

# **City of Onaway Code of Ordinances**

**Adopted by Ord. 2014-02**

**December 22, 2014**

**and**

**Amended and Codified thereafter**

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## **Chapter 1 – General provisions; Article 1 – General; Division 1 - Generally**

### Sec. 1.1 – Citing Code

### Sec. 1.2 – Repeal of ordinances

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### Sec. 1.4 – Supplementation of Code

### Sec. 1.5 – Certain ordinances not affected by Code

### Sec. 1.6 - Severability

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#### **Sec. 1.1 – Citing Code**

This Code shall be cited as the “Code of Ordinances of the City of Onaway, Michigan” or the “Onaway Code.”

#### **Sec. 1.2 – Repeal of ordinances**

- a) Whenever an ordinance or any part thereof is repealed by a subsequent ordinance, such ordinance or any part thereof so repealed shall not be revived by the repeal of such subsequent repealing ordinance.
- b) Whenever an ordinance is adopted, all ordinances or parts of ordinances in conflict therewith shall, to the extent of such conflict, be repealed.
- c) The repeal of any ordinance or part thereof shall not release or relinquish any penalty, forfeiture or liability incurred under such ordinance or any part thereof, unless the repealing act shall so expressly provide, and such ordinance and part thereof shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability

#### **Sec. 1.3 – Amendments to Code**

- a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: “That section \_\_\_\_\_ of the Code of ordinances of the City of Onaway, Michigan is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.
- b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: “That the Code of Ordinances of the City of Onaway, Michigan, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which shall read as follows:...” The new section then shall be set out in full as desired.
- c) If a section is to be repealed, the following language shall be used: “That the Code of Ordinances of the City of Onaway, Michigan, is hereby amended by deleting a section, numbered \_\_\_\_\_.”

#### **Sec. 1.4 – Supplementation of Code**

- a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the Onaway City Commission. A supplement to the Code shall include all substantive and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they fit properly into the Code and will. Where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

- b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- c) When preparing a supplement to this Code, the codifier, meaning the person, agency, or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - 1) Organize the ordinance material into appropriate subdivisions;
  - 2) Provide appropriate catchlines, headings, and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
  - 3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - 4) Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this division,” etc., as the case may be, or to “sections \_\_\_\_\_ through \_\_\_\_\_,” inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and
  - 5) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

#### **Sec. 1.5 – Certain ordinances not affected by Code**

Nothing in this Code or the ordinance adopting the Code shall affect any ordinance when not inconsistent with this Code:

- a) Promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds of the City or any evidence of the City’s indebtedness, or any contracts or obligations assumed by the City;
- b) Granting any right or franchise;
- c) Pertaining to zoning;
- d) Any other ordinance or part thereof which is not of a general and permanent nature

All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in the Code. The ordinances are on file at City Hall.

#### **Sec. 1.6 – Severability**

If any part of this Code or the application thereof to any person or circumstance shall be found to be invalid by any court, such invalidity shall not affect the remaining parts or applications of this Code which can be given effect without the invalid part or application, provided such remaining parts are not determined by the court to be inoperable, and to this end all provisions of this Code are declared to be severable.

#### **Secs. 1.7 thru 1.26 - Reserved**

**Chapter 2 – Taxes; Article 1 – General; Division 1 - Generally**

Sec. 2.1 – Board of Review

Secs 2.2 thru 2.19 - Reserved

**Sec. 2.1 – Board of Review**

- a) The Board of Review shall consist of three (3) members who shall be electors of the City.
- b) Not less than two of the members of the Board of Review shall be owners of property assessed for taxation in the City.
- c) The members of the Board of Review shall be appointed by the City Commission.
- d) The terms of the first three members appointed pursuant to this ordinance shall expire on December 31, 2016. Thereafter members shall be appointed to two year terms beginning at noon on January 1 of each odd numbered year.
- e) Compensation for members of the Board of Review shall be set by the City Commission.

**Secs 2.2 thru 2.19 - Reserved**

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### **Sec. 3.1 – Reserved**

### **Sec. 3.2 – Addresses**

- a) The owner of any structure in the City of Onaway that has an address number assigned to it by the Presque Isle County Equalization Department pursuant to the Presque Isle County Address Ordinance of October 1991 shall place that address number upon the front of the structure.
- b) Such number shall face the street in such a position as to be plainly visible and legible from the street.
- c) All numbers shall be at least three (3") inches in height, in block or script, and of a color that contrast with the background color of the structure supporting the numbers.
- d) Any person in violation of Sections 3.2(a) through 3.2(c) shall be responsible for a municipal civil infraction and upon admission or finding of responsibility, shall be subject to a fine not to exceed Five Hundred (\$500.00) Dollars as well as Court costs to be determined by a Court of competent jurisdiction. Each day that a violation exists shall constitute a separate violation. The city manager, or his or her duly authorized representative, are authorized to issue citations.

### **Sec. 3.3 - Rules and Regulations Regarding the Splitting of Lots Within Recorded Plats**

- a) Definitions as used in this section:
  - 1) Lot - The term lot shall include each individual lot, outlot, and any other distinct parcel of land within a subdivision.
  - 2) Lot Split - This term shall mean the division, partitioning or subdividing of any lot within a recorded plat that is not accomplished through a circuit court action under MCL 560.221 through 560.229.
  - 3) Resulting Lot - This term shall apply to one of the allowable four (4) parts which a lot can be divided.
- b) Rules Regarding Lot Division

The splitting of a lot in a recorded plat must be done in accordance with the following:

- 1) No lot in a recorded plat shall be divided into more than four (4) parts.
  - 2) No resulting lot shall be less than those dimensions prescribed in the City of Onaway Zoning Ordinance.
- c) Not Served by Utilities

Lots not served by public sewer and public water systems shall not be split if the resulting lots are less than the minimum width and area provided for under the Land Division Act (MCL 560.101 et seq).

d) Adjacent Land

Nothing herein shall prevent the City Manager from approving a lot split of any such lot in a case where the owner of such divided lot owns the land immediately adjacent thereto or in a case where there is presented to the City Manager an executed agreement to convey such divided lot to the adjoining owner and where the combined width and area of the divided lot and the adjacent parcel shall, as a single parcel, conform to the terms and provisions of this section and other ordinances of the City.

e) Prior Approval for Lot Splits

Lots in the City shall not be split without prior review and approval by the City Manager in accordance with this section. Exempt from the requirements of this section are lots split through a circuit court action under MCL 560.221 through 560.229.

f) Application for Lot Splits

An applicant shall file with the City Manager all of the following for review and approval of a proposed lot split before any split can be made:

- 1) A completed application on such form as may be provided by the City.
- 2) Proof of fee ownership of the land to be divided.
- 3) A map of the lot, including the approximate location of all existing structures, indicating the dimensions and legal description of the entire lot and each split to be made.
- 4) Proof that all requirements of this ordinance have been met.
- 5) The fee as may from time to time be established by resolution of the City Commission.

g) Determination

- 1) The City Manager shall approve or disapprove the lot split applied for within 45 days after receipt of a complete application conforming to the requirements of this section and the State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
- 2) The City shall maintain an official record of all approved and accomplished lot splits.
- 3) Approval of a lot split is not a determination that the resulting parcels comply with other ordinances or regulations.

h) Validity

Should any subsection, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any other part thereof.

### **Sec. 3.5 - Rules and Regulations Regarding the Division of Unplatted Land**

#### a) Definitions

For purposes on this section the terms “divide” or “division” means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease for more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. “Divide” or “division” does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act, or the requirements of an applicable local ordinance.

#### b) Prior approval required for land divisions

Unplatted land in the City shall not be divided without approval of the City Manager in accordance with this section and the State Land Division Act; provided that the following shall be exempted from this requirement:

- 1) A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.
- 2) An exempt split, as defined by the State Land Division Act.

#### c) Application for land division

An applicant shall file with the City Manager all of the following for review and approval of a proposed land division before any division can be made:

- 1) A completed application on such form as may be provided by the City.
- 2) Proof of fee ownership of the land to be divided.
- 3) A map of the parcel including the approximate location of all existing structures, indicating the dimensions and legal description of the entire parcel and each division to be made.
- 4) Proof that all requirements of this section have been met.
- 5) The fee as may from time to time be established by resolution of the City Commission.

#### d) Determination

- 1) The City Manager shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to the requirements of this section and the State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
- 2) The City shall maintain an official record of all approved and accomplished land divisions or transfers.
- 3) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

e) Standards for approval of land divisions

A proposed land division shall be approved if all parcels created by the proposed division or divisions are not less than the dimensions prescribed in the City of Onaway Zoning ordinance and the proposed land division or divisions comply with all requirements of this section and the State Land Division Act.

f) Validity

Should any subsection, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any other part thereof.

**Secs. 3.5 thru 3.22 – Reserved**

**Chapter 3 – Community Development; Article 2- Planning; Division 1 - Generally**

Secs. 3.23 thru 3.42 – Reserved

**Secs. 3.23 thru 3.42 - Reserved**



## **Chapter 3 – Community Development; Article 2- Planning; Division 2 – Planning Commission**

### Sec. 3.43 – Creation

### Sec. 3.44 – Membership

### Sec. 3.45 – Removal from office

### Sec. 3.46 – Membership; vacancies

### Sec. 3.47 – Membership; compensation

### Sec. 3.48 – Meetings

### Sec. 3.49 – Powers and duties

### Sec. 3.50 – Meeting; records

### Secs. 3.51 thru 3.60 – Reserved

#### **Sec. 3.43 - Creation**

There shall be a City of Onaway Planning Commission pursuant to PA 33 of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801 *et seq.*, with the powers and duties as therein set forth and as hereinafter provided. This ordinance shall be officially known and described as the “City of Onaway Planning Commission Ordinance.”

#### **Sec. 3.44 – Membership**

- a) The Planning Commission shall consist of 5 members. To be qualified to be a member and remain a member of the Planning Commission, the individual shall be a qualified elector of the City of Onaway, except 2 non-qualified elector(s) may be member(s) and shall not be a declared candidate for any political office.
- b) Members shall be appointed by the Mayor subject to approval by a majority vote of the members of the City Commission for three-year terms. However, when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that as nearly as possible, the terms of 1/3 of all commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of 1/3 of all commission members continue to expire each year.
- c) The membership shall be representative of the important segments of the community such as the economic, governmental, educational, and social development of the City of Onaway, in accordance with the major interest as they exist in the City of Onaway as follows:
  - 1) Natural resources;
  - 2) Recreation;
  - 3) Education;
  - 4) Public health;
  - 5) Government;
  - 6) Transportation;
  - 7) Industry;
  - 8) Commerce.
- d) The membership shall also be representative of the entire geography of the City of Onaway to the extent practicable, and as a secondary consideration to the representation of the major interests.

#### **Sec. 3.45 – Removal from office**

- a) The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential

conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Planning Commission meetings shall be considered nonfeasance in office.

- b) The secretary of the Planning Commission shall report any member who has missed three regular meetings in a row to the City Commission.

**Sec. 3.46 – Membership; vacancies**

The City Commission shall fill any vacancy in the membership of the Planning Commission for the unexpired terms in the same manner as the initial appointment.

**Sec. 3.47 - Membership; compensation**

All members of the Planning Commission shall serve with compensation as established by the City Commission.

**Sec. 3.48 - Meetings**

- a) The Commission shall meet not less than four times per year and a majority of the Planning commission shall constitute a quorum for the transaction of the ordinary business of said Commission and all questions which shall arise at their meetings shall be determined by a vote of the majority of the members of the Planning Commission.
- b) The affirmative vote of three of the total number of seats for members of the Planning Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

**Sec. 3.49 – Powers and duties**

The Planning Commission shall have their powers and duties as set forth in PA 33 of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801 *et seq.*; and PA 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (MCL 125.3101 *et seq.*). In addition the Planning Commission shall act as an advisory committee and resource for the City Commission and citizens of Onaway in collecting information, citizens comments and suggestions and formulating and presenting recommendations to the City Commission for action on matters pertaining to the parks, trails and recreational programs maintained by the City of Onaway.

**Sec. 3.50 – Meeting; records**

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

**Secs. 3.51 thru 3.60 - Reserved**

**Chapter 3 – Community Development; Article 3- Downtown; Division 1 - Generally**

Secs. 3.61 thru 3.80 – Reserved

**Secs. 3.61 thru 3.80 – Reserved**

**Chapter 3 – Community Development; Article 3- Downtown; Division 2 – Downtown Development Authority**

Sec. 3.81 – Definitions

Sec. 3.82 – Purpose and findings

Sec. 3.83 – Creation of authority

Sec. 3.84 – Description of downtown district

Sec. 3.85 – Board of directors

Sec. 3.86 – Powers of the authority

Sec. 3.87 - Fiscal year; adoption of budget; reports; audits.

Sec. 3.88 – Termination

Secs. 3.89 thru 3.98 - Reserved

**Sec. 3.81 - Definitions**

The terms used herein shall have the same meaning as given them in Act 197, or as hereinafter provided in this section, unless the context clearly indicates to the contrary. As used in this article:

*Act 197* means Public Act No. 197 of 1975 as amended (MCL 125.1651 et seq.).

*Authority* means the Downtown Development Authority of the City of Onaway created by this ordinance.

*Board or board of directors* means the board of directors of the authority.

*Downtown district* means the downtown district designated herein or as hereafter amended.

**Sec. 3.82 - Purpose and findings.**

The city commission hereby determines and finds that it is in the best interests of the city to create a public body corporate in order to halt property value deterioration and increase property tax valuation where possible in the downtown district, eliminate the causes of the deterioration and to promote economic growth pursuant to Act 197.

**Sec. 3.83 - Creation of authority.**

There is hereby created pursuant to Act 197 a downtown development authority for the city. The authority shall be a public body corporate and shall be known and exercise its powers under the title "Downtown Development Authority of the City of Onaway." The authority may adopt a seal, may sue and be sued in any court of this state, and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided herein and in Act 197. The enumeration of a power herein or in Act 197 shall not be construed as a limitation upon the general powers of the authority.

**Sec. 3.84 - Description of downtown district.**

The downtown district in which the authority shall exercise its power as provided by Act 197 shall consist of the property in the city described as follows:

Young's Addition

Block 12, Lots 1, 2, 4 and 12.

Block 14, Lots 1-4.

Original Plat

Block 1, Lots 1-3, 17 and 18.  
Block 4, Lots 1, 2, 16-18.  
Block 5, Lots 1, 2, 17, 18 and south 11 feet of Lot 16.  
Block 8, Lots 1-3.

Chandler's 1<sup>st</sup> Addition

Block 8, Lots 9-18.  
Block 10, Lots 22-24

Glazier's 1<sup>st</sup> Addition

Block 3, Lots 1-4.  
Block 4, Lots 1-4.

Robinson's Addition

Block 1, Lots 1-9.  
Block 2, Lots 1-18.  
Block 3, Lots 1-6 and 8-15 and 26-31.  
Block 5, Lots 1-7

Robinson's Third Addition

Block A, Lots 5-21

Unplatted land Section 5, T34N, R2E, parcel commencing 54 feet East of Northeast corner of Lot 7, Block 3, Robinson's Addition; thence South 231 feet; thence East 69.5 feet; thence North 231 feet; thence West 69.5 feet to point of beginning.

Unplatted land Section 5, T34N, R2E, parcel in Southeast quarter of Southwest quarter commencing at Northwest corner of Lot 6, Block 3, Robinson's Addition; thence South 198 feet; thence West 90 feet; thence North 198 feet; thence East 90 feet to point of beginning.

Robinson's Addition, Block 3, North 115 feet of Lot 7, also parcel in Southeast quarter of Southwest quarter, Section 5, commencing at Northeast corner of Lot 7, Block 3, Robinson's Addition being the point of beginning; thence South 115 feet; thence East 54 feet; thence North 115 feet; thence West 54 feet to point of beginning.

Chandler's First Addition, Block 7, east 33 feet of lots 15 thru 18, also Block 9, Lots 1 thru 28 and the northern half and easterly half of abandoned alley abutting said lots.

Chandler's First Addition, Block 10, Lots 11 & 12 and the north 24 feet of Lot 13

Chandler's First Addition, Block 10, south 9 feet of lot 13 & lots 14, 15, 16, 17 & north 25 feet of lot 18. also parcel in sw 3 of sw 3 sec 5 t34n r2e, com at sw cor of lot 14 blk 10 chandler's 1<sup>st</sup> add, th nw to cor of lots 9 & 10 same blk and addition, s 33deg w 178.6 ft, e to nw boundary of lot 18 same blk 25 ft sw of nw cor of said lot 18 blk 10; th nly along nw boundary line to pob.

Chandler's First Addition, Block 10, parcel com at sw cor of lot 20 blk 10, n 45deg 55min e along nw boundary line of blk 10 74 ft, n 44deg 05min w parallel with sw boundary line of lot 20 if extended in nwly direction 100 ft to pt where a line extended s 33deg w from cor of lot 9 & 10 would intersect said course,

s 33deg w 75 ft, s 45deg 05min e along said extended line to pob. also south 8 ft of lot 18 and lots 19, 20 and north 10 feet off lot 21.

Chandler's First Addition, Block 10, Lot 21 except north 10 feet city street right of way.

Robinsons Addition, Block 4, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20, 21, 22 and 23 except parcel com at nw cor of lot 21, s 33 ft to s boundry line of said lot, w 33 ft to most sw cor of said lot as now exists with alley closed, th nely along nw coundry line, being center line of former line 48 ft to pob.

Shaw's Second Addition, Block 1, Lots 1&2 also com nw cor sec 8 th s88-30-00e 46.27ft to pob th n46-00-00w th s15-07-00w 47.64ft th s88-30-00e 60.23ft th s00 -50-00w 31.08ft to ne cor lot1 th s89-10-00e 20ft th s00-50-00w 132ft th n89-10-00w 152ft to ely row li m-33 th n00-50-00e 151.28ft th n46-00-00e 18.70 ft to pob sec8 t34n r2e survey l252 p236.

Unplatted land, com sw cor sec5 th s88-30-00e alg s li 46.27ft to e row li washington ave th n46-00-00e 64ft to pob th cont 169.77ft th s44-00-00e 218ft th s22-08-00e 99.11ft th n89-10-00w 219.65ft th n00-50-00e 48.21 ft th n89-10-00w 20ft to ne cor lot1 blk1 shaws 2nd add th n00-50-00e 31.08ft th n88-30-00w alg s li 60.23ft th n15-07-00w 47.64ft to pob sec 5 and 8 t34n r2e.

Unplatted land com sw cor sec5 th s88-30-00e alg s li 46.27ft to e row li washington st th n46-00-00e 233.77ft to pob th cont 90ft th s44-00-00e 132ft th n46-00-00e 66ft th s44-00-00e 86ft th s46-00-00w 156ft th n44 -00-00w 218ft to pob sec5 t34n r2e

Unplatted land com sw cor sec5 th s88-30-00e alg s li 46.27ft to s li washington ave th n46-00-00e 389.77ft to swly row li spring st th s44-00-00e alg row li 198ft to s row li shaw st and pob th n46-00-00e 92ft th s44 -00-00e 60ft th s46-00-00w 20ft th s44-00-00e 12ft th s46-00-00w 60ft th s44-00-00e 28ft th s00-50-00 w 386.77ft th n89-10-00w 375.52ft th n00-50-00e 18 ft th s89-10-00e 20ft th n00-50-00e 215.79ft th s 89-10-00e 219.65ft th n22-08-00w 99.11ft th n46-00 00e 156ft th n44-00-00w 20ft to pob sec5/8 t34nr2e also s 1/2 of abandoned portion of shaw st laying between spring st & badder st.

Unplatted land t34n r2e all that part of sec's 5 & 8 com at the n'ly most cor of lot 1, block 3 of shaw's sec add, being the pob, th alg the w'ly line of said lot s 45d 45m 54s w 155.90 ft, th alg the w'ly line of a 20 ft wide alley as platted s 0d 32m 53s w 478.09 ft, th alg the n'ly line of lots 19-24, block 1 of sd plat n 89d 25m 15s w 178.07 ft, th n 0d 26m 14s e 338.99 ft, th n 74d 13m 3s e 55 ft, th n 15d 46m 57s w 70 ft, th n 6d 8m 13s e 41.08 ft, th n 44d 14m 6s w 72 ft, th alg the s'ly li of shaw st n 45d 45m 51s e 267.35 ft, th alg the s'ly li of fardon st s 44d 13m 43s e 160.78 ft to the pob. all being a part of the nw 1/4 of the nw 1/4 of sd sec 8, & the sw 1/4 of the sw 1/4 of sec 5, t34n r2e, city of onaway, but exc from that desc the following , com at the sw cor of lot 9, block 3 shaw's sec addition, th n 89d 24m 4s w 20 ft, th s 0d 32m 53s w 66 ft, th s 89d 24m 4s e 20 ft, th n 0d 33m 17s e 66 ft to the pob.

Unplatted land sec 5 t34n r2e parc com at sw cor of sec 5; th s 88deg 30min e 46.27ft; th n 46deg e 389.77ft; th s 44deg e 198ft; th n 46deg e 12ft; th s 44deg e 72ft to pob; th n 46deg e 80ft; th s 6deg 22min 19sec w 41.08ft; th s 15deg 32min 51sec e 70ft; th s 74deg 27min 9sec w 37.93ft; th n 50 min e 47.30ft; th n 44deg w 28ft to pob.

Unplatted land com at intersection of w row li spring st & s row li washington ave th s64-00-00w alg row li 66ft th s44-00-00e 132ft th n64-00-00e 66ft to s row li spring st th n44-00-00w 132ft to pob sec5 t34n r2e.

Unplatted land com sw cor sec5 th n01-15-00e alg sec li 427.1ft th s42-15-00e 274.1ft to nly row li washington ave th s47-00-00w alg row li to pob sec 5 t34n r2e.

Unplatted land com sw cor sec5 th n alg sec li 449ft th s85-57-30 e 51.77ft to pob th cont 332.89ft to nwly row li washington ave th s45-55-00w 221.88ft th n44-09-53 w 247.85ft to pob sec 5 t34n r2e

Unplatted land com at sw cor sec5 th n alg sec li 427ft to pob th cont 22ft th s85-57-30e 51.77ft th s44-09-35e 247.85ft to nwly row li washington ave th s45-55-00w 50ft th n44-09-53w 270.76ft to pob sec5 t34n r2e.

Unplatted lands sec 5 t 34 n r 2 e parc in sw 1/4 of sw 1/4 com at sw cor of sec 5: n 47deg e on center line of wash. ave 630.84 ft, n 43deg w 33 ft to nwly line of said ave to pob; n 43deg w 155 ft, n 47deg e 150 ft, s 43deg e 23 ft, s 47deg w 66 ft, s 43deg e 132 ft to said ave line, s 47deg on r/y line 84 ft to pob. also parc com at the sw corner of sec 5, th n 47d e alg center line of washington ave 630.84 ft, th n 43d w 33 ft to the nwly row line of washington ave & pob of this desc, th n 43d w 155 ft, th n 47d e 150 ft, th at right angles & sely 23 ft, th alg nwly line of lot 22 of chandlers 1st add, 33 ft, th n 43d w 46 ft, th s 80d w 128 ft, th s 47d w 264 ft, th s 79d 48m 20s e 309.39 ft, th alg nwly line of washington ave 3 ft to the pob.

Unplatted lands sec 6 t 34 n r 2 e parc in se 1/4 of se 1/4 com 33ft n & 153ft w of se cor of sec 6; th w 110ft, n 187ft, e 110ft, th s 187ft to pob

Unplatted land com se cor sec6 th n 33ft then w 22ft to pob, th n 187 ft th w 153 ft th s 187 ft th e 153 ft to pob sec 6 t 34n r 2e.

Unplatted land t 34 n r 2e sec 7 parc comm at ne cor of sec 7 th s 7min 21sec e 33ft th s 89deg 6min 39sec w 33ft to pob, th s 7m 21s e 172.19ft, th s 89d 6m 39s w 54.17ft, th s 88d 17m 19s w 17.88ft, th s 7m e 1/2 foot, th s 87d 17m 29s w 12.2ft, s 89d 6m 39s w 89.53ft, th n 7m 21s e 46.33ft, th s 89d 6m 39s w 82 ft, th n 7m 21s w 160ft, th n 89d 6m 39s e 135.75 ft, th s 33ft, th e 120ft to pob.

Unplatted land com sw cor sec5 th s88-30-00e alg s li 46.27ft to s li washington ave th n46-00-00e 389.77ft to swly row li spring st th s44-00-00e alg row li 198ft to s row li shaw st and pob th n46-00-00e 92ft th s44 -00-00e 60ft th s46-00-00w 20ft th s44-00-00e 12ft th s46-00-00w 60ft th s44-00-00e 28ft th s00-50-00 w 386.77ft th n89-10-00w 375.52ft th n00-50-00e 18 ft th s89-10-00e 20ft th n00-50-00e 215.79ft th s 89-10-00e 219.65ft th n22-08-00w 99.11ft th n46-00 00e 156ft th n44-00-00w 20ft to pob sec5/8 t34nr2e also s 1/2 of abandoned portion of shaw st laying between spring st & badder st.

Subject to such changes as may hereinafter be made pursuant to this ordinance and Act 197.

### **Sec. 3.85 - Board of Directors**

The authority shall be under the supervision and control of the board, consisting of the mayor [city manager] and eight members. The members shall be appointed by the mayor and subject to approval by the commission. Eligibility for membership on the board and terms of office shall be as provided in Act 197. Each member shall hold office until the member's successor is appointed.

### **Sec. 3.86 - Powers of the authority.**

The authority shall possess all of the powers necessary to carry out the purposes of its incorporation and shall have all powers provided by Act 197.

### **Sec. 3.87 - Fiscal year; adoption of budget; reports; audits.**

- a) The fiscal year of the authority shall begin on April 1 of each year and end on March 30 of the following year, or such other fiscal year as may hereafter be adopted by the city.
- b) The board shall annually prepare a budget and shall submit it to the city commission. The board shall not adopt a budget for any fiscal year until the budget has been approved by the city commission. The board

may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

- c) The authority shall be audited biannually by the same independent auditors auditing the city and copies of the audit report shall be filed with the city commission.

**Sec. 3.88 - Termination.**

Upon completion of its purposes the authority may be dissolved by an ordinance duly adopted by the city commission. The property and assets of the authority, after dissolution and satisfaction of its obligations, shall revert to the city.

**Secs. 3.89 thru 3.98 - Reserved**



## **Chapter 3 – Community Development; Article 3- Downtown; Division 3 – Development/TIF Plan**

Sec. 3.99 – Findings

Sec. 3.100 – Public purpose

Sec. 3.101 – Best interest of the public

Sec. 3.102 – Approval and adoption of plan

Sec. 3.103 – Preparation of base year assessment roll

Sec. 3.104 – Preparation of annual tax increment assessment roll

Sec. 3.105 - Establishment of project fund; approval of depository

Sec. 3.106 - Payment of tax increments to authority

Sec. 3.107 - Use of moneys in the project fund

Sec. 3.108 – Annual report

Secs. 3.109 thru 3.118 - reserved

### **Sec. 3.99 - Findings.**

- a) The development plan and tax increment financing plan on file with the City Clerk (the “plan”) meets the requirements set forth in Act 197 of 1975, as amended.
- b) The proposed method of financing the developments is feasible and the City of Onaway Downtown Development Authority has the ability to arrange the financing.
- c) The developments are reasonable and necessary to carry out the purposes of Act 197 of 1975, as amended.
- d) The land included within the development area to be acquired, if any, is reasonably necessary to carry out the purposes of the plan and the purposes of the act in an efficient and economically satisfactory manner.
- e) The development plan is in reasonable accord with the master plan of the City.
- f) Public services, such as fire and police protection and utilities, to the extent required by the Plan, are reasonably necessary for the project and for the City.
- g) Changes in zoning, streets, street levels, intersections, and utilities, to the extent required by the Plan, are reasonably necessary for the project and for the City.

### **Sec. 3.100 - Public purpose.**

The City Commission hereby determines that the plan constitutes a public purpose.

### **Sec. 3.101 - Best interest of the public.**

The City Commission hereby determines that it is in the best interests of the public to proceed with the plan in order to halt property value deterioration, to increase property tax valuation, to eliminate the causes of the deterioration in property values, and to promote growth in the downtown district.

### **Sec. 3.102 - Approval and adoption of plan.**

The plan is hereby approved and adopted. A copy of the plan and all later amendments thereto shall be maintained on file in the City Clerk’s office.

### **Sec. 3.103 - Preparation of base year assessment roll.**

- a) Within 60 days of the publication of this ordinance, the City Assessor shall prepare the initial base year assessment roll. The base year assessment roll shall list each taxing jurisdiction in the development area on the effective date of this ordinance, the initial assessed value of each parcel of property within the development area, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes on property in the development area.
- b) The City Assessor shall transmit copies of the base year assessment roll to the City Clerk/Treasurer, County Treasurer, the Authority and each taxing jurisdiction, together with a notice that the base year assessment roll has been prepared in accordance with this ordinance and the tax increment financing plan contained in the plan approved by this ordinance.

**Sec. 3.104 - Preparation of annual tax increment assessment roll.**

Each year within 15 days following the final equalization of property in the development area, the City Assessor shall prepare the tax increment assessment roll. The tax increment assessment roll shall show the initial assessed value of each parcel of property within the development area and the amount by which the current assessed value as finally equalized for all taxable property in the development area exceeds the initial assessed value of the property as shown on the base year assessment roll (the captured assessed value). Copies of the annual tax increment assessment roll shall be transmitted by the Assessor to the City Clerk/Treasurer, the County Treasurer, the Authority and the Treasurer of each taxing jurisdiction within the development area, together with a notice that it has been prepared in accordance with this ordinance and the plan.

**Sec. 3.105 - Establishment of project fund; approval of depository.**

The City Clerk/Treasurer shall establish a separate fund which shall be kept in a depository bank account or accounts in a bank or banks approved by the City of Onaway Downtown Development Authority, to be designated Downtown Development Authority Project Fund. All moneys received by the Authority pursuant to the plan shall be deposited in the project fund. All moneys in the project fund and earnings thereon shall be used only in accordance with the plan.

**Sec. 3.106 - Payment of tax increments to authority.**

The City Clerk/Treasurer, and the County Treasurer shall, as ad valorem and specific taxes are collected on the property in the development area, pay that proportion of the taxes, except for penalties and collection fees, that the captured assessed value bears to the initial assessed value to the Authority for deposit in the project fund. The payments shall be made on the date or dates on which the City Clerk/Treasurer and the County Treasurer are required to remit taxes to each of the taxing jurisdictions.

**Sec. 3.107 - Use of moneys in the project fund.**

The moneys credited to the project fund and on hand therein from time to time shall be used annually in the following order of priority:

- a) First, to pay into the debt retirement fund, or funds, for all outstanding series of bonds issued pursuant to the plan an amount equal to the interest and principal coming due (in the case of principal whether by maturity or mandatory redemption) prior to the next collection of taxes, less any credit for sums on hand in the debt retirement funds.
- b) Second, to establish a reserve account for payment of principal of and interest on bonds issued pursuant to the plan to the extent required by any resolution authorizing bonds.

- c) Third, to pay the administrative, auditing and operating costs of the Authority and the City pertaining to the downtown district, including planning and promotion, to the extent provided in the annual budget of the Authority.
- d) Fourth, to repay amounts advanced by the City for project costs, including costs of preliminary plans, and fees for other professional services.
- e) Fifth, to pay the cost of completing the remaining public improvements, if any, as set forth in the plan to the extent those costs are not financed from other sources.
- f) Sixth, to pay the cost of any additional improvements to the plan that are determined necessary by the Authority and approved by the City Commission in accordance with Act 197 of 1975., as amended.

**Sec. 3.108 - Annual report.**

Within 90 days after the end of each year, the Authority shall submit to the City Commission, with copies to each taxing jurisdiction, a report on the status of the project fund. The report shall include the amount and source of revenue in the account, the amount and purpose of expenditures in any bond reserve account, the initial assessed value of the development area, the captured assessed value of the development area and the amount of captured assessed value retained by the Authority, the tax increments received and the amount of any surplus from the prior year, and any additional information requested by the City Commission or deemed appropriate by the Authority. The Secretary of the Authority shall cause a copy of the report to be published once in full in a newspaper of general circulation in the City.

**Secs. 3.109 thru 3.118 - Reserved**

**Chapter 3 – Community Development; Article 4- Housing; Division 1 – Generally**

Secs. 3.119 thru 3.138 – Reserved

**Secs. 3.119 thru 3.138 – Reserved**

## **Chapter 3 – Community Development; Article 4- Housing; Division 2 – Rental housing**

Sec. 3.139 – Rental units and properties regulated

Sec. 3.140 - Rental units/properties defined

Sec. 3.141 - Timetables for registration; payment of inspection fee

Sec. 3.142 - Inspection of rental units

Sec. 3.143 - Costs of inspections

Sec. 3.144 – Standards

Sec. 3.145 – Penalties/enforcement

Secs. 3.146 thru 3.155 – Reserved

### **Sec. 3.139 - Rental units and properties regulated.**

No person shall lease a rental unit that has not been registered with the City of Onaway and does not meet acceptable standards, as determined by this division.

### **Sec. 3.140 - Rental units/properties defined.**

The term “rental unit” means any living quarters such as single-family homes, duplexes, triplexes, apartments or cabins that are leased in exchange for rent for residential purposes but shall not include Lynn Street Manor or Jamestown Apartments.

### **Sec. 3.141 - Timetables for registration; payment of inspection fee.**

- a) All existing rental units shall be registered with the City of Onaway and the inspection fee paid within 30 days of notice provided by the City;
- b) A new owner of an existing rental unit must register within 30 days of change of ownership if said owner plans to continue to lease the unit;
- c) Owners of rental units constructed after the adoption of this ordinance must register and pay the inspection fee within 30 days of leasing the rental unit; and
- d) Anyone who converts an owner-occupied unit into a rental unit must register the unit and pay the inspection fee within 30 days of leasing the rental unit.
- e) An owner whose rental unit has been inspected by the Michigan State Housing Development Authority and has met the housing quality standards established for that inspection may present a copy of that inspection to the City of Onaway in lieu of the inspection fee and the rental unit shall be exempt from inspection pursuant to this Section for a period of five years from the date the inspection made by the Michigan State Housing Development Authority.

### **Sec. 3.142 - Inspection of rental units.**

All rental units shall be inspected by a housing inspector designated by the City of Onaway within 90 days of their registration and every five years thereafter. Owners will have 90 days to correct any violations of this division. After 90 days the housing inspector shall re-inspect to ensure all violations of this division have been corrected. A person who fails to correct any violation during the 90 day period following the initial inspection, and who continues to lease a rental unit thereafter, shall be deemed to have violated this division.

### **Sec. 3.143 - Costs of inspections.**

The owner of the rental unit inspected shall be responsible for the cost of each inspection. The cost of inspection shall be determined by resolution of the City Council. All inspection costs shall be paid in advance of the inspection.

**Sec. 3.144 - Standards.**

a) Living Room

- 1) The rental unit must have at least one habitable room which is not a kitchen area or bathroom.
- 2) An "efficiency apartment" (living/sleeping room with a kitchen area designed into it) is considered a living room.
- 3) In units with one or more habitable rooms (other than kitchen or bathroom), one room, regardless of current use, must be selected as a living room.

b) Electrical Hazards

All rental units must be free from electrical hazards. Ground Fault Interrupter outlets are required where a plug and any water source may come in contact in the kitchen, bathroom or laundry room. Electrical hazards include:

- 1) Broken or frayed electrical wires.
- 2) Bare metal wires not covered by rubber or plastic insulation.
- 3) Loose or improper wire connections to outlets.
- 4) Improper splicing of wires.
- 5) Light fixtures hanging from electric wire with no other firm support.
- 6) Missing or badly cracked cover plates on outlets and switches.
- 7) Any outlet that does not work. But ONLY if the electrical box or coverplate gives a shock or if there are scorch marks.
- 8) Electric cords under rugs/floor coverings.
- 9) A wire laying in or near standing water or where water might splash.
- 10) Lamp cord that is part of the permanent wiring system of the unit.
- 11) Improper connections, insulation or grounding of any component of the electrical system.
- 12) Exposed fuse box connections.
- 13) Overloaded circuits evidenced by frequently "blown" fuses.
- 14) Any rubber or plastic coated electrical wiring in a room that is mounted on the surface of a wall or ceiling in a manner that allows it to be abused (broken, cut or damaged in other ways).

c) Electricity requirements

All rental units must meet the following minimum electricity requirements:

- 1) Living room – 2 outlets, or 1 outlet and 1 permanent light fixture.
- 2) Kitchen – 1 outlet and 1 permanent light fixture.
- 3) Bathrooms – 1 permanent light fixture.
- 4) Other rooms used for living – 2 outlets, or 1 outlet and 1 permanent light fixture.

d) Security

All outer doors and windows must be capable of being locked.

1) Door locks

All locks should be operable and securely fastened to the door.

The lock “striker plate” should be working and be fastened securely to the door frame.

A chain lock alone is not considered adequate to pass. However, a chain lock with another properly working lock would be adequate and would pass.

A simple slide “bolt” lock (keyless lock) would not be adequate as the only lock on the only door of the unit.

The door frame itself must be able to hold the door and securely lock when closed.

Security bars are not allowed as a primary means of locking a patio door unless that are permanently attached to the door frame.

2) Window locks

Locks installed on windows must work and when placed in the locked position, hold securely.

Security bars are not allowed as a primary means of locking a window unless they are permanently attached to the window frame.

A window that is nailed shut is not an acceptable means of locking.

e) Window condition

1) Windows in a rental unit must meet the following conditions:

No missing or broken-out panes.

No dangerously loose, cracked panes.

No windows that will not close.

No windows that, when closed, do not form a reasonably tight seal and allow serious drafts to enter.

2) Screens on Windows:

Screens on windows are required.

f) Ceiling condition

Ceilings shall be free from:

- 1) Severe bulging or buckling.
- 2) Large holes.
- 3) Loose plaster/drywall in danger of falling (other than paper or paint).
- 4) Loose sections of plaster or drywall in danger of falling.
- 5) Many missing parts such as ceiling tile.

g) Wall condition

Walls shall be free from:

- 1) Severe buckling, bulging or leaning.
- 2) Damaged or loose structural members.
- 3) Large holes or any holes, regardless of size, that allow significant drafts.

h) Floor condition

Floors shall be free from:

- 1) Severe buckling, sagging or movement when walked upon.
- 2) Large sections of damaged/missing parts (e.g., missing floor boards).
- 3) Holes which penetrate both the finish floor and the subflooring that allow weather or vermin to enter.
- 4) Permanent floor covering/boards which are serious tripping hazards.

i) Kitchen:

- 1) All rental units shall have a kitchen.
- 2) A kitchen is an area used for preparation of meals. It may be either a separate room or an area of a larger room (for example, a kitchen area in an efficiency apartment).



3) A separate kitchen or kitchen area must be used **primarily** for the preparation and storage of food. A bedroom with a refrigerator is not a kitchen.

4) A kitchen must have all of the following:

A separate kitchen sink with piped hot and cold water;

A stove for cooking food;

A refrigerator to store perishable food; and

Facilities and services for the sanitary disposal of food and refuse.

j) Stove/range with oven

Each rental unit must have a working oven and a stove/range with all top burners that work.

k) Refrigerator

Each rental unit must have an adequate sized, properly working refrigerator that can maintain a temperature low enough so that food does not spoil over a reasonable period of time and capacity for storing frozen food.

l) Kitchen sink

A rental unit shall have a working kitchen sink with hot and cold running water.

m) Bathroom

A rental unit shall have at least one bathroom present in the unit for the exclusive use of the occupant with a working toilet, wash basin, and hot and cold running water and adequate water pressure.

n) Smoke detectors

A rental unit shall have at least one battery operated or hardwired smoke detector in proper operating condition installed on each level of the rental unit.

o) Heating Equipment:

A rental unit must have properly working, vented heating equipment capable of providing adequate heat to all rooms in the rental unit.

p) Plumbing

A rental unit must have plumbing free from major leaks or corrosion that cause serious and persistent levels of rust or contamination of the drinking water.

q) Sewer connection

A rental unit must be connected to an approved public disposal system and be free from sewer back-up.

r) Access to unit

A Tenant must have direct access to the rental unit without having to go through another unit.

s) Exits

A rental unit must have an alternate means of exit from the building in case of fire.

t) Infestation

A rental unit shall be free of infestation of rats, mice, or other potentially harmful vermin.

**Sec. 3.145 – Penalties/enforcement**

A violation of any of the provisions of this division shall be a municipal civil infraction. The City Manager, or his or her duly authorized representative, are authorized to issue citations. A copy of the citation need not be personally served upon the alleged violator, but may be served by sending the same to the alleged violator by first-class mail at his or her last known address. A fine of \$100.00 shall be assessed in accordance with the law. Each day a violation is committed or permitted shall constitute a separate offense and shall be punished as such hereunder.

**Secs. 3.146 thru 3.155 - Reserved**

**Chapter 4 – Public Safety; Article 1- General; Division 1 - Generally**

Secs. 4.1 thru 4.20 – Reserved

**Secs. 4.1 thru 4.20 – Reserved**

**Chapter 4 – Public Safety; Article 2- Police protection; Division 1 - Generally**

Secs. 4.21 thru 4.40 – Reserved

**Secs. 4.21 thru 4.40 – Reserved**

**Chapter 4 – Public Safety; Article 3- Ambulance service; Division 1 - Generally**

Secs. 4.41 thru 4.60 – Reserved

**Secs. 4.41 thru 4.60 – Reserved**

**Chapter 4 – Public Safety; Article 4- Fire protection; Division 1 - Generally**

Secs. 4.61 thru 4.80 – Reserved

**Secs. 4.61 thru 4.80 – Reserved**

**Chapter 4 – Public Safety; Article 4- Fire protection; Division 2 – Fee collection**

Sec. 4.81 – Purpose

Sec. 4.82 – Definitions

Sec. 4.83 – Charges for fire department services

Sec. 4.84 – Joint liability

Sec. 4.85 – Billing procedure

Sec. 4.86 – Remedies

Sec. 4.87 - Severability

Secs. 4.88 thru 4.97 – Reserved

**Sec. 4.81 - Purpose.**

This division is adopted for the purpose of providing financial assistance to the City of Onaway in the providing of fire protection from those receiving direct benefits from the fire protection service.

The City of Onaway authorizes the imposition of charges to recover reasonable and actual costs incurred by the Fire Department in responding to calls for fire protection services within the City of Onaway.

**Sec. 4.82 - Definitions.**

The following terms or phrases shall be defined as follows:

- a) *Fire Board* means the Joint Fire Administrative Board established by Allis Township, the City of Onaway and North Allis Township.
- b) *Fire Department* means the Onaway Area Fire Department established by Allis Township, the City of Onaway and North Allis Township under the Joint Fire Administrative Board.
- c) *Fire Chief* means the Chief Operational and Administrative Officer of the Fire Department.
- d) *Responsible Party* means the owner of property benefitted by fire protection services rendered by the Fire Department.

**Sec. 4.83 - Charges for fire department services.**

The following services rendered or performed by the Fire Department:

- a) House or structure fire;
- b) Automobile fire;
- c) Truck fire;
- d) Grass or brush fire; and,
- e) Public safety, health and welfare response calls;

shall be charged to the responsible party in accordance with a schedule of charges established from time to time by resolution of the Fire Board. To be in effect the schedule of charges established by the Fire Board shall be approved by Allis Township, the City of Onaway and North Allis Township.

**Sec. 4.84 - Joint liability.**

Where a particular service rendered by the Fire Department directly benefits more than one property, the owner of each property so benefitted shall be liable for the payment of the full charge for such service.

**Sec. 4.85 - Billing procedure.**

After fire protection services are rendered the Fire Chief shall submit the name of the responsible party and nature of the fire protection services rendered to the Fire Board Treasurer; the Fire Board Treasurer shall prepare and invoice to the responsible party for payment. the Treasurer's invoice shall demand full payment within thirty (30) days of the date of billing.

**Sec. 4.86 - Remedies.**

The Fire Board and/or the City of Onaway may institute an appropriate action or proceeding in a court of competent jurisdiction to collect the charges imposed under this division.

**Sec. 4.87 - Severability.**

Should any provision or part of this division be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this division which shall remain in full force and effect.

**Secs. 4.88 thru 4.97– Reserved**



**Chapter 4 – Public Safety; Article 5- Weapons; Division 1 – Generally**

Secs. 4.98 thru 4.117 – Reserved

**Secs. 4.98 thru 4.117 – Reserved**

**Chapter 4 – Public Safety; Article 5- Weapons; Division 2 – Bows and crossbows**

Sec. 4.118 – Unlawful discharge

Sec. 4.119 – Penalties/enforcement

Secs. 4.120 thru 4.129 – Reserved

**Sec. 4.118 - Unlawful Discharge**

No person shall discharge or propel any arrow, metal ball, pellet or other projectile by use of any bow, long bow, cross bow, slingshot or similar device within the city limits of the City of Onaway.

**Sec. 4.119 – Penalties/enforcement**

A violation of this division is a municipal civil infraction. A fine of not more than \$500.00 shall be assessed in accordance with the law. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violation of this ordinance.

**Secs. 4.120 thru 4.129 – Reserved**

**Chapter 5 – Animals; Article 1- General; Division 1 - Generally**

Secs. 5.1 thru 5.20 – Reserved

**Secs. 5.1 thru 5.20 – Reserved**

**Chapter 5 – Animals; Article 2- Dogs; Division 1 - Generally**

Sec. 5.21 - Barking

Secs. 5.22 thru 5.31– Reserved

**Sec. 5.21 – Barking**

- a) No person shall keep or harbor a dog which by loud or frequent or habitual barking, yelping, or howling shall cause a serious annoyance to the neighborhood or passersby on the streets.
- b) A violation of this division is a municipal civil infraction. A fine of not more than \$500.00 shall be assessed in accordance with the law. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violation of this division.

**Secs. 5.22 thru 5.31 – Reserved**

## **Chapter 5 – Animals; Article 3- Exotic animals; Division 1 - Generally**

### Sec. 5.32 – Definitions

### Sec. 5.33 - Owning and/or keeping exotic or wild animals

### Sec. 5.34 – Enforcement

### Sec. 5.35 - Penalties

### Secs. 5.36 thru 5.45– Reserved

#### **Sec. 5.32 - Definitions**

As used with this article:

- a) *Animal* means any vertebrate, invertebrate, mammals, birds and reptiles and is intended to include living creatures other than human.
- b) *Domestic animals* means those animals that have traditionally, through a long association with humans, lived in a state of dependence upon humans or under the dominion and control of humans and have been kept as pets no longer possessing a disposition or inclination to escape, raised as livestock, or used for commercial breeding purposes.
- c) *Exotic or wild animals* means animal that are not defined above as a domestic animal, including but not limited to the following:
  - 1) All poisonous animals, including rear-fang snakes;
  - 2) Apes: Chimpanzees (pan), gibbons (hylobates), gorillas, orangutans (pongo), and siamangs (symphalangus);
  - 3) Baboons (papol, mandrillus);
  - 4) Bears (ursidae);
  - 5) Bison;
  - 6) Cheetah (acinonyx jubatus);
  - 7) Crocodilia (by example, crocodiles and alligators);
  - 8) Constrictor snakes;
  - 9) Coyote (canis latrans);
  - 10) Deer (cervidae, includes all members of the deer family, for example, white tail deer, elk, antelope and moose);
  - 11) Elephants (elephas and loxodonta);
  - 12) Game cocks and other fighting birds;

- 13) Hippopotami (hippopotamidae);
  - 14) Hyena (hyaenidae);
  - 15) Jaguars (panthera onca);
  - 16) Leopards (panthera pardus);
  - 17) Lions (panthera leo);
  - 18) Lynxes;
  - 19) Monkeys, old world (cercopithecidae);
  - 20) Ostriches (struthio);
  - 21) Piranha fish;
  - 22) Pumas (felis concolor), also known as cougars, mountain lions and panthers;
  - 23) Rhinoceroses (rhinocero tidae);
  - 24) Sharks (class chondrichthyes);
  - 25) Snow leopards (panthera uncia);
  - 26) Swine (suidae);
  - 27) Tigers (panthera tigris);
  - 28) Wolves (canis lupus);
  - 29) Poisonous spiders, venomous or poisonous insects;
  - 30) Perissodactyla (generally nonruminant ungulate mammals with odd-numbers toes);
  - 31) Artiodactyla (generally hooved mammals with even number of toes, by example, camel);
  - 32) Non-domesticated carnivores including hybrid crosses of non-domesticated carnivores; and,
  - 33) Non-human primates.
- d) *Person* means an individual, partnership, association, corporation, trust, estate, or other legal entity.
- e) *Circuses* means a commercial variety show featuring animal acts for public entertainment.

**Sec. 5.33 - Owning and/or keeping exotic or wild animals**

- a) It shall be unlawful for any occupant of any premises located within the City to own or possess any exotic or wild animal, on or about the premises.

b) Animals excluded; removal.

1) A person who owns or keeps an exotic or wild animal on the effective date of the ordinance shall, within 90 days, remove the animal from the City.

2) Subsections a) and b) shall not apply to the following:

Veterinary clinics treating an ailing animal;

Wildlife sanctuaries, nature centers and nature preserves either acknowledged by the state or permitted by the City; and,

Circuses inspected by the state and permitted by the City.

**Sec. 5.34 - Enforcement**

The City Manager, or his or her duly authorized representative, are authorized to issue a citation to any person who owns or possesses any exotic or wild animal found anywhere in the City contrary to any provision of this division. A copy of the citation need not be personally served upon the alleged violator, but may be served by sending the same to the alleged violator by first class mail at his or her last known address.

**Sec. 5.35 - Penalties.**

Violation of this division is a municipal civil infraction punishable by a fine not to exceed \$500.00 together with costs of the prosecution.

**Secs. 5.36 thru 5.45 - Reserved**

## **Chapter 5 – Animals; Article 4 – Livestock and poultry; Division 1 - Generally**

Sec. 5.46 – Definitions

Sec. 5.47 – Unlawful conduct

Sec. 5.48 – Exceptions

Sec. 5.49 – Keeping of chickens, ducks, geese, and turkeys

Sec. 5.50 – Conditions apply

Sec. 5.51 – Penalties/enforcement

Secs. 5.52 thru 5.61 - Reserved

### **Sec. 5.46 - Definitions**

As used in this article:

- a) Livestock means horses, stallions, colts, gelding, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, donkeys, jennets, burros, goats, kids, swine, and fur-bearing animals being raised in captivity.
- b) Poultry means live chickens, turkeys, ducks, geese, quail, guinea fowl, peafowl, pigeons, partridge, and pheasant.

### **Sec. 5.47 - Unlawful conduct**

No person shall keep or house any livestock or poultry within the city except as provided in this article.

### **Sec. 5.48 - Exceptions**

A person shall be permitted to keep livestock or poultry if all of the following conditions are met:

- a) Such animals are kept or housed not less than two hundred fifty (250) feet from any residential dwelling of any person other than the one upon whose premises they are located;
- b) There are not more than 13 residential dwellings, other than the dwelling upon the premises where they are kept or housed, within 1/8 mile of such premises; and,
- c) The person adheres to the standards and acceptable management practices established by the Generally Accepted Agricultural and Management pertaining to the care of farm animals as adopted by the Michigan Commission of Agriculture and Rural Development.

### **Sec. 5.49 – Keeping of chickens, ducks, geese, and turkeys**

A person who is not permitted to keep animals pursuant to Sec. 5.48 shall be permitted to keep and house a maximum of eight domesticated chickens (hens only), ducks, geese or turkeys in a pen or confinement coop which is at least 25 feet from any neighboring dwelling unit. Further, a maximum of ten (10) chicks under the age of five (5) weeks are permitted. Roosters are prohibited.



### **Sec. 5.50 – Conditions apply**

No person shall keep any poultry listed in Sec. 5.49 unless they comply with the following conditions:

- a) The keeping of the poultry shall be done so as to limit and mitigate any potential adverse impacts on surrounding properties. The keeping of poultry shall be exclusively used by the people occupying the property as a locally grown food source for the consumption of eggs or meat.
- b) The outdoor slaughtering of poultry is prohibited.
- c) The poultry shall be provided with a covered enclosure and must be kept in the covered enclosure or an adjoining fenced enclosure at all times. The poultry may be allowed to roam outside of the covered or fenced enclosure if within a fully fenced side and/or rear yard and if supervised by a person in the immediate vicinity of the poultry.
- d) All covered enclosures or fenced enclosures shall be located in the rear yard, shall be no closer than twenty feet to any property line of an adjacent property, and shall be located no closer than 25 feet to any residential structure on an adjacent property.
- e) The total square footage of any covered enclosure and fenced enclosure shall not exceed 100 square feet and shall be a maximum of eight feet in height.
- f) All covered enclosures shall be constructed in such a way as to prevent rats, mice, or other rodents from being harbored underneath or within the walls of the enclosure. The enclosure shall be constructed in a workmanlike manner. The coop and pen must be completely enclosed with a top and/or cover.
- g) All feed and other items associated with the keeping of the poultry likely to attract rats, mice, or other rodents or vermin shall be secured and protected in sealed containers.

### **Sec. 5.51 - Penalties/enforcement**

A person violating any provisions of this article shall be guilty of a municipal civil infraction. A fine of not more than \$500.00 shall be assessed in accordance with the law. Each day such violation is committed shall constitute a separate offense. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violation of this article.

### **Secs. 5.52 thru 5.61 – Reserved**

**Chapter 6 – Nuisances; Article 1- General; Division 1 - Generally**

Secs. 6.1 thru 6.20 – Reserved

**Secs. 6.1 thru 6.20 – Reserved**

**Chapter 6 – Nuisances; Article 2- Blight; Division 1 - Generally**

Secs. 6.21 thru 6.40 – Reserved

**Secs. 6.21 thru 6.40 – Reserved**

## **Chapter 6 – Nuisances; Article 2- Blight; Division 2 – Grass and weeds**

Sec. 6.41 - Duty of property owners and occupants to destroy and remove noxious vegetation

Sec. 6.42 – Natural area permit

Sec. 6.43 – Cutting by City

Sec. 6.44 – Notice requirements

Sec. 6.45 – Penalties/enforcement

Secs. 6.46 thru 6.55 – Reserved

### **Sec. 6.41 - Duty of property owners and occupants to destroy and remove noxious vegetation**

No person who is owner, possessor, or occupier of land within the City shall fail to cut all weeds and grass growing thereon or along the sidewalk, street or alley adjacent to such land, between the property line and curb, or middle of the alley, or for ten feet outside the property line, if there is no curb, when such weeds and grass are noxious, unsightly or detrimental to the public health and welfare, at least once before each of the following dates: May 1, June 1, July 1, August 1 and September 1 and as many other times as may be necessary to prevent such land from becoming noxious, unsightly or detrimental to the public health and welfare. For the purposes of this section, when said weeds or grass reach nine inches in height it shall be deemed noxious, unsightly or detrimental to the public health and welfare.

### **Sec. 6.42 - Natural area permit**

Any owner, possessor, or occupier of land may maintain an area of natural plant growth on which weeds and grass in excess of nine inches may grow provided they first obtain a Natural Area Permit from the City Commission.

### **Sec. 6.43 - Cutting by City**

If any person shall fail to comply with the provisions of this ordinance the City Manager shall through the Department of Public Works cause all such weeds and grass to be cut or destroyed upon lands of the person not complying with the provisions hereof. The City Manager shall keep an accurate account of all expense incurred with respect to each parcel of land entered upon in carrying out the provisions of this ordinance and charge the cost to the property owner. The City shall have a lien upon the parcel of land for the amount of the expense and the expense shall be added to the taxes assessed against the property as a special assessment and collected in the same manner as other taxes.

### **Sec. 6.44 - Notice requirements**

The City Clerk shall on or before the fifteenth day of April of each year give notice of the requirements and provisions of this ordinance by publishing a notice thereof once per week for two successive weeks in a newspaper of general circulation in the City.

### **Sec. 6.45 – Penalties/enforcement**

Failure to cut weeds and grass as required herein shall constitute a municipal civil infraction punishable by a fine of not more than \$500.00. Each day a violation of this division is committed shall constitute a separate offense. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violation of this division.

### **Secs. 6.46 thru 6.55 – Reserved**

**Chapter 6 – Nuisances; Article 2- Blight; Division 3 – Junk and debris**

Sec. 6.56 – Purpose

Sec. 6.57 – Property maintenance

Sec. 6.58 – Burning of trash

Sec. 6.59 – Abatement

Sec. 6.60 – Emergency

Sec. 6.61 – Violation

Secs. 6.62 thru 6.71 – Reserved

**Sec. 6.56 - Purpose**

It is hereby determined that the storage or accumulation of junk, garbage, or other items that might otherwise clutter a parcel of property within the City of Onaway tends to result in blighted and deteriorated neighborhoods, the increase in criminal activity, the spread of vermin and disease, is hazardous to persons and property and is contrary to the public peace, health, safety and general welfare of the community, and constitutes a public nuisance.

**Sec. 6.57 - Property maintenance**

No person shall maintain or allow to be maintained any conditions prohibited by this ordinance upon any structure or property owned, leased, rented or occupied by such person. All premises shall be maintained in a clean, safe and sanitary condition, free from any accumulation of the following:

- a) Refuse.....all putrescible solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, and solid market or industrial wastes.
- b) Rubbish.....non putrescible solid wastes consisting of combustible and non-combustible materials, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, and similar materials.
- c) Building materials..... scrap items, including but not limited to lumber, brick, blocks, plumbing material/fixtures, heating ducts/fixtures, electrical wiring/fixtures. This section shall not apply to building material while such material is being actively used in the maintenance or construction of the premises.
- d) Junk items.....including but not limited to parts of machinery, broken or unusable furniture, stoves, refrigerators, or other household appliances, remnants of wood, metal or other cast-off materials, whether or not the same could be put to any usable use.
- e) Furniture.....household furniture, designed and customarily used as interior furnishings, when stored and/or used outdoors in yards or on open porches and decks.

**Sec. 6.58 - Burning of trash**

The burning of household trash, waste, or rubbish, with the exception of paper, is declared a public nuisance and is prohibited.

**Sec. 6.59 - Abatement**

In case any owner, occupier, or possessor of any lands or any person, firm or corporation having charge of any lands shall fail to comply with this division, the City Manager or his or her agent shall have the right to enter upon said lands and abate the situation, provided notice of non-compliance is served in writing by certified mail by the City Manager or duly authorized representative upon the owner, occupier, or possessor of said lands, or any person, firm or corporation having charge of said lands at least ten days prior to the City Manager or his or her

agent entering the lands. The notice shall state the nature of the nuisance, the location of the violation, and shall require that nuisance be abated within ten days. The notice shall be deemed proper and served upon the owner, occupier, or possessor of said lands, or any person, firm or corporation having charge of said lands with such receipt being binding as to the date of service or, if the same is returned by the United States Postal Service because of its inability to make delivery thereof, the date of service shall be the date the notice is returned to the sender. The City Manager shall file a report in writing with the City Treasurer noting the date when said nuisances were abated, the names of the owner, occupier or possessor of said lands, or any person, firm or corporation having charge of said lands and the cost of abating the public nuisance. The full cost of abatement shall be a lien on the property and added to the taxes assessed against the property as a special assessment and collected in the same manner as other taxes.

**Sec. 6.60 - Emergency**

The City Manager may abate any public nuisance if the public safety and welfare requires immediate action, without prior notice, the cost of which shall be assessed against the property in the manner described in Section 4.

**Sec. 6.61 – Penalties/enforcement**

Any owner, occupant or person in charge of land within the City of Onaway violating any of the provisions of this division shall be guilty of a municipal civil infraction. A fine of not more than \$500.00 shall be assessed in accordance with the law. Each day such violation is committed or permitted shall constitute a separate offense. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violation of this division.

**Secs. 6.62 thru 6.71 – Reserved**

## **Chapter 6 – Nuisances; Article 2- Blight; Division 4 – Junk vehicles**

### Sec. 6.72 – Purpose

### Sec. 6.73 – Junk vehicles/vehicle parts regulated

### Sec. 6.74 – Vehicle defined

### Sec. 6.75 – Junk vehicle defined

### Sec. 6.76 – Exceptions

### Sec. 6.77 – Vehicle repair

### Sec. 6.78 – Persons responsible

### Sec. 6.79 – Severability

### Sec. 6.80 – Abatement

### Sec. 6.81 – Penalties/enforcement

### Secs. 6.82 thru 6.93 - Reserved

#### **Sec. 6.72 - Purpose**

- a) It is hereby determined that there exists on privately owned parcels of land in the City of Onaway accumulations of junk vehicles or parts thereof and that such accumulation of vehicles and/or parts thereof constitutes a hazard to the public health, safety and welfare of the residents of the City of Onaway for the reason that they provide a habitat conducive to breeding and nesting of rats, mice and other vermin and also that they contain objects with sharp edges and other hazards which could injure small children who would be attracted to play thereon without appreciating the danger thereof, and that they diminish property values and are a potential source of environmental contamination due to leaking fluids and that the regulations contained in this Ordinance are the minimum regulations required to eliminate the foregoing undesirable conditions and protect the public health, safety and welfare of the community.
  
- b) It is further determined that the repair, redesign, modifying or dismantling of any vehicle on a regular basis outside of a fully enclosed building, or the maintenance of vehicles or parts thereof upon any privately owned parcel of land located in a residentially zoned district should be regulated to protect the peace and quiet enjoyment of neighborhoods, it being the intent of the Ordinance that all such activities must be accomplished within a fully enclosed building in compliance with all City of Onaway Zoning Ordinance provisions and said activities must not constitute a nuisance or annoyance to adjoining property owners or occupants.

#### **Sec. 6.73 - Junk vehicles/vehicle parts regulated**

No person shall permit any junk vehicle or vehicle parts to be placed, stored or allowed to remain within the City of Onaway in violation of the provisions of this division.

#### **Sec. 6.74 - Vehicle defined**

As used in this division, the term vehicle shall mean any motor vehicle which is otherwise known as an auto, automobile, bus, car, motor home, motorcycle, pickup, truck or van.

#### **Sec. 6.75 - Junk vehicle defined**

A junk vehicle is defined for purposes of this division as a vehicle which, because of its mechanical condition, structural integrity or missing parts, is inoperable or cannot legally be driven on a public highway in Michigan.

#### **Sec. 6.76 – Exceptions**

- a) A junk vehicle and vehicle parts are permitted to be stored outdoors for a period not to exceed 90 days in the commercial or industrial zoned areas of the City where there is located and where the property owner

or lessee operates a licensed auto repair shop or licensed scrap yard on the premises and the property has all zoning approvals necessary.

- b) A junk vehicle may be stored outdoors on private premises in a residential zoned district for a period not exceeding fifteen days if the owner is repairing the vehicle or about to have it repaired.
- c) Parts of vehicles being removed, replaced or installed by the occupant working on his own vehicle on the premises may be reasonably stored outdoors in an orderly manner on the premises for a period not exceeding fifteen (15) days. Parts or tires to be discarded shall be removed immediately.
- d) Between May 1 and September 15, one vehicle modified for racing on licensed race tracks in the State of Michigan shall be permitted to be stored on a licensed trailer in the driveway, though in no instance can that vehicle be started, repaired, or disassembled outside a closed garage.

#### **Sec. 6.77 - Vehicle repair**

Repairing junk vehicles in residential zoned districts other than vehicles wholly owned and titled to the owner or person in control of the premises is prohibited. Repair of junk vehicles must take place within a fully enclosed building.

#### **Sec. 6.78 - Persons responsible**

The provisions of this division shall apply to the owner of the vehicle or parts thereof or the person having charge, custody or control of the vehicle or parts thereof and also the owner of the private premise or the person having charge, custody or control of the private premises on which the vehicle or the part thereof is located and both persons shall be responsible for the removal thereof.

#### **Sec. 6.79 - Severability**

The sections of this division are declared to be severable and if any section is declared illegal or void for any reason, it shall not affect the remainder of the division.

#### **Sec. 6.80 - Abatement**

- a) In case any owner, occupier or possessor of any land or any person, firm or corporation having charge of any land fails to comply with this division, the City Manager or his agent shall have the right to enter upon said lands and remove the junk vehicle, provided notice of non-compliance is served in writing by certified mail by the City Manager or his duly authorized representative, upon the owner, occupier, or possessor of said lands or any person, firm or corporation having charge of said lands at least ten days prior to the City Manager or his agent entering the lands. The notice shall state the nature of the violation, the location of the violation, and shall require that the violation be abated within ten days. The notice shall be deemed proper and served upon the owner, occupier, or possessor of said lands, or any person, firm or corporation having charge of said lands with such receipt being binding as to the date of service, or, if the same is returned by the United States Postal Service because of its inability to make delivery thereof, the date of service shall be the date the notice is returned to the sender. The City Manager shall file a report in writing with the City Treasurer noting the date when the violation was abated, the name of the person, firm or corporation having charge of the land and the cost of abating the violation. The full cost shall then be a lien on the land and added to the taxes assessed against the land as a special assessment and collected in the same manner as other taxes.
- b) The City Manager may abate any violation of this division if the public safety and welfare requires immediate action, without prior notice, the cost of which shall be assessed against the land in the manner described above.



- c) The City Manager may, at the cost of the owner of the junk vehicle, abate any violation of this division without prior notice where a junk vehicle is in the public right of way of any street, alley or highway of the City.

**Sec. 6.81 – Penalties/enforcement**

A violation of any of the provisions of this division shall be a municipal civil infraction. The City Manager, or his or her duly authorized representative, are authorized to issue citations. A copy of the citation need not be personally served upon the alleged violator, but may be served by sending the same to the alleged violator by first-class mail at his last known address. A fine of \$500.00 shall be assessed in accordance with the law. Each day a violation is committed or permitted shall constitute a separate offense and shall be punished as such hereunder.

**Secs. 6.82 thru 6.91 – Reserved**

## **Chapter 6 – Nuisances; Article 2- Blight; Division 5 – Blighted buildings**

Sec. 6.92 – Purpose

Sec. 6.93 – Definitions

Sec. 6.94 – Prohibited conduct

Sec. 6.95 – Enforcement

Sec. 6.96 – Penalties

Sec. 6.97 – Severability

Secs. 6.98 thru 6.107 – Reserved

### **Sec. 6.92 - Purpose**

It is the purpose of this division to prevent, reduce or eliminate blighted structures in the City of Onaway's Downtown Development Authority District by the prevention or elimination or contributing factors and causes of blight which exist or which may in the future exist in the Onaway Downtown Development Authority District.

### **Sec. 6.93 - Definitions**

The following words or terms, when used herein, shall be deemed to have the meanings set forth below:

- a) *Blighted structure* means any dwelling, garage, or outbuildings, or any factory, shop, store, office building, warehouse, or any other structure or part of a structure which:
  - 1) Because of fire, wind, other natural disaster, or physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it was originally intended; or
  - 2) Is partially completed and which is not presently being constructed under an existing, valid building permit; or
  - 3) Is missing window panes or exterior doors or is open at the wall or roof; or
  - 4) Is not covered by a water resistant paint or other waterproof covering so as to protect the structure from the adverse effects of the elements or from physical deterioration; or
  - 5) Has boarded windows or boarded up exterior doorways, collapsing or missing walls or roofs or seriously damaged or missing siding or gutters.
- b) *Enforcement officer* means the Onaway City Manager or his or her duly authorized representative.
- c) *Person* means any individual, firm, association, partnership, corporation or fiduciary or other legal entity.

### **Sec. 6.94 - Prohibited conduct**

No person owning any lot or land located within the City of Onaway Downtown Development Authority District shall maintain or permit the maintenance or existence of any blighted structure on said lot or land.

### **Sec. 6.95 - Enforcement**

The enforcement officer is authorized to issue citations for violations of this ordinance. Each day that a violation under this Ordinance continues to exist shall be considered a separate violation subject to the penalties hereinafter set forth.

### **Sec. 6.96 - Penalties**

A violation of this division constitutes a municipal civil infraction. Any person who violates any provision of this division shall be responsible for a municipal civil infraction and is subject to payment of a fine of not more than \$500.00. Each day during which any violation continues shall be deemed a separate offense.

**Sec. 6.97 - Severability**

If any section, paragraph, clause or provision of this division is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this division.

**Secs. 6.98 thru 6.107 – Reserved**

**Chapter 6 – Nuisances; Article 3- Air quality; Division 1 – Generally**

Secs. 6.108 thru 6.127 – Reserved

**Secs. 6.108 thru 6.127 - Reserved**

## **Chapter 6 – Nuisances; Article 3- Air quality; Division 2 – Outdoor burning**

Sec. 6.128 – Purpose

Sec. 6.129 – Applicability

Sec. 6.130 – Severability

Sec. 6.131 – Definitions

Sec. 6.132 - General prohibition on outdoor burning and open burning

Sec. 6.133 – Open burning of refuse

Sec. 6.134 - Open burning of trees, logs, brush, stumps, leaves, and grass clippings

Sec. 6.135 – Campfires

Sec. 6.136 - Patio wood-burning units

Sec. 6.137 – Liability

Sec. 6.138 – Enforcement and penalties

Secs. 6.139 thru 6.148 – Reserved

### **Sec. 6.128 - Purpose**

This division is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Onaway due to the air pollution and fire hazards of open burning and outdoor burning.

### **Sec. 6.129 - Applicability**

This division applies to all outdoor burning and open burning within the City of Onaway except:

- a) Grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- b) Burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- c) The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

### **Sec. 6.130 - Severability**

Should any portion of this division be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected.

### **Sec. 6.131 - Definitions**

- a) *Campfire* means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
- b) *Clean wood* means 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.
- c) *Construction and demolition waste* means building waste materials, including but not limited to waste shingles, insulation, lumber, 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.
- d) *Outdoor burning* means open burning.

- e) *Open burning* means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.
- f) *Patio wood-burning unit* means a chimenea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- g) *Refuse* means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

**Sec. 6.132 - General prohibition on outdoor burning and open burning**

Open burning and outdoor burning are prohibited in the City of Onaway unless the burning is specifically permitted by this division.

**Sec. 6.133 - Open burning of refuse**

- a) Open burning refuse is prohibited.
- b) Open burning of the following materials is prohibited:
  - 1) Construction and demolition waste.
  - 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 including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - 6) Newspaper.
  - 7) Corrugated cardboard, container board, office paper.
  - 8) 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.

**Sec. 6.134 - Open burning of trees, logs, brush, stumps, leaves, and grass clippings**

Open burning of trees, leaves, logs, brush, grass clippings, other vegetative matter and stumps is prohibited.

**Sec. 6.135 - Campfires**

Outdoor campfires and small bonfires for cooking, ceremonies, or recreation are allowed if only clean wood is burned.

**Sec. 6.136 - Patio wood-burning units**

A patio wood-burning unit may be installed and used in the City of Onaway only in accordance with all of the following provisions:

- a) The patio wood-burning unit shall burn only clean wood.
- b) The patio wood-burning unit shall not cause a nuisance to neighbors.

**Sec. 6.137 - Liability**

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.

**Sec. 6.138 - Enforcement and penalties**

- a) The City Manager, or his or her duly authorized representative, are authorized to enforce the provisions of this division.
- b) Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this division or fails to comply with a duly authorized Order issued pursuant to this division shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a fine of not more than \$500.00.
- c) The violator shall pay costs which may include all expenses, direct and indirect, which the City of Onaway has incurred in connection with the municipal infraction. In addition, the City shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this division. Each day that a violation of this division exists shall constitute a separate violation of this division.

**Secs 6.139 thru 6.148 - Reserved**

## **Chapter 6 – Nuisances; Article 3- Air quality; Division 3 – Outdoor wood furnaces**

Sec. 6.149 – Definition

Sec. 6.150 – Prohibition

Sec. 6.151 – Violations; declaration of nuisance

Sec. 6.152 – Exclusions

Sec. 6.153 – Enforcement

Sec. 6.154 – Penalty

Secs. 6.155 thru 6.164 – Reserved

### **Sec. 6.149 - Definition**

For purposes of this section, the term “free-standing wood burning furnace” shall mean any device or structure that:

- a) Is designated, intended, or used to provide heat and/or hot water to any residence or other structure; and
- b) Operates by the burning of wood or other solid fuel; and
- c) Is not located within a residential structure.
- d) Excluded from the definition of a free-standing wood burning furnace is any device which is designed to heat only the structure in which it is located.

### **Sec. 6.150 - Prohibition**

It shall be unlawful to install or operate a free-standing wood burning furnace, and to cause or permit the installation or operation of a free-standing wood burning furnace within the City.

### **Sec. 6.151 – Violations; declaration of nuisance**

Any free-standing wood burning furnace installed or operated in violation of this ordinance is hereby declared to be a nuisance per se.

### **Sec. 6.152 - Exclusions**

The operation of any free-standing wood burning furnace installed prior to the adoption of this ordinance shall not constitute a violation of this ordinance.

### **Sec. 6.153 - Enforcement**

The City Manager, or his or her duly authorized representative, are authorized to enforce the provisions of this division.

### **Sec. 6.154 - Penalty**

Whoever violates any provision of this section shall be guilty of a misdemeanor punishable by a fine of not more than \$500.00 and/or imprisonment for not more than 90 days. Each day that a violation exists or continues shall constitute a separate and additional violation.

### **Secs. 6.155 thru 6.164 – Reserved**



**Chapter 6 – Nuisances; Article 4- Noise; Division 1 – Generally**

Secs. 6.165 thru 6.184 – Reserved

**Secs. 6.165 thru 6.184 - Reserved**

**Chapter 6 – Nuisances; Article 4- Noise; Division 2 – Recreational vehicle use**

Sec. 6.185 – Purpose

Sec. 6.186 – Definitions

Sec. 6.187 – Operation and use of recreational vehicles on private property

Sec. 6.188 – Operation and use of recreational vehicle on City right of ways

Sec. 6.189 – Enforcement and penalty

Secs. 6.190 thru 6.199 – Reserved

**Sec. 6.185 – Purpose**

- a) The City of Onaway, is a city incorporated under the Home Rule City Act, Act 279 of 1909, and is authorized to adopt ordinances for the protection of the public health, safety and welfare, and;
- b) The use and operation of recreational vehicles with the City of Onaway may create a public nuisance and adversely affect the public’s health, safety and welfare by the creation of excessive noise, dust and fumes, and;
- c) The purpose of this division is to provide for the reasonable regulation of recreational vehicles in the City of Onaway so as to reduce noise and air pollution, protect the public’s health, safety and welfare; and to provide for the peaceable and quiet enjoyment of property.

**Sec. 6.186 - Definitions**

- a) *Occupant* means a person who regularly resides on the real property in question.
- b) *Owner* means any Person who has legal or equitable title to the real property in question.
- c) *Person* means an individual, group of individuals, partnership, firm, association or any other entity.
- d) *Recreational vehicle* means all motorized vehicles, designed, re-designed, or otherwise being used for off-road recreational use, including, but not limited to the following:
  - 1) Motorcycles
  - 2) Trail bikes
  - 3) All terrain vehicles (ATVs)
  - 4) Go carts
  - 5) Snowmobiles
- e) The term *Recreational Vehicle* shall not include motorized vehicles for law enforcement, fire, emergency, fire emergency, military, or other authorized government purposes, or off-road motorized vehicles used as utility vehicles for agriculture, husbandry, lawn care, snow removal, or business operations.

**Sec. 6.187 - Operation and use of recreational vehicles on private property**

The following regulations shall apply for the use of a Recreational Vehicle on private real property:

- a) Only the Owner, Occupant, permitted guests and family may operate a Recreational Vehicle on private, real property subject to the restrictions outlined herein.
- b) The following setback requirements apply
  - 1) A Person operating a Recreational Vehicle must remain at least three hundred (300) feet from any property line, including property road frontage and associated roadway right-of-way lines, unless written permission has been obtained by the adjoining property owner or occupant to operate the recreational vehicle within any reduced setback.
  - 2) It shall not be a violation of this Section to operate a Recreational Vehicle within the required setback for purposes of ingress and egress from or onto a driveway.
- c) No more than two (2) Recreational Vehicles may be operated at the same time.
- d) A person may operate a Recreational Vehicle only between the hours of 7:00 a.m. and 9:00 p.m.
- e) No Recreational Vehicle shall be operated, for more than one hour per day, in such a manner as to cause noise audible to the adjoining property owner or occupant.
- f) A person shall not generate, or permit to be generated as a result of the use or operation of any Recreational Vehicle, any dust which crosses over onto an adjoining or adjacent real property that will interfere with the reasonable use and enjoyment of the residential use of that property, either inside or outside.
- g) All Recreational Vehicles shall be fitted with the original equipment exhaust while in operation.

**Sec. 6.188 - Operation and use of a recreational vehicle on City right of ways**

Unnecessary indiscriminate operating of Recreational Vehicles up and down or across City streets, alleys or right of ways is prohibited.

**Sec. 6.189 - Enforcement and Penalty**

Any person who violates this division is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00. The City Manager, or his or her duly authorized representative, are authorized to enforce this division.

**Secs. 6.190 thru 6.199 – Reserved**

## **Chapter 6 – Nuisances; Article 4- Noise; Division 3 – Consumer Fireworks**

### Sec. 6.200 – Definitions

#### Sec. 6.201 – Regulation on use of consumer fireworks

#### Sec. 6.202 – Penalties and enforcement

#### Sec. 6.203 thru 6.212 – Reserved

### **Sec. 6.200 – Definitions**

As used in this section, the following terms shall have the meanings indicated:

- a) Act - the Michigan Fireworks Safety Act, Public Act No. 256 of the State of Michigan of 2011, as amended.
- b) APA Standard 87-1 – The standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.
- c) Consumer fireworks – Fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.
- d) Low-impact fireworks – Ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1.1 to 3.1.1.1.8, and 3.5.
- e) National Holiday – New Year’s Day, Martin Luther King Jr. Day, Presidents’ Day (also referred to as Washington’s Birthday), Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, and Christmas Day.

### **Sec. 6.201 - Regulation on use of consumer fireworks**

- a) No person shall ignite, discharge, or use consumer fireworks within the City, except this prohibition shall not preclude any person from the ignition, discharge, and use of consumer fireworks on the day preceding, the day of, or the day after a national holiday consistent with Sec. 7(2) of the Act and this section.
- b) No person shall ignite, discharge, or use consumer fireworks between the hours of 1:00 a.m. and 8:00 a.m. on the day preceding, the day of, or the day after a national holiday.
- c) No person under the age of 18 shall ignite, discharge, or use consumer fireworks within the City at any time.

### **Sec. 6.202 - Penalties and enforcement**

Any person who violates the provisions of this section shall be responsible for a municipal civil infraction punishable by a fine of not more than \$500.00. The city manager or his designee are authorized to issue citations.

### **Secs. 6.203 thru 6.212 – Reserved**

## **Chapter 7 – Parks and Recreation; Article 1- Parks and other public places; Division 1 – Generally**

Sec. 7.1 – Rules and regulations

Sec. 7.2 – Concessions

Sec. 7.3 – Gatherings and meetings

Sec. 7.4 – Enforcement and penalties

Secs. 7.5 thru 7.14 – Reserved

### **Sec. 7.1 - Rules and regulations**

The city manager is hereby empowered, subject to approval and adoption by the council, to make such rules and regulations pertaining to the conduct and use of parks as are necessary to administer the same or to protect public property or the safety, health or welfare of the public, and no person shall fail to comply with such rules and regulations.

### **Sec. 7.2 - Concessions**

No person shall sell or rent, or attempt to sell or rent, any service, merchandise, or any object in any park without first entering into a contract with the city to operate a concession therein; except that a group or organization may on a special occasion obtain a limited permit therefor issued by the city clerk, upon the approval of the council.

### **Sec. 7.3 - Gatherings and meetings**

- a) No person shall schedule or conduct any meeting or event in any street, alley, park, or public place, without first applying to the city manager and receiving a permit. The city manager may refuse to issue the permit if in his judgment the public peace, health, or safety will be jeopardized thereby, or if city property may be damaged.
- b) If persons or organizations deem themselves aggrieved by the provisions of this section they may appeal the decision of the city manager to the council.

### **Sec. 7.4 - Enforcement and penalties**

Violation of this division shall be a municipal civil infraction. A person determined to have violated this division shall be ordered to pay a fine of not more than \$100.00 together with costs as provided by law. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violations of this division.

### **Secs. 7.5 thru 7.14 – Reserved**

## **Chapter 7 – Parks and Recreation; Article 1- Parks and other public places; Division 2 – Committee**

Sec. 7.15 – Creation; purpose

Sec. 7.16 – Composition and appointment

Sec. 7.17 – Qualification

Sec. 7.18 – Organization

Sec. 7.19 – Duties and responsibilities

Secs. 7.20 thru 7.29 – Reserved

### **Sec. 7.15 - Creation; purpose**

A Parks and Recreation Committee is established for the City of Onaway which Committee shall assume positive leadership in formulating a policy of recreation and recreation programs suitable to the City and shall serve as an advisory body to the City Commission on all matters related to and necessary to the recreational needs of the City.

### **Sec. 7.16 - Composition and appointment**

The Parks and Recreation Committee shall consist of the City Manager and the foreman of the Department of Public Works, who shall serve as ex officio members in an advisory capacity only, and no less than seven or more than nine voting members to be appointed by the Mayor, subject to the approval of the City Commission for three year terms. However, the terms for the first three voting members appointed shall expire on December 31, 2016. The terms of the next three voting members appointed shall expire on December 31, 2017 and the terms of the last three voting members appointed shall expire on December 31, 2018.

If a vacancy occurs, the vacancy will be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of the one-third of all voting members continue to expire each year.

### **Sec. 7.17 - Qualification**

The Parks and Recreation Committee voting membership shall, to the extent possible, consist of one person from each of the following entities:

- a) Onaway Planning Commission
- b) Onaway Downtown Development Authority
- c) Onaway Area Schools
- d) Onaway Area Little League
- e) Stepping Stones Garden Club
- f) Onaway Community Chamber of Commerce
- g) Onaway Area Historical Museum
- h) Top of Michigan Trails Council
- i) Moran Iron Works

### **Sec. 7.18 - Organization**

- a) The Parks and Recreation Committee shall hold at least two regular meetings per year. The first meeting shall be an organizational meeting.

- b) Each year at the organizational meeting the Parks and Recreation Committee shall elect a Chairperson and a Vice-Chairperson.
- c) All meetings of the Parks and Recreation Committee shall be posted and conducted pursuant to the Open Meetings Act.
- d) A quorum consisting of a majority of the voting members then appointed to the Parks and Recreation Committee shall be present for the Committee to conduct business or take any official action.
- e) Motions shall be restated by the Chairperson before a vote is taken. The names of the maker and supporter of the motion shall be recorded.
- f) Members of the Parks and Recreation Committee shall vote by roll call. A majority of the voting members present is necessary for a motion to pass.
- g) The Chairperson shall preside over all meetings of the Parks and Recreation Committee.
- h) The Vice-Chairperson shall perform the duties of the Chairperson during the absence of the Chairperson.
- i) The City Manager shall act as the Secretary for the Committee and shall preserve in the books of the Parks and Recreation Committee true minutes of the proceedings of all meetings. He or she shall give all notices required by statute or resolution and shall perform any other duty as may be delegated by the Committee.
- j) The order of business of the Parks and Recreation Committee at any regular or special meeting shall be as follows:
  - 1) Roll call;
  - 2) Reading and approval of minutes of preceding meeting;
  - 3) Public comment;
  - 4) Report of Chairperson;
  - 5) Report of City Manager;
  - 6) Old business;
  - 7) New business
  - 8) Adjournment.
- k) Special meetings of the Parks and Recreation Committee may be called by a majority of the voting members of the Committee upon written request to the City Manager or Chairperson. Written notice of Special Meetings shall be sent to Committee members not less than 7 days in advance of the meeting.

**Sec. 7.19 - Duties and responsibilities**

- a) The Parks and Recreation Committee shall review and comment on proposed park projects and park property acquisition prior to final action by the City Commission.

- b) The Parks and Recreation Committee shall help coordinate park related activities, including recreational activities and volunteer service for park improvements.
- c) The Parks and Recreation Committee shall assist in updating or creating plans for parks and the park system, recreational facilities and conservancies. The Parks and Recreation Committee shall assist the City with preparation and updating of the Community Recreation Plan for the City of Onaway.
- d) The Parks and Recreation Committee shall cooperate with other institutions within and outside the City (such as schools, state and federal government agencies, and civic organizations) to champion, promote and utilize parks and recreational facilities.
- e) The Parks and Recreation Committee shall make budget requests to the City Manager for review by the City Commission as part of the budget process and review and comment on park related

**Secs. 7.20 thru 7.29 - Reserved**



**Chapter 8 – Streets, alleys, and right of ways; Article 1- General; Division 1 - Generally**

Sec. 8.1 – Winter parking restrictions

Sec. 8.2 – Winter parking enforcement and penalties

Secs. 8.3 thru 8.22 – Reserved

**Sec. 8.1 – Winter parking restrictions**

No person shall park a vehicle on any street or alley or parking lanes of any streets or street easements between the hours of three a.m. and seven a.m. during the period intervening between November 1 of any year and April 1 of the following year.

**Sec. 8.2 – Winter parking enforcement and penalties**

Violation of Sec. 8.1 shall be a municipal civil infraction. A person determined to have violated this division shall be ordered to pay a fine of not more than \$100.00 together with costs as provided by law. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violations of this division.

**Secs. 8.3 thru 8.22 – Reserved**

## **Chapter 8 – Streets, alleys, and right of ways; Article 2- ORV and snowmobiles; Division 1 – ORVs**

### Sec. 8.23 – Definitions

### Sec. 8.24 – Use on state highways

### Sec. 8.25 – Use on City streets

### Sec. 8.26 – Use by minors

### Sec. 8.27 – Driver’s license required

### Sec. 8.28 – Penalties/enforcement

### Sec. 8.29 – Restitution

### Sec. 8.30 – Deposit of restitution

### Secs. 8.31 thru 8.40 – Reserved

### **Sec. 8.23 – Definitions**

As used in this division the following definitions apply:

- a) *ATV* means a 3- or 4-wheeled vehicle designed for off-road use that has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.
- b) *City* means the City of Onaway.
- c) *Driver license* means an operator=s or chauffeur=s license or permit issued to an individual by the Secretary of State under Chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to MCL 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- d) *Operate* means to ride in or on, and be in actual physical control of the operation of an ORV.
- e) *Operator* means a person who operates or is in an actual physical control of the operation of an ORV.
- f) *ORV or vehicle* means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function.
- g) *Safety certificate* means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- h) *Streets or highways* means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel.
- i) *Visual supervision* means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

### **Sec. 8.24 – Use on state highways**

An ORV may not be operated on the road surface, roadway shoulder or right of way of the State highways in the City.

#### **Sec. 8.25 – Use on City streets**

Except as set forth herein or otherwise provided by law, an ORV meeting the following conditions may be operated on the far right of the maintained portion of the streets within the City:

- a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) by a person not less than 12 years of age.
- c) with the flow of traffic.
- d) in a manner which does not interfere with traffic on the road or street.
- e) traveling single file except when overtaking and passing another ORV.
- f) when visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- g) 2 hour before sunrise until 2 after sunset unless displaying a lighted headlight and lighted taillight.
- h) while displaying a lighted headlight and lighted taillight at all hours beginning January 1, 2010.
- i) while the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States Department of Transportation unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.
- j) with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- k) while the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- l) pursuant to noise emission standards defined by law.

#### **Sec. 8.26 – Use by minors**

A child less than 16 years of age shall not operate an ORV on a street in the City unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

#### **Sec. 8.27 – Driver's license required**

Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road or street in the city if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

#### **Sec. 8.28 – Penalties/enforcement**

Any person who violates this division is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violations of this division.

**Sec. 8.29 – Restitution**

A court may order a person who causes damage to the environment, a road or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

**Sec. 8.30 – Deposit of restitution**

The City Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The City Commission shall appropriate revenue in the ORV Fund as follows:

- a) Fifty percent to the City Public Works Department for repairing damage to roads and the environment that may have been caused by ORVs, and for posting sign indicating ORV speed limits, or indicating whether streets are open or closed to the operation of ORVs.
- b) Fifty percent to the General Fund for ORV enforcement and training.

**Secs. 8.31 thru 8.40 – Reserved**

## **Chapter 8 – Streets, alleys, and right of ways; Article 2- ORV and snowmobiles; Division 2 – Snowmobiles**

### Sec. 8.41 – Definitions

### Sec. 8.42 – Operation on alleys, streets, and highways

### Sec. 8.43 – Regulations

### Sec. 8.44 – Penalties/enforcement

### Secs. 8.45 thru 8.54 - Reserved

#### **Sec. 8.41 – Definitions**

As used in this ordinance the following words shall be defined as follows:

- a) *Snowmobile* means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt travel, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan Vehicle Code, 1949 PA 300; MCL 257.1 to 257.923.
- b) *Alley* means any developed dedicated public way affording secondary means of access to abutting property.
- c) *Street* or *highway* means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- d) *Operate* means to ride in or on and to control the operation of a snowmobile.
- e) *Operator* means any person who operates or is in control of a snowmobile.
- f) *Roadway* means that portion of a street or highway ordinarily used for vehicular travel including any shoulders.
- g) *Right of way* means that portion of a street or highway less the roadway.

#### **Sec. 8.42 – Operation on alleys, streets, and highways**

- a) Except as otherwise set forth in this ordinance a person may operate a snowmobile on all developed alleys and on the far right hand portion of all roadways in the City of Onaway.
- b) A person may not operate a snowmobile on the following streets and highways unless crossing the same at right angles to the street:
  - 1) State Street between Second Street and Maple Street; and,
  - 2) Main Street between Cedar Street and State Street.
- c) A person may operate a snowmobile only on the extreme right of the open portion of the right of way of the following streets and highways except when crossing the same at right angles to the street:
  - 1) Washington Avenue
  - 2) Michigan Avenue
  - 3) M-68 west of Michigan Avenue

- 4) M-68 east of Second Street
- d) No person shall operate a snowmobile on the private property of another person without the consent of the property owner or his agent.

**Sec. 8.43 – Regulations**

- a) Operation of a snowmobile on an alley, street or highway in the City of Onaway must comply with the following:
  - 1) Operation shall be in single file, with the flow of traffic, and at a rate of speed not to exceed 25 miles per hour;
  - 2) The operator shall cause the snowmobile to come to a complete stop at each and every intersection even if the intersection is not posted for a required stop;
  - 3) The operator shall hand signal all turns and stops;
  - 4) The operator shall not pass any vehicle which is ahead and moving in the same direction as the snowmobile upon the alley, street or highway;
  - 5) The operator shall not tow any passengers with the snowmobile unless the passengers are contained in a commercially manufactured trailer designed for the conveyance of passengers and such trailer is affixed to the snowmobile by a ball or pin hitch attached to a rigid tow bar; and,
  - 6) Unnecessary, indiscriminate operating of a snowmobile up and down or crossing of alleys, streets or highway is prohibited.

**Sec. 8.44 – Penalties/enforcement**

Any person who violates this division is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00. The city manager, or his or her duly authorized representative, are authorized to issue citations for violations of this division.

**Secs. 8.45 thru 8.54 – Reserved**

**Chapter 8 – Streets, alleys, and right of ways; Article 3- Use by utility providers; Division 1 – Generally**

Secs. 8.55 thru 8.74 – Reserved

**Secs. 8.55 thru 8.74 – Reserved**

## **Chapter 8 – Streets, alleys, and right of ways; Article 3- Use by utility providers; Division 2 – Telecommunications**

Sec. 8.75 – Purpose

Sec. 8.76 – Conflict

Sec. 8.77 – Definitions

Sec. 8.78 – Permit required

Sec. 8.79 – Issuance of permit

Sec. 8.80 – Construction/engineering permit

Sec. 8.81 – Conduit or utility poles

Sec. 8.82 – Route maps

Sec. 8.83 – Repair damage

Sec. 8.84 – Establishment and payment of maintenance fee

Sec. 8.85 – Modification of existing fees

Sec. 8.86 – Savings clause

Sec. 8.87 – Use of funds

Sec. 8.88 – Annual report

Sec. 8.89 – Cable television operators

Sec. 8.90 – Existing rights

Sec. 8.91 – Compliance

Sec. 8.92 – Reservation of powers

Sec. 8.93 – Severability

Sec. 8.94 – Penalties/enforcement

Secs. 8.95 thru 8.104 – Reserved

### **Sec. 8.75 - Purpose**

The City desires to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002)(“Act”) and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

### **Sec. 8.76 - Conflict**

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

### **Sec. 8.77 - Definitions**

The terms used in this ordinance shall have the following meanings:

- a) *Act* means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.
- b) *City* means the City of Onaway.
- c) *City Commission* means the City Commission of the City of Onaway or its designee. This Section does not authorize delegation of any decision or function that is required by law to be made by the City Commission.
- d) *City Manager* means the City Manager or his or her designee.



- e) *Permit* means a non-exclusive permit issued pursuant to the Act and this ordinance to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

All other terms used in this ordinance shall have the same meaning as defined or as provided in the Act, including without limitation the following:

- a) *Authority* means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.
- b) *MPSC* means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Commission" in the Act.
- c) *Person* means an individual, corporation, partnership, association, governmental entity, or any other legal entity.
- d) *Public right-of-way* means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.
- e) *Telecommunication facilities or facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunications facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.
- f) *Telecommunications provider, provider and telecommunication services* mean those terms as defined in Section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this ordinance only, a provider also includes all of the following:
  - 1) A cable television operator that provides a telecommunication service.
  - 2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
  - 3) A person providing broadband internet transport access service.

#### **Sec. 8.78 - Permit Required**

- a) *Permit Required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the City for its telecommunications facilities shall apply for and obtain a permit pursuant to this ordinance.
- b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney.

Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider=s existing and proposed facilities in accordance with Section 6(5) of the Act.

- c) *Confidential Information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- d) *Application Fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.
- e) *Additional Information.* The City Manager may request an applicant to submit such additional information which the City Manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- f) *Previously Issued Permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan telecommunications act but after 1985 shall satisfy the permit requirements of this ordinance.
- g) *Existing Providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the City as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit to the City an application for a permit in accordance with the requirements of this ordinance. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act.

#### **Sec. 8.79 - Issuance of Permit**

- a) *Approval or Denial.* The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to Section 15(3) of the Act, the City Manager shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 4(b) of this ordinance for access to a public right-of-way within the City. Pursuant to Section 6(6) of the Act, the City Manager shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Manager shall not unreasonably deny an application for a permit.
- b) *Form of Permit.* If an application for permit is approved, the City Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

- c) *Conditions.* Pursuant to Section 15(4) of the Act, the City Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider=s access and usage of the public right-of-way.
- d) *Bond Requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider=s access and use.

#### **Sec.8.80 - Construction/engineering permit**

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the City without first obtaining a construction or engineering permit from the City of Onaway for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

#### **Sec. 8.81 - Conduit or utility poles**

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

#### **Sec. 8.82 - Route maps**

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the City, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the City. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

#### **Sec. 8.83 - Repair damage**

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the City, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

#### **Sec. 8.84 - Establishment and payment of maintenance fee**

In addition to the non-refundable application fee paid to the City set forth in subsection 4(d) above, a telecommunications provider with telecommunications facilities in the City=s public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.

#### **Sec. 8.85 - Modification of existing fees**

In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the City=s boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee with a copy of

this ordinance, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error.

#### **Sec. 8.86 - Savings clause**

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 11 above shall be void from the date the modification was made.

#### **Sec. 8.87 - Use of funds**

Pursuant to Section 10(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for rights-of way related purposes. Depositing the amounts received into the Major Street Fund and/or Local Street Fund, maintained by the City under Act No. 51 of the Public Acts of 1951, would help ensure compliance with this requirement of the Act.

#### **Sec. 8.88 - Annual report**

Pursuant to Section 10(5) of the Act, the City Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

#### **Sec. 8.89 - Cable television operators**

Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet access services.

#### **Sec. 8.90 - Existing rights**

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

#### **Sec. 8.91 - Compliance**

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

- a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in Sec. 8.78(c);
- b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Sec. 8.78(f);
- c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Sec. 8.78(g);

- d) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with Sec. 8.79(a);
- e) Notifying the MPSC when the City has granted or denied a permit, in accordance with Sec. 8.79(a);
- f) Not unreasonably denying an application for a permit, in accordance with Sec. 8.79(a);
- g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Sec. 8.79(b);
- h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with Sect. 8.79(c);
- i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Sec. 8.79(d);
- j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Sec. 8.80;
- k) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this ordinance, in accordance with Sec. 8.85;
- l) Submitting an annual report to the Authority, in accordance with Sec. 8.88; and
- m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Sec. 8.89.

#### **Sec. 8.92 - Reservation of powers**

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

#### **Sec. 8.93 - Severability**

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

#### **Sec. 8.94 - Penalties/enforcement**

A person who violates any provision of this ordinance or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to a fine of up to \$500.00. Nothing in Sec. 8.94 shall be construed to limit the remedies available to the City in the event of a violation by a person of this ordinance or a permit. The City Manager or his or her designee is hereby designated as the authorized City official to issue municipal civil infraction citations for violations under this ordinance.

#### **Secs. 8.95 thru 8.104 – Reserved**

**Chapter 9 – City utilities and services; Article 1- General; Division 1 - Generally**

Secs. 9.1 thru 9.20 – Reserved

**Secs. 9.1 thru 9.20 – Reserved**

**Chapter 9 – City utilities and services; Article 2 – Trash removal; Division 1 - Generally**

Secs. 9.21 thru 9.30 - Reserved

**Secs. 9.21 thru 9.30 – Reserved**

## **Chapter 9 – City utilities and services; Article 2 – Trash removal; Division 2 – Residential pick-up**

### Sec. 9.31 – Definitions

### Sec. 9.32 – Responsibility of occupants

### Sec. 9.33 – Curbside placement required

### Sec. 9.34 – General conditions

### Sec. 9.35 – Billings and collections

### Secs. 9.36 thru 9.45 – Reserved

#### **Sec. 9.31 - Definitions**

- a) *Garbage and trash* mean rejected food wastes including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetable matter, and non-putrescible solid waste consisting of both combustible and non-combustible waste, including paper, cardboard, plastic, rubber, metal, wood, glass, bedding, crockery, textiles or litter of any kind that may be a detriment to the public health and safety. Garbage and trash does not include prohibited items or bulk items.
- b) *Prohibited items* means yard clippings and waste, cement blocks, shingles, broken glass, liquids, paint, antifreeze, oil, all tires on rims, truck tires, full or partially filled paint cans, solvents, hazardous wastes, gasoline and hot ashes.
- c) *Bulk items* means things such as appliances, furniture, passenger tires without rims, and Christmas trees. Bulk items also includes other non-prohibited items, whether boxed or bundled that weigh no more than fifty (50) pounds.
- d) *Residential dwelling* means a house or building occupied by one or more persons as a residence and containing no more than one residential unit. Residential dwelling does not include mobile homes located in a trailer park.

#### **Sec. 9.32 - Responsibility of occupants**

Every occupant or person in possession of a residential dwelling in the City is required to have accumulations of garbage and trash and bulk items removed and disposed of in accordance with this ordinance. Every owner, occupant or person in the City of Onaway in possession of multiple residential or non-residential premises shall be responsible for the storage, collection and disposal or recycling of his or her own refuse by any means authorized by law.

#### **Sec. 9.33 - Curbside placement required**

- a) Garbage and trash and bulk items shall be placed at curbside not later than 7:00 a.m. on the collection day.
- b) The regular collection day shall be every Wednesday, with bulk items being collected on the first Wednesday of each month.
- c) Interrupted collection schedule. No collections will be made New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day. Where the holidays fall on or before the regular collection day, collections will be one day later, unless the City approves other arrangements with its contractor.



**Sec. 9.34 - General conditions**

- a) Each residential dwelling shall be limited to five bags (not greater than 30 gallon size) or three containers (not greater than 30 gallon size) of garbage and trash per week.
- b) Each residential dwelling shall be limited to the collection of one bulk item per month. Refrigerators and other Freon-based items must have Freon removed and have a certification sticker affixed prior to collection.
- c) No prohibited item shall be placed at curbside for collection.

**Sec. 9.35 - Billings and collections**

- a) Monthly charges. The monthly charge for each residence for the garbage, trash and bulk item collection services furnished by a city contractor shall be based on agreements which are from time to time entered into by the City.
- b) Payment responsibility. The fees and charges established herein shall be billed to and paid by the person responsible for water bills to the premises. Such fees and charges will be billed on a quarterly basis and combined with the water bill sent by the City.
- c) Property lien for delinquent charges. The City shall have a lien upon the premises which receives garbage trash and bulk items services. The lien created herein may be enforced by the City in the manner prescribed by the general laws of the State of Michigan for the enforcement of tax liens.
- d) Continuation of service; change of occupancy. Residential dwelling collection and appropriate charges for service shall continue, regardless of the customer's response to the billing procedure, so long as the residential unit is deemed occupied. The owner of the premises shall advise the City of any change in occupancy of the residential dwelling for purposes of service and billing.
- e) Vacation of premises; notice. Owners and/or occupants of residential premises shall notify the City if such premises are being vacated between billings. An owner and/or occupant taking title to or possession of residential dwellings in the City shall notify the City immediately to avoid delay in refuse collection.

**Secs. 9.36 thru 9.45 – Reserved**

**Chapter 9 – City utilities and services; Article 3 – Water utility; Division 1 – Generally**

Secs. 9.46 thru 9.65 – Reserved

**Secs. 9.46 thru 9.65 – Reserved**

## **Chapter 9 – City utilities and services; Article 3 – Water utility; Division 2 – Connection to City water**

### Sec. 9.66 – Definitions

### Sec. 9.67 – Water connection required

### Sec. 9.68 – Service connection; permit fees

### Sec. 9.69 – Turning on water service

### Sec. 9.70 – Installation costs and maintenance

### Sec. 9.71 – Regulations

### Secs. 9.72 thru 9.81 - Reserved

#### **Sec. 9.66 - Definitions**

The following definitions shall apply in the interpretation of this ordinance:

- a) *City water distribution system* means all mains, connections, pipes, meters, hydrants and appurtenances connected with or served by the city water system.
- b) *Water connection* means that part of the city water distribution system connecting the water main with the premises served.
- c) *Water main* means that part of the city water distribution system located within easement lines or streets designed to supply more than one (1) water connection.

#### **Sec. 9.67 - Water connection required**

The owner of all houses, building, or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley, or right of way is hereby required at his expense to connect such directly with the city water distribution system in accordance with this ordinance within ninety (90) days after date of official notice to do so.

#### **Sec. 9.68 - Service connection, permit fees**

- a) Application for water connections shall be made to the city on forms prescribed and furnished by it. The city may refuse to authorize a larger service pipe than reasonably required by the premises served. Water connections shall be made in accordance with rules and regulations of the city and upon payment of the required connection fee. All water connections shall be the property of the city.
- b) The water connection fee shall be as prescribed by resolution of the city commission.

#### **Sec. 9.69 - Turning on water service**

No person, other than an authorized employee of the city, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his work (then it must be immediately turned off) or upon receiving written order from the city, may be turned on for construction purposes only, prior to the granting of a certificate of occupancy for the premises, and upon payment of the charges applicable thereto, which shall include the connection fee.

#### **Sec. 9.70 - Installation costs and maintenance**

The service pipe, leading from the owner's building or premises to the water connection, shall be installed by the owner and maintained in good repair. All costs and expenses incident to the installation and maintenance of the service pipe shall be borne by the owner.

**Sec. 9.71. - Regulations**

The City Manager may make and issue additional regulations concerning the water distribution system, connections thereto, meter installations and maintenance, connection and meter installation fees not inconsistent herewith. Such rules and regulations shall be effective upon approval by the city commission.

**Secs. 9.72 thru 9.81 - Reserved**

## **Chapter 9 – City utilities and services; Article 3 – Water utility; Division 3 – Meters**

Sec. 9.82 – Water meters required

Sec. 9.83 – Repair and replacement

Sec. 9.84 – Ownership

Sec. 9.85 – Access to meters

Sec. 9.86 – Valves required

Sec. 9.87 – Installation

Sec. 9.88 – Failure to comply

Secs. 9.89 thru 9.98 – Reserved

### **Sec. 9.82 – Water meters required**

All premises connected to the City water system shall be metered. Except for extinguishment of fires no person, unless authorized by the City Manager, shall use water from the water system or permit water to be drawn from it unless the same be metered by passing through a meter supplied by the City. No person not authorized by the City Manager shall connect, disconnect, take apart, or in any manner change or cause to be changed or interfere with any meter or the action thereof, or break any meter or seal.

### **Sec. 9.83 – Repair and replacement**

The City shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. When replacement, repair, or adjustment of any meter is rendered by the act, neglect (including damage from freezing or hot water or steam backup), or carelessness of the owner or occupant of the premises, any expense caused the City thereby shall be charged against and collected from the water consumer.

### **Sec. 9.84 – Ownership**

All meters shall be and remain the property of the City.

### **Sec. 9.85 – Access to meters**

The City shall have the right to shut off the supply of water to any premises where the City is not able to obtain access to the meter. Authorized City employees shall at reasonable hours of the day have the right to enter every building and premises connected with the water system for reading and repair of meters, for the purpose of connecting and disconnection, and for inspections. No person shall hinder or obstruct or interfere with such employee in the lawful discharge of their duties in relation to the care and maintenance of such water meter.

### **Sec. 9.86 – Valves required**

All meters shall be installed with valves approved by the City on both sides of the meter.

### **Sec. 9.87 – Installation**

Meters shall be installed only by the City or by licensed plumber. The City shall be permitted to inspect all installation work.

### **Sec. 9.88 – Failure to comply**

All premises connected to the City water system shall have a meter installed and connected to the water system within 90 days of being notified to do so by the City Manager. Failure to have a meter installed and connected to

the water system within 90 days of being notified to do so by the City Manager shall result in the water service to the premises being shut off.

**Secs. 9.89 thru 9.98 – Reserved**

## **Chapter 9 – City utilities and services; Article 3 – Water utility; Division 4 – Cross connections**

Sec. 9.99 – Definitions

Sec. 9.100 – State law adopted by reference

Sec. 9.101 – Inspections

Sec. 9.102 – Right to inspect

Sec. 9.103 – Discontinue service

Sec. 9.104 – Backflow preventers

Sec. 9.105 – Labeling required

Sec. 9.106 – Plumbing code

Sec. 9.107 – Penalties/enforcement

Secs. 9.108 thru 9.117 - Reserved

### **Sec. 9.99 – Definitions**

A cross connection is a connection or arrangement of piping appurtenances through which water of questionable quality, wastes, or other contaminants can enter the public water supply system.

### **Sec. 9.100 – State law adopted by reference**

The Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality (MDEQ), being R 325.11401 to R 325.11407 of the Michigan Administrative Code is adopted by reference.

### **Sec. 9.101 – Inspections**

It shall be the duty of the Onaway Water Department (DPW) to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and re-inspections, based on potential health hazards involved, shall be established by the City and approved by the MDEQ.

### **Sec. 9.102 – Right to inspect**

The representative of the Onaway Water Department (DPW) shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply system of the City 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 City any pertinent information regarding the piping system or systems on such property. The refusal of such information, or the refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

### **Sec. 9.103 – Discontinue service**

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

### **Sec. 9.104 – Backflow preventers**

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 Onaway Water Department (DPW), in accordance with MDEQ requirements. Only individuals that hold a valid Michigan plumbing

license and have successfully passed an approved backflow testing class shall perform such testing. Each tester also shall be approved by the City. Individuals performing assembly testing shall certify the results of his/her testing.

**Sec. 9.105 – Labeling required**

The potable water supply made available to properties served by the public water supply shall be protected from possible contamination as specified by this ordinance and by the state plumbing code. Any water outlet that 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.

**Sec. 9.106 – Plumbing code**

This division does not supersede the state plumbing code, but is supplementary to it.

**Sec. 9.107 – Penalties/enforcement**

Any person or customer found guilty of violating any of the provisions of this division or any written order of the City, in pursuance thereof, shall be deemed guilty of a misdemeanor punishable by a fine of not more than \$500 and/or imprisonment of not more than 90 days. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate and additional violation for the purpose of this division. The City Manager, or his or her duly authorized representative, are authorized to issue citations for violations of this division.

**Secs. 9.108 thru 9.117 - Reserved**



**Chapter 9 – City utilities and services; Article 4 – Sewer utility; Division 1 – Generally**

Sec. 9.118 thru 9.137 – Reserved

**Sec. 9.118 thru 9.137 - Reserved**

## **Chapter 9 – City utilities and services; Article 4 – Sewer utility; Division 2 – Use of system/ability to charge**

Sec. 9.138 – Purpose and policy

Sec. 9.139 – Definitions

Sec. 9.140 – Abbreviations

Sec. 9.141 – Unsanitary deposits, discharge to natural outlets prohibited

Sec. 9.142 – Process wastewater

Sec. 9.143 – Private sewage disposal

Sec. 9.144 – Building sewer and connections

Sec. 9.145 – Use of the public sewers

Sec. 9.146 – Disposal at wastewater treatment plant

Sec. 9.147 – Fees for industrial pretreatment

Sec. 9.148 – Protection from damage

Sec. 9.149 – Municipal liability

Sec. 9.150 – Power and authority of inspectors

Sec. 9.151 – Enforcement/penalties

Sec. 9.152 – Records retention

Sec. 9.153 – Records

Sec. 9.154 – User charge system

Sec. 9.155 – Validity, severability, conflict

Secs. 9.156 thru 9.175 – Reserved

### **Sec. 9.138 - Purpose and Policy**

An Ordinance regulating private and public sewers, sewer connections, industrial waste pretreatment facilities and discharge of industrial waste into the publicly operated treatment works and providing for pollutant limitations, data collection, monitoring and sampling, and providing for penalties for the violation thereof, in the City of Onaway, County of Presque Isle, State of Michigan.

The City sewer system shall be operated by the City on a public utility basis as authorized by law. The City Manager or a designee shall be responsible for supervision and management of the system and shall implement policies as adopted by resolution or ordinance of the City Commission.

The objectives of this Ordinance are:

- a) to prevent the introduction of pollutants into the wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;
- b) to prevent the introduction of pollutants into the wastewater system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
- c) to improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- d) to provide for equitable distribution of the cost of municipal wastewater system.

### **Sec. 9.139 - Definitions**

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

*Act or "the Act"*. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

*Applicable County Health Department* shall mean the Presque Isle County Health Department.

*Authorized Representative of Industrial User.* An authorized representative of an Industrial User may be: (a) a principal executive officer of at least the level of vice president, if the Industrial User is a corporation; (b) a general partner or proprietor if the Industrial User is a partnership or proprietorship, respectively; or (c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates, or for environmental matters of the company. Authorization for this representative must be submitted in writing to the City by the individual designated in (a) and (b) hereof.

*Biochemical Oxygen Demand (BOD).* The quantify of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20E centigrade expressed in terms of weight and concentration (milligrams per liter).

*Building Drain* shall mean that part of the lowest horizontal piping of a drainage system which receives discharge from drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

*Building Sewer* shall mean the extension from the building drain to the public sewer or other place of disposal.

*Bypass.* The intentional diversion of waste streams from any portion of a User=s pretreatment facility.  
Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.

*Chemical Oxygen Demand (COD).* A measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.

*Chlorine Demand* shall mean the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.

*City.* The City of Onaway, Michigan, its agents and employees.

*City Sewage Disposal System or Sewer System* means collectively all plants, works, properties and instrumentalities which are used or useful in connection with the collection, transportation, disposal treatment and disposal of sanitary sewage and industrial wastes now in existence or hereinafter to come into existence in the City.

*Combined Sewer* shall mean a sewer receiving both surface runoff and sewage.

*Commercial Waste* shall mean a liquid or water-carried waste material from a commercial business engaged in buying, selling, exchanging goods or engaging in said goods or services.

*Commodity Charge* means the charge levied to customers of the wastewater system which is used to pay the operation, maintenance and equipment replacement costs of the wastewater system. The commodity charge shall be a component of the user charge specified below.

*Compatible Pollutant.* A substance amenable to treatment in the wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES Permit if the publicly owned treatment works are designed to treat such pollutants, and in fact does remove such pollutant to a substantial degree. Examples of such additional pollutants may include: chemical

oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fats, oils and greases of animal or vegetable origin.

*Composite Sample.* A series of samples taken over a specified time period whose volume is proportional to the flow in the waste stream, which are combined into one sample

*Cooling Water.* The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

*Department* means the water and sewer department of the City, and shall include those officials, employees and agents invested by the City Commission with authority over and in the operation of the system.

*Direct Discharge.* The discharge of treated or untreated wastewater directly to the waters of the State.

*Director* shall mean the City Manager, or his authorized representative.

*Engineer* means the Engineer of the City.

*Environmental Protection Agency, or EPA.* The U.S. Environmental Protection Agency, Administrator or other duly authorized official.

*Equivalent Dwelling Unit, or EDU* means that measure of potential wastewater discharge equal to the quantity normally generated by occupants of a residence by a single family of average size. EDU factors for other types of occupancy and use shall be determined in Section 17 of this Ordinance.

*Garbage* shall mean solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

*Grab Sample.* A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

*Holding Tank Waste.* Any waste from holding tanks such as vessels, chemical toilets, camper, trailers, septic tanks, and vacuum-pump tank trucks.

*Incompatible Pollutants.* Any pollutant which is not a compatible pollutant.

*Indirect Discharge.* The discharge or the introduction of nondomestic pollutants into the POTW (including holding tank waste discharged into the system).

*Industrial Wastes.* The wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structure with these characteristics, as distinct from their employees domestic wastes or wastes from sanitary conveniences.

*Infiltration* shall mean any waters entering the system from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include and is distinguished from inflow.

*Infiltration/Inflow* shall mean the total quantity of water from both infiltration and inflow.

*Inflow* shall mean any waters entering the system through such sources as, but not limited to, building down spouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

*Interference.* The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the City's NPDES Permit or reduces the efficiency of the POTW. The term also includes prevention of sewage sludge use or disposal by the POTW.

*Laboratory Determination.* The measurements, test and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition at the time of any such measurement, test, or analysis of *A*Standard Methods for Examination of Water and Waste Water,*@* a joint publication of the American Public Health Association, the American Waterworks Association and the Water Environment Federation or in accordance with any other method prescribed by the rules and regulations promulgated pursuant to this division.

*Local Collection Sewer* means the sanitary sewer within the neighborhoods that collects the sewage from each property.

*Majority Contributing Industry.* Any industrial user of the publicly owned treatment works that:

- a) has a flow of 50,000 gallons or more per average work day;
- b) has a flow greater than five percent of the flow carried by the municipality receiving the wastes;
- c) has in its waste, a toxic pollutant in toxic amounts as defined in the standards under Section 307(a) of the Federal Water Pollution Control Act of 1972; or
- d) is found by the permit issuance authority in connection with the issuance NPDES Permit to the publicly owned treatment works receiving the waste, to significantly impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works. All major contributing industries shall be monitored.

*National Categorical Pretreatment Standard or Pretreatment Standard.* Any federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of Industrial Users.

*National Pollution Discharge Elimination System or NPDES Permit.* A permit issued pursuant to section 402 of the Act (33 USC 1342).

*National Prohibitive Discharge Standard or Prohibitive Discharge Standard.* Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

*Natural Outlet* shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

*New Source.* Any source, the construction of which is commenced after the publication of proposed National Categorical Pretreatment Standards which will be applicable to such source, provided that:

- a) Construction is at a site where no other source is located;
- b) Process or production equipment causing discharge is totally replaced due to construction; or
- c) Production or wastewater generating processes of the facility are substantially independent of an existing source at the same site.

Construction is considered to have commenced when installation or assembly of facilities/equipment has begun, significant site preparation has begun for installation or assembly, or the owner/operator has entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its

operation within a reasonable time. (Construction on a site at which an existing source is located results in a modification, rather than a New Source, if the construction does not create a new building, structure, facility or installation meeting the criteria of items b) or c) above but otherwise alters, replaces, or adds to existing process or production equipment.)

*Normal Domestic Sewage (NDS).* Wastewater which, when analyzed, shows a daily average concentration of not more than 200 mg/1 of BOD; not than 240 mg/1 of suspended solids; nor more than 5 mg/1 of phosphorus; no more than 100 mg/1 of fats, oils and grease; no more than 20 mg/1 of total Kjeldahl nitrogen.

*Obstruction.* Any object of whatever nature which substantially impedes the flow of sewage from the point of origination to the trunk line. This shall include, but not be limited to objects, sewage, tree roots, rocks and debris of any type.

*Operation and Maintenance* means all work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation and treatment system consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES Permit and other applicable state and federal regulations, and includes the cost of replacement.

*Owner* or owners of record of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a building.

*Person.* Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

*PH.* The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

*Pollutant.* Any of various chemicals, substances, and refuse materials such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, and industrial, municipal and agricultural wastes which impair the purity of the water and soil.

*Pollution.* The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

*POTW Treatment Plant.* That portion of the POTW designed to provide treatment to wastewater.

*Premises* means the particular property connected or to be connected to the system and includes appurtenant land and improvements.

*Pretreatment or Treatment.* The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).

*Pretreatment Requirements.* Any substantive or procedural requirement for treating of a waste prior to inclusion in the POTW, including National Categorical Pretreatment Standards.

*Private Sewer Lines.* All service lines and equipment for the disposal of sewage installed or located on any property, from the property line to and including any structure or facility which exists on the property.

*Properly Shredded Garbage* shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

*Property Owner.* The owner of the property which abuts the street.

*Property Owner's Direct Cost* means the one-time payment to pump out the existing septic tank, decommission the existing septic tank and install the sewer service lead from the building to the public sewer. For properties served by a grinder pump, the property owner will pay the electrical cost to operate the grinder pump.

*Publicly Owned Treatment Works (POTW).* A treatment works as defined by section 212 of the Act (33 USC 1292), which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant. For the purposes of this ordinance, a POTW shall also include any sewers that convey wastewater to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

*Public Sewer* shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

*Readiness-to-Serve Charge* means the charge levied to customers of the wastewater system which is used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system and for capital outlays. The readiness-to-serve charge shall be a component of the user charge specified below.

*Replacement* means the replacement in whole or in part of any equipment, appurtenances and accessories in the wastewater transportation or treatment systems to insure continuous treatment of wastewater in accordance with the NPDES Permit and other applicable state and federal regulations.

*Sanitary Sewage* shall mean a liquid or water-carried waste discharged from the sanitary conveniences of dwellings including but not limited to residential homes, apartment houses and hotels, office buildings, commercial businesses or industrial plants.

*Sanitary Sewer* shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

*Sewage* shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters as may be present.

*Sewage Treatment Plant or Wastewater Treatment Plant* shall mean any arrangement of devices and structures used for treating sewage.

*Sewage Works or Sewage Disposal Service* shall mean all facilities for collecting, pumping treating and disposing of sewage.

*Sewage Unit* means the quantity of sanitary sewage ordinarily arising from the occupancy of a residence building by a single family of average size and the benefit derived therefrom. Sewage unit factors for other types of occupancy and use shall be determined by Section 17.

*Sewer* shall mean a pipe or conduit for carrying sewage.

*Sewer Service Lead* means a pipe tapped into a local collection sewer and extending thence into the structure on the premises.

*Sewer User Charge* means the sum of the applicable monthly Readiness-to-Serve and Commodity charges.

*Severe Property Damage.* Substantial physical damage to property, damage to the User=s pretreatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in absence of a Bypass. Severe Property Damage does not mean economic loss caused by delays in production.

*Shall* is mandatory; *May* is permissive.

*Significant Industrial User.* Any Industrial User of the City=s wastewater disposal system who (a) is subject to National Categorical Pretreatment Standards; (b) has a discharge flow of 25,000 gallons or more per average work day; or (c) has a flow greater than 5% of the flow in the City=s wastewater treatment system; or (d) has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act State Statutes and rules; or (e) is found by the City, Michigan Department of Environmental Quality, or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the systems=s effluent quality, or air emissions generated by the system.

*Significant Noncompliance* shall mean one or more of the following:

- a) Chronic violation of wastewater discharge limit, defined here as when sixty-six (66) percent or more of all the measurements for a pollutant parameter taken during a six-month period exceed by any magnitude the corresponding daily maximum limit or the corresponding average limit;
- b) Technical Review Criteria violation of wastewater discharge limit, defined here as when thirty-three (33) percent or more of all of the measurements for a pollutant parameter taken during a six-month period equal or exceed the product of the corresponding daily maximum limit multiplied by the applicable TRC factor, or the product of the corresponding average limit multiplied by the applicable TRC Factor (TRC Factor = 1.4 for BOD, fats, oil and grease, and 1.2 for all other pollutants except pH).
- c) Any other violation of a daily maximum limit or an average limit that the director determines has alone or in combination with other discharges caused interference or pass through, including endangering the health of POTW personnel or the general public:
- d) Any discharge of a pollutant that has caused imminent endangerment to human health, public welfare, or the environment, or has resulted in the POTW exercising its emergency authority to halt or prevent such a discharge;
- e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a City-issued discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, and/or reports on compliance with compliance schedules;
- g) Any other violation, or group of violations, which the director determines as adversely affecting operation or implementation of the City=s pretreatment program.

*Slug Load.* Any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

*Sewer Tap Charge* means the charge to recover the cost to design and construct the public portion of the sanitary sewer, including the local collection sewer, the transmission sewer and the wastewater treatment facility and the preliminary design study, if applicable.



*Standard Industrial Classification (SIC).* A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

*State.* State of Michigan.

*Storm Sewer or Storm Drain* shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

*Stormwater.* Any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Superintendent.* The person designated by the City to supervise the operation of the publicly owned treatment works, who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

*Surcharge.* As part of the user charge, any customer discharging wastewater having strength in excess of limits set forth by the City shall be required to pay an additional charge to cover the cost of treatment of such excess strength wastewater.

*Suspended Solids.* The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

*Toxic Pollutant.* Any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment including those listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA 307(a) or other Acts.

*Transmission Sewer or Trunk Line.* The main sewer line located under any street or within any street right-of-way which collects and transmits the sewage of the various properties served by the sewer system.

*Uncontaminated Industrial Waste* shall mean wastewater which has not come into contact with any substance used in or incidental to industrial processing operations and to which no chemical or other substance has been added.

*Upset.* An exceptional incident in which there is unintentional and temporary noncompliance with National Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

*User.* Any person who contributes, causes or permits the contribution of wastewater into the POTW.

*User Charge* means a charge levied on users of a treatment works for the cost of operation and maintenance of sewerage works pursuant to section 204(b) of PL 92-500 and includes the cost of replacement.

*User Class* means the kind of user connected to sanitary sewers including but not limited to residential, industrial, commercial, institutional and governmental.

*Residential User* shall mean a user of the treatment works whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units such as detached, semi-detached and row houses, mobile homes, apartments, or permanent multi-family dwellings (transit lodging is not included, it is considered commercial).

*Industrial User* shall mean any user who discharges industrial wastes as defined in this ordinance.

*Commercial User* shall mean an establishment listed in the Office of the Management and Budget's Standard Industrial Classification Manual (SICM), involved in a commercial enterprise, business or service which, based on

a determination by the City, discharges primarily segregated domestic wastes or wastes from sanitary conveniences and which is not a residential user or an industrial user.

*Institutional User* shall mean any establishment listed in the SICM involved in a social, charitable, religious, or educational function which, based on a determination by the City, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

*Governmental User* shall mean any federal, state or local government user of the wastewater treatment works.

*Wastewater.* The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

*Watercourse* shall mean a channel in which a flow of water occurs, either continuously or intermittently.

*Waters of the State.* All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

#### **Sec. 9.140 - Abbreviations**

The following abbreviations shall have the designated meanings:

- BOD Biochemical Oxygen Demand
- CFR Code of Federal Regulations
- COD Chemical Oxygen Demand
- EDU Equivalent Dwelling Unit
- EPA Environmental Protection Agency
- l liter
- MDEQ Michigan Department of Environmental Quality
- mg milligrams
- mg/l milligrams per liter
- NDS Normal Domestic Sewage
- NPDES National Pollutant Discharge Elimination System
- P Phosphorus
- POTW Publicly Owned Treatment Works
- SIC Standard Industrial Classification
- SICM Standard Industrial Classification Manual
- SS Suspended Solids
- SWDA Solid Waste Disposal Act, 42 USC 6901, et. seq.
- O&M Operation and Maintenance
- CWA Clean Water Act

#### **Sec. 9.141 - Unsanitary Deposits, Discharge to Natural Outlets Prohibited**

- a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.
- b) It shall be unlawful, when sewage and/or treatment facilities are available, to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sanitary sewage, industrial

wastes, or other polluted waters, unless specifically permitted by the applicable county health department.

- c) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, unless specifically permitted by the applicable county health department or as hereinafter provided.
- d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley, easement, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at his expense to install suitable sewage facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within ninety (90) days after date of official notice to do so.

#### **Sec. 9.142 - Process Wastewater**

- a) Wastewater Contribution Information

Any industry or structure discharging process flow to the sanitary sewer, storm sewer or receiving stream shall file the information listed below with the Director. Any industry which does not normally discharge to the sanitary sewer, storm sewer or receiving stream, but has the potential to do so from accidental spills or similar circumstances, shall also file the information listed below.

The Director may require each person who applies for or receives sewer service, or through the nature of the enterprise creates a potential environmental problem, to file the information listed below on a disclosure form prescribed by the City:

- 1) Name, address and location (if different from the address)
- 2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- 3) Wastewater constituents and characteristics including but not limited to those mentioned in Section 2 of this Ordinance as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with the procedures and methods detailed in:
  - A) Standard Methods for the Examination of Water and Wastewater, American Public Health Association, current edition.
  - B) Manual of Methods for Chemical Analysis of Water and Wastes, United States Environmental Protection Agency, current edition.
  - C) Annual Book of Standards, Part 131, Water, Atmospheric Analysis, American Society of Testing Materials, current edition.
- 4) Time and duration of contribution
- 5) Average daily wastewater flow rates, including daily, monthly and seasonal variations, if any
- 6) Industries identified as Significant Industrial Users or those required by the City must submit site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.

- 7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged
- 8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal Pretreatment Requirements, and a statement regarding whether or not the Pretreatment Requirements are being met on a consistent basis and if not, whether additional Operation and Maintenance and/or additional pretreatment is required by the Industrial User to meet applicable Pretreatment Requirements.
- 9) If additional pretreatment and/or O&M will be required to meet the Pretreatment Requirements, the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
  - A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Requirements.
  - B) No increment referred to in paragraph (1) shall exceed 9 months.
  - C) Not later than 14 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Director.
- 10) Each product produced by type, amount, process or processes and rate of production
- 11) Type and amount of raw materials processed, average and maximum per day
- 12) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system
- 13) Any other information as may be deemed by the City to be necessary to evaluate the impact of the discharge on the POTW.
- 14) The disclosure form shall be signed by a principal executive officer of the User and a qualified engineer.
- 15) The City will evaluate the complete disclosure form and data furnished and may require additional information. Within 90 days after full evaluation and acceptance of the data furnished, the City shall notify the User of the acceptance thereof.

b) Discharge Modifications

Within three (3) months after the effective date of the promulgation or revision of a National Categorical Pretreatment Standard, all affected existing Industrial Users must submit to the City the information required by paragraphs 1.h and 1.i of Section 5.

c) Discharge Conditions

Wastewater discharges shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, User Charges, and fees established by the City. The City may:

- 1) Set unit charges or a schedule of User Charges and fees for the wastewater to be discharged to the POTW;
  - 2) Limit the average and maximum wastewater constituents and characteristics;
  - 3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;
  - 4) Require the installation and maintenance of inspection and sampling facilities;
  - 5) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
  - 6) Establish compliance schedules;
  - 7) Require submission of technical reports or discharge reports;
  - 8) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the City, and affording City access thereto, and copying thereof;
  - 9) Require prompt notification of the City in advance of any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the wastewater treatment system;
  - 10) Require immediate notification of all discharges that could cause problems to the POTW, including slug discharges;
  - 11) Require other conditions as deemed appropriate by the City to ensure compliance with this Ordinance;
  - 12) Require waste treatment facilities, process facilities, waste streams, or other potential waste problems to be placed under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities;
  - 13) Require records and file reports to be maintained on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents, or other wastes;
  - 14) Convert concentration-based National Categorical Pretreatment Standards to equivalent mass-based or production-based Pretreatment Requirements;
  - 15) Control through permit, order, or similar means, the contribution to the POTW by each User to ensure compliance with applicable National Categorical Pretreatment Standards or Pretreatment Requirements. The control mechanism may limit duration to a maximum of five years, require nontransferability without appropriate prior notification, set effluent limits, establish monitoring and reporting requirements, and contain a statement of applicable penalties for violations;
  - 16) Adjust National Categorical Pretreatment Standards to reflect the presence of pollutants in a User's intake water.
- d) Baseline Reports

- 1) Within 180 days after promulgation or revision of a National Categorical Pretreatment Standard, all existing affected Industrial Users must submit to the City the information specified by 40 CFR, Section 403.12(b), paragraphs (1)-(7).
- 2) At least 90 days prior to commencement of discharge, New Sources and sources that become affected Industrial Users subsequent to the promulgation of an applicable National Categorical Pretreatment Standard, shall submit to the City the information specified by 40 CFR, Section 403.12(b), paragraphs (1)-(5). New Sources shall also include in this report information on the method of pretreatment they intend to use to meet the applicable pretreatment standard and shall give estimates of the required information regarding flow and pollutant discharge.

e) Compliance Date Report

Within 90 days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any User subject to Pretreatment Standards and Requirements shall submit to the Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the User facility which are limited by such Pretreatment Standards or Requirements. For Users subject to equivalent mass- or shall contain a reasonable measure of the long-term production rate. For Users subject to Categorical Pretreatment Standards expressed per unit of production, the report shall include the actual production during the sampling period. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement will be signed by an Authorized Representative of the Industrial User, and certified to by a qualified representative.

f) Periodic Compliance Reports

- 1) Any User or New Source discharging into the POTW, shall submit to the Director during the months of June and December, unless required more frequently in Pretreatment Standard or by the Director, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards or this Ordinance. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in paragraph 3.c. of this section. At the discretion of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Director may agree to alter the months during which the above reports are to be submitted.
- 2) The Director may also impose mass limitations on Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases in which the imposition of mass limitations is appropriate. In such cases, the report required by subparagraph a. of this paragraph shall also indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User.
- 3) If a User is subject to reporting requirements required to demonstrate continued compliance and monitors any pollutant more frequently than required by the City, using Standard Laboratory Procedures, the results of this additional monitoring shall also be included in the Periodic Compliance Report.
- 4) If sampling performed by a User indicated a violation, the User shall notify the City within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and submit the results of

re-analysis to the City within 30 days after becoming aware of the violation, except when the City will be performing scheduled surveillance sampling/analysis within this 30-day period.

g) Notification of Hazardous Waste Discharges

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

h) Monitoring Facilities

The City may require to be provided and operated at the User=s own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the User=s premises, but the City may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the City and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

i) Inspection and Sampling

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

j) Pretreatment

Industrial Users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations and as required by the City. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the User=s expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the City before

construction of the facility. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City prior to the User's initiation of the changes.

The City will annually publish in the major local newspaper a list of the Users which were in Significant Noncompliance with any Pretreatment Requirements or Standards at least once during the twelve previous months. The notification will identify the nature of the violation and summarize any enforcement actions taken against the Users during the same twelve months.

All records relating to compliance with Pretreatment Standards shall be made available to officials of the EPA or MDEQ upon request.

k) Confidential Information

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

When requested by the person furnishing a report, the portion of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

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

l) Signatory Requirements

All reports required by this Section shall be signed by the Authorized Representative of Industrial User and include the following certification statement:

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

If the Authorized Representative of Industrial User changes because a different individual has responsibility for the overall operation of the facility or for environmental matters of the company, a new authorization satisfying the requirements of Sec. 9.139., *Authorized Representative of Industrial User*, Item (c), must be submitted to the City prior to or together with any reports to be signed by that representative.



#### **Sec. 9.143 - Private Sewage Disposal**

- a) Where a public sewer is not available under the provisions of Section 4.4, the building sewer shall be connected to an approved private sewage disposal system.
- b) Before commencement of a private sewage disposal system, the owner shall first apply to the County Health Department for a soil evaluation test. The fee shall be determined by the County Health Department, and shall be paid to the County Health Department. At completion of the above soil evaluation test showing positive results, the property owner shall apply for a Permit for Installation for the proposed sewage system. He shall include plans, specifications and other information as deemed necessary by the County Health Department. At the time the application is filed, the fee determined by the County Health Department for the permit and inspection shall be paid.
- c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the County Health Department. The County Health Department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seven (7) days of the receipt of notice by the County Health Department. All persons receiving a permit for a private sewer disposal system shall provide the City with copies of all final approved inspection reports issued by the County Health Department.
- d) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the County Health Department. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- e) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Section 4.4, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned for sanitary use and filled with a suitable material.
- f) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the City.
- g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by any other agency having legal jurisdiction.

#### **Sec. 9.144 - Building Sewer and Connections**

- a) No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereto without first obtaining a written permit from the Director. No building sewer shall be covered until after it has been inspected and approved by the Director.
- b) The owner or his agent shall make application or sewer permit on a form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information required by this Ordinance or considered pertinent in the judgment of the Township. All connection fees and/or costs associated with sewer taps, in amounts established by resolution of the City Commission, shall be paid to the City Treasurer at the time the application is filed. A plumbing permit is also required. If a street opening is required to make the lead connection, an additional attachment to the permit must be completed.
- c) All cost and expense incident to the installation, connection and maintenance of the building sewer to the public sewer connection shall be borne by the owner.

- d) All liabilities incident to the installation and connection of the building sewer shall be borne by property owner. The property owner shall indemnify and save harmless the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- e) It shall be the duty of each property owner to maintain, clean and repair the private sewer lines on his property at his own expense as necessary to keep such lines free and clear of obstructions and in good working order and to maintain and keep clear of obstructions the lateral lines servicing his property.
- f) It shall be the duty of the City to maintain, clean and repair as necessary and at its expense the sewer transmission (trunk) and local collection sewers. The City shall not be responsible for cleaning or maintenance of sewer leads.
- g) In the case of a bona fide 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 line for which the City is responsible.
- h) If the property owner fails to establish the City responsibility, it shall be the property owner's responsibility to perform the necessary maintenance as provided in this Ordinance. If the City responsibility is established, the City shall perform the necessary maintenance and shall reimburse the property owner for reasonable expenses incurred in locating the defect in the line or in otherwise establishing the City responsibility.
- i) The property owner would be responsible under this Ordinance for the total maintenance and repair of the private sewer lines on his property and for the maintenance and cleaning, although not including major repair, of the entire sewer line out to the trunk line or the local collection sewer.
- j) The City, on the other hand, is responsible for major repair of the trunk line and local collection sewers only and has no responsibility of any sort for the private lines. The City also has no responsibility to clean the sewer leads.
- k) Any property owner who shall violate the provisions of this Ordinance shall be liable to the City for civil damage incurred in correcting the defect, and in addition, shall be guilty of a misdemeanor.
- l) If any property owner fails to maintain a private sewer line as required by this ordinance, in addition to the other penalties prescribed, the sewer may be declared a public nuisance by the County Health Officer and the defect may be corrected by the City. Any costs so incurred shall be assessed against the property and become a lien on the property if not timely paid.
- m) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior (lot) and no private sewer is available or can be constructed to the rear building through an adjoining alley, yard or driveway, the building sewer from the front building may be extended to the rear building.
- n) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director, to meet all requirements of this article.
- o) The building sewer shall be constructed of vitrified clay sewer pipe or case iron soil pipe, as approved by the Director. The City reserves the right to specify and require the encasement of any sewer pipe with concrete, or the installation of the sewer pipe in concrete cradle if foundation and construction are such as to warrant such protection in the opinion of the Director.

- p) The size and slope of the building sewer shall be subject to approval by the Director, but in no event shall the diameter be less than four (4) inches. The slope of such four (4) inch pipe shall be not less than one-quarter (1/4) inch per foot, unless otherwise permitted. The slope of pipe, the diameter of which is six (6) inches or more, shall not be less than one-eighth (1/8) inch per foot unless otherwise permitted.
- q) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction greater than forty-five (45) degrees shall be provided with cleanouts accessible for cleaning.
- r) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by artificial means approved by the Director, and discharges to the building sewer.
- s) All joints and connections shall be made gastight and watertight. All joints shall be approved by the Director.
- t) No sewer connection will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for treatment of BOD and suspended solids.
- u) All newly constructed building sewers shall have a properly sized cleanout at the head of said sewer that is accessible at all times. This cleanout shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sewer.
- v) All sewers shall be constructed in accordance with the latest edition of the A Ten State Standards.®

#### **Sec. 9.145 - Use of the Public Sewers**

- a) General Discharge Prohibitions

No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such Users of a POTW whether or not the User is subject to the National Categorical Pretreatment Standards or any other national, state or local Pretreatment Standards or requirements. The City may refuse to accept any wastes which will cause the POTW to violate its NPDES discharge limits. A User may not contribute the following substances to any POTW:

- 1) Any liquids, solids or gases, including but not limited to waste streams with a closed cup flash point of less than 140°F, which by reason of their nature and quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
- 2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or flesh, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops,

waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

- 3) Any wastewater having a pH less than 6.0 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the POTW.
- 4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a Categorical Pretreatment Standard. This prohibition of toxic pollutants will conform to Section 307(a) of the Act.
- 5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair, including pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- 6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
- 7) Any substance which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.
- 8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- 9) Any wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40EC (104EF).
- 10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.
- 11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable state or federal regulations.
- 12) Any wastewater which causes a hazard to human life or creates a public nuisance.
- 13) Any unpolluted water including, but not limited to stormwater, groundwater, roof water, or noncontact cooling water.
- 14) Any waters or wastes containing suspended solids or any constituent of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- 15) Any waste from individual sewage disposal systems except at the POTW Treatment Plant as provided in Section 9 except that waste from any individual sewage disposal system may be disposed of directly into a sanitary sewer upon entering into an agreement with the City, which agreement shall specify the site of disposal, sewage disposal charge and such other conditions as may be required to

satisfy the sanitation and health requirements of the City. For the purpose of this subsection, An individual sewage disposal system is defined to include every means of disposing of industrial, commercial, household, domestic or other water-carried sanitary waste or sewage other than a public sanitary sewer.

16) Any sludge, precipitate or congealed substances resulting from an industrial or commercial process, or resulting from the pretreatment of wastewater or air pollutants.

17) Any trucked or hauled wastewater, except as specifically allowed by the Director.

b) Specific Pollutant Limitations

1) Toxic pollutants

Under no circumstances shall any person discharge wastewater containing in excess of:

- \_\_\_\_\_ mg/1 arsenic
- \_\_\_\_\_ mg/1 cadmium
- \_\_\_\_\_ mg/1 chromium (total)
- \_\_\_\_\_ mg/1 chromium (hexavalent)
- \_\_\_\_\_ mg/1 copper
- \_\_\_\_\_ mg/1 cyanides
- \_\_\_\_\_ mg/1 lead
- \_\_\_\_\_ mg/1 mercury
- \_\_\_\_\_ mg/1 nickel
- \_\_\_\_\_ mg/1 silver
- \_\_\_\_\_ mg/1 zinc
- \_\_\_\_\_ mg/1 total phenols
- \_\_\_\_\_ mg/1 polychlorinated biphenyls

2) Conventional Pollutants

Except as authorized by the Director, no person shall discharge wastewater containing in excess of:

- \_\_\_\_\_ mg/1 BOD<sub>5</sub>
- \_\_\_\_\_ mg/1 total suspended solids
- \_\_\_\_\_ mg/1 total Kjeldahl nitrogen
- \_\_\_\_\_ mg/1 total phosphorus
- \_\_\_\_\_ mg/1 COD
- \_\_\_\_\_ mg/1 by weight of fat, oil or grease
- \_\_\_\_\_ mg/1 iron
- \_\_\_\_\_ mg/1 chlorine demand, at 30 minutes

3) Should the above concentrations, either individually or in combination with one another, interfere with the sewage treatment process, or cause difficulties or damage to the receiving waters, the maximum concentrations of these substances will be reduced by order of the Director.

Should any other substances either individually or in combination with other substances interfere with the sewage treatment process or cause damage to the receiving waters or affect the sanitary or storm sewer system, the allowable concentration of these substances will be reduced by order of the Director. Should the Director determine that the above limits can be raised without damage to the sewer system or the sewage plant exceeding the state or federal limits, then the Director may raise

the limits, and shall determine the individual concentrations depending on quantity of flow, equipment, capabilities, reliability of testing, etc.

- 4) If any waters are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above, and which in the judgment of the City may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:
  - A) Reject the wastes.
  - B) Require pretreatment to the level defined as A Normal Domestic Sewage @.
  - C) Require control over the quantities and rates of discharge.
  - D) Require payment to cover the added cost of handling and treating the wastes not covered using taxes or sewer charges.
  - E) Require new industrial customers or industries with significant changes in strength or flow to submit prior information to the City concerning the proposed flows.

If the City permits the pretreatment or equalization or waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the City and shall be subject to the requirements of all applicable codes, ordinances and laws.

c) National Categorical Pretreatment Standards

Upon the promulgation of the National Categorical Pretreatment Standards for a particular subcategory, the Pretreatment Standard, if more stringent than limitations imposed under this Ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this Ordinance and shall be considered part of this Ordinance. The Director shall notify all affected Users of the applicable reporting requirements.

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

d) State Requirements

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

e) City's Right of Revision

The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 1 of this Ordinance.

- f) No user shall discharge or cause to be discharged any storm water, surface water, groundwater, water from footing drains, or roof water to any sanitary sewer or sewer connection. Any premise connected to a storm sewer shall comply with county, state and federal requirements as well as those of the City.

Downspouts and roof leaders shall be disconnected from sanitary sewers within six (6) months of the date of this Ordinance. If this is not done, the City shall perform this work and bill the user.

Stormwater, groundwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as combined sewers or storm sewers. Discharge of cooling water or unpolluted process water to a natural outlet shall be approved only by the Michigan Water Resources Commission.

- g) Grease, oil and sand interceptors shall be provided when in the opinion of the Director they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers, which when bolted in place shall be gastight and watertight.
- h) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.
- i) The City may prohibit the admission into the public sewers or any waters or wastes as follows:
  - 1) Containing any quantity of substances having the characteristics described in Section 8.1.a or 8.1.b, or
  - 2) Having an average daily flow greater than two percent (2%) of the average daily sewage flow of the City, or having a rate of flow (gallons per day) greater than ten percent (10%) of the average daily City flow for a period of one hour or more, shall be subject to review and approval of the Director.

Where necessary in the opinion of the City, the owner shall provide at his expense, such preliminary treatment as may be necessary to reduce the five (5) day BOD, suspended solids, phosphorus, and total Kjeldahl nitrogen to concentrations given in 8.2.b; or to reduce objectionable characteristics of constituents to within the maximum limits provided for in Section 8.2a, or control the quantities and rates of discharge of such waters or wastes.

- j) Where the strength of sewage from an industrial, commercial or institutional establishment exceeds two hundred (200) parts per million of biochemical oxygen demand or two hundred and forty (240) parts per million by weight of suspended solids or five (5) parts per million by weight of phosphorus or twenty (20) parts per million by weight of total Kjeldahl nitrogen and where such wastes are permitted to be discharged to the sewer system by the Director, an added charge, as noted below, will be made against such establishment according to the strength of such wastes. The strength of such wastes shall be determined by composite samples taken over a sufficient period of time to insure a representative sample. The cost of taking and making the first of these samples shall be borne by the City. The cost of any subsequent sampling and testing shall be borne by the industry or establishment, whether owner or lessee. Tests shall be made by an independent laboratory or at the City wastewater treatment plant.

Added charges shall be determined by the City. These charges shall be based on the cost of operation, maintenance, and equipment replacement for the sewage works.

- k) When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in

accordance with plans approved by the City. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

- l) All measurements, tests and analyses of the characteristics of water to which reference is made in subsections 1 and 8 of Section 8, shall be determined in accordance with the latest edition at the time of AStandard Methods for Examination fo Water and Sewage,@ and shall be determined at the control manhole provided for in subsection 6, Section 5, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether grab samples should be taken. The responsibilities of industry are further defined below:

- 1) One person from each industry shall be delegated the authority to be responsible for industrial wastes admitted to the municipal sewers. Such person would be involved with maintaining the pretreatment facility operations and assuring a continual high level of performance. In case no pretreatment is provided, such person would be involved with the prevention of accidental discharges of process wastes admitted to the sanitary sewer system. Such person must become aware of all potential and routine toxic wastes generated by their industry. Such person must also be informed of all process alterations which could, in any manner, increase or decrease normal daily flow or waste strength discharged to the sanitary sewers.
- 2) This industrial representative must catalog all chemicals stored, used, or manufactured by their industry. Such a listing should include specific chemical names, not manufacturer=s codes. Those wastes admitted to the sanitary sewer are a prime concern; however, all discharges should be cataloged. An estimate of daily average flows and strengths must be made including process, cooling, sanitary, etc. Such a determination should separate the flows according to appropriate categories. The aforementioned flow and chemical listing is to be sent to the City.
- 3) The industrial representative shall determine whether or not large process alterations will occur during the next few years; one year, two years, and five years. Management should be consulted to determine if such alterations are scheduled and forthcoming.
- 4) A sketch of the plan building(s) must be made, including a diagram of process and chemical storage areas. Location of any pretreatment equipment should be indicated and floor drains located near process and storage areas should be noted. Manhole and sewer locations at the industry=s point of discharge into the municipal collection system should be included on the plant layout sketch.
- 5) There must be separation of spent concentrations from the sanitary sewer to prevent toxic wastes from upsetting the wastewater treatment plant. Supervision and operation of the pretreatment equipment for spent concentrations as well as all toxic wastes and high strength organic wastes to an acceptable level as detailed in this Ordinance is the responsibility of the industrial representative. All sludges generated by such treatment must be handled in an acceptable manner, such as designated areas of a sanitary landfill or by a licensed waste hauler. Adequate segregation of those waters and wastes to be pretreated to meet discharge limits is a vital portion of the industrial effort to prevent operational problems at the wastewater treatment plant.
- 6) Throughout the industry, adequate secondary containment or curbing must be provided to protect all floor drains from accidental spills and discharges to the receiving sewers. Such curbing should be sufficient to hold 150% of the total process area tank volume. All floor drains found within the



containment area must be plugged and sealed. Spill trough and sumps within the containment area must be plugged and sealed. Spill trough and sumps within process areas must discharge to appropriate pretreatment tanks. Secondary containment should be provided for storage tanks which may be serviced by commercial haulers and for chemical storage areas.

- 7) An adequate sampling vault or manhole must be provided in an accessible place for the wastewater treatment plant personnel to obtain samples and flow measurement data. The complexity of the vault will vary with the sampling requirements the City determines necessary to protect the treatment plant and receiving stream. Should the City desire continual flow recording and long duration, 24-hour composite sampling, then a more complex manhole would be mandatory - complete with 100 volt AC. Samples collected could be divided between the industry and City for analysis if so desired by the industry. The sampling vault should be located so as to give access by City personnel without entering the industrial property.
- 8) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processing or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing the report, the portion of the report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance. The National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System Permit, and/or the pretreatment programs; wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the City as confidential shall not be transmitted to any governmental agency or to the general public by the City until and unless a 10-day notification is given to the user.
- 9) Industrial cooling water containing such pollutants as insoluble oils or grease or other suspended solids shall be pretreated for removal of the pollutants and then discharged to a MDEQ approved drainage outlet.

Agents of the City, County Health Department, Michigan Department of Environmental Quality of U.S. Environmental Protection Agency, shall have the right to enter all properties for the purpose of inspecting, measuring, sampling and testing the wastewater discharge and copying applicable pretreatment records.

- m) To determine the sewage flow from any establishment, the Director may use one of the following methods:
  - 1) The amount of water supplied to the premises by the City or a private water company as shown upon the water meter if the premises are metered, or
  - 2) If such premises are supplied with river water or water from private wells, the amount of water supplied from such sources as estimated by the Director from the water, gas or electric supply, or
  - 3) If such premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system made by the Director from the water, gas or electric supply, or
  - 4) The number of gallons of sewage discharged into the sewer system as determined by measurements and samples taken at a manhole installed by the owner of the property served by the sewer system at

his own expense in accordance with the terms and conditions of the permit issued by the Director pursuant to Section 7, or

- 5) A figure determined by the Director by any combination of the foregoing or by any other equitable method.

n) Excessive Discharges

Except where expressly authorized to do so by an applicable National Categorical Pretreatment Standard, no User shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State.

o) Accidental Discharge

Where required a User shall provide protection from accidental discharge or prohibited material or other substances regulated by this Ordinance. The City will evaluate, at least one every two years, whether a User without said protection will be subjected to these requirements. Facilities to prevent accidental discharge or prohibited materials shall be provided and maintained at the Owner's or User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. All required Users shall complete such a plan within 180 days after the adoption of this Ordinance. If required by the City a User who commences contribution to the POTW after the effective date of this Ordinance shall not be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the User's facility as necessary to meet the requirements of this Ordinance. In the case of an accidental discharge, it is the responsibility of the User to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

- 1) *Written Notice.* Within five (5) days following an accidental discharge, the User shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
- 2) *Notice to Employees.* A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees of whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

p) Upset Provision

An Upset shall constitute an affirmative defense by Users in unintentional and temporary noncompliance with applicable National Categorical Pretreatment Standards or Pretreatment Requirements, provided it can be proved that:

- 1) An Upset occurred and the User can identify the cause(s) of the Upset;

- 2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
- 3) The User submitted the following information to the City within twenty-four hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days):
  - A) A description of the discharge and cause of noncompliance;
  - B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - C) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

In any enforcement proceedings, the User seeking to establish the occurrence of an Upset shall have the burden of proof.

q) Bypass Provision

Bypass producing a discharge which violates applicable National Categorical Pretreatment Standards or Pretreatment Requirements is prohibited, and the City may take enforcement action against a User for such Bypass, unless: the Bypass was unavoidable to prevent loss of life, personal injury, or Severe Property Damage; there were no feasible alternatives to the Bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime (except where adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to operate during normal periods of equipment downtime or preventive maintenance); and the User submitted required notices.

If the User knows in advance of the need for Bypass, a prior notice shall be submitted to the City at least ten (10) days before the date of the Bypass. The City may approve or disapprove this anticipated Bypass, after considering its adverse effects.

A User shall submit oral notice of an unanticipated Bypass that exceeds applicable Pretreatment Requirements to the City within twenty-four (24) hours from the time the User becomes aware of the Bypass. Unless waived by the City, a written submission shall then be provided within five (5) days of the time the User becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass.

- r) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any person, firm or corporation whereby waste of unusual strength or character may be accepted by the City, subject to payment therefor by the person, firm or corporation, provided such waste will not damage the sanitary sewer or storm sewer or sewage treatment plant or the receiving waters.

**Sec. 9.146 - Disposal at Wastewater Treatment Plant**

Waste from individual sewage systems may be accepted with permission of the Superintendent at the Wastewater Treatment Plant. No waters or wastes described in Section 8.1 of this ordinance, shall be disposed of at the Wastewater Treatment Plant.

Rates for disposal at the Wastewater Treatment Plant shall be determined by the Superintendent at the time of acceptance.

#### **Sec.9.147 - Fees for Industrial Pretreatment**

a) Purpose

It is the purpose of this chapter to provide for the recovery of costs from Users of the Wastewater treatment works for the implementation of the pretreatment program established herein. The applicable charges or fees shall be set forth in the City's Schedule of Charges and Fees.

b) Description of Charges and Fees

- 1) for reimbursement of costs of setting up and operating the Pretreatment Program,
- 2) for monitoring, inspections and surveillance procedures,
- 3) for reviewing accidental discharge procedures and construction,
- 4) for filing appeals,
- 5) for permit applications or transfers,
- 6) for consistent removal by the City of pollutants otherwise subject to Federal Pretreatment Standards,
- 7) and others as the City may deem necessary to carry out the requirements contained herein.
- 8) additional surcharges may be made by the City to compensate the City for the cost of treatment of pollutant loadings not normally treated at or in excess of those treated by the POTW.
- 9) There shall be additional charges for laboratory testing of wastewater. The laboratory charge shall be for the cost thereof and will be determined for each Industrial User.
- 10) The charges and fees for the services provided by the system shall be levied upon any User which may have any sewer connections with the POTW and which discharges industrial waste to the POTW or any part thereof. Such charges shall be based upon the quantity and quality of industrial wastewater used thereon or therein.

#### **Sec. 9.148 - Protection from Damage**

No unauthorized person shall enter or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works.

#### **Sec. 9.149 - Municipal Liability**

The City shall not be responsible for interruptions of services due to natural calamities, equipment failures, or actions of the system users. It shall be the responsibility of the user that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

#### **Sec. 9.150 - Power and Authority of Inspectors**

The Director and other duly authorized employees of the City acting as his duly authorized agent, bearing proper credentials and identification, shall be permitted to enter upon such properties as may be necessary for the

purposes of inspection, observation, measurement, sampling and testing in accordance with provisions of this article.

**Sec. 9.151 - Enforcement/Penalties**

a) Administrative Remedies - General

The City may suspend wastewater treatment services to any User when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, causes or may cause interference to the POTW, or causes or may cause the City to violate any condition of its NPDES Permit.

The City may revoke, suspend, or terminate the wastewater discharge permit of any User which (a) fails to accurately report the wastewater constituents and characteristics of its discharge; (b) fails to report significant changes in wastewater constituents or characteristics; (c) refuses reasonable access to the User=s premises by representatives of the City for the purpose of inspection or monitoring; or (d) violates the conditions of this Ordinance or any final judicial order entered with respect thereto.

b) Administrative Notices and Orders

- 1) Whenever the City finds that a User has violated any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the Director will issue a Notice of Violation to formally document the noncompliance. This document will specify the nature of the violation, establish a date by which the violation shall be corrected, and notify the affected User that failure to correct the violation would constitute a further violation which may result in additional enforcement action. A Notice of Violation will be sent via first-class mail or personally served on an Authorized Representative of the User.

Receipt, or non-receipt, of a Notice of Violation shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of a Notice of Violation shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

- 2) When the City finds that a User has violated any provision of this Ordinance, Industrial Waste Permit or Order issued hereunder, or other Pretreatment Standard or Requirement, the Director may issue an Administrative Order to Show Cause requiring the affected User to appear at a hearing to demonstrate why escalated enforcement action should not be pursued. This document will specify the nature of the violation, establish the time and place for the hearing, and notify the affected User that failure to comply would constitute a violation of this Ordinance which may result in additional enforcement action. An Order to Show Cause will be issued at least ten (10) days prior to the hearing, and will be sent via certified mail/return receipt requested or personally served on an Authorized Representative of the User.

Receipt, or non-receipt, of an Order to Show Cause shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an Order to Show Cause or conducting of the show cause hearing shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

- 3) When the City and an affected User agree to a violation and to the remedial solution, the Director may issue an Order of Consent or similar document to formally establish such agreement. This document will specify the nature of the violation and required actions such as compliance schedules, stipulated fines, additional self-monitoring, and improvements to treatment facilities or management practices designed to control the User's discharge to the sewer. An Order of Consent will be sent via certified mail/return receipt requested, or personally served on an Authorized Representative of the User, and will require signatures of representatives from both the City and the affected User.

An Order of Consent or similar document shall have the same force and effect as other administrative orders issued by the City pursuant to this Ordinance, shall be judicially enforceable, and shall not modify the requirements or extend the deadline for compliance established by a Pretreatment Standard or Requirement. Receipt, or non-receipt of an Order of Consent or similar document shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of a Consent Order or similar document shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

- 4) When the City and affected User do not agree to the violation or to the remedial solution, the Director may issue an Order to Achieve Compliance. This document will specify the nature of the violation and include required actions such as compliance schedules, stipulated fines, additional self-monitoring, and improvements to treatment facilities or management practices designed to control the User's discharge to the sewer. An Order to Achieve Compliance will be issued unilaterally in that terms need not be agreed to by the affected User, and will be sent via certified mail/return receipt requested, or personally served on an Authorized Representative of the User.

An Order to Achieve Compliance shall have the same force and effect as other administrative orders issued by the City pursuant to this Ordinance, shall be judicially enforceable, and shall not modify the requirements or extend the deadline for compliance established by a Pretreatment Standard or Requirement. Receipt, or non-receipt, of an Order to Achieve Compliance shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an Order to Achieve Compliance shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

- 5) When the City finds that a User has violated and continues to violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the Director and City Attorney may jointly issue a Cease and Desist Order requiring the affected User to eliminate the violation within twenty-four (24) hours or face suspension of sewer service. This document will specify the nature of the violation, and require that the violation cease. If the violation has not been corrected within 24 hours following issuance of the order, the City may suspend sewer service without further notice until such time as the affected User is able to demonstrate to the City that it can comply with the discharge requirements. A Cease and Desist Order will be personally served on an Authorized Representative of the User.

Receipt, or not-receipt, of a Cease and Desist Order shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the User.

- 6) Whenever the City finds that a User's discharge is in violation of any provision of this Ordinance or any permit issued hereunder and that the violation creates or threatens to create an emergency situation such as damage to the sanitary sewer system, pass-through or interference to the wastewater treatment plant, hazard to Bowen Creed (receiving water), endangerment to the public health and safety, or violation of any condition of the NPDES permit issued to the City, the Director and City Attorney will jointly issue an Emergency Cease and Desist Order notifying the affected User to eliminate the violating discharge immediately or face service severance via a temporary plug in its sewer connection at any time and without further warning. This document will specify the nature of the violation, and require that the violating discharge cease until such time as the affected User is able to demonstrate to the City that it can comply with the discharge requirements. This document will also establish the time and place for a hearing where the affected User shall present a written statement regarding the causes of the violation and measures taken to prevent future occurrences, and further will notify the affected User of its liability for any costs incurred by the City to conduct this enforcement action. An Emergency Cease and Desist Order will be personally served to an Authorized Representative of the User, or may be delivered verbally via telephone to an Authorized Representative of the User and then served personally.

Receipt, or non-receipt, of an Emergency Cease and Desist Order shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an Emergency Cease and Desist Order shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

- 7) Except for emergency situations covered under Subparagraph 2.f. of this Section, whenever the City finds that a User's continuing violation warrants revocation of its permit or privilege to discharge into the Wastewater System, the Director and City Attorney will jointly issue a Notice of Termination to warn of the impending suspension of the sewer service up to and including severance via temporary plug in the affected User's sewer connection. This document will specify the date and the time of scheduled service suspension in order to allow the affected User to either voluntarily cease the violating discharge or arrange appropriate actions such as production shut-down or alternative means of wastewater disposal. This document will also establish the time and place for a hearing where the affected User shall present a written statement regarding the causes of the violation and

measures taken to prevent future occurrences, and further will notify the affected User of its liability for any costs incurred by the City to conduct this enforcement action. A Notice of Termination will be personally served on an Authorized Representative of the User at least ten (10) days before the scheduled service suspension.

Receipt, or non-receipt of a Notice of Termination shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of a Notice of Termination shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

- 8) In addition to the sanctions, orders, liabilities, and other remedies prescribed under Subparagraphs 2.a through 2.g in this section, a User shall be liable to the City for any and all fines, penalties, and associated legal and other costs incurred or expended by the City as the result of any violation of the City's NPDES permit that is attributable, in whole or in part, to the User's violation of this Ordinance or a permit issued to the User hereunder.

c) Administrative Fines

When the City finds that a User has violated or continues to violate any provision of this Ordinance, an Industrial Waste Permit or Order issued hereunder, or other Pretreatment Standard or Requirement, an administrative fine may be assessed against the affected User in an amount of to \$500 per violation. Each day during which the violation occurred or continues to occur may be deemed a separate violation and, in the case of a violation of monthly or other long-term average discharge limits, the fine may be assessed for each day during the period of averaging.

Receipt, or non-receipt, of an administrative fine shall in no way relieve the affected User of any and all liability associated with the violation. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected User.

d) Rights of Appeal

Except for emergency situations covered under Subparagraph 2.f of this section, any User desiring to dispute a Notice of Violation or order of the City, pursuant to this Ordinance, including but not limited to fines, may present a written request for reconsideration. Such a request shall be submitted to the City Manager within ten (10) days of first being notified of the corresponding order for all but a Notice of Termination, where such a request shall be submitted within five (5) days of notification. If, in the opinion of the City Manager, the request has merit, he will convene a hearing on the matter as soon as possible to collect testimony of appropriate persons, take evidence, and render a final determination. In the event the affected User's appeal is unsuccessful, any original fine will become immediately due and the City may also add any additional costs incurred to administer this appeal. Further appeal of the City Manager's final determination shall be governed by applicable State law.

Submittal of an appeal shall in no way relieve the affected User of any and all liability associated with the violation. An appeal shall not stay the corresponding order, or limit any other enforcement proceedings by the City against the affected User.

e) Judicial Penalties

When the City finds that a User has violated or continues to violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement, the City Attorney may petition the Circuit Court of Presque Isle County for appropriate legal and/or equitable relief.

1) Injunctive Relief



A User who has violated or continues to violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable to issuance of a preliminary injunction or a permanent injunction, or both as may be appropriate. This action will be sought to restrain or compel activities on the part of the affected User.

A petition for injunctive relief shall in no way relieve the affected User of any and all liability associated with the violation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, any other actions by the City against the affected User.

## 2) Civil Penalties

A User who has violated or continues to violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable for a civil penalty of up to five-hundred Dollars (\$500) per violation. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of the averaging. The affected User will also be liable for all costs incurred by the City for associated enforcement action such as reasonable attorney's fees, court costs additional sampling and monitoring expenses, as well as costs of any environmental damage and any fines imposed upon the City for NPDES permit violations that result in whole or in part from the User's violation and expenses associated with remediation of sites thereby contaminated. The City Attorney may petition the court to impose, assess, and recover sums up to this limit of liability. In determining the appropriate amount of civil penalty to seek, the City may take into account all relevant circumstances including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained by the affected User as a result of the violation, correction actions implemented or proposed to be implemented by the affected User, and history of compliance or noncompliance by the affected User.

A suit for civil penalties shall not be a bar against, or a prerequisite for, any other actions by the City against the affected User.

## 3) Criminal Prosecution

### A) Violations - Generally

A User who has willfully or negligently violated or continues to willfully or negligently violate any provision of this Ordinance, Industrial Waste Permit or order issued hereunder, or other Pretreatment Standard or Requirement will be liable to criminal prosecution. If convicted, the affected User will be guilty of a misdemeanor and may be punished by a monetary penalty of up to five-hundred dollars (\$500) per violation, imprisonment for up to ninety (90) days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of averaging.

Criminal prosecution shall not be a bar against, or a prerequisite for, any other actions by the City against the affected User.

### B) Falsifying Information

A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Ordinance, Industrial Waste Permit or order issued hereunder, or Pretreatment Standard

or Requirement will be liable to criminal prosecution. If convicted, the affected User will be guilty of a misdemeanor and may be punished by a monetary penalty of up to five-hundred dollars (\$500) per violation, imprisonment for up to ninety (90) days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of averaging.

Criminal prosecution shall not be a bar against, or a prerequisite for, other actions by the City against the affected User.

C) Tampering

A User who falsifies, tampers with, or knowingly renders inaccurate any data device or test method used to monitor a discharge pursuant to this Ordinance, Industrial Waste Permit or order issued hereunder, or Pretreatment Standard or Requirement will be liable to criminal prosecution. If convicted, the affected User will be guilty of a misdemeanor and may be punished by a monetary penalty of up to five hundred dollars (\$500) per violation, imprisonment for up to ninety (90) days, or both. Each day during which the violation occurred or continues to occur may be deemed a separate distinct violation and, in the case of a violation of monthly or other long-term average discharge limits, the penalty may be assessed for each day during the period of averaging.

Criminal prosecution shall not be a bar against, or a prerequisite for, any other actions by the City against the affected User.

**Sec. 9.152 - Records Retention**

All Users subject to this Ordinance shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereto, relating to monitoring, sampling and chemical analyses made by or in behalf of a User in connection with its discharge. All records which pertain to matters which are the subject of Administrative Adjustment or any other enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the User until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

**Sec. 9.153 - Records**

The City will maintain and keep proper books of records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the System. The City will cause an annual audit of such books of record and account for the preceding operating year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized public officials on request.

In conjunction with the audit, there shall be an annual review of the sewer charge system for adequacies meeting expected expenditures for the following year and to insure proportionality among user classes as required by federal regulations.

Classification of old and new industrial users shall also be reviewed annually.

The City will maintain and carry insurance on all physical properties of the System, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All monies received for losses under any such insurance policies shall be solely to the replacement and restoration of the property damaged or destroyed.

## **Sec. 9.154 - User Charge System**

### **a) Established, Basis for Computations**

It is hereby declared to be the intent and purpose of the City Commission to establish and maintain reasonable and uniform rates and charges applicable to various classifications of users in each district so as to provide funds to:

- 1) Operate and maintain those facilities of the system which the City is obligated to operate and maintain,
- 2) Apply on the contractual payments the City is obligated to make, or other indebtedness which may be incurred in the future by the City for additional facilities for the system,
- 3) Make additions, extensions and improvements to the system, and
- 4) Establish a sufficient reserve for these purposes.

The system shall have an operating and fiscal year commencing on April 1 and ending on March 31 of each year.

The rates and charges for the services and benefits provided by the system shall be prescribed in such resolutions as may be adopted from time to time by the City Commission. Such rates and charges shall be levied against all users of the system.

In pursuance of and within the limits of applicable laws, the operation, management, maintenance and repair of the system shall be under the immediate supervision and control of the City Commission. The City Commission shall have ultimate responsibility for the system and for enforcement of this Ordinance and any additional rules and regulations adopted with respect to the system.

All officers, employees and agents of the City Commission, insofar as their functions pertain to the system, shall be held strictly accountable for performance of the powers and duties delegated to them, and shall not vary from nor exceed the authority conferred upon them.

All revenue of the system shall be deposited in funds as provided in Section 17.3 of this Ordinance.

Rates and charges for connection to and the use of the wastewater system of the City shall be based upon the methodology in the most current City of Onaway User Charge System report. Revisions to these rates and charges are to be established by resolution of the City Commission, which may be enacted apart from the published Ordinances as necessary to ensure sufficiency of revenues in meeting operation, maintenance and replacement costs, as well as debt service. Such charges and rates shall be made against each lot, parcel of land or premises which may have any sewer connections with the sewer system of the City, or which may otherwise discharge sewage or industrial waste, either directly or indirectly, into such system or any part thereof. Such charges shall be based upon: the number of EDUs of each lot, parcel of land or premises as given in the most current City of Onaway User Charge System report or subsequent revisions adopted by resolution of the City Commission; the monthly Readiness-to-Serve rate per EDU; the connection charge per EDU; the Commodity Charge rate per 1,000 gallon units of metered water flow; and the number of 1,000 gallon units used per month.

### **b) Amounts, Billings, Sewer Service Charges**

The rates and charges for service furnished by such system shall be levied upon each lot or parcel of land, building or premises, having any sewer connection with such system, on the basis of the number of EDUs

of each lot, parcel of land or premises as given in the most current City of Onaway User Charge System report or subsequent revisions adopted by resolution of the City Commission. Rates and charges shall be collected monthly except in cases where the character of the sewage from a manufacturing or industrial plant, building or premises is such that unreasonable additional burden is placed upon the system, greater than that imposed by the normal domestic sewage delivered to the system plant, the additional cost of treatment created thereby shall be an additional charge over the regular rates hereinafter set forth; or the City may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises, to treat such sewage in such manner as shall be specified by the City before discharging such sewage into the sewage disposal system. Rates for all users obtaining all or part of their water supply from sources other than the City water system may be determined by gauging or metering the actual sewage entering the system or by metering the water used by them, in a manner acceptable to the City.

c) Annual Audit

The rates hereby fixed are estimated to be sufficient to provide for the expenses of operation, maintenance and replacement of the system as are necessary to preserve the same in good repair and working order. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on said audit, rates for sewage services shall be reviewed annually and revised as necessary by the City Commission by resolution to meet system expenses and to insure that all user classes pay their proportionate share of operation, maintenance and capital cost.

d) No Free Service

No free service shall be allowed for any user of the City sewer system.

e) Billing

Billing for wastewater service shall be the City's responsibility.

All rates and charges for wastewater service shall be billed and collected in accordance with the City of Onaway User Charge System report or as given in revisions adopted by resolution of the City Commission.

Bills shall be prepared and be mailed to the customer of record as closely as possible to the first City business day following the close of the first month for which service is billed. The payment of the current charges stated on a bill shall have a due date of the last City business day of such month. The failure to receive a bill shall not excuse a failure to pay a bill and any penalty shall accrue thereon as though such bill had been received.

All bills shall be payable on or before the due date without discount. Payments received by the City shall be applied for payment of any outstanding balance owed on the account prior to being applied to current charges.

f) Nonpayment

Current charges that are not paid on or before the due date as indicated on the bill shall be considered delinquent and shall accrue a ten (10) percent penalty on the unpaid amount. Unpaid previous balances and penalties are not subject to this penalty.

g) Collection of Delinquent Accounts

Any and all charges whatsoever related to the wastewater system under this Ordinance, shall be a personal obligation of the owner of the premises and shall become a lien against the premises until paid.

Until all such charges are paid, the City may, at the option of the City Commission, proceed with a personal action against the owner or foreclose upon the aforesaid lien, or both, to the extent necessary to collect such amounts owed and all related costs of collection of said amounts that are incurred by the City.

On the first day of September of each year, any and all balances that are past due for ninety (90) days or more, shall be certified to the next City tax roll as a lien for collection against the premises served. Such lien shall be collected and enforced in the same manner as provided by law for City taxes assessed on the roll. Any and all charges certified for collection through the tax roll shall have added to them a ten (10) percent penalty on the entire amount of the lien in addition to previous charges.

h) Annual Notification

All customers of the City's sewer system will receive an annual notification, either printed on the bill or enclosed in a separate letter, which will show the breakdown of the sewer into its components for operation and maintenance and for capital.

**Sec. 9.155 - Validity, Severability, Conflict**

- a) The provisions of this article are severable, and if any of the provisions, words, phrases, clauses or terms, or the application thereof to any person, firm or corporation, or to any circumstances, shall be held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such decision or findings shall not in any way affect the validity, legality or constitutionality of any other provision, word, phrase, clause or term, and they shall continue in full force and effect.
- b) All laws and parts of laws, all ordinances, codes and regulations which are inconsistent with or in conflict with or repugnant to any provisions of this article, shall be deemed not to apply; provided that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance, code or regulation which is more restrictive or establishes a higher standard than those provided in this article.

**Secs. 9.156 thru 9.175 - Reserved**

