requirements are met:
 - 1. There is not enough land in the area at issue (located between a boundary line and a mining area that occurred prior to the enactment of this Chapter) upon which to place such fencing or the area at issue is between two mining operations.
 - 2. The Licensed Operator has proposed a reasonable and safe alternative to such fencing which will be implemented.
 - 3. The mining site is so located that it is unlikely that the mining areas will be an attractive nuisance or be trespassed upon.
 - 4. The portion of the mining site at issue borders another active mining site.

Section 12. Hours of Operation

- A. Except for active mining sites as addressed in Subsection B below, the hours of operation of a mining operation shall be limited to 7:30 a.m. to 6:00 p.m., Monday through Friday, inclusive, and 7:30 a.m. to Noon on Saturdays. No mining, loading or transport operations whatsoever shall occur on Sundays, holidays (Christmas, Thanksgiving, Labor Day and Memorial Day) or during the hours outside of those expressly allowed in this Subsection. Mining operations may occur on a Sunday or holiday if approved in writing beforehand for a specific date or dates by the Zoning Administrator.
- B. The hours of operation of any active mining site shall be limited to 5:00 a.m. to 10:00 p.m., Monday through Saturday, inclusive. Notwithstanding such hours and day limitations, for an active site, the following activities may occur at all times:
1. The moving, heating, and loading of materials entirely onsite.
 2. Trucks and other vehicles transporting materials to and from the site.

No operations whatsoever, including loading, heating, and the transport of materials, shall occur on Sundays, Christmas or Thanksgiving Day unless approved in writing beforehand for a specific date or dates by the Zoning Administrator.

Section 13. Road Access

All sites licensed under the provisions of this Chapter shall have direct access to an improved county road having a minimum right-of-way width of 66 feet and improved to the specifications of the Montcalm County Road Commission. When the operation of a licensed mining site results in mined material, overburden and/or similar material being deposited or spilled upon the public roadway, it shall be the responsibility of the Licensed Operator to remove such material immediately. The Licensed Operator shall also be responsible for reimbursing the Montcalm County Road Commission, the Township and state of Michigan for any damage which the mining operation or its haul trucks do to public roads.

Section 14. Road Maintenance

Access roads within a licensed site shall be maintained by the operator of the site so as to minimize the dust arising from the use of said roads. Such maintenance shall be accomplished through the application of chloride, water and/or similar dust retardant material. Application of oil shall be prohibited. Entrances, exits and any access points shall be securely locked at all times during hours of inoperation.

Section 15. Operation

All equipment and facilities used in the mining and processing of sand, aggregate, gravel, and stone shall be conducted, maintained, and operated in such manner as to minimize noises, vibrations, or dust which unreasonably interfere with the use and enjoyment of surrounding properties.

Section 16. Transportation Vehicle Standards

All vehicles used to transport excavated material shall be required to be loaded in such a manner that the material may not be unintentionally discharged or spilled from the vehicle. Vehicles shall be cleaned of all material not in the load-bed prior to entering any public road.

Section 17. Lighting

All lighting used to illuminate the mining area, access roads, stockpile area, and similar use areas shall be directed away from all surrounding properties. Shielding of lighting may be required by the Planning Commission where such lighting would otherwise shine directly toward a residential use and/or a county road.

Section 18. Processing

- A. Crushing may occur on site when in compliance with this Chapter and if approved by the Planning Commission as part of the license approval process.
- B. To reduce the effects of airborne dusts, dirt, and noise, processing plants and related equipment shall be kept, stored, and used at least 250 feet away from all property lines and any public road right-of-way or private road easement. Such 250-foot setback shall not apply where another active mining site is located immediately adjacent to the area where the processing plant and related equipment are to be located on the mining operation at issue. Such 250-foot setback requirement may be reduced by the Planning Commission for any active mining site provided that the Planning Commission finds that all of the following standards will be met:
1. The location of the processing plant and operations will not be a nuisance to neighboring uses or users of land nor emit unreasonably loud noises beyond the parcel or lot upon which the processing is occurring.
 2. The processing operation will not cause unreasonable vibration to be felt beyond the lot or parcel upon which the processing is occurring.
 3. Dust from the processing operation will not settle on any residential dwellings in measurable quantities (apart from any dwelling owned by the Licensed Operator).
- C. There shall not be more than 10,000 cubic yards of non-crushed rubble (concrete, asphalt or similar solid materials) kept or stored on site at any one time.
- D. If the Planning Commission approves processing on site, the Planning Commission may attach reasonable conditions to any such approval regarding processing, which reasonable conditions can include, but are not limited to, the following:
1. Additional limitations on hours and days of the week regarding when processing can occur.
 2. The specific location or locations on site where processing can occur.
 3. The type and amounts of materials that can be used in such processing.

Section 19. Drainage

Proper drainage shall be provided at all times to prevent the collection and stagnation of water, and surface water shall at all times be directed in such a manner so as not to interfere with the use of adjoining properties; provided, however, that the maintenance of the natural flow of surface water shall not be deemed to be an interference. There shall be no interference with the water table or wells in the area. Any water areas, retention ponds, settling ponds or similar water areas shall be fenced where applicable under Section 11.0 of this Chapter. Erosion control measures shall be instituted to comply with Act No. 347 of the Public Acts of 1972, as amended.

Section 20. Topsoil

- A. Sufficient topsoil shall be stockpiled on the site so that the entire site, when stripping and mining operations are completed, may be re-covered with a minimum of four (4) inches of topsoil for all mined and disturbed areas during reclamation and the replacement of such topsoil shall be made immediately following the termination of the stripping operations. All reclaimed areas shall have at least four (4) inches of topsoil on top at all places.
- B. If an active mining site does not have sufficient topsoil on site as of the date of enactment of this Chapter, the Planning Commission may allow the mining operation to proceed without the required stockpile of topsoil from the past as specified in Subsection A above, so long as all of the following requirements are met:
1. The Licensed Operator posts sufficient security with the Township pursuant to Subsection 7.0(I)(1) of this Chapter to ensure that all mined or disturbed areas will be covered with at least four (4) inches of topsoil at the time of reclamation, or alternately, provides a written plan to the Planning Commission that convinces the Planning Commission that the Licensed Operator will be able to provide sufficient topsoil to comply with Subsection A above, when final reclamation occurs.
 2. Prior to any portion of the mining site being sold or transferred to any third party (other than another mining firm or mining business), full reclamation shall have occurred for all such land proposed to be sold or transferred, including the application of at least four (4) inches of topsoil in full compliance with Subsection A, above.
 3. All topsoil removed or stripped after the enactment of this Chapter shall be stored on site for reclamation unless the Zoning Administrator certifies in writing that there already is sufficient topsoil stockpiled on site to meet all reclamation needs.
- C. Notwithstanding anything in this Section 20 or the definition of topsoil contained in Section 4 of this Chapter, the topsoil that must be used for reclamation may be of a type, depth and composition as the topsoil that naturally covered the mining site before any mining or earth disturbance ever occurred on the site. If the type, depth and composition of the original topsoil on site cannot be reasonably determined, then the topsoil to be used for reclamation shall be substantially similar in type, depth and composition as the average of the current undisturbed topsoils on properties within one (1) mile of the mining site.

Section 21. Termination and Reclamation

Upon termination of mining operations (or dormancy for 18 months), the owner of the premises shall be responsible at his/her/its cost to fully reclaim the site in accordance with the Township-approved reclamation plans and this Chapter. Reclamation shall occur in full compliance with the reclamation plan approved by the Township. If the owner or operator fails to fully or timely reclaim the site, the Township, through the provisions of this Chapter and by the administrative proceedings provided herein, or through the judiciary, may come upon the site and reclaim the land in accordance with the reclamation plan provided under this Chapter and approved by the Planning Commission and may utilize the security proceeds provided pursuant to this Chapter to defray the costs thereof. If the security posted by the Licensed Operator is not sufficient to cover all costs of reclamation, the Licensed Operator and the owner(s) of the property shall be jointly and severally responsible for reimbursing the Township for any shortfall. Any costs and expenses incurred by the Township in reclaiming the property shall be a lien on the property until paid in full.

Section 22. Excavation/Filling; Dewatering

- A. All excavation of mining areas shall be made either to a water-producing depth of at least 5 feet below the low water mark for at least 80 percent of the water area, or shall be graded or backfilled with noxious-free, nonflammable, nonradioactive, nonhazardous, and noncombustible materials, to assure:
1. That the excavated area shall not collect, and permit to remain therein, stagnant water; and
 2. That the surface of any area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof, and so as to produce a surface that will minimize erosion due to rainfall and be in substantial conformity to the adjoining land area.
- B. No area shall be dewatered or have the groundwater table lowered by pumping or artificial means unless approved beforehand by the Planning Commission.

Section 23. Banks and Underwater Slopes

- A. The final banks (for reclamation) of all excavations shall be sloped to the water line in a water-producing excavation, at a slope to a degree not less than 4:1 (four feet horizontal for every one foot vertical). The final banks (for reclamation) of all excavations (except at or in bodies of water) shall be sloped to a degree not less than 3:1 (three feet horizontal for every one foot vertical) and said banks shall be reclaimed with top soil and vegetation in a manner required by this Chapter. For all water-producing excavations, the maximum 4:1 slope shall extend into the water at least up to a five (5) feet water depth.
- B. For all mineral mining operations that were lawfully in existence at the time of adoption of this Chapter, the Planning Commission, after careful consideration of the safety, health, and welfare of the Township's residents and landowners, may allow for a steeper slope as a condition of a license issued or renewed under the Chapter and may also require certain land improvements (i.e., higher or increased fencing, berming, landscaping or guardrails)

that, at the discretion of the Planning Commission, will reasonably protect the public safety, health, and welfare.

- C. All temporary slopes and banks shall be maintained in such fashion and slope as to be reasonably safe and not be an attractive nuisance to trespassers.

Section 24. Setbacks

- A. No mining or mineral removal activities (including processing and stockpiling of materials) shall occur within fifty (50) feet of any property line unless adjacent to another licensed mining operations.
- B. No mining or mineral removal activities (including processing and stockpiling of materials) shall occur within seventy-five (75) feet of any public road right-of-way or private street easement.
- C. No mining or mineral removal activities (including processing and stockpiling of materials) shall occur within two hundred (200) feet of any adjacent residence or dwelling unless owned by the mining operator/owner.
- D. Per MDNR Part 305 R281.150 Flat River System boundaries (g), no mining, mineral removal activities, disturbances, structures, and other activities related to the industry may be located within 300 feet from the ordinary high-water mark of the Flat River and Wabasis Creek in Eureka Township.
- E. No vehicle parking or storage shall occur within fifty (50) feet of any property line.
- F. Processing plants and related equipment (whether temporary or permanent) shall not be kept, stored, or used within two hundred fifty (250) feet of any property line, public road right-of-way, or private street easement, unless a waiver is approved pursuant to Section 18 of this Chapter or there is an exemption under Section 18.

(Within such setback areas, no soils, mining materials, equipment, vehicles, or similar items shall be kept, stored, or placed except for any berms as approved by the Township.)

Where an existing lawful mining site or mining operation was operating as an active mining site as of the effective date of this Chapter and any portion of the above setbacks are not met, mining operations may be completed within the area where the setbacks are not met but no further encroachment into the required setback areas shall occur except as is reasonably necessary to finish up mining operations already occurring within the required setback areas and to reasonably reclaim the same.

Section 25. Vegetation

Subject to the other provisions of this Chapter, vegetation shall be established pursuant to reclamation by the use of sufficient topsoil and overburden. If groundcover vegetation is not established naturally within one year, appropriate seeding of grasses or planting of shrubs or trees shall occur over all parts of said reclaimed area that have not established groundcover vegetation naturally and where such area is not to be submerged under water or is not within 25 feet of the shoreline of a body of water.

Section 26. Fill Material; Mixing Materials; No Junk

- A. In the event filling of the mined area is necessary during reclamation, said fill material shall be inert material only as defined by the Michigan Solid Waste Management Act, Act No. 641 of the Public Acts of 1978, as amended.
- B. No junk, trash, scrap metal, or junk vehicles shall be kept, buried, or stored on site.

Section 27. Cessation of Mining

Upon cessation of all mining operations, except stockpiles, and within a reasonable period of time not exceeding six (6) months thereafter, all tanks, buildings, stockpiles, and equipment shall be removed unless such building or structures can be lawfully used for other uses in the zoning district in which the same are located. Storage and stockpiling of mined products after cessation of mining activities may be permitted by the Planning Commission by annual license for that purpose only. In no event shall any additional materials be allowed to be added to these stockpiles and such a license shall not interfere with or excuse reclamation as provided by this Chapter.

Section 28. Inspections; Annual Review; Enforcement

- A. The Township Engineer (or other Township official designated by the Township Board) shall have the right to inspect any mining site at least once a year to ensure compliance with this Chapter (including, but not limited to, checking slopes, topsoil for reclamation, or changes in scope from the approved license) and the license and such expert shall file a report with the Township regarding the same. Such annual inspection and report by the Township Engineer (or other Township official designated by the Township Board) shall be paid for by the holder of the license issued under this Chapter and the license.

The results of such annual inspection shall be forwarded to the Planning Commission for an annual review by the Planning Commission. If the Planning Commission determines that there are any violations of the license, approved plan of operation or this Chapter, the Planning Commission shall request that the Licensed Operator be present or attend a Planning Commission meeting to address any such apparent violation(s).

- B. Additionally, if there is a specific complaint regarding a Licensed Operator's operation or if the Zoning Administrator observes any apparent violation of this Chapter, the Township Zoning Administrator shall also have the right to inspect any mining site during the hours of operation to ensure compliance with this Chapter and the license.
- C. The Zoning Administrator shall generally enforce and administer this Chapter.

Section 29. Special Use Approval

Where a mining operation or mining site has received approval from the Township pursuant to a special use process under the Eureka Charter Township Zoning Ordinance, as amended, or where a specific item or topic is addressed by both this Chapter and the special use approval, the stricter regulation or condition shall apply. However, if pursuant to the special use approval process or the Zoning Ordinance, the Township specifically allowed a lesser setback distance for a given structure, item, or use, that approved lesser setback shall apply.

Section 30. Stop Work Order

Upon written notice from the Zoning Administrator to the owner or operator of a mining operation or mining site that any use or activity is being conducted on the property contrary to the provisions of this Chapter or any license, such use or operation shall be ceased immediately. The stop work order shall be both posted on the property and a copy of the stop work order shall also be mailed by certified, return receipt requested mail to the owner of the property involved at the owner's address as listed on the latest license application. Any person who shall continue to use or operate a mining operation (or any owner who does not cause an operator to cease such use or operation) after a stop work order has been issued shall be in violation of this Chapter. A stop work order may be appealed to the Planning Commission pursuant to a written request for an appeal filed by the Licensed Operator with the Township within ten (10) days of the date that the stop work order is imposed. The Planning Commission shall determine any such appeal within twenty-one (21) days of the date that the appeal is filed with the Township. A stop work order shall be dissolved by the Township once any of the following occurs:

- A. The Licensed Operator provides evidence to the Township proving that the violation or violations (if any) of the Chapter or the license has/have ceased.
- B. The Planning Commission holds in favor of the mining operation on all matters pursuant to an appeal.
- C. A court order lifts or dissolves the stop work order.

Section 31. Suspension or Revocation of a License

Any license issued under this Chapter may be suspended or revoked at any time upon a hearing by the Planning Commission, with notice by certified, return receipt requested mail of said hearing to the Licensed Operator, based upon failure to comply with one or more of the requirements of this Chapter, as amended, or the license issued thereunder, or other applicable law, chapter or regulation and/or the terms and conditions of the license, or upon the ground that the use constitutes a nuisance or danger to the public health, safety and/or welfare.

Section 32. Applications for License Modifications

Should a Licensed Operator desire to modify its plan of operation, reclamation plan or other conditions or requirements of the license then in effect, the Licensed Operator may file an application with the Township requesting such modification from the Planning Commission.

Pursuant to any such request, the procedures and standards specified in this Chapter for a new license shall also apply with regards to the issue or modifications requested.

Section 33. Joint and Several Responsibility

Both the owner of the property and the licensed operator are jointly and severally responsible and liable for complying with this Chapter and any license issued hereunder.

Chapter 11 – COST RECOVERY CHAPTER

Section 1. Purpose

Eureka Charter Township hereby finds that persons in and traveling through the Township historically have needed, caused or contributed to the need for certain public safety and fire emergency services, which needs and situations have negatively affected the health, environment, and welfare of some Township residents and real property located within the Township. In addition, the Township has found that it has incurred significant costs associated with the providing of such public safety and fire emergency services. As a result of these determinations, the Township has adopted this Chapter to allow the Township to recover costs and expenses incurred by the Township (or a contracted third party or municipality on behalf of the Township) in connection with the providing of such public safety and fire emergency services.

Section 3. Assessment of Costs:

- a. All assessable costs associated with any of the actions or services described in subsections (1) through (8) below may be jointly and severally assessed by the Township to any or all responsible parties:
 1. Assessable costs incurred to halt, abate, remediate, clean up or remedy any release of any hazardous materials and any liabilities resulting therefrom;
 2. Assessable costs incurred to extinguish or fight a fire at any nonresidential structure or vacant property, any demolition costs if the nonresidential structure must be demolished to protect the public safety following the fire, and any liabilities resulting therefrom;
 3. Assessable costs incurred in connection with a utility line failure and any liabilities resulting therefrom;
 4. Assessable costs incurred in connection with any water rescue attempt and any liabilities resulting therefrom;
 5. Assessable costs associated with a motor vehicle accident or motor vehicle fire and any liabilities resulting therefrom;
 6. Assessable costs associated with excessive requests for emergency assistance and any liabilities resulting therefrom;
 7. Assessable costs incurred to extinguish or fight a fire at any residential structure, and demolition costs if the residential structure must be demolished to protect the public safety following the fire and any liabilities resulting therefrom where the fire was caused by illegal conduct or reckless behavior; and
 8. Assessable costs associated with a false alarm and any liabilities resulting therefrom.
- b. Each responsible party shall reimburse that Township for the assessable costs specified in any statement provided by the Township to the responsible party within 30 days of the responsible party's receipt of such statement.
- c. Any assessable costs which become known to the Township following the transmittal of a statement to the responsible party pursuant to this Chapter shall be billed in the same manner on a subsequent statement to the responsible party.

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- d. The Township Treasurer (or his/her designee) shall certify to the Township Supervisor (or his/her designee) the total assessable costs incurred by the Township (or by a third party independent contractor or municipality providing services or representing the Township). The Township Supervisor (or his/her designee) shall then decide whether to assess any, all, or part of the costs against any or all of the responsible parties. In deciding whether to assess any, all, or part of the costs against any or all of the responsible parties, the Township Supervisor (or his/her designee) shall consider the following factors:
1. The total costs incurred by the Township (or by a third party independent contractor or municipality providing services to or representing the Township) including but not limited to materials, equipment, personnel, administration, assistance from other sources, etc.;
 2. The risks to the Township, its residents, their property, or any other people or property which result from the situation which caused the Township to incur assessable costs;
 3. Any injuries or damage to people or property which resulted from a situation which caused the Township (or a third party independent contractor or municipality providing services to or representing the Township) to incur assessable costs;
 4. Whether the situation which caused the Township (or a third party independent contractor or municipality providing services to or representing the Township) to incur assessable costs necessitated an evacuation;
 5. Whether the situation which caused the Township (or a third party independent contractor or municipality providing services to or representing the Township) to incur assessable costs resulted in any damage to the environment; and
 6. Any other factors deemed relevant by the Township Supervisor.
- e. The Township Supervisor (or his/her designee) may, after consideration of the factors listed in subsection 3(d) above, allocate the costs among and between the responsible parties. Any costs not allocated among or between responsible parties shall be a joint and several liability of each responsible party assessed costs pursuant to Section 3(d), regardless of whether that responsible party has any other legal liability apart from this Chapter, and regardless of whether such person or entity is at fault.
- f. The Township Supervisor (or his/her designee) shall direct the Sheriff and/or Director of Public Safety to send reporting(s) to either the Township Clerk or a third party as designated by the Township. The Township Clerk or third party will be responsible for disbursement of claims pursuant to this Chapter to all responsible parties so assessed. A claim statement shall be dated and sent First Class United States Mail, postage prepaid, to the last known address of each responsible party.
- g. The Township may charge any costs assessed pursuant to this Chapter to the insurer of any responsible party. The submission of an invoice, for the assessed costs to an insurer, does not in any way limit or extinguish the liability of a responsible party for the costs assessed pursuant to this Chapter until such time as the assessed costs are paid in full.
- h. If the Township Supervisor (or his/her designee) or the Township Board decides not to assess all or part of its costs against any responsible party, such decision shall not in any

way extinguish or limit a responsible person's liability to other parties for any costs or damages of any kind arising from the incident or release.

Section 2. Definitions

For the purpose of their use in this Chapter, the following words, phrases and terms are defined as follows. Any word, phrase or term not so defined shall be considered to be defined in accordance with its common or standard definition.

“Township” – Eureka Charter Township, Montcalm County, Michigan.

“Assessable Costs” – The costs and expenses incurred by the Township (or a contracted third party or municipality working for or on behalf of the Township) including but not limited to, the actual labor, personnel, equipment and material costs to the Township, whether or not such services are provided by the Township or by a third party independent contractor or municipality providing services to or on behalf of the Township; service charges and interest; attorney's fees; litigation costs; and any costs, charges, fines, or penalties to the Township (or a contracted third party or municipality on behalf of the Township) imposed by any local, state, or federal governmental entities. The actual labor, personnel, equipment and material costs to the Township include without limitation employee wages; workers compensation benefits; overtime; fringe benefits; administrative overhead; costs of equipment; costs of equipment operation, materials, excavation, transportation, and disposal; costs of any contracted labor or materials; and any and all other labor and material costs. Eureka Charter Township labor and equipment costs shall be as established by determining the actual replacement cost of the equipment, or actual labor costs as established when the cost was incurred.

“Excessive Requests for Emergency Assistance” – Any request for emergency assistance (e.g. emergency medical assistance; public safety, police or sheriff services; or fire department services) made for a property, a particular location or commercial entity if that location, property or commercial entity has requested emergency assistance, of any type, more than five times in the preceding 30 calendar days.

“False Alarm” – Any device, automated or manual, that is designed or operates to request or summon emergency assistance or emergency service personnel, including but not limited to fire, emergency medical and public safety personnel, which device is activated, intentionally or otherwise, in the absence of an actual need for emergency assistance with the fourth and each subsequent false alarm in a calendar year. The determination that there was no actual need for emergency assistance shall be made by the highest ranking emergency service person who responds to a false alarm.

“Hazardous Materials” – Those elements, substances, wastes, or their byproducts which are contained in the list of hazardous substances as adopted by the United States Environmental Protection Agency (the "EPA"); or which are contained in the list of toxic pollutants designated by Congress or the EPA; or which are defined as hazardous, toxic, pollutant, infectious, flammable, combustible, explosive, or radioactive by any other federal, state, or local statute, law, chapter, code, rule, regulation, order, or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste substance or material, as now or at any time hereafter in effect. Specifically included without limitation as federal and state laws, rules and

regulations are Act No. 307 of the Public Acts of 1982, as amended, MCL 299.601 et seq.; the Federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. "9601 et seq.; the Federal Toxic Substances Control Act, as amended, 15 U.S.C. "2601 et seq.; the Federal Resource Conservation and Recovery Act, as amended, 42 U.S.C. "6901 et seq.; the Federal Hazardous Material Transportation Act, as amended; the Federal Clean Air Act, as amended; the Federal Water Pollution Control Act, as amended; or any similar or successor statute or law, or rules and regulations of the EPA, or any other state or federal department, board, or agency, or any other agency or governmental board or entity having jurisdiction (collectively, the "Environmental Laws"). Hazardous materials specifically include, without limitation, petroleum products, automotive anti-freeze, polychlorinated biphenyls and asbestos.

“Motor Vehicle” – Any self-propelled or towed vehicle designed to be used or is actually used on the public highways or roads to transport passengers or property as defined in Section 90 of Act No. 300 of the Public Acts of 1949, as amended, being MCL 257.79, which is required to be registered for use upon the public streets and highways of this State under Act No. 300 of the Public Acts of 1949, as amended, being MCL 257.1 to MCL 257.923. For the purposes of this Chapter, motor vehicle includes those vehicles owned by the government of the United States and any and all trailers or appurtenances to any motor vehicle.

“Motor Vehicle Accident” – Any collision or contact involving one or more motor vehicles within the public road right-of-way (or sidewalk or public trail) or on private property which results in any damage to the motor vehicle(s) involved or other real property.

“Motor Vehicle Fire” – Any instance in which a motor vehicle is destroyed by or suffers any damage as a result of fire.

“Release” – Any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, or disposing into the environment including, but not limited to, the air, soil, ground, ground water and surface water.

“Responsible Party” –

- (1) In connection with a release of hazardous materials, Responsible Party means: Any individual, firm, corporation, association, partnership, limited liability company, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible, in whole or in part, for a release of hazardous materials, either actual or threatened; or that is an owner, tenant, occupant, or party in control of property, real or personal, onto which or from which there is a release of hazardous materials; and the heirs, estates, assigns or successors to any such entity.
- (2) In connection with a failure of a utility line, Responsible Party means: Any individual, firm, corporation, association, limited liability company, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible, in whole

or in part, for the maintenance or failure of the utility line; and the heirs, estates, assigns or successors to any such entity.

- (3) In connection with a motor vehicle accident or motor vehicle fire, Responsible Party means: The registered owner; the operator of the motor vehicle at the time of the motor vehicle accident or motor vehicle fire if different from the registered owner of the motor vehicle; any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, limited liability company, government entity or any other legal entity that is responsible, in whole or in part, for the motor vehicle accident or the motor vehicle fire; and the heirs, estates, assigns or successor to any such owner, operator or entity.
- (4) In connection with a fire, Responsible Party means: Any individual, firm, corporation, association, limited liability company, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible, in whole or in part, for the fire, for the real property on which the fire occurred, or for the object which was damaged or destroyed by the fire and the heirs, estates, assigns or successor to any such entity.
- (5) In connection with a water rescue attempt, Responsible Party means: Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, limited liability company, government entity or any other legal entity that is responsible, in whole or in part, for the situation which necessitated the water rescue attempt; and the heirs, estates, assigns or successors to any such entity.
- (6) In connection with excessive requests for emergency assistance, Responsible Party means: The individual, firm, corporation, association, partnership, commercial entity, consortium, limited liability company, joint venture, government entity or any other legal entity that is responsible, in whole or in part, for the excessive requests for emergency assistance; or for the real property, location, or commercial entity to which emergency service personnel are summoned pursuant to the excessive requests for emergency assistance; and the heirs, estates, assigns or successors to any such entity.
- (7) In connection with the fourth and each subsequent false alarm in a calendar year, Responsible Party means: The individual, firm, corporation, limited liability company, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible, in whole or in part, for the false alarm; or for the real property, location, or commercial entity to which emergency service personnel are summoned pursuant to the false alarm; and the heirs, estates, assigns or successor to any such entity.

“Structure” – Anything constructed or erected which has a permanent location on the ground or is attached to something having such location.

“Utility Lines” – Any transmission or service line, cable, conduit, pipeline, wire, main or the like used in any way to provide, collect or transport water, sewage, electricity, liquid hydrocarbons, natural gas, or communication or electronic signals (including but not limited to telephone, computer, cable television and stereo signals or electronic impulses).

“Water Rescue Attempt” – Any emergency response by Township personnel (or anyone acting for or on behalf of the Township) in connection with any emergency or perceived emergency, on, near, or caused by a body of water naturally open to the atmosphere. For purposes of this definition, "body of water" includes without limitation rivers, lakes, streams, impoundments, estuaries, springs, wells, or other collectors of water, including a wetland, as defined by the Michigan Goemaere-Anderson Wetland Protection Act, as amended, and including an inland lake or stream as defined in the Michigan Inland Lakes and Streams Act, as amended.

Section 4. Notice and Right to Appear Provisions:

- A. Any responsible party who receives a statement of costs from the Township assessed pursuant to this Chapter shall be given the opportunity to appear before the Township Board to request a waiver or modification of the assessed costs. Any responsible party who desires to appear before the Township Board shall file a written request with the Township Clerk within 14 calendar days of the date of the statement of assessed costs. The responsible party will be placed on the agenda of the next regularly scheduled or special Township Board meeting which is at least 14 calendar days after the date on which the responsible party files with the Township Clerk a request to appear. Any filed request to appear shall specifically identify and explain all reasons why the responsible party believes the costs assessed pursuant to this Chapter should be modified or waived. Any reason, basis or argument for a modification or waiver of the assessed costs not set forth in the written request to appear shall be deemed waived by the responsible party. Failure to file a written request to appear within 14 days of the date of the statement of assessed costs shall constitute a waiver of the responsible party’s right to appear before the Township Board and the responsible party’s agreement to pay the assessed costs, which payment must be made within 30 days of the date of the statement sent to the responsible party.
- B. At the Township Board meeting, any responsible party who has filed a timely written request to appear shall have the opportunity to address the Township Board regarding the written request that the Township Board modify or waive the assessed costs. The responsible party shall be limited, in addressing the Township Board, to those reasons and bases set forth in that responsible party’s written request to appear. The Township Supervisor shall have the opportunity to address the Township Board to explain the process by which the assessed costs were determined and allocated. The Township Board, after hearing from the responsible party and the Township Supervisor, shall review the assessed costs and make a final determination regarding the costs assessed to the responsible party. The Township Board shall pass a motion or resolution detailing its final determination regarding the assessed costs. The Township Clerk shall then send an updated statement of assessed costs to the responsible party, by first class United States Mail, with postage prepaid, to the last known address of the responsible party. The assessed costs shall be due and payable 30 days from the date of that statement. If the responsible party fails to pay

the assessed costs within those 30 days, the Township shall have available to it all remedies available under Section 5, below.

Section 5. Failure to Pay; Procedure to Recover

To the extent allowed by applicable law, the Township may pursue any responsible party under subsection (a)

- a. Any responsible party who fails to timely pay the costs assessed pursuant to this Chapter shall be considered in default. In the case of default, the Township Board may authorize the Township Attorney to commence a civil action to recover the costs, plus a late payment penalty of one percent per month or part of a month during which the costs remain unpaid, together with attorney fees and any other costs allowed by law.

Section 6. Severability and Captions

This Chapter and its various parts, sections, subsections, sentences, phrases and clauses are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected. The captions included at the beginning of each section are for convenience only and shall not be considered a part of this Chapter.

Section 7. Administrative Liability

No officer, official, contractor, agent, employee or member of the Township shall be personally liable for any damage that may accrue to any person as a result of any act or decision performed in the discharge of duties and responsibilities pursuant to this Chapter.

Chapter 12 – JUNK YARDS

Section 1. Application

Any person, firm or corporation desiring to operate, establish or maintain a junk yard or place for dismantling automobiles in the Charter Township of Eureka, shall before undertaking to establish, operate or maintain the same, first procure a license from the Township Board.

Section 2. Issuance of License

The Township Board, after being reasonably certain that the applicant has complied with all regulations and restrictions as hereinafter provided, shall approve said application. Each person, firm or corporation, before carrying on any of the businesses set forth in Section 1 hereof, shall pay the Township Clerk a license fee for a fee as determined by the Township Board annually upon the approval of the application by the Township Board and on January 15 of each year thereafter, subject only to the limitation of Section 3 hereof. The receipt of the Township Clerk for such payments shall be deemed to be the license of such applicant for any calendar year in which such receipt is issued.

Section 3. Revocation and Cancellation of License

In the event the Township Board is reasonably certain that any licensee under this Chapter shall have violated any of the provisions hereof, the Township Board shall cancel and revoke the license of such licensee forthwith. Such licensee may, at any time thereafter, re-apply for a new license under the same conditions and regulations applicable to any other applicant.

Section 4. Location

No person, firm or corporation licensed under this act, or any other person shall operate, establish or maintain a junk yard or place for dismantling automobiles within one thousand (1,000) feet of a church, school, park, cemetery, or zoned residential district, or within fifty (50) feet of the edge of the right of way of any traveled street or thoroughfare. Any person, firm or corporation operating, establishing or maintaining a junk yard or place for dismantling automobiles shall have available for such purposes at least five acres of land.

Section 5. Fence

Any junk yard or place for dismantling automobiles operated, established or maintained within two hundred and fifty (250) feet of the edge of the right of way of any traveled street or thoroughfare shall be enclosed by a fence no less than six (6) feet in height, constructed of a good grade of lumber so as to leave no cracks of a greater width than one-half inch, to be painted and kept painted white and to be kept in good repair and slightly condition. No advertising shall be affixed in any way upon such fence other than the advertising of the person, firm or corporation operating, establishing or maintaining such place of business. No junk, dismantled automobiles or automobiles to be dismantled shall be placed or displayed outside the boundaries of such fence.

Section 6. Abandonment of Premises

Any licensee under this Chapter, or any other person, who elects to cease operating, establishing or maintaining a junk yard or place for dismantling automobiles, either temporarily or permanently, shall first remove from his premises all junk, automobiles and parts of automobiles and debris of any kind whatsoever, and shall leave said premises in a clean and orderly condition.

Section 7. Compliance with the Zoning Ordinance

Every junkyard must comply fully with the Eureka Charter Township Zoning Ordinance.

Chapter 13 – OUTDOOR GATHERINGS

Section 1. Preamble

The Township Board finds and declares that the interests of the public health, safety and welfare of the citizens of Eureka Charter Township require the regulation, licensing and control of assemblages of large numbers of people in excess of those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided in this township.

Section 2. Definitions

1. **“Outdoor Assembly”** – hereinafter referred to as “assembly” means any event, attended by more than 300 attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including, but not limited to musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:
 - a) An event which is conducted or sponsored by a government unit or agency on publicly owned land or property.
 - b) An event which is conducted or sponsored by any entity qualifying for tax exempt status under Section 501 (c) (3) of the Internal Revenue Code of 1954, being 26 U.S.C. 501 (c) (3), as incorporated by reference in Section 201 of the Michigan Income Tax Act of 1967, Act 281 of the Public Acts of 1967, being Section 206.201 of the compiled Laws of 1948.
 - c) An event held entirely within the confines of a permanently enclosed and covered structure.
2. **“Person”** means any natural person, partnership, corporation, association or organization.
3. **“Sponsor”** means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.
4. **“Attendant”** means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.
5. **“Licensee”** means any person to whom a license is issued pursuant to this Chapter.

Section 3. License Required

A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in the Township unless he or she shall have first made application for and obtained, as hereinafter prescribed, a license for each such assembly.

Section 4. Application for License

Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the Clerk of the Township, and shall be made at least 90 days prior to date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee of \$500.00 and shall include at least the following:

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1. The name, age, residence and mailing address of the person making the application (Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and addresses shall be provided of all shareholders having financial interest greater than \$500.00).
 2. A statement of the kind, character, and type of proposed assembly.
 3. The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where the ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to the use of the site for the proposed assembly.
 4. The date or dates and hours during which the proposed assembly is to be conducted.
 5. An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

Section 5. Extra Requirements

Each application shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, or the prospective licensee's plans to provide for all of the following:

1. Police and fire protection.
2. Food and water supply and facilities.
3. Health and sanitation facilities.
4. Medical facilities and services including emergency vehicles and equipment.
5. Vehicle access and parking facilities.
6. Camping and trailer facilities.
7. Illumination facilities.
8. Communications facilities.
9. Noise control and abatement.
10. Facilities for clean up and waste disposal.
11. Insurance and bonding arrangements.

In addition, the application shall be accompanied by a map or maps of the overall site of the proposed assembly.

Section 6. Review of Application

On receipt by the Township Clerk, copies of the application shall be forwarded to the chief law enforcement for the Township, the state fire marshal, and to such other appropriate public officials as the Township Clerk deems necessary, such officers and officials shall review and investigate matters relevant to the application and within 20 days of receipt thereof shall report their findings and recommendations to the Township Board.

Section 7. Action on Application

Within 30 days of the filing of the application, the Township Board shall issue, set conditions prerequisite to the issuance of, or denying of, a license hereunder. The Township Board

may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within 5 days of such action, notice thereof must be mailed to the applicant by certified mail, and, in the case of denial, the reasons therefore shall be stated in the notice. The Township Board may attach reasonable condition to a license.

Section 8. Denial of License

A license may be denied if:

- a. the applicant fails to comply with any or all requirements of this Chapter, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or,
- b. The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.
- c. The proposed use would violate the Township Zoning Ordinance or any part of this Code.

Section 9. License

A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this Chapter. It shall be posted in a conspicuous place upon the premises of the assembly and shall not be transferred to any other person or location.

Section 10. Additional Requirements

In processing an application, the Township Board shall, at a minimum, require the following:

1. Security Personnel - The licensee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the chief law enforcement officer for the township in cooperation with the Director of State Police is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly.
2. Water Facilities – The licensee shall provide potable water, sufficient in quantity and pressure to assure proper operation of all water using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available then from source constructed, located, and approved in accordance with Act 294, Public Acts of 1965, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local laws, or from a source and delivered and stored in a manner approved by the county Health Department.
3. Restroom Facilities – The licensee shall provide separate enclosed flush-type water closets as defined in Act 266, Public Acts of 1929, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local

law. If such flush-type facilities are not available, the County Health Department may permit the use of other facilities which are in compliance with Act 273, Public Acts of 1939, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. The licensee shall provide lavatory and drinking water facilities constructed, installed, and maintained in accordance with Act 266 of the Public Acts of 1929, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water and soap and paper towels. The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

<u>Facilities</u>	<u>Male</u>	<u>Both</u>	<u>Female</u>
Toilets	1:300		1:200
Urinals	1:100		N/A
Lavatories	1:200		1:200
Drinking Fountains		1:500	
Taps or Faucets		1:500	

Where the assembly is to continue for more than 12 hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

<u>Facilities</u>	<u>Female</u>	<u>Male</u>
Shower Heads	1:100	1:100

All facilities shall be installed, connected, and maintained free from obstructions, leaks and defects and shall at all times be in operable conditions as determined by the County Health Department.

4. Food Service – If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed the attendants.
5. Medical Facilities - If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be as prescribed by the County Health Department.
6. Liquid Waste Disposal – The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the County Health Department. If such rules and regulations are not available or if they are inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled “Manual of Septic Tank Practice”. If liquid waste retention and disposal is dependent upon

pumpers and haulers, they shall be licensed in accordance with Act 243, Public Acts of 1951, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, and prior to issuance of any license, the licensee shall provide the County Health Department with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will assure proper, effective and frequent removal of liquid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

7. Solid Waste Disposal – The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered, fly tight and rodent proof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the County Health Department with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will assure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health. The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.
8. Public Bathing Beaches – The licensee shall provide or make available or accessible public bathing beaches only in accordance with Act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.
9. Public Swimming Pools – The licensee shall provide or make available public swimming pools only in accordance with Act 230, Public Acts of 1966, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.
10. Access and Traffic Control – The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the state of Michigan. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the Director of the Department of State Highways must approve the licensee’s plan for access and traffic control.
11. Parking – The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one (1) automobile space for every four (4) attendants.
12. Camping and Trailer Parking – A licensee who permits attendants to remain on the premises between the hours of 2 a.m. and 6 a.m. shall provide for camping and trailer parking and facilities in accordance with Act 171, Public Acts of 1970, and

the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision by state or local law

13. Illumination – The licensee shall provide electrical illumination of all occupiable areas sufficient to insure the safety and comfort of all attendants. The licensee's lighting plan shall be approved by the Township Board.
14. Insurance – Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$100,000/\$300,000, and property damage insurance with a limit of not less than \$25,000 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the Clerk of Eureka Township in writing at least 10 days before the expiration or cancellation of said insurance.
15. Bonding – Before the issuance of a license the licensee shall obtain, from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$100,000, in a form to be approved by the Township attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this Chapter and all applicable provisions of state or local law, and which shall indemnify the Township, its agents, officers, and employees and the board against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.
16. Fire Protection – The licensee shall, at his own expense, take adequate steps as determined by the state fire marshal, to insure fire protection.
17. Sound Producing Equipment – Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and other recording devices shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of Eureka township.
18. Fencing – The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.
19. Communications – The licensee shall provide public telephone equipment for general use on the basis of at least one unit for each 1,000 attendants.
20. Miscellaneous – Prior to the issuance of a license, the board may impose any other condition(s) reasonably calculated to protect the health, safety, welfare and property of attendants or of citizens of the township.

Section 11. Revocation

The Township Board may revoke a license whenever the licensee, his or her employee or agent fails, neglects, or refuses to comply fully with any and all provisions and requirements set

forth herein or with any and all provisions, regulations, chapters, ordinances, statues, or other laws incorporated herein by reference.

Chapter 14 – BLIGHT

Section 1. Title

The Title of this Chapter is the “Eureka Charter Township Blight Ordinance”.

Section 2. Purpose

- A. Consistent with the letter and spirit of Public Act 344 of 1945, as amended, it is the purpose of this Chapter to prevent, reduce or eliminate blight or potential blight in Eureka Charter Township by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist in Eureka Charter Township.

B. Definitions:

Blight - A deteriorated condition, dilapidation of a property or parcel.

Motor Vehicles - Any wheeled vehicles which are or are intended to be operable as self propelled vehicles.

Inoperable Motor Vehicles - Motor vehicles which by reason of dismantling, disrepair or other cause are incapable of being propelled under their own power, or are unsafe for operation on the streets and highways of this State because of inability to comply with the State Motor Vehicle Code.

Dismantled and Partially Dismantled Vehicles - Motor vehicles from which some component of such motor vehicles has been removed or is missing.

Junk Vehicles - Any motor vehicle which is not licensed for use upon the highways of the State of Michigan, and shall also include, whether so licensed or not, any motor vehicle which is inoperable.

Inoperable Machinery and Equipment - any item or piece of machinery or equipment which by reason of dismantling, disrepair, or other cause is incapable of functioning or being operated as it was intended to function or be operated.

Junk - Parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood with the exception of neatly piled wood to be used for bonfires or heating of homes or accessory buildings, construction materials, pallets, metal or other cast-off materials of any kind whether or not the same could be put into any reasonable use. Note: Farm equipment stored outside and in operable condition is exempt.

Salvage - Usable material parts taken from non-usable equipment and structures.

Rubbish - Waste material; items that have or are to be thrown away.

Waste - Discarded materials.

Refuse - Food waste that is discarded.

Trash - anything worthless, useless, or discarded

Section 3. Causes of Blight or Blighting Factors

It is hereby determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist will tend to result in blighted and undesirable neighborhoods. No person, firm, or corporation of any kind shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in Eureka

Charter Township that is or may be owned, leased, rented or occupied by such person, firm or corporation.

1. The storage upon any property in the Township of any dismantled, partially dismantled, or inoperable motor vehicles, machinery, equipment or junk vehicles in any zoned area, over 48 hours, except in a completely enclosed building, unless a valid junk yard permit, or special use permit has been issued for the business.
2. The storage upon any property of building materials in any zoned area unless there is in force a valid building permit issued by the Montcalm County Building Department, and said materials are intended for use in connection with construction on the property. Building materials shall include, but not be limited to: lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure. Note: The owner of a property in Eureka Charter Township may store small amounts of salvage materials, neatly piled, if not visible from the road, or from other residences in the area.
3. The storage or accumulation of junk, trash, rubbish or refuse of any kind in any zoned area (unless there is a valid landfill permit) and except for domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed 15 days.
4. Any deteriorated structure or any parts of a deteriorated structure which is the result of fire, wind or natural disaster or physical deterioration in which the structure is no longer habitable nor used for any other purpose which it may have been intended.
5. Any vacant dwelling, garage or other outbuilding located in any zoning classification unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals or other unauthorized persons.
6. Any partially completed structure located in any zoning district unless such structure has a valid and subsisting building permit issued by the Montcalm County Building Department or said structure is in the process of being completed within a reasonable time frame.

Section 4. Grandparented (NON-CONFORMING) Clause

Lawful historical structures (i.e., old barns), if maintained and in good condition and repairs, are exempt from this Chapter.

Chapter 15 - CURFEW

Section 1. Purpose

The purpose of this Chapter shall be to prohibit the gathering of people in public places for unlawful or mischievous purposes; to prohibit persons from trespassing upon public or private places, unless for a valid, proper, peaceful and lawful purpose; to establish emergency curfew regulations and authority for use in times of civil disturbances and disorder; and to provide authority to obtain police assistance of any agency pursuant to any agreement heretofore or hereafter made with such agency, in times of civil disturbance and disorder.

Section 2. Regulations

- A. **Crowds** – No person or persons shall collect or congregate in crowds, nor arrange, encourage or abet the collection of persons or crowds, nor arrange, encourage or abet the collection of persons or crowds for illegal, violent, destructive or mischievous purposes on any street, alley, public or private road, sidewalk, park, ground, public land, or other place open to public use.
- B. **Inciting** – No person or persons shall incite any disturbance, violence or damage to persons or property nor aid or abet the assemblage of persons where such gathering might reasonably be expected to cause such public or private disturbance, violence, damage or riot.
- C. **Trespassing** – No person or persons shall enter or remain upon lands or premises of another without lawful authority after having been forbidden to do so by the owner, occupant, or agent of the owner or occupant.
- D. **Declaration** – Emergency curfew regulations (to include an expiration date) may be put into effect as provided in this section by order of the township supervisor (or in his or her absence, the township clerk) at any time such supervisor or clerk shall determine that any of the following conditions exist in the township:
 - 1. A violation of law or creation of disorder, disturbance, destruction or rioting by groups or gangs of persons.
 - 2. Emotional, volatile, threatening and hostile conduct or action by any group, crown or gang of persons within the township.
 - 3. Public demonstrations threatening the peace, health or general welfare of the people within the township.
 - 4. Occurrence of a natural disaster, interruption of public services or utilities, or accident disrupting the normal daily lives of the residents, particularly in cases where looting or other threats to the residents might reasonably be expected to occur.
- A. **Definition** – Upon issuance of such an emergency curfew order by the township supervisor or clerk, as provided in the Section, no person shall be upon the streets or in any public place within the township between the hours of 10 p.m. and 6 a.m. unless he or she is in the performance of his or her lawful employment; or can justify the necessity of his or her presence in the street or public place by some other lawful and sufficient reason.
- B. **Enforcement** – The township supervisor (or in his or her absence, the township clerk), after making such emergency curfew order, may request the assistance of the police of any

agency pursuant to any agreement heretofore or hereafter made with such agency for such purpose by the Eureka Township Board.

Chapter 16 – LIQUOR LICENSE

Section 1. Title

This Chapter shall be known as and may be cited as the “Eureka Charter Township Liquor License Ordinance”.

Section 2. Application for a License

- A. Application Procedure – An application for a license (or license transfer) to sell beer, wine or spirits for consumption on the premises shall be made to the Township Board in writing, signed by the applicant, if an individual, or by a duly authorized agent of the applicant if the applicant is a partnership or corporation with verification of such authority and shall contain the following information:
1. The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one or more persons, the name and address of such persons.
 2. The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.
 3. The character of the business of the applicant, and in the case of a corporation, the purpose for which it was formed.
 4. The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued.
 5. The location and description of the premises or place of business which is to be operated under such license.
 6. A statement whether the applicant has made application for a similar or other liquor license on premises other than described in this application, and the disposition of such application.
 7. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Chapter or the laws of the State of Michigan.
 8. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any Chapter of the Township in the conduct of its proposed business.
 9. The application shall be accompanied by building and plot plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and where appropriate, adequate plans for screening, and noise control.
- B. Limitations on the Issuance or Transfer of Licenses – No such liquor license shall be issued or transferred to any of the following or under any of the following circumstances:
1. To a person who had a previous liquor license revoked for cause or who has a poor reputation in the community or township for compliance with local, state or federal laws and regulations and for ethical conduct.

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2. To a co-partnership unless all of the members of such co-partnership qualify for the issuance of such a license.
 3. To a corporation in which any officer, manager or director thereof, or a shareholder owning more than five percent (5%) of the stock of such corporation would not be eligible to receive such license under the within Chapter as determined by the Township Board.
 4. To a person or entity whose business is to be conducted by a manager or agent with less qualifications than required of a licensee.
 5. To a person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or of a controlled substance.
 6. To a person or entity that does not own the premises for which the license is sought or does not have a lease therefore for the full period for which the license is issued or does not supply evidence of sufficient financial ability to carry on or maintain the business.
 7. To any law enforcing public official or township official or any entity in which such officials have a financial interest either directly or indirectly.
 8. For any premises which is not in compliance with all applicable building codes, fire codes, public health regulations, zoning ordinances and other applicable Chapters of the township.
 9. To any person or entity whose principal business is the sale of beer, wine or spirits for consumption on the premises and not merely incidental and subordinate to other permitted principal business uses upon the site, such as, but not limited to, food sales, hotel or motel operations or other principal permitted uses.
 10. For use on any premises which as determined by a majority of the Township Board does not have adequate off-street parking, lighting, refuse disposal facilities and necessary screening, noise and nuisance control to avoid unreasonable disturbance to adjacent premises.
 11. For use on premises determined by a majority of the Township Board to be inappropriate as not within a developed commercial area; offensive to adjacent residence and property owners; inadequate and unsafe accessibility from abutting public roads; inadequacy of abutting public roads to accommodate anticipated commercial traffic; too close to public or private schools, churches or hospitals and because of the proximity of inconsistent zoning classifications.
 12. No Class C Liquor License for consumption on the premises shall be approved by the Charter Township of Eureka until a contract has been executed by the applicant with the Township prohibiting the sale or transfer of such License directly or through any escrow status for use outside the jurisdiction of the Charter Township of Eureka. Such contract shall provide for liquidated damages to the Township and sanctions for any violation thereof to compensate the Township for the reduction in the number of such liquor licenses available within the Township and as a penalty for violation of the terms and conditions of such Class C License approval. Such contract may provide for a fixed amount of liquidated damages or for forfeiture of the full sale or transfer price paid or payable to the transferor, together with interest on any unpaid balance until the same is paid.

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13. Since the Charter Township of Eureka, because of its population, is limited by statute in the number of liquor licenses for consumption on the premises (which as of 2006 are two Class C Liquor Licenses), the governmental interest of the Township Board in approving any new liquor licenses is to only grant such approval where the requested license would be of the greatest developmental and economic benefit to the entire Township. Examples of such benefits would be the encouragement of shopping centers, hotels, motels, conference centers and major restaurant complexes.
 14. No applicant for a liquor license for consumption on the premises has the legal right to the issuance of such license and the Township Board reserves the right to exercise reasonable discretion in determining, which, if any applicant, shall be entitled to its approval for such license, Obtaining the approval of a liquor license within the township is in the category of a privilege and no applicant has a vested or absolute right to secure such approval. Approval by Township Board is on the basis of what it believes is in the best interests of the entire Township as distinguished from the interest of the applicant.

In the Township Board's discretion, it may grant a public hearing upon a license (or transfer) application if it wishes to hear public comments upon such application. It may also schedule an open meeting to hear comments from the applicant in support of the approval of such application. Any final decision of the Township Board shall become part of the recorded minutes of the meeting or public hearing including a summary of the reasons for the decision.

Section 3. Procedures for Renewal or Revocation of a Liquor License

Procedure – Before filing an objection with the Michigan Liquor Control Commission to the renewal of an existing liquor license for consumption on the premises or before filing a request for the revocation of a license with said commission, the Township Board shall notify the license holder by first class mail at the address of the license of a hearing on the subject not less than 10 days prior to the hearing. The notice shall contain the following statement: (*Following the hearing the Township Board shall submit to the license holder and the Liquor Control Commission, a written statement of its findings and determination.*)

Chapter 17 – CONFIRMATION OF THE ESTABLISHMENT OF THEIR PLANNING COMMISSION WITH ZONING AUTHORITY

Section 1. Scope, Purpose and Intent

This chapter is adopted pursuant to the authority granted the Township Board under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and the Michigan Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., to establish a planning commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this chapter and any future amendments to this chapter.

The purpose of this chapter is to provide that the Eureka Charter Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Eureka Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., to establish the appointments, terms and membership of the planning commission; to identify the officers and the minimum number of meetings per year of the planning commission; and to prescribe the authority, powers and duties of the planning commission.

Section 2. Establishment

The Township Board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Eureka Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq. The Eureka Charter Township Planning Commission shall have seven (7) members. Members of the Eureka Charter Township Planning Commission as of the effective date of this Chapter shall, except for an ex officio member whose remaining term on the planning commission shall be limited to his or her term on the Township Board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for planning commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

Section 3. Appointments and Terms

The Township Supervisor, with the approval of the Township Board by a majority vote of the members elected and serving, shall appoint all planning commission members, including the ex officio member.

The planning commission members, other than an ex officio member, shall serve for terms of three (3) years each.

A planning commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

Planning commission members shall be qualified electors of the Township except that one planning commission member may be an individual who is not a qualified elector of the township. The membership of the planning commission shall be representative of 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, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry and

commerce. The membership shall also be representative of the entire geography of the township to the extent practicable.

One member of the Township Board shall be appointed to the planning commission as an ex officio member.

An ex officio member has full voting rights. An ex officio member's term on the planning commission shall expire with his or her term on the Township Board.

No other elected officer or employee of the township is eligible to be a member of the planning commission.

Section 4. Removal

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

Section 5. Conflict of Interest

Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. Failure of a member to disclose conflict of interest as required by this chapter constitutes malfeasance in office.

For the purposes of this Section, the planning commission shall define conflict of interest in its bylaws.

Section 6. Compensation

The planning commission members may be compensated for their services as provided by township board resolution. The planning commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the Township Board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

Section 7. Officers and Committees

The planning commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each office shall be one (1) year, with opportunity for reelection as specified in the planning commission bylaws.

The planning commission may also appoint advisory committees whose members are not members of the planning commission.

Section 8. Bylaws, Meetings and Records

The planning commission shall adopt bylaws for the transaction of business.

The planning commission shall hold at least four (4) regular meetings each year, and shall by resolution determine the time and place of the meetings.

Unless otherwise provided in the planning commission's bylaws, a special meeting of the planning commission may be called by the chairperson or by two (2) other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least 48 hours before the meeting.

The business that the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq.

The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231 et seq.

Section 9. Annual Report

The planning commission shall make an annual written report to the Township Board concerning its operations and the status of the planning activities, including recommendations regarding actions by the Township Board related to planning and development.

Section 10. Authority to Make a Master Plan

Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and other applicable planning statutes, the planning commission shall make a master plan as a guide for development within the Township's planning jurisdiction.

Final authority to approve a master plan or any amendments thereto shall rest with the planning commission unless the Township Board passes a resolution asserting the right to approve or reject the master plan.

Unless rescinded by the Township, any plan adopted or amended under the Township Planning Act 168 of 1959, MCL 125.321, et seq., need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

Section 11. Zoning Powers

The Township Board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq., the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.; or other applicable zoning statutes to the Eureka Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq.

Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the Township Board.

Section 12. Subdivision and Land Division Recommendations

The planning commission may recommend to the Township Board provisions of a chapter or rules governing the subdivision of land. Before recommending such a chapter or rule, the planning commission shall hold a public hearing on the proposed chapter or rule. The planning

commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the Township.

The planning commission shall review and make recommendation on a proposed plat before action thereon by the Township Board under the Land Division Act, Public Act 288 of 1967, MCL 560.101, et seq. Before making its recommendation, the planning commission shall hold a public hearing on the proposed plat. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the Township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

Chapter 18 – Junk Control Ordinance

Section 1. Findings and Purpose

The Township Board of the Charter Township of Eureka hereby finds that it is essential and necessary to the health, safety, well-being, and welfare of the residents of the Township and the well-being of the personal and real property located within the Township that the Township adopt this Chapter, and that the disposal and accumulation of solid and liquid waste, junk, refuse, trash, and discarded items shall occur only in a sanitary, orderly, and safe fashion. In the past, junk, waste, refuse, trash, and hazardous materials may have been improperly dumped, buried, or disposed of within the Township, which may have caused irreparable harm to property and natural resources within the Township, including but not limited to, lakes, streams, soils, groundwater, watersheds, and sensitive wetlands, all of which are essential to the health and economic well-being of the community. The Township Board further finds that the improper disposal of such materials impairs property values and poses a real and substantial risk to the health and safety of persons, pets, farm animals, and wildlife within the Township.

This Chapter is not intended to interfere with lawful farming and generally accepted farm operations or practices that comply with the Michigan Right to Farm Act. Nor shall this Chapter be deemed to prohibit or interfere with the otherwise lawful storing or spreading of manure, fertilizers, herbicides, or other soil conditioners as part of a farm operation.

Section 2. Authorization

This Ordinance is authorized and enacted pursuant to MCL 41.181 *et seq.*, Article 4, Section 52 of the Michigan Constitution of 1963 and other applicable laws.

Section 3. Prohibited Acts

Unless otherwise expressly permitted by Section 4 of this Chapter, it shall be unlawful for any person, entity, corporation, association, firm, limited liability company, or other organization to do or permit any of the following (or to assist in doing any of the following) within Eureka Charter Township:

- (A) Operate an unlicensed or unlawful dump, landfill, or sanitary landfill.
- (B) Utilize, bury or dispose of any item at an unlicensed or illegal landfill or disposal site knowing the same to be unlicensed or illegal.
- (C) Pour, inject, drain, dump, abandon, bury, or dispose of any discarded liquid which may be hazardous, toxic, nuclear, poisonous, putrid, dangerous, or biologically harmful into, below, within, or onto the ground, substrata, a road, or any soil, lake, stream, pond, or wetland or to accumulate or store such discarded liquids outdoors. For purposes of this subsection (C), the words hazardous, toxic, nuclear, poison, putrid, dangerous, or biologically harmful shall be as defined by any federal or Michigan law. This prohibition shall include, but not be limited to, gasoline, oil,

cleaning fluid, heating oil, industrial or commercial waste, medical waste, paint waste, processed food byproducts or waste, flammable liquid, or liquid industrial by-products.

- (D) Deposit, dump, drain, or cause to be drained, any harmful or hazardous liquid, sewage, or industrial waste substance from any sink, tank, motor vehicle, or any other thing, onto the surface of any land or into any open ditch, lake, stream, pond, or wetland, or into any pipe or conduit which directly or indirectly empties or deposits any such substance onto the surface of any land or into any open ditch, lake, creek, wetland, or stream.
- (E) Place, throw, bury, dump, abandon, store, or accumulate outdoors any empty or partially filled cans, food containers, broken or whole bottles, trash, rubbish, garbage, litter, junk, rags, used or broken glass, mobile homes not meeting township ordinance requirements, debris, used tires, used tanks, discarded or scrap plastic, waste, boxes, barrels, scrap metal, cardboard, inoperable or partially assembled equipment or machinery, scrap rubber, crockery or utensils of any kind, automobile or vehicle bodies or parts of automobiles or vehicles (except in a duly licensed junk yard), old stoves or appliances, furniture, parts of machinery, contaminated soil, illegal pesticide, illegal fertilizer, refuse, scrap Styrofoam, paper, broken pallets, cloth, batteries, mattresses or bed springs, flammable matter or substances, offal, medical waste, industrial byproducts or waste substances, or objects of a similar nature, upon, under, or on any land in the Township, or to permit any such things or substances to accumulate on land or water over which the person permitting the same occupies, owns, leases, or has control.
- (F) Allow the accumulation of materials which provide rat harborage or which may serve as food for rats or is accessible to such rodents or in or around which flies, insects, rodents, or vermin may exist, breed, or multiply, or to suffer or permit upon any premises stagnant or filthy water deemed a health hazard by the Montcalm County Health Department (excluding natural wetlands), dead animals or unwholesome meat, or any other unwholesome, filthy, deleterious, or offensive thing or substance.
- (G) Litter on any property or roadway within the Township.
- (H) Accumulate, place, store, or allow or permit the accumulation, placement, or storage of trash or junk outdoors on any property within Eureka Charter Township, except in a lawful sanitary landfill, a lawful junk yard, or not to exceed eight (8) days' storage in watertight storage receptacles designed for the temporary accumulation of trash.

Section 4. Exceptions to this Ordinance

The following activities shall not be subject to the requirements of Section 3 of this Chapter:

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- (A) The lawful disposal of materials or items into or within a lawful sanitary landfill, hazardous materials landfill, or facility or incinerator properly licensed by the state of Michigan.
 - (B) The lawful disposal of materials or items into or within a lawful waste disposal site which has been expressly approved or authorized by the Township under its zoning ordinance or other ordinances.
 - (C) The otherwise lawful storage, use, and application of lawful fertilizers (excluding human waste), herbicides, and insecticides pursuant to agricultural, landscaping, lake weed control, or horticultural uses.
 - (D) The accumulation or spreading of animal (non-human) manure for agricultural purposes.
 - (E) The composting of plant, vegetative, or crop matter.
 - (F) Winter treatment of roads, sidewalks, steps, and other ways for snow and ice removal.
 - (G) The lawful storage of automobile or vehicle bodies or parts at a lawful and approved junk yard.
 - (H) Lawfully and properly maintained feed, chemical, fertilizer, fuel, or liquid storage tanks, whether above or below ground, including the contents thereof.
 - (I) The outdoor storage of bona fide farm equipment, farm implements and farm vehicles, if being used for active ongoing farm operations and if in compliance with any and all other applicable Grant Township ordinances and also in compliance with the Michigan Right to Farm Act.
 - (J) The lawful disposal of human and conventional household waste pursuant to a lawful municipal or underground septic disposal system, or as otherwise expressly allowed pursuant to any applicable ordinance or by law.
 - (K) Notwithstanding any provision of this Chapter, the following items may be buried or disposed of within the Township:
 - (1) Clean fill.
 - (2) Crops, natural compost or vegetative items.
 - (3) Rocks or untreated wood.
 - (4) Cables, conduits, pipes and tubes which are being utilized for utilities, drainage or irrigation purposes.
 - (5) Cement.

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- (6) Basements, shelters, foundations, lawful structures and nontoxic pilings or anchors.
 - (7) Conventional firewood.
 - (8) Cemetery uses and burial of pets.
 - (9) Approved and lawful underground storage tanks.
 - (10) Burying of dead farm animals if buried on land comprising the farm where the animals were from.
 - (11) Approved, lawful underground septic systems.
 - (12) Burying of any road killed animal at or near the site killed.
 - (13) Disposal of game or fish remnants by the hunter or fisherperson involved if the game was lawfully killed.

Chapter 19 – Junk and Inoperable Vehicles

Section 1. Title

This Chapter shall be known and may be cited and referred to as the “Eureka Charter Township Junk and Inoperable Vehicle Ordinance,” and shall hereinafter be referred to as “this Chapter.”

Section 2. Purpose and Intent

A. This Chapter is intended to protect the health, safety and general welfare of the residents, property owners, inhabitants and citizens within the Charter Township of Eureka, to protect property values within the Township, to enhance the scenic beauty of the Township and its neighborhoods, to provide an aesthetically pleasing environment in which to live and work by regulating the outdoor storage of motor vehicles, and to provide for penalties for the violation thereof.

B. Eureka Charter Township does hereby find that the improper placement, storing and accumulation of motor vehicles outdoors is a public nuisance; constitutes an attractive nuisance to children and endangers their safety; decreases property values due to their poor aesthetic nature; interferes with the scenic beauty of the Township; provides harborage for rodents and vermin; contaminates the soil and water by chemical and hydrocarbon drainage; promotes vandalism; and creates or enhances fire hazards.

Section 3. Definitions

For the purposes of this Chapter, the following terms shall have the following meanings:

“**Vehicle**” – means every device in, upon, or by which any person or property is or may be transported or drawn upon a street or highway, excepting devices moved by human power or used exclusively upon rails or tracks.

“**Motor vehicle**” – means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

“**Inoperable vehicle**” or “**inoperable motor vehicle**” means any vehicle or motor vehicle which cannot be started or legally or physically operated on public streets or highways by virtue of lacking the equipment required by the laws of the State of Michigan or which does not bear valid and current license plates.

“**Junk vehicle**” or “**junk motor vehicle**” means a vehicle or motor vehicle which has been so damaged or dismantled as to be a total loss. These terms shall also include all parts or accessories of vehicles or motor vehicles without which vehicles or motor vehicles cannot be operated in a safe manner on streets or public highways.

“**Total loss**” means where the cost to fully repair a damaged or dismantled vehicle or motor vehicle exceeds the fair market value for such vehicle. Fair market value may be determined by using any nationally-recognized appraisal book or method.

Section 4. Prohibition on Vehicles Over a Certain Number on a Property

No person, firm, entity, or corporation shall accumulate, store, place, or permit the accumulation, storage, or placement outdoors of more than four (4) motor vehicles on a lot or parcel which can be physically and legally operated on the public roads for more than seven (7) days during any thirty (30) day time period unless such motor vehicles are within a completely enclosed building or the motor vehicle is being used and is necessary in the operation of any lawful business conducted on the lot or parcel in full compliance with the Eureka Charter Township Zoning Ordinance. In the event that more than four (4) licensed drivers reside on the lot or parcel, the number of motor vehicles may be increased to equal the number of licensed drivers residing permanently on such parcel or lot, in which case all such licensed drivers shall provide the Township Clerk with proof of such permanent residence and a copy of a valid driver's license for all drivers residing on such a lot or parcel.

Section 5. Keeping or Storage of Inoperable or Junk Vehicles or Motor Vehicles

No person, firm, entity, or corporation shall accumulate, store, place, or permit the accumulation, storage, or placement of any inoperable or junk vehicle or motor vehicle in Eureka Charter Township for more than 48 hours during any calendar year on a lot or parcel, unless such inoperable or junk vehicle or motor vehicle is stored in a fully-enclosed lawful garage or other building.

Section 6. Nuisance

The presence of an inoperable vehicle, junk vehicle or motor vehicle in violation of this Chapter is hereby declared to be a public nuisance *per se*.

Section 7. Prima Facie Evidence

The ownership, lease, occupation, or use of land by any person, entity, firm, or corporation upon which an inoperable or junk vehicle or motor vehicle is accumulated, stored, or placed outdoors shall be *prima facie* evidence that such person, firm, entity, or corporation accumulated, stored, or placed such inoperable or junk vehicle or motor vehicle upon such land, or permitted such inoperable or junk vehicle or motor vehicle to be accumulated, stored, or placed upon such land.

Section 8. Vehicle and Item Sales

No automobile, truck, vehicle, snowmobile, farm and/or garden implement or vehicle, recreational vehicle, trailer, snowmobile, appliance or similar item shall be parked, stored, or kept on any property with any sign, banner, or device indicating that such item is for sale, rent or lease for more than 45 days per calendar year. If such item is still displayed for sale 45 days or more after the Township (or its designated official) sends the property owner a letter indicating that there may be a violation of this Section 8, a rebuttable presumption shall arise that such item has been displayed for sale, rent, or lease for more than 45 days in violation of this section. This Section 8 prohibition shall not apply where neither the item nor the signage is visible from a public road right-of-way or any adjoining property. Nor shall the prohibitions in this Section 8 apply to a lawful commercial

vehicle or implement sales business which complies with the Eureka Charter Township Zoning Ordinance, as amended, and is otherwise lawful.

Chapter 20 – NOISE AND NUISANCE

Section 1. Noise Violations

- (a) Restrictions - Generally. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the Township. Such prohibition shall include, but not be limited to, the noises enumerated in this Section 1.
- (b) The following is prohibited:
- (1) Horns and Signal Devices. The sound of any horn or signal device on any automobile, truck, motorcycle, bus or other vehicle while not in motion except as a danger signal if another vehicle is approaching apparently out of control or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary or unreasonable period of time are all unlawful.
 - (2) Musical instruments; Electronically Amplified Sound. It shall be unlawful to play any musical instrument or allow any electrically or electronically produced, reproduced or amplified sound to emanate from any place or premises between the hours of 10:00 p.m. and 8:00 a.m., so as to be heard more than one hundred (100) feet from the property line of such place or premises or so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling or other residence, or other place of employment or repose are all unlawful. This provision shall not be applicable to community events approved by the Township.
 - (3) Shouting and Whistling. Yelling, shouting, hooting, whistling or singing or the making of any other loud noise on the public streets, between the hours of 10:00 p.m. and 8:00 a.m., or the making of any such noise at any place at any time so as to unreasonably annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any person in the vicinity is unlawful.
 - (4) Whistle or Siren. The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire, emergency, or danger is unlawful.
 - (5) Engine Exhaust. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which effectively prevents loud explosive noises therefrom is unlawful.

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- (6) Construction Noises. Except for government projects, it shall be unlawful to erect, excavate, demolish, alter or repair any structure, or excavate any street or highway, other than between the hours of 7:00 a.m. and 10:00 p.m., without first obtaining a permit from the Township.
 - (7) Devices to Attract Attention. The use of any drum, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention is unlawful.
 - (8) Noise or Commotion in Vehicles. To make a commotion or make unnecessarily loud noises in vehicles, whereby the peace and good order of the neighborhood is disturbed, or where persons owning or occupying property in the neighborhood are disturbed or annoyed is unlawful.
 - (9) Sound Trucks. To operate or cause to be operated a sound truck with radio or amplifier within the Township, without first having obtained a permit therefor from the Township is unlawful.
 - (10) Sound System in Parked or Moving Motor Vehicle. No person operating or in control of a parked or moving motor vehicle (including motorcycles and mopeds) shall operate or permit the operation of an electronically-amplified sound system in or about the vehicle so as to produce sound that is clearly audible at a distance of fifty (50) feet from the vehicle between the hours of 7:00 a.m. and 10:00 p.m., or clearly audible at a distance of twenty-five (25) feet from the vehicle between the hours of 10:00 p.m. and 8:00 a.m.
 - (11) Allow a dog, dogs or any pet to bark, yelp or wane excessively, unreasonably loud or so as to unreasonably disturb persons on a lot or parcel other than where the pet or dog is located.
- (c) Exceptions. None of the noise prohibitions contained in this Chapter shall apply to or be enforced against:
- (1) Any authorized emergency, firefighting or police vehicle when responding to an official call.
 - (2) Necessary excavations or repairs of bridges, streets or highways by or on behalf of the Township, county or state during the night, when the public safety, welfare and convenience renders it impossible to perform such work during the day.
 - (3) The reasonable use of stationary amplifiers or loud speakers in the course of lawful public addresses which are noncommercial in character.
 - (4) Power Chain Saw Noise. Power chain saws operated by internal combustion engines utilized between the hours of 7:00 a.m. and 10:00 p.m.

Section 2. Littering

No person shall litter.

Section 3. Disturbance of the Peace Offenses

No person shall:

- (a) Create or engage in any disturbance, fight or quarrel in any public place, except in reasonable self-defense when attacked without reasonable provocation or in reasonable defense of another who was so attacked.
- (b) Disturb the public peace and quiet by loud, boisterous, or vulgar conduct, noise or language.
- (c) Without proper authority, conduct himself or herself in any public place so as to obstruct the free and uninterrupted passage of the public.
- (d) Disturb or unreasonably interfere with any service of worship or any other assembly gathered for lawful purposes.
- (e) Fire, discharge, display, or possess any fireworks except of the type and under the conditions permitted by Chapter 39 of the Penal Code of the State of Michigan, as amended.
- (f) Incite, cause, or attempt to incite or cause any assembled group of persons to act in a manner that is likely to or does endanger the safety of another person or of property.

Section 4. Prohibition of Nuisances

- (a) Smoke. No person who is responsible for any chimney or smoke stack shall permit the omission therefrom, within the Township, dense smoke or smoke containing soot or other substances in sufficient quantities to permit a noticeable deposit thereof on buildings on lots or parcels other than where the smoke source is located.
- (b) Creation of Noxious or Offensive Odors. No person shall permit matter to putrefy or decay, or be burned so as to cause, nor shall he or she in any other manner cause or occasion, noxious or offensive odors, fumes or gases in any place or places within the Township in such manner as to imperil the health or safety of any person or persons or so as to disturb unnecessarily and without reasonable cause the comfort of any person or persons within the Township.
- (c) Dangerous Structures. No person shall maintain any structure or building which is unsafe or a menace to the health, morals or safety of the public.
- (d) Abandoned Refrigerators and Airtight Containers. No person shall have in his or her possession, either inside or outside of any building, structure or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, or

any other similar airtight container of any kind large enough for a child to enter which has a snap, latch or other locking device thereon, without first removing the snap, latch or other locking device, or the doors, from such icebox, refrigerator, or other airtight container, in such a fashion as to render such container safe.

- (e) Control of Glare, Fumes, Dust and Odors. Every use and activity shall be so conducted and operated such that it is not unreasonable, obnoxious or dangerous by reason of glare, fumes, dust, or odors beyond the lot or parcel on which the use or activity is located, provided however, that such regulations shall not prohibit lawful farming operations that are protected by the Michigan Right to Farm Act to the extent of such protection.

Obnoxious or dangerous fumes, glare, dust, or odors are defined as:

- Fumes: any smoke-like, vaporous, or gaseous exhalation or release from matter or substances, especially of a harmful or allergic nature.
- Dust: earth or other matter of fine, dry particles that can cause irritation or a rash, pollute the air, or inhibit sight/vision.
- Odor: the property of a substance that activates the sense of smell, particularly an allergic reaction or a disagreeable scent or fragrance.
- Glare: a harsh, bright, or dazzling light (or reflection of light) that causes blinding, annoyance or disruption.

- (f) General Nuisances.

- (1) The word “nuisance” as used in this Chapter means any act or acts or omission to act on the part of any person which creates, allows or permits the existence of a situation which unreasonably annoys, injures or endangers the peace, welfare, order, health or safety of the public or private parties in their persons or property. As defined herein, a nuisance includes, but is not limited to, conditions which render persons insecure or endangered in life or in the use and enjoyment of their property, such as effects and emanations from noise, glare, lights, vibrations, dust, smoke, odor, gas, steam, fly-ash, soot, aids, chemicals, fumes, cinders, worms, insects, rodents, flies or decaying matter, whether such effects and emanations are natural or result from human or mechanical alteration or manipulation of materials. A nuisance also includes residues or leaching from deposits of matter which seep into water on the surface or in the ground thereby making it unfit or unpalatable for human consumption, or for use by domestic animals. A nuisance can also include a condition which is indecent, obnoxious, or offensive to the senses. Finally, a nuisance includes anything that is deemed to be a nuisance (private or public) by the common law.
- (2) It is the duty of the person who creates, causes, allows, suffers or permits the existence of a nuisance to end or abate the same. The term “abate” or

“abatement” shall include demolition, removal, repair, maintenance, construction, reconstruction, replacement and reconditioning of structures, appliances, appurtenances or equipment; and it shall also include removal, transportation, buying, disposal and treatment of refuse, manure or other substance or media capable of causing obnoxious odors or of attracting or breeding flies, and the application of chemicals insecticides or other substances or the use of mechanical means to control, eradicate and eliminate the nuisance conditions, including screen-belts of trees and fences.

- (3) Nuisances are prohibited.

Chapter 21 – CEMETERY ORDINANCE

Section 1. Title

This Chapter shall be known and cited as the “Eureka Charter Township Cemetery Ordinance.”

Section 2. Purpose and Intent

The Eureka Charter Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the Township is an important function of the government of the Township. It is also important that burials, disinterments and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The Township Board finds that the adoption and enforcement of this Chapter is in the best interests of the property owners and residents of the Township.

Section 3. Definitions

“**Cemetery Plot**” shall consist of an area in a Township cemetery sufficient to accommodate one burial space for one deceased person. It shall consist of a land area at least thirty-eight (38) inches wide and ninety-six (96) inches in length. Exceptions may be made with Township permission to accommodate infant burial or the burial of cremains.

“**Township**” means Grattan Township.

“**Township cemetery**” or “**cemetery**” means any cemetery owned, operated and/or controlled by the Township.

Section 4. Sale of Cemetery Plots; Nontransferable

- (a) After the effective date of this Chapter, cemetery plots shall be sold by the Township for the purpose of burial for the purchaser of a cemetery plot, or his or her immediate family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) All sales and transfers of cemetery plots shall be made on a form approved by the Township Board and signed by the designated Township official, which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Such forms shall be signed by the Township Clerk or Deputy Township Clerk, and shall constitute a permit when approved.
- (c) Cemetery plots may be sold by the Township to any resident or taxpayer of the Township. The Township Clerk is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred in the Township cemetery involved. Any such decision by the Township Clerk (either granting or denying such variance) may be overturned by the Township Board pursuant to Section 23 hereof.

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- (d) At the time of purchase from the Township, each cemetery plot shall be assigned the name of the specific person who shall be interred in that cemetery plot upon death. Each such person must either be a resident or taxpayer of the Township, or be a member of the immediate family of a qualified purchaser. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, that person must sell the cemetery plot back to the Township and repurchase that space in the name of another eligible person, since cemetery plots are otherwise nontransferable.
 - (e) Cemetery plots are nontransferable, but may be sold back for the original purchase price to the Township (for resale by the Township).
 - (f) The Township Board shall have the authority to place a limit on the number of cemetery plots sold to a particular person, as well as such person's family and relatives. Furthermore, the Township shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold to a specific person and where such cemetery plot or plots will be located and within which Township cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant cemetery plots available and whether family or relatives of the person seeking to purchase a cemetery plot or plots are buried adjacent or nearby the cemetery plot or plots requested.
 - (g) The Township shall have the right to correct any errors that may be made concerning interments, disinterments, or in the description, transfer or conveyance of any cemetery plot, either by canceling the permit for a particular vacant cemetery plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the Township shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same Township cemetery in accordance with law.
 - (h) The owner of every cemetery plot shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 5. Purchase Price for Cemetery Plots; Indigent Burials

- (a) Each cemetery plot shall cost the sum of \$_____. Burial spaces for infants or cremains shall cost the sum of \$_____. The lawful owner of any cemetery plot within the Township shall promptly provide the Township Clerk with any change in that owner's mailing address.
- (b) All charges shall be paid to the Township Treasurer.
- (c) The Township Board may waive some or all fees for the burial of indigent persons. Furthermore, the Township Board may set aside a portion of a Township cemetery or cemeteries for the burial of indigent persons.
- (d) The Township Board may by resolution periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 6. Grave Opening Charges

- (a) The Township may charge reasonable fees for the opening and closing of any cemetery plot, prior to and following a burial therein, and including the interment of ashes. Such fees

shall be set from time to time by resolution of the Township Board, payable to the Township.

- (b) No cemetery plot shall be opened or closed except under the direction and control of the Township Sexton or such other individual as is designated by the Township Board. This subsection B shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the Township Sexton shall be given at least twenty-four (24) hours' prior notice of when such grave opening or closing will occur.

Section 7. Markers or Memorials; No Monuments

- (a) All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them.
- (b) Except for monuments that existed in a Township cemetery before the effective date of this Chapter, no monument will be allowed or erected in a cemetery. For purposes of this Chapter, "monument" shall be defined as any marker, memorial, statue or similar item which exceeds thirty (30) inches in height above normal ground level or which has a ground surface area exceeding thirty (30) inches in width (or forty-eight (48) inches in width for a double marker), with an overall height of no more than thirty (30) inches above ground level, including the foundation. Only one (1) marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share that one marker or memorial. Markers shall be no more than thirty (30) inches in width (or forty-eight (48) inches in width for a double marker), with an overall height of no more than thirty (30) inches above ground level, including the foundation. Individual markers for cremains shall be flush with the ground and shall be no more than twelve (12) inches by twenty-four (24) inches in size.
- (c) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Township, or such person(s) as may be designated by the Township Board. Fees for such work shall be set from time to time by resolution of the Township Board, payable to the Township.
- (d) Should any monument or memorial (including any monument or memorial that was in place before this Chapter became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township Board shall have the right, at the expense of the owner of the cemetery plot, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.
- (e) The maintenance, repair and upkeep of a cemetery memorial, marker, urn or similar item is the responsibility of the heirs or family of the person buried at that location. The Township has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.

Section 8. Interment Regulations

- (a) Only one (1) person shall be buried in a cemetery plot, except for a parent and infant child or two (2) children buried at the same time when approved by the Township.

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- (b) The Township shall be given not less than 36 hours' prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by the Township or such person or persons as are designated by the Township.
 - (c) The appropriate permit or form issued by the Township for the cemetery plot involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the health department, shall be presented to either the Township Sexton or the Township Clerk (or designated Township official) prior to interment. Where such permit or form has been lost or destroyed, the Township Clerk must be satisfied, from his or her records, that the deceased person to be buried in the cemetery plot is an authorized and appropriate person for that space before any interment is commenced or completed.
 - (d) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery plot involved.

Section 9. Disinterments

- (a) No disinterment or the digging up of an occupied grave shall occur without a Township disinterment permit.
- (b) No disinterment or digging up of an occupied grave shall occur until and unless any and all permits, licenses and written authorizations required by law for such disinterment or digging up of an occupied grave have been obtained from any applicable state or county agency, governmental unit or official, and a copy of the same has been filed with the Township.
- (c) The Township Board shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave (and to refuse to issue a Township disinterment permit for the same) if the disinterment or digging up of an occupied grave is not done pursuant to a court order (issued by a court of competent jurisdiction) or does not have a reasonable basis.
- (d) No disinterment permit shall be issued by the Township until the Township disinterment application form (as authorized by the Township Board) has been fully completed (and signed by a properly authorized person) and filed with the Township.

Section 10. Winter Burials

- (a) The Township may charge additional fees for winter burials.
- (b) If a winter burial cannot occur due to inclement weather, frozen ground or similar condition, the deceased person may be kept in winter storage until a spring burial can occur. Written permission by the next of kin or authorized agent must be obtained prior to winter storage. All such winter storage costs shall be paid by the estate of the deceased person or the person's next of kin.
- (c) No winter burials shall occur without the prior consent of the Township Sexton.

Section 11. Cremains

- (a) Cremains may be buried in a container approved by the Township in a cemetery plot or in a columbarium that has been installed by the Township within a Township cemetery.
- (b) No cremains shall be scattered or dispersed within a Township cemetery.

Section 12. Grounds Maintenance

- (a) Flower pots, urns and grave blankets may be placed and maintained at the head stones of graves no earlier than May 1 and must be removed no later than October 1 of each year. Decorations will be permitted for holidays falling outside of these dates, but only for one (1) week prior and one (1) week following the holiday. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (b) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Township Sexton or the Township Clerk. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior permission of the Township Sexton or the Township Clerk.
- (c) No flowers, shrubs, trees or vegetation of any type shall be planted outside of an urn. Any of the foregoing items planted without Township approval will be removed by the Township or the Township Sexton.
- (d) The Township Board reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (f) The Township Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- (g) Surfaces other than earth or sod are prohibited.
- (h) All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers and plastic flower containers must be removed from the cemetery within 10 days after a burial.
- (i) No glass containers or items are allowed.
- (j) Except for markers, memorials, flowers, and urns expressly allowed by this Chapter, and veteran flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, statues, benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained within a Township cemetery, nor shall any grading, digging, mounding or similar alteration of the ground or earth occur except as authorized by this Chapter or by the Township.

Section 13. Disclaimer of Township Liability and Responsibility

Every person who enters, remains in and travels within a Township cemetery does so at their own risk. The Township is not responsible for any injury, accident or other calamity that might occur to any person present in a Township cemetery. Furthermore, the Township is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in a Township cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies and holds harmless the Township for, from and against any injury, damages, causes of action, claims, costs and expenses associated with, relating to and/or involving the cemetery plot or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the Township, but also as to the Township Sexton and any Township employee, officer, official or agent.

Section 14. Forfeiture of vacant cemetery plots or burial spaces

Cemetery plots or burial spaces sold after the effective date of this Chapter and remaining vacant for forty (40) years or more from the date of their sale shall automatically revert to the Township upon the occurrence of the following events:

- (a) Notice shall be sent by the Township Clerk by first-class mail to the last known address of the last owner of record informing him/her of the expiration of the 40-year period and that all rights with respect to said plots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and
- (b) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the Township Clerk from the last owner of record of said plots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

Section 15. Repurchases of Plots or Burial Spaces

The Township may repurchase any cemetery plot from the owner for a price set by the Township Board, upon the written request of said owner or his or her legal heirs or representatives.

Section 16. Records

The Township Clerk shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the Township related to Township cemeteries, and the same shall be open to public inspection at all reasonable business hours.

Section 17. Vaults

- (a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment. Vaults of other suitable materials may be allowed at the discretion of the Township.
- (b) Cremains shall be in a container approved by the Township.

Sections 18. Cemetery Hours

Unless otherwise specified by the Township Board by resolution, all Township cemeteries shall be closed during the hours from 9 p.m. until 7 a.m. the next morning. During those hours, no person shall be present in a Township cemetery. Such prohibition on being present in a Township cemetery during the time when a Township cemetery is closed shall not apply to the Township Sexton, any Township official, a person accompanied by the Township Sexton or other Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 19. Prohibited Uses and Activities

The following prohibitions shall apply within any Township cemetery:

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- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item located within a Township cemetery.
 - (b) No person shall disturb the peace or unreasonably annoy, harass or disturb any other person who is lawfully present on the grounds of any Township cemetery.
 - (c) No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery.
 - (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
 - (e) There shall be no destruction of cemetery property.
 - (f) There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.
 - (g) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Chapter.
 - (h) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
 - (i) There shall be no digging, grading or mounding unless expressly authorized by this Chapter.
 - (j) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
 - (k) There shall be no motorcycles, snowmobiles, four-wheelers, go-carts or similar vehicles.
 - (l) There shall be no gathering of persons in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
 - (m) There shall be no disinterment or grave openings unless approved by the Township.
 - (n) There shall be no possession or consumption of any alcoholic beverage.
 - (o) There shall be no picnicking or consumption of food without prior Township approval.
 - (p) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to a military ceremony or a funeral.
 - (q) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
 - (r) There shall be no littering or dumping.
 - (s) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
 - (t) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
 - (u) There shall be no fires, candles or open flames.
 - (v) No children under twelve (12) years of age shall be allowed in any Township cemetery unless accompanied by an adult and are properly supervised by an adult.
 - (w) There shall be no exceeding of posted speed limits.
 - (x) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to dogs assisting handicapped persons.
 - (y) No firearms or archery arrows shall be discharged or shot except that military or other veterans organizations may carry arms for the purpose of firing over the grave at the burial of a member.
 - (z) No person shall engage in any fight, quarrel or disturbance.
 - (aa) Remains or ashes of a deceased person shall not be scattered or dispersed.
 - (bb) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.
 - (cc) No person shall possess or consume any alcoholic beverage.

Section 20. Authority of the Township Sexton

- (a) The Township Board shall appoint a Township Sexton, who shall serve at the discretion of the Township Board. The Township Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- (b) The Township Sexton shall assist other Township officials with the enforcement and administration of this Chapter.
- (c) The Township Sexton shall have such duties and obligations with regard to Township cemeteries as may be specified from time to time by the Township Board.

Section 21. Fees

The Township Board shall have the authority to set fees pursuant to this Chapter from time to time by resolution. Such fees can include, but are not limited to, a fee or fees for a burial permit, disinterment permit, grave opening, setting of foundations, grave closing, winter or holiday burial, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

Section 22. Applicability of this Chapter

- (a) This Chapter shall apply only to cemeteries owned, controlled or operated by the Township.
- (b) The provisions of this Chapter shall not apply to Township officials or their agents or designees involved with the upgrading, maintenance, administration or care of a Township cemetery.
- (c) The provisions of this Chapter shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

Section 23. Interpretation/Appeals to the Township Board

- (a) The Township Board shall have the authority to render binding interpretations regarding any of the clauses, provisions or regulations contained in this Chapter and any rule or regulation adopted pursuant to this Chapter, as well as their applicability. The Township Board (or its designee) is also authorized to waive application of the strict letter of any provision of this Chapter or any rules or regulations promulgated under this Chapter where practical difficulties in carrying out the strict letter of this Chapter or any rules or regulations related thereto would result in hardship to a particular person or persons or the public. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this Chapter.
- (b) Any party aggrieved by any interpretation or decision made by the Township Sexton or any Township official, agent or contractor pursuant to this Chapter, as well as any matter relating to a Township cemetery, rights to a cemetery plot, or other matter arising pursuant to this Chapter, shall have the right to appeal that determination/decision or matter to the Township Board. Any such appeal shall be in writing and shall be filed with the Township within thirty (30) days of the date of the decision, determination or other matter being appealed from. The Township shall give the aggrieved party who filed the written appeal with the Township at least ten (10) days' prior written notice of the meeting at which the Township Board will address the matter unless an emergency is involved, in which case the Township shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Township Board at which the matter will

be addressed. Pursuant to any such appeal, the decision of the Township Board shall be final.

- (c) The Township Board may set a fee or fees for any such appeal from time to time by resolution.

Section 24. Authority of the Township to Remove Unauthorized or Unlawful Items from a Township Cemetery

Any monument, marker, planting, trellis, personal item, urn, flowers or foliage (whether real or artificial), structure, flag (except for lawful veterans flags), or other item that has been placed, installed, left or maintained in any Township cemetery in violation of this Chapter, any Township rule or regulation regarding Township cemeteries, or any county, state or federal law, statute or regulation may be removed by the Township from the Township cemetery at any time and destroyed or disposed of by the Township without any prior notice to, permission from, or liability or obligation to the person or persons who left, installed, maintained or kept such item in the Township cemetery. No such item (including, but not limited to, a monument, marker, planting, trellis, personal item, urn, flowers or foliage, structure, flag, or similar item) can be installed, placed, maintained or kept in a Township cemetery unless expressly authorized by this Chapter or a written rule or policy of the Township. Even if such an item is authorized to be installed, kept, maintained or left in a Township cemetery, the Township shall still have the discretion to remove any such item at any time and dispose of the same without prior notice to, consent from or liability to the person or persons who installed, maintained or left such item in a Township cemetery.

Section 25. Township Officials Who Can Enforce this Chapter

Unless otherwise specified by the Township Board by resolution, the following officials or officers shall have the authority to enforce this Chapter and to issue municipal civil infraction citations/tickets pursuant to this Chapter:

- Township Supervisor
- Township Clerk
- Township Sexton
- Township Zoning Administrator
- Township Ordinance Enforcement Officer
- Any deputy of the county sheriff's department
- Any State Police officer

CHAPTER 22 – HOME-BASED BUSINESSES

Section 1. Purpose and Intent

- A. The purpose of this Chapter is to provide minimum standards for individuals outside of an Industrial or Commercial Zoning District under the Township Zoning Ordinance to enable them to conduct businesses from their residence providing that they do not interfere with the health, safety and welfare of the community and their neighbors. Eureka Charter Township recognizes the right of all residents and property owners to be free from actual or potential nuisances that may be caused by non-residential activities conducted outside of an Industrial or Commercial Zoning District.
- B. The intent of this Chapter is to provide standards to ensure that home-based businesses are compatible with other permitted uses in that specified zone to maintain and preserve the residential character.
- C. The intent of Section 5 of this chapter, Medical Marihuana, is to set standards for Eureka Charter Township Residents for the growing, cultivating, and dispensing of Medical Marihuana with Eureka Township as approved by the voters under the Michigan Medical Marihuana Act (MMMA) commonly known as Public Act, Initiated Law 1, MCL 333.26421 which became effective on December 4, 2008.

Section 2. Definitions

Home-Based Business: Includes Type I and Type II businesses that are conducted for profit outside of an Industrial or Commercial Zoning District within Eureka Charter Township and are required to file an IRS Schedule C (profit and loss statement).

Type I Business: Any commercial activity operated for profit outside of and Industrial or Commercial Zoning District by family members living in the dwelling unit and conducted as a customary, incidental, accessory use within the residential unit or attached garage.

Type II Business: Any commercial activity operated for profit outside of an Industrial or Commercial Zoning District that is conducted in a separate accessory structure. The commercial activity is performed by family members who live in the residential structure on the parcel.

Compassion club or Medical Marihuana Dispensary – Any business, facility, association, cooperative, location or operation whether fixed or mobile, where medical marihuana is made available to, sold, delivered, transmitted, dispensed, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 *et seq.*, as amended)
2. A qualifying patient (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 33.26421 *et seq.*, as amended)
3. Members of the general public.

A medical marihuana dispensary (compassion club) shall also include any place, location, facility, or operation, whether fixed or mobile where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana and such medical marihuana smoking or consuming is occurring on the property of a business, association, cooperative, or commercial operation or facility or on a public governmental property. A medical marihuana dispensary, (compassion club) does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualifying patients (as defined by Michigan Initiated Law I of 2008, as amended (being MCL 333.26421 *et seq.* as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with not only the Eureka Charter Township.

Farm: A contiguous parcel of land of not less than three acres in area, directly farmed or used for commercial agriculture by the owner/operator, manager or tenant farmer by his own labor or with assistance of the members of his household or hired employees. A farm may include a farm-related dwelling and accessory products or animals or otherwise used for the operation of the farm.

Michigan Medical Marihuana Act. (MMMA): Public Act 2008, Initiated Law I being MCL 333.26421 *et seq.*, as well as any and all amendments thereto and also any legislation enacted into law to implement that statute.

Medical Use of Marihuana: Is the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition as defined by the Michigan Medical Marihuana Act (MMMA).

Section 3. Exclusions

- A. **Hobby:** An activity operated in a home or accessory building that is not conducted for profit or advertised, and the resident is not required to file an IRS Schedule C (profit and loss statement) for the activity.
- B. **Bona fide farm operation:** See Definitions in Section 2 of this Chapter. A farm operation required to file an IRS Schedule F shall constitute a bona fide farm operation. An associated agricultural operation without a bona fide farm operation is not exempt from requirements of this Chapter.
- C. **Non-Advertised Multi-Level Marketing Businesses:** For example, online-based marketing.

Section 4. General Standards for Home-Based Businesses

The following standards shall apply to all Type I and Type II home-based businesses:

- A. The home-based business shall be incidental and subordinate to the lawful principal use of the lot or parcel.

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- B. The use shall not detract from the residential character or the welfare of the surrounding properties by creating increased noise, septic disposal, well water withdraw, traffic, lighting or parking.
 - C. There shall be no exterior evidence of the home-based business except for a permit required sign conforming to the requirements stated in the Zoning Ordinance.
 - D. Delivery or pickup of goods shall not exceed that normally resulting from or associated with residential uses.
 - E. No machinery, mechanical devices or equipment that generate noise, vibration, fumes, radiation, odor, glare, smoke, steam, electrical interference or other conditions that is detectable to the normal senses off premises and could reasonably result in a nuisance to neighbors will be allowed.
 - F. The home occupation may increase vehicular traffic flow and parking by no more than two additional vehicles at a time. No more than ten customers or clients shall come to the dwelling unit for services or products during any one day. Parking generated by the conduct of home occupations shall be off the street and not in the required front yard.
 - G. No process, chemicals or hazardous materials contrary to State or Federal laws shall be used or stored on site.
 - H. No home-based business will be allowed to operate in a multi-family dwelling unit.
 - I. No large equipment (such as excavating or road construction equipment) shall be allowed in any residential zoning district, or on agricultural-zoned parcels under the Zoning Ordinance of five acres or less, for storage or continuous parking.
 - J. No more than one service truck or two pickup-size vehicles shall be allowed in Suburban Residential or Urban Residential Zoning Districts under the Zoning Ordinance for storage or continuous parking. No more than two service trucks or four pickup-size vehicles shall be allowed in the Rural Residential Zoning District, or on Agricultural-zoned parcels of five acres or less for storage or continuous parking. Vehicles must have a valid license and must be in operable condition.
 - K. Each use shall comply with the Eureka Charter Township Zoning Ordinance.

Section 5. Medical Use of Marijuana

- A. No medical marihuana dispensary (compassion club) shall be commenced, conducted, maintained, operated or utilized anywhere within Eureka Charter Township or on or from any property, land, building or structure within and from Eureka Charter Township. Furthermore, no person shall frequent, patronize or obtain or purchase any marihuana from or through any medical marihuana dispensary with Eureka Charter Township.
- B. The primary caregiver may grow and process marihuana in compliance with the Act within the residential dwelling where the primary caregiver lives and is the primary caregiver's residence pursuant to Michigan law. No such residential dwelling of the primary caregiver shall be located with an apartment building, multi-family residential

building or similar housing building or development, but rather, shall occur only within a detached lawful single-family residential dwelling.

- C. No person other than the members of the immediate family of the primary caregiver residing within the residence of that primary caregiver (and no person under 18 years of age) shall be engaged or involved in the growing, processing, dispensing, delivery, or handling of the marihuana.
- D. Use of the residential dwelling (which is the residence of the primary caregiver) for marihuana related purposes shall be clearly incidental and subordinate to its use for single family residential purposes. Not more than 25% of the gross finished floor area of the dwelling shall be used for the growing, processing and handling of the marihuana. No part of an accessory building, detached garage, pole barn or similar building or structure shall be used for the growing, processing, or distribution of marihuana.
- E. No qualifying patient shall visit, come to or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana; rather, the primary caregiver must personally deliver any medical marihuana to a qualifying patient at the residence of that qualifying patient.
- F. No person shall deliver marihuana to a qualifying patient other than the primary caregiver for that qualifying patient. The primary caregiver must personally deliver the marihuana to his/her qualifying patient.
- G. There shall be no visible change to the outside appearance of the primary caregiver's residence or other visible evidence of the conduct of the medical marihuana operation occurring inside the dwelling.
- H. No marihuana, marihuana plants, marihuana paraphernalia or plant growing apparatus shall be visible from the exterior of the dwelling.
- I. No growing, processing, smoking or use of marihuana shall occur outdoors. All medical marihuana growing, processing and handling shall occur entirely within the dwelling.
- J. No sale or distribution of merchandise or products shall be conducted on, within or from the dwelling or residential premises (including the lot or parcel involved) of the primary caregiver apart from the medical marihuana itself.
- K. No equipment or processing shall be used in growing, processing or handling medical marihuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television or similar receiver off the premises or caused fluctuation of line voltage off the premises. The dwelling of the primary caregiver shall meet all building, housing, fire and local and state codes and ordinance requirements.
- L. The growing, processing, distribution, sale and handling of medical marihuana shall comply at all times and all circumstances with State law and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.
- M. The residence for the primary caregiver shall be located more than 1,000 feet from any school, church or library as defined by Michigan law to ensure community compliance with federal "Drug-Free School Zone" requirements and to minimize negative impacts.

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- N. Not more than one (1) primary caregiver shall be permitted to grow, process or handle medical marihuana at or from a given dwelling unit.
 - O. All medical marihuana shall be contained within the primary caregiver's residential dwelling (except when being delivered by the primary caregiver to a qualifying patient off site) and in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver. Any person under eighteen (18) years old shall not have any access to any medical marihuana.
 - P. No on-site consumption or smoking of marihuana is allowed within the residence (or on the lot or parcel) of a primary caregiver except for any medical marihuana consumption by the primary caregiver himself/herself if he/she is a qualifying patient and in full compliance with State law.
 - Q. No medical marihuana shall be grown, processed or handled at, from or through the residence of the primary caregiver beyond that which is needed or allowed by law (whichever is less) for the qualifying patients of that particular primary caregiver.
 - R. No sign identifying the dwelling as being a place where medical marihuana is grown, sold, processed, kept, or distributed shall be visible outside of the dwelling or within any of the windows of the dwelling.

Section 6. Type I Home-Based Businesses

- A. Home occupations are permitted in all zoning districts under the Zoning Ordinance in which single-family dwelling units are a permitted use.
- B. Home occupations shall be operated in their entirety within the dwelling unit or within an attached garage. The space for the home occupation shall not exceed 25% of the total square footage of the principal dwelling unit excluding the size of the garage.
- C. Home occupations shall be conducted only by the person(s) occupying the premises as their principal residence.
- D. Additions to the dwelling unit or garage for the purpose of conducting the home occupation shall have an architectural style that is compatible with the architecture of the dwelling unit and shall be designed so that the addition can be used for residential purposes if the home occupation is discontinued.
- E. No retail sales of merchandise or other products not associated with the business conducted on the premises will be allowed.
- F. The outdoor storage of goods and/or materials associated with the home occupation is prohibited.

Section 7. Type II Home-Based Businesses

- A. Type II businesses are only allowed in Agricultural, Rural Residential and Suburban Residential zoning districts under the Zoning Ordinance.

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- B. Type II businesses shall not exceed more than one building. The floor area of the building shall not exceed required building size restrictions for that zoning district under the Zoning Ordinance.
 - C. The building used for the business activity shall not be used for short-term or long-term human habitation.
 - D. The outdoor storage of vehicles and/or materials of any kind is prohibited unless screened from view by a tight-board wood fence or landscaped buffer which shall retain the residential character of the neighborhood.
 - E. Type II businesses shall be conducted only by the person(s) occupying the premises as their principal residence. No more than two non-resident workers will be allowed. In addition, no more than three temporary seasonal workers may be allowed for periods of up to 30 days to meet short-term fluctuations in production for one season per year.
 - F. The approved hours of operation may not exceed 7:00 a.m. to 10:00 p.m.

CHAPTER 23 – FLOODPLAIN MANAGEMENT

Section 1. Agency Designated

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of the County of Montcalm is hereby designated as the enforcing agency to discharge the responsibility of the Charter Township of Eureka under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The County of Montcalm assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this Ordinance.

Section 2. Code Appendix Enforced

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the Charter Township of Eureka.

Section 3. Designation of Regulated Flood Prone Hazard Areas

The Federal Emergency Management Agency (FEMA) Flood insurance Study (EIS) Entitled FIRM Flood Insurance Rate Map and dated 11/15/84 are adopted by reference for the purposes of administration of the Michigan Construction Code, and to provide the content of the “Flood Hazards” section of Table R301.2 (1) of the Michigan Residential Code.

**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

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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

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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

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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.

Chapter 25 - FIREWORKS

Section 1. Definitions

The following words and terms in this Ordinance are defined as follows:

- (a) “Act 256” means the Michigan Fireworks Safety Act, Act 256 of 2011, as amended.
- (b) “Alcoholic liquor” means the term as defined in Section 1d of the Michigan Vehicle Code, Act 300 of 1994, as amended, MCL 257.1d.
- (c) “APA Standard 87-1” means the “APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics,” 2001 edition, published by the American Pyrotechnics Association of Bethesda, Maryland.
- (d) “Articles pyrotechnic” means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 C.F.R. part 172.101.
- (e) “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 C.F.R. parts 1500 through 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.
- (f) “Controlled substance” means the term as defined in Section 8b of the Michigan Vehicle Code, Act 300 of 1949, as amended, MCL 257.8b.
- (g) “Display fireworks” means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 C.F.R. part 555.11, 49 C.F.R. part 172, and APA Standard 87-1, 4.1.
- (h) “Firework” or “fireworks: means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, homemade fireworks, and special effects, as such terms are defined by Act 256.

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- (i) “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.
 - (j) “Novelties” means that term as defined under APA Standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:
 - 1. Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
 - 2. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (j)(1) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
 - 3. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
 - 4. Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box, and toy smoke devices
 - (k) “Person” means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
 - (l) “Public Property” means the streets, sidewalks, easements, or any other land owned by the local, county, state or federal government and used by the general public.
 - (m) “Township” shall mean the Charter Township of Eureka.

Section 2. Use of Consumer Fireworks

- (a) Subject to the provisions of this Ordinance and state and federal law, person shall not ignite, discharge, or use consumer fireworks within the Township, or allow the ignition, discharge, or use of consumer fireworks within the Township, except on the following days and times:
 - 1. 11:00 a.m. on December 31 until 1 a.m. on January 1.
 - 2. 11:00 a.m. through 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day.

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3. 11:00 a.m. through 11:45 a.m. on June 29 to July 4.
 4. 11:00 a.m. through 11:45 a.m. on July 5, if that date is a Friday or Saturday.
 5. 11:00 a.m. through 11:45 a.m. on the Saturday and Sunday immediately preceding Labor Day, until 11:45 p.m. on each of those days.
- (b) Consumer fireworks shall not be used if a burn ban is in effect, as provided by the State Fire Prevention Code, Public Act 207 of 1941.
 - (c) A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or the property of another person, without that person or organization's express permission to use the consumer fireworks on those premises. No person shall ignite, discharge or use consumer fireworks on Township property.
 - (d) A person shall not use consumer fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of an alcoholic liquor and a controlled substance.
 - (e) Consumer fireworks shall only be used in accordance with all applicable local, state and federal laws.

Section 3. Permit to Use Display Fireworks; Application; Insurance

- (a) No person shall use display fireworks or articles pyrotechnic within the Township for public or private display without first obtaining a permit from the Township.
- (b) A person who desires such a permit shall complete an application on a form provided by the Michigan Department of Licensing and Regulatory Affairs and pay the Township a fee, as established from time by time by resolution by the Township Board.
- (c) A copy of the required state or federal permit for the fireworks display shall be submitted with the application.
- (d) The applicant shall furnish proof of financial responsibility by a bond or insurance policy in an amount, character, and form necessary to satisfy claims for damage to persons or property in connection with the use of display fireworks, as determined by the Township Board.

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- (e) The Township Board, at its discretion, may approve an application for use of display fireworks or articles pyrotechnic if it finds that all of the following standards are satisfied:
1. The application and accompanying documentation is complete and conforms to the requirements of this Ordinance.
 2. The operator of the fireworks display is competent and qualified to conduct the fireworks display.
 3. The fireworks display will not have an adverse effect upon public safety.
 4. The time, duration and location of the fireworks display will not, due to noise and other factors, unreasonably disturb the peace of persons residing within the vicinity.
 5. The Township Board, in approving an application hereunder, shall have the authority to impose such conditions as it determines in its sole reasonable discretion are necessary to assure that the fireworks display will satisfy the above standards.
- (f) A permit issued under this section is not transferable and shall not be issued to a minor.

Section 4. Fireworks Safety

No person shall recklessly endanger any person or property by the ignition, discharge or use of fireworks within the Township.

Section 5. Novelties

The Township does not regulate the sale, storage, display for sale, transportation, use, or distribution of novelties.

Section 6. Penalties and Enforcement

- (a) In accordance with the mandatory penalties imposed by Section 7(3) of Act 256, any person who violates Section 2(a) of this Ordinance shall be responsible for a municipal civil infraction and subject to payment of a civil fine of \$1,000.00 for each violation, and no other fine or sanction. \$500.00 of each civil fine shall be remitted to the Township as the law enforcement agency responsible for enforcing the Ordinance.

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- (b) Any who violates Section 2(c) of this Ordinance shall be responsible for a municipal civil infraction and subject to payment of a civil fine of not more than \$500.00 for each violation,
- (c) Any person who violates any term or provision of this Ordinance, except Section 2(a) and 2(c), shall be responsible for a municipal civil infraction and subject to payment of a civil fine as well as any other action by the Township to abate the violations. The minimum fine for a municipal civil infraction under this Ordinance shall not be less than \$500.00 and not more than \$1,000.00, in the discretion of the court, and in addition to all other costs, attorney fees and expenses incurred by the Township. For any violation, the Township may seek such other relief as may be provided by law.
- (d) The following persons may issue a municipal civil infraction citation for a violation of this Ordinance if they have reasonable cause to believe that an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed the violation. Other procedures with respect to issuance of citations and other matters pertaining to violations hereof shall be as provided by law.
1. The Township Supervisor.
 2. Any Township ordinance enforcement official appointed by the Township Board.
 3. The Township Zoning Administrator.
 4. Any law enforcement officer of the Montcalm County Sheriff's Department or the Michigan State Police.
- (e) The issuance of a municipal civil infraction citation is not an exclusive remedy, except for a violation of Section 2, and may be undertaken in addition to, or in conjunction with, all other means of enforcement, including but not limited to injunctive and other relief.

Section 7. Severability

This Ordinance and the sections and subsections thereof are severable. If any portion of this Ordinance is adjudged invalid or unenforceable by a competent court having jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 8. **Repeal**

All ordinance or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 9. **Publication and Effective Date**

This Ordinance shall become effective the day following its publication or the day following publication of a summary of its provisions in a newspaper of general circulation in the Township.