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STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

GARY MASON, individually and as
representative of a class of
similarly-situated persons and entities,

Case No. 2016-152441-CZ
Hon. Nanci Grant

Plaintiff,

v.

CHARTER TOWNSHIP OF WATERFORD,
a municipal corporation,

Defendant.

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FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiff Gary Mason (hereinafter, "Plaintiff"), by his attorneys, Kickham Hanley PLLC, individually and on behalf of a class of similarly situated persons and entities, states the following for his Class Action Complaint against the Charter Township of Waterford (the "Township"):

INTRODUCTION

1. This is an action challenging the retail water rates (the "Water Rates") and the retail sewage disposal rates (the "Sewer Rates") (collectively, the "Rates") imposed by the Township on citizens who draw water from the Township's water supply system and who use the Township's sewer system.

2. The Township has systematically garnered millions from its water and sewer customers that it has used not to cover the actual expenses of providing water to those customers, but rather to fund the Township's general governmental obligations.

3. Specifically, two cost components included in the Rates described more specifically below (the "General Fund Support Charge" and the "Public Fire Protection Charge") constitute taxes that have not been authorized by the Township's voters in violation of the Headlee Amendment to the Michigan Constitution.

4. The Township impermissibly uses these overcharges to supplement its general fund revenues – *i.e.*, to finance governmental functions and expenses wholly unrelated to providing water supply and sewage treatment services to its citizens.

5. The General Fund Support Charge and the Public Fire Protection Charge are precisely the types of exactions that the Michigan Supreme Court has found to constitute unconstitutional.

6. The General Fund Support Charge and the Public Fire Protection Charge are not legitimate user fees but rather constitute unlawful taxes.

7. The General Fund Support Charge and the Public Fire Protection Charge are motivated by a revenue-raising and not a regulatory purpose, the amount charged to Plaintiff and the Class is grossly disproportionate to the Township's actual costs of providing to Plaintiff and the Class the purported benefits for which the General Fund Support Charge and the Public Fire Protection Charge are purportedly imposed, and payment of the General Fund Support Charge and the Public Fire Protection Charge is not voluntary.

JURISDICTION AND VENUE

8. Plaintiff is a water and sewer customer of the Township, and seeks to act as a class representative for all similarly situated persons.

9. Defendant Charter Township of Waterford (the "Township") is a municipality located in Oakland County, Michigan.

10. Venue and Jurisdiction are proper with this Court because all parties are present here and the actions which give rise to Plaintiff's claims occurred in this County. Venue and jurisdiction also are proper with this Court under Article 9, Section 31 of the Michigan Constitution of 1963, and MCL 600.308a.

GENERAL ALLEGATIONS CONCERNING THE WATER AND SEWER RATES

11. The Township maintains and operates a water supply system (the "Water Supply System") to provide fresh water to inhabitants of the Township.

12. Unlike most Southeast Michigan municipalities, the Township directly provides drinking water to its water customers.

13. Plaintiff has received water service from the Township and paid the Water Rates imposed by the Township.

14. The Township's ordinances require the structures used by its citizens to be connected to the Township's Water Supply System.

15. The Township maintains and operates a sewer system (the "Sewer System") to provide sewage disposal services to inhabitants of the Township.

16. The Township is a member of the Clinton-Oakland Sewage Disposal System, which transports sewage to the Detroit Water and Sewerage Department ("DWSD") for treatment and disposal.

17. Plaintiff has received sewer service from the Township and paid the Sewer Rates imposed by the Township.

18. The Township's ordinances require the structures used by its citizens to be connected to the Township's Sewer System. *See* Comp. Ord. 1986, § 25.056 (Sec. 17-055).

19. The Township establishes Water and Sewer Rates from time to time through enacted ordinances. A copy of the Township's Water and Sewer Ordinance is attached hereto as Exhibit A and incorporated herein by reference.

THE GENERAL FUND SUPPORT CHARGE:

20. The Township maintains a Water and Sewer Enterprise Fund (the "Water and Sewer Fund") and prepares financial statements for that Fund. The financial statements show that, since at least 2010, the Township has systematically transferred, on an annual basis, over a million dollars from the Water and Sewer Fund to the Township's General Fund.

21. In each fiscal year from 2010 to 2015, the Township transferred at least \$1,043,500 as an "Administrative Service Fee" from the Water and Sewer Fund to the General Fund these transfers were funded by improper charges imposed upon the Township's water and sewer customers (the "General Fund Support Charge").

22. The Township admits that the Administrative Service Fee is in the Township's Budget and incorporated into the Rates charged to the Township's W&S Customers.

23. The Township admits it has incorporated the General Fund Support Charge into the Rates and therefore each member of the class paid the General Fund Support Charge when they paid their water and sewer bill.

24. The Township attempts to justify the Administrative Service Fee transfers by explaining that the Water and Sewer Fund contributes to the General Fund "for the Administrative Services [it] receives." See 2016 Admin Fee Schedule, attached hereto as Exhibit B.

25. However, the General Fund Support Charge and the associated transfers cannot be justified as payments for services provided to the Water and Sewer Fund by the Township's General Fund Departments, because the value of any such services are far less than the amounts transferred.

26. Indeed, the Township includes cost components in the Administrative Charge that

are untethered to the value of any services provided.

27. The General Fund Support Charge is particularly pernicious because the Township has taken an otherwise appropriate cost allocation methodology and secretly added substantial phantom expenses in order to transfer millions of dollars to the General Fund over the last six years.

28. Worse, there has been a **247%** increase in the Township's Administrative Charge since 2000.

29. The Township's cost allocations violate established methodologies for allocating general fund support costs to the water and sewer function.

30. Established water and sewer rate methodologies allow for such transfers, but prohibit the use of such transfers as a disguised method of utilizing water and sewer funds for purposes unrelated to water and sewer functions.

31. In this regard, the American Water Works Association's M1 Manual "Principles of Water Rates, Fees and Charges," says the following about transfers from water funds to general funds for services provided:

AWWA's policy statement on Finance, Accounting and Rates that that 'Water utility funds should not be diverted to uses unrelated to water utility services. Reasonable taxes, payments in lieu of taxes, and/or payments for services rendered to the water utility by a local government or other divisions of the owning entity may be included in the water utility's revenue requirements after taking into account the contribution for fire protection and other services furnished by the utility to the local government or to other divisions of the owning entity.' **Accordingly, payments made to a municipality's general fund should reimburse the general fund for the necessary cost of goods and/or services required by the water utility to provide water service.**

32. The AWWA policy statement on Finance, Accounting and Rates applies to both water and sewer rates and provides:

Utilities should account for and maintain their funds in separate accounts from other governmental or owning entity operations. **Water and wastewater utility funds should not be diverted to uses unrelated to water or wastewater utility services.** Reasonable taxes, payments in lieu of taxes, and payments for services

rendered to the utility by a local government or other divisions of the owning entity may be included in the utility's revenue requirements after taking into account the contribution for fire protection and other services furnished by the utility to the local government or to other divisions of the owning entity.

33. The Township has not adopted a reasonable cost allocation methodology to allocate expenses to the W&S Fund. Instead of charging the Water and Sewer Fund for the "necessary cost of goods and/or services" provided by the General Fund to the Water and Sewer Fund, the Township charges the Water and Sewer Fund a grossly inflated amount that is nonsensically based upon the Water and Sewer Fund's percentage of the Township's total annual budgeted expenditures.

34. The Township's own documents demonstrate that it determines the total amount of the General Fund Support Charge to the Water and Sewer Fund based upon a percentage of the Township's total annual budgeted expenditures, calculated as follows:

a. First, the Township determines the total expenses that the Township will allocate to other departments and divisions pursuant to the Administrative Services Fee. In FY 2015, the Township allocated 100% of the expenses of its Fiscal & HR department, Information Systems Department, Clerks Office, Facilities & Operations Department and Treasurer's Office, and 20% of the expenses of its General Services Department (collectively, the "General Fund Service Departments") in the Administrative Services Fee.

See Exhibit B hereto.

b. Second, the Township allocates the total Administrative Services Fee to (1) the Water and Sewer Fund, (2) the Library Fund, (3) the Parks and Recreation Fund and (4) the General Fund itself (the "Allocated Funds"). *See* Exhibit B.

35. In making the above allocations, however, the Township has admitted that it made no effort to actually determine the reasonable value of the services provided to the Allocated Funds by the General Fund Service Departments.

36. In this regard, though acknowledging that administrative cost allocations to the Water & Sewer Fund must reasonably reflect the value of the services actually provided by the General Fund to the Water & Sewer Fund, the Township also acknowledged that the Administrative Charge at issue in this case did not reasonably reflect the value of the services actually provided by the General Fund, here specifically:

- a. The Township employees who are primarily in charge of assessing the administrative fee that is charged to the Water & Sewer Department made no effort to communicate with the general fund departments (such as fiscal and human resources, information systems, clerk's office, facilities and operations among others) to determine the value of the services provided to the W&S Fund.
- b. These employees did not evaluate the Township's employee "head counts" per department or percentage of the employees that were in the W&S Department as opposed to the General Fund Departments, nor did he look at actual percentages of employee time or even time records for estimates of time spent by the general fund department's employees on water and sewer activities to determine the value of the services provided to the W&S Fund.

37. Instead, as its own internal documents support, the Township simply took the total amount of budgeted expenses of the Township as a whole and allocated the total Administrative Services Fee to the Allocated Funds in accordance with each Fund's percentage of the total expenses of the Township.

38. The Water and Sewer Fund's budgeted expenses for FY 2015 were \$19,700,000, which is 31.4% of the Township's total budgeted expenditures of \$62,746,733. The Township therefore allocated 31.4% of the total Administrative Services Fee (\$1,043,558) to the Water and Sewer Fund. *See Exhibit B.*

39. The actual value of any services provided by the General Fund Service Departments to the Water and Sewer Fund is far less than the amount of the General Fund Support Charge.

40. The amounts transferred from the Water and Sewer Fund to the General Fund that exceeded the actual value of the General Fund services were thus available for the Township to use, and were actually used to pay for the general expenses of the Township unrelated to providing water or sanitary sewer services.

THE TOWNSHIP FAILS TO REIMBURSE THE WATER AND SEWER FUND FOR SERVICES IT PROVIDES TO OTHER TOWNSHIP DEPARTMENTS AND OVERCHARGES THE WATER AND SEWER FUND FOR THE COST OF MMRMA PREMIUMS WHICH WRONGFULLY ENHANCES GENERAL FUND REVENUES

41. Perhaps even more pernicious than the Township's wrongful cost allocation methodology is that the Township's General Fund admittedly does not pay for the substantial services the Water and Sewer Fund provides to the General Fund. Instead, the cost of those services is included in the Township's Rates and therefore is paid by the Township's water and sewer customers. This further increases the amount of the General Fund Support Charge.

42. For example, the Water and Sewer Fund pays the entire salary and benefits of the Township's Budget Director, even though the Budget Director obviously provides services to all of the Township's departments and divisions.

43. Similarly, the Water and Sewer Fund pays the entire cost of the Township's Engineering Services Branch, including the salary and benefits of the Township employees associated with that Branch, even though the Branch provides services to a number of other Township departments. All of these costs are improperly foisted upon the Township's water and sewer customers.

44. As early as 2014, the Township admitted that its water and sewer rates contained inappropriate cost components. In a 2014 memorandum to the Township Board, the Township's Administrative Superintendent and Budget Director Derek Diederich outlined virtually all of the

ways in which the Township's water and sewer fund provided financial support to the Township's general fund without reimbursement from the general fund. The inappropriate funneling of water and sewer funds to the General Fund included the following:

- a. The Township's DPW Director's salary is wholly funded by the Water & Sewer Department.
- b. Even though the Township's Engineering Division provides services to other Township departments, it is wholly funded by the Water & Sewer Department.
- c. Even though the Township's Safety & Personnel Branch provides services to other Township departments, it is wholly funded by the Water & Sewer Department.
- d. Even though the Township's Electrical Division provides services to other Township departments, it is wholly funded by the Water & Sewer Department.
- e. The Township's Budget Director's salary is wholly funded by the Water & Sewer Department.
- f. The Township's Safety Coordinator's salary is wholly funded by the Water & Sewer Department.
- g. All employees of the Township's Utility Billing Division are paid from the Water & Sewer Department.
- h. The Township's DPW Engineering Superintendent's and DPW Engineer's salary as well as the "Community Lighting" activity that the Engineering Group is involved in is wholly funded by the Water & Sewer Department; and
- i. The Township's GIS Manager's salary is wholly funded by the Water & Sewer Department.

45. Clearly, Water and Sewer Fund monies are being expended for activities wholly-unrelated to the Township's water and sewer function. In fact, many of these costs were foisted upon the Water and Sewer Fund because of "budget shortfalls" in the Township's General, Police and Fire Funds. Thus, the water and sewer fund indisputably is financing, in part, general governmental functions unrelated to the Township's water and sewer function.

46. The Township also overcharges the Water & Sewer Fund for its share of costs for the Township's insurance provided by the Michigan Municipal Risk Management Association ("MMRMA").

47. In this regard, the Township allocates a significant portion of the cost of its insurance from the MMRMA to the W&S Fund. The MMRMA regularly issues refunds to the Township for insurance payments related to earlier periods that are not re-allocated to the W&S Fund but are placed into a separate account "for accounting purposes." There is no attempt by the Township to fairly allocate the MMRMA premiums.

THE PUBLIC FIRE PROTECTION CHARGE

36. A critical service that the Township's water and sewer fund provides to the general fund is the public fire protection provided by the water supply system, which is a governmental function wholly separate from the supply of fresh water to Township residents.

37. The general fund does not compensate the water and sewer fund for public fire protection services.

38. Fire protection water service has characteristics that are markedly different from other types of water service. Where non-fire protection customers consume water on a constant day-to-day basis, fire protection water service is principally of a standby nature; fire protection systems stand by to deliver large quantities of water for short periods of time in the event of a fire at any of a large number of points in the water distribution system. Indeed, although most fire hydrants are rarely used, a water utility must be ready to provide adequate water quantities and pressures at all times throughout the distribution system.

39. The Township furnishes water to its customers for fire protection purposes in two ways: (a) through public fire lines that connect the mains to the public fire hydrants located throughout the water supply system, typically located adjacent to Township curbs and sidewalks; and (b) through private fire lines that lead to private fire suppression facilities located on private property.

40. Direct public fire protection costs include the direct costs for installation, repair, maintenance, and flushing of public fire hydrants and the capital costs associated with those public hydrants. Those costs are, or should be, allocated directly to public fire protection service.

41. Furthermore, because water for firefighting is required to be delivered at high rates of flow for relatively short time periods, some facilities in the water system have to be oversized to meet the cumulative demand of regular service customers as well as fire protection customers. Thus a large portion of costs of providing fire protection service are capacity or demand costs. Capacity or demand costs allocated to fire protection services as a whole are then subdivided into those related to public fire protection service and private fire protection service.

42. Other costs associated with maintaining the supply, treatment, pumping, storage and distribution capacity for fire protection include a portion of the operating and maintenance costs and capital costs invested in facilities that are sized larger than necessary for non-firefighting purposes.

43. The costs the Township's Water and Sewer Fund purportedly incurs for private fire protection services are incorporated into separate Private Fire Line Charges that are charged solely to those customers who have private fire suppression systems, such as automatic sprinklers, private hydrants and standpipes, located on private property. The costs comprising the Private Fire Line Charges are primarily the associated capacity or demand costs.

44. The costs the Township incurs for public fire protection services are incorporated into the Township's water rates paid by the Township's water and sewer customers. The costs comprising the public fire protection costs are, or should be, comprised of the direct public fire hydrant costs plus the associated capacity or demand costs.

45. The American Water Works Association ("AWWA") has published and endorsed a methodology that allocates a municipality's total fire protection costs among public and private fire

systems based on the relative demands both type of fire protection services place on the water supply system. The Township does not employ this methodology and, indeed, does not even calculate the fire protection costs associated with the operation and maintenance of its water supply system.

46. The first step in the AWWA methodology is to determine the total revenue requirement associated with the municipality's public and private fire protection services. The direct public fire protection costs are assigned directly to public fire protection. The indirect fire protection costs (those capacity or demand costs associated with providing maximum-day and maximum-hour fire flow capacity to public hydrants and private fire lines) are allocated between public and private fire protection systems. The methodology is described in detail in AWWA Manual M1 "Principles of Water Rates, Fees and Charges" (6th Ed.) at pp. 141-153.

- a. In order to allocate that total indirect, i.e. capacity or demand fire protection costs among public and private fire protection customers, the AWWA methodology requires a calculation of the total fire flow demands of the public and private fire protection customers.
- b. One typical method is to determine the equivalent hydrant factors for each system. Each public hydrant with a standard six inch connection counts as one equivalent hydrant. For the private fire protection customers, because the sizes of the dedicated fire lines vary in size among private users, the number of equivalent hydrants is determined by assigning an equivalent hydrant factor to each user based up the size of the dedicated fire line.
- c. Because it is the same size as a public hydrant line, a six inch private fire line is assigned a hydrant equivalent factor of 1.0. Smaller lines are assigned an appropriate fraction of one equivalent hydrant, while larger lines are assigned

more than one equivalent hydrant. The equivalent factors are based on the relative hydraulic capacity of the various sized fire lines.

- d. The total number of equivalent hydrants is determined, and then the demand or capacity costs allocated among the public and private users in proportion to the total equivalent hydrants of each class. The direct public fire protection costs are then added to the public capacity or demand-related capacity costs to determine the total public fire protection costs.
- e. A six inch fire line is equivalent to one public hydrant. *See* AWWA M-1 Manual at p. 147. It is therefore appropriate to equate the costs the Township incurs relating to a six inch private fire line with the costs the Township incurs relating to one public hydrant.

47. The Township charges \$185 per quarter or \$740 per year for a six inch private fire line. The Township believes that this was a fair allocation of the costs the Township incurs relating to six inch private fire lines.

48. The Township has approximately 3600 public fire hydrants. Assigning the same cost to each public hydrant that the Township assigns to six inch fire lines would result in an annual public fire protection cost of **\$2,664,000** (3,600 x \$740). The annual public fire protection costs for the six year class period are in excess of **\$15,984,000** and increasing every day. Direct fire protection costs would be added onto those costs.

**PUBLIC FIRE PROTECTION COSTS OF A MUNICIPAL WATER SUPPLY SYSTEM
ARE A GENERAL GOVERNMENTAL OBLIGATION NOT PROPERLY FOISTED
UPON MUNICIPAL WATER AND SEWER USERS.**

49. The provision of public fire protection services is a governmental function which confers a benefit upon the general public benefit, and not merely the Township's water and sewer

customers, and therefore must be paid for out of the Township's General Fund. Public fire protection services must be financed by the Township's General Fund or by ad valorem taxation.

50. The Township overcharges its water and sewer customers by failing to use General Fund resources to pay the Water and Sewer Fund the costs associated with the public fire protection aspect of the Township's water supply system.

51. Even though the Township recognizes that the Water and Sewer Fund "provides high quality potable water for residential, commercial and industrial use, **including fire protection**", the Township admittedly does not pay the Water and Sewer Fund for public fire protection services.

52. Instead, the Township includes the costs it incurs for public fire protection as a component of the Rates it charges to its water and sewer customers (the "Public Fire Protection Charge").

53. The Township concedes that its water supply system provides public and fire protection to the Township's inhabitants and further concedes that the Township incurs at least some costs associated with public fire protection. Nonetheless, the Township does not pay the Water and Sewer fund for public fire protection services.

54. The Township also has recognized that public fire protection costs should not be borne by water and sewer customers in their status as such. Indeed, prior to 1999, the Township's Fire Fund paid the Water and Sewer fund \$100,000 annually for "hydrant rentals" – representing direct fire protection costs. The Township, however, apparently has never charged itself for the capacity costs associated with providing public fire protection.

55. The Township's failure to pay the Water and Sewer Fund for at least some of the costs of public fire protection provided by the water supply system constitutes a violation of the Township's own ordinances. In this regard, Township Ordinance Sec. 17-338 provides that "[t]he

Township shall pay for all water used by it at the established rates for each hydrant connected to the system.”

56. The Revenue Bond Act also provides that “free service shall not be furnished by a public improvement to a person, firm, or corporation, public or private, or to a public agency or instrumentality.” MCL 141.118(1). Instead, “[t]he reasonable cost and value of any service rendered to a public corporation, including the borrower [the Township] by a public improvement shall be charged against the public corporation and shall be paid for as the service accrues from the public corporation’s current funds or from the proceeds of taxes which the public corporation, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for that purpose, or both . . .” *Id.*

57. The “free service” prohibition set forth in MCL 141.118 applies to public fire protection services.

58. The Township has violated MCL 141.118 because it does not impose any public fire protection charges upon itself, but instead, imposes the cost of public fire protection upon its water and sewer customers through the Rates.

59. Clearly, the Township itself in its general capacity should bear the significant cost of providing public fire protection to its inhabitants instead of merely incorporating those costs into its water rates.

60. On information and belief, the value of the public fire protection services provided by the Water and Sewer Fund exceeds the amount of the General Fund Support Charge. Thus, the General Fund Support Charge would be unlawful even if it accurately reflected the value of the services provided by the General Fund Service Departments to the Water and Sewer Fund because it does not take “into account the contribution for fire protection and other services furnished by

the utility to the local government or to other divisions of the owning entity,” as required by governing rate-setting methodologies.

61. The General Fund Support Charge and the Public Fire Protection Charge constitute taxes in violation of the Headlee Amendment to the Michigan Constitution.

62. There are three primary criteria to be considered when distinguishing between a fee and a tax:

- a. A user fee must serve a regulatory purpose rather than a revenue-raising purpose;
- b. User fees must be proportionate to the necessary costs of the service; and
- c. Payment of the fee is voluntary.

63. The General Fund Support Charge and the Public Fire Protection Charge serve a revenue-raising purpose because they are being used to finance the Township’s general governmental obligations unrelated to providing water and sewer service.

64. The General Fund Support Charge and the Public Fire Protection Charge are not proportionate to the necessary costs of the Township’s water supply and sewer services.

65. Payment of the General Fund Support Charge and the Public Fire Protection Charge is not voluntary but at the very least is effectively compulsory.

66. The Township requires or effectively requires all dwellings in the Township to be connected to the public water supply and sewer system, where available, and, by virtue of that connection, to pay the Township’s charges for water supply and sewer services. Thus, Plaintiff and other class members cannot evade payment of the General Fund Support Charges or the Public Fire Protection Charge.

67. Pursuant to the Township’s ordinances, charges for water services, fees, cost reimbursement provisions, and penalties shall be a lien on the premises served as set forth herein. Township Ordinance Sec. 17-349.

68. Moreover, the Township's ordinances provide that any charges, "which on August 15 of each year, have been delinquent for a period of ninety (90) days or more shall be transferred to the next Township tax roll against the premises served, plus a surcharge of ten (10) percent to cover certain administrative expenses of the Township, which sums shall be collected and such lien enforced in the same manner provided in respect to Township taxes assessed on such roll under the general property tax law." Township Ordinance Sec. 17-349.

CLASS ALLEGATIONS

69. Plaintiff brings this action as a class action, pursuant to MCR 3.501, individually and on behalf of a proposed class consisting of all persons or entities which have paid the Township for water and sewer service during the relevant class periods or which pay the Township for water and sewer service during the pendency of this case.

70. The members of the Class are so numerous that joinder of all members is impracticable.

71. Plaintiff's claims are typical of the claims of members of the Class. Plaintiff is a member of the Class he seeks to represent, and Plaintiff was injured by the same wrongful conduct that injured the other members of the Class.

72. The Township has acted wrongfully in the same basic manner as to the entire class.

73. There are questions of law and fact common to all Class Members that predominate over any questions, which, if they exist, affect only individual Class Members, including:

- a. whether the General Fund Support Charge and the Public Fire Protection Charge imposed by the Township are taxes;
- b. whether the General Fund Support Charge and the Public Fire Protection Charge imposed by the Township violate the Headlee Amendment;
- c. whether the Township's rates are reasonable;

- d. whether the Township has violated MCL 141.118; and
- e. Whether the Township has should have to disgorge the funds it collected by illicitly imposing the General Fund Support Charge and the Public Fire Protection Charge.

74. Plaintiff will fairly and adequately protect the interests of the Class, and Plaintiff has no interests antagonistic to those of the Class. Plaintiff is committed to the vigorous prosecution of this action, and has retained competent and experienced counsel to prosecute this action.

75. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable.

76. The prosecution of separate actions would create a risk of inconsistent or varying adjudications.

77. Furthermore, the prosecution of separate actions would substantially impair and impede the ability of individual class members to protect their interests.

78. In addition, since individual refunds may be relatively small for most members of the class, the burden and expense of prosecuting litigation of this nature makes it unlikely that members of the class would prosecute individual actions. Plaintiff anticipates no difficulty in the management of this action as a class action.

COUNT I

VIOLATION OF THE HEADLEE AMENDMENT

79. Plaintiff incorporates each of the preceding allegations as if fully set forth herein.

80. The Township is bound by the Michigan Constitution of 1963, including those portions commonly known as the Headlee Amendment.

81. In particular, the Township may not disguise a tax as a fee under Article 9, Section 31 of the Michigan Constitution of 1963.

82. The General Fund Support Charge and the Public Fire Protection Charge are disguised taxes and intended to avoid the obligations of the Headlee Amendment, including the requirement that the General Fund Support Charge and the Public Fire Protection Charge, as taxes, be approved by a majority of the electorate.

83. The General Fund Support Charge and the Public Fire Protection Charge have all relevant indicia of a tax:

- a. They have no relation to any service or benefit actually received by the taxpayer;
- b. The Township's inclusion of the General Fund Support Charge and the Public Fire Protection Charge in the Rates renders the Rates disproportionate to the actual cost incurred by the Township in providing water and sewer service;
- c. The General Fund Support Charge and the Public Fire Protection Charge are designed to generate revenue;
- d. The payers of the General Fund Support Charge and the Public Fire Protection Charge benefit in no manner distinct from any other taxpayer or the general public;
- e. Payment of the General Fund Support Charge and the Public Fire Protection Charge is not discretionary, but effectively mandatory;
- f. Various other indicia of a tax are present.¹

84. As a direct and proximate result of the Township's implementation of the General Fund Support Charge, Plaintiff and the Class have been harmed.

85. Plaintiff seeks their attorneys' fees and costs as allowed by Article 9, Section 32 of the Michigan Constitution of 1963 and MCL 600.308a.

86. Plaintiff seeks a refund of all amounts to which he and the Class are entitled.

COUNT II

ASSUMPSIT (MONEY HAD AND RECEIVED) – UNREASONABLE WATER AND SEWER RATES

87. Plaintiff incorporates each of the preceding paragraphs as if fully set forth herein.

88. Even if the General Fund Support Charge and/or the Public Fire Protection Charge are not taxes, the Water and Sewer Rates must still be reasonable.

89. ~~By virtue of the Township's inclusion of the General Fund Support Charge and the Public Fire Protection Charge in the Rates, the Water Rates and Sewer Rates are arbitrary, capricious, and unreasonable.~~

90. As a direct and proximate result of the Township's improper conduct, the Township has collected millions of dollars to which it is not entitled.

91. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

92. ~~By virtue of the Township's inclusion of the General Fund Support Charge and the Public Fire Protection Charge in the Rates, the Township has collected amounts in excess of the amounts it was legally entitled to collect.~~

93. Plaintiff is entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction. The Township has received General Fund Support Charges and Public Fire Protection Charges to which it was not entitled, and it would be unfair for the Township

¹ Pursuant to MCR 2.1112(M), Plaintiff identifies subparts (a) through (f) of Paragraph 77 as "factual questions that are anticipated to require resolution by the Court."

to retain the General Fund Support Charges and the Public Fire Protection Charges under the circumstances.

94. The Township should be required to disgorge and refund to the Class the amounts it collected, but to which it is not entitled.

COUNT III

ASSUMPSIT (MONEY HAD AND RECEIVED) – VIOLATION OF MCL 141.118

95. Plaintiff incorporates each of its preceding allegations as if fully set forth herein.

96. The Revenue Bond Act is clear in its prohibition that "free service shall not be furnished by a public improvement to a person, firm, or corporation, public or private, or to a public agency or instrumentality." MCL 141.118(1).

97. Under MCL 141.118(1), "[t]he reasonable cost and value of any service rendered to a public corporation, including the borrower [the Township] by a public improvement shall be charged against the public corporation and shall be paid for as the service accrues from the public corporation's current funds or from the proceeds of taxes which the public corporation, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for that purpose, or both, ..."

98. The "free service" prohibition set forth in MCL 141.118 applies to public fire protection services.

99. The Township has violated MCL 141.118 because it does not impose any public fire protection charges upon itself, but instead, imposes the cost of public fire protection upon its water and sewer customers through the Public Fire Protection Charge.

100. The Township is receiving a free service that is prohibited by MCL 141.118 by imposing its public fire protection costs upon its water and sewer customers.

101. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

102. By virtue of the Township's failure to impose a fire protection charge upon itself, and wholly foisting the charge onto its water and sewer customers, the Township has collected amounts in excess of the amounts it was legally entitled to collect.

103. Plaintiff is entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction. As a direct and proximate result of the Township's improper conduct, the Township has collected millions of dollars to which it is not entitled.

104. The Township has received water and sewer funds to which it was not entitled, and it would be unfair for the Township to retain those monies under these circumstances.

105. Under equitable principles, the Township should be required to disgorge and refund to the Class the all funds that it has collected, but to which it is not entitled and, pursuant to MCL 141.118, should be forced to impose a charge upon itself for public fire protection services provided by the Township's Water and Sewer Fund.

COUNT IV

ASSUMPSIT (MONEY HAD AND RECEIVED) – VIOLATION OF TOWNSHIP

ORDINANCE SECTION 17-338

106. Plaintiff incorporates each of its preceding allegations as if fully set forth herein.

107. Township Ordinance Sec. 17-338 provides that “[t]he Township shall pay for all water used by it at the established rates for each hydrant connected to the system.”

108. The Township has violated Township Ordinance Sec. 17-338 because it does not impose any public fire protection charges upon itself, but instead, imposes the cost of public fire protection upon its water and sewer customers through the Public Fire Protection Charge.

109. The Township is receiving a free service that is prohibited by Township Ordinance Sec. 17-338 by imposing its public fire protection costs upon its water and sewer customers.

110. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

111. By virtue of the Township's failure to impose a fire protection charge upon itself, and wholly foisting the charge onto its water and sewer customers, the Township has collected amounts in excess of the amounts it was legally entitled to collect.

112. Plaintiff is entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction. As a direct and proximate result of the Township's improper conduct, the Township has collected millions of dollars to which it is not entitled.

113. The Township has received water and sewer funds to which it was not entitled, and it would be unfair for the Township to retain those monies under these circumstances.

114. Under equitable principles, the Township should be required to disgorge and refund to the Class all funds that it has collected, but to which it is not entitled and should be forced to impose a charge upon itself for public fire protection services provided by the Township's Water and Sewer Fund.

COUNT V

DECLARATORY JUDGMENT INVALIDATING LIENS

115. Plaintiff incorporates each of its preceding allegations as if fully set forth herein.

116. Pursuant to Michigan law and the Township's ordinances, unpaid Charges may become a lien against the property of certain members of the Class. If left unpaid, the Charges are transferred to the tax roll of the property.

117. The Township may claim liens against the properties owned by Plaintiff and the Class for unpaid Charges.

118. Because the Charges are unconstitutional and unlawful, the Court should enter an order invalidating any municipal water or sewer liens or associated tax liens which have been imposed, or which may be imposed, against properties arising out of or relating to the Charges.

PRAYER FOR RELIEF

WHEREFORE Plaintiff requests that the Court grant the following relief:

A. Certify this action to be a proper class action with Plaintiff certified as Class Representative and Kickham Hanley PLLC designated Class Counsel;

B. With respect to Count I, define the Class to include all persons or entities which have paid the Township for Water and/or Sewer Service at any time in the one year preceding the filing of this lawsuit or which pay the Township for Water and/or Sewer Service during the pendency of this action;

C. With respect to Counts II, III, IV and V, define the Class to include all persons or entities which have paid the Township for Water and/or Sewer Service at any time in the six years preceding the filing of this lawsuit or which pay the Township for Water and/or Sewer Service during the pendency of this action;

D. Enter judgment in favor of Plaintiff and the Class and against the Township, and order and direct the Township to disgorge and refund all General Fund Support Charges and Public Fire Protection Charges collected during the class period(s) and to pay into a common fund for the benefit of Plaintiff and all other members of the Class the total amount of General Fund Support Charges and Public Fire Protection Charges to which Plaintiff and the Class are entitled;

E. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

F. Find and declare that the General Fund Support Charge and the Public Fire Protection Charge violate the Headlee Amendment, are unlawful and unreasonable, and

permanently enjoin the Township from imposing or collecting General Fund Support Charge and the Public Fire Protection Charge;

G. Award Plaintiff and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and

H. Grant any other appropriate relief.

KICKHAM HANLEY PLLC

/s/ Gregory D. Hanley

Gregory D. Hanley (P51204)

Jamie Warrow (P61521)

Edward F. Kickham Jr. (P70332)

32121 Woodward Avenue, Suite 300

Royal Oak, Michigan 48073

(248) 544-1500

Counsel for Plaintiff and the Class

Date: January 31, 2017

KH149350

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2017, I electronically filed the foregoing pleadings with the Clerk of the Court using the court's electronic filing system.

/s/ Kim Plets

Kim Plets

EXHIBIT A

CHAPTER 17 WATER AND SEWERS*

Art. I.	In General, §§ 17-001--17-025	Page 17-1
Art. II.	Inspections, §§ 17-026--17-050	Pages 17-1 through 17-3
Art. III.	Sewers and Sewage Disposal, §§ 17-051--17-220	Pages 17-4 through 17-24
Div. 1.	Generally, §§ 17-051--17-090	Pages 17-4 through 17-12
Div. 2.	Use of Public Sewers, §§ 17-091--17-115	Pages 17-12 through 17-14
Div. 3.	Private Disposal, §§ 17-116--17-135	Pages 17-14 and 17-15
Div. 4.	Laterals Generally, §§ 17-136--17-155	Page 17-15
Div. 5.	Rates and Charges, §§ 17-156--17-190	Pages 17-16 through 17-21
Div. 6.	Sewer Connection Hardship Provisions, §§ 17-191--17-220	Pages 17-21 through 17-24
Art. IV.	Wastewater Disposal Standards and Regulations, §§ 17-221--17-325	Pages 17-24 through 17-64
Div. 1.	Generally, §§ 17-221--17-240	Pages 17-24 through 17-34
Div. 2.	Regulations of Oakland County Sewage Disposal Systems, §§ 17-241--17-270	Pages 17-34 through 17-38
Div. 3.	Regulations of Water Resources Official; Sewage Disposal System, §§ 17-271--17-290	Pages 17-38 through 17-41
Div. 4.	General Wastewater Disposal Regulations, §§ 17-291--17-325	Pages 17-41 through 17-64
Art. V.	Water, §§ 17-326--17-368	Pages 17-64 through 17-76
Div. 1.	Generally, §§ 17-326--17-365	Pages 17-64 through 17-76
Div. 2.	Supply Wells, §§ 17-366--17-368	Page 17-76

ARTICLE I IN GENERAL

Sec. 17-001. Fees and performance bonds

The Township Board shall establish by resolution a schedule of fees, escrow, cash reserve funds, and performance bond requirements intended to cover the costs associated with the procedures regulated by this Chapter, which may be modified by resolution of the Township Board as necessary.

Sec. 17-002. Violations; Civil infractions unless otherwise provided

Unless otherwise provided, a violation of this Chapter is a civil infraction, punishable as provided in Section 1-010(b).

Secs. 17-003--17-025. Reserved.

ARTICLE II INSPECTIONS

Sec. 17-026. Short title

This article shall be known and cited as the "Water and Sewer Inspection Ordinance." It shall be deemed sufficient in any action for enforcement of the provisions hereof to define the same by such title, and reference to the number hereof.

(Comp. Ords. 1986, § 26.201)

Sec. 17-027. Statement of purpose

The purpose of this article is hereby declared to be:

- (a) To prevent the contamination and blockage of public water and sanitary sewer systems.
- (b) To require permits by public works contractors on any adjustment, reconstruction, relocation, or alteration of certain facilities.
- (c) To require minimum standards of repair and relocation by contractors.
- (d) To provide for Township inspections, performance bonds and reserve funds.
- (e) To establish fee schedules for permits and inspections.

(Comp. Ords. 1986, § 26.202)

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE II cont.)

Sec. 17-028. Definitions

In addition to those rules of construction and definitions contained in Sections 1-002, the following definitions shall be applicable in the interpretation of this article:

Contractor means one who contracts or is a party to a contract to perform work.

Curbstop and box means a valve on the water service line, with a round telescoping tube that allows operation of the valve without excavation.

Hydrants means a discharge pipe with a valve and nozzle from which water may be drawn from the water main.

Sanitary sewer manholes means a concrete, brick, or block structure that provides access to the sewer for cleaning and maintenance.

Township utilities means the public water and/or sanitary sewer systems operated by the Township.

Valve boxes means a round metal telescoping tube that allows operation of the valve without excavation.

Water gate wells means a concrete, brick or block structure that houses a valve on the water main.

(Comp. Ords. 1986, §§ 26.220--26.226)

Sec. 17-029. Plan review

Before any work on or related to Township utilities, the Public Works Official or Township Engineer shall first review and approve all plans and specifications for the work which shall be submitted by the permit applicant and be by a design engineer or the governmental organization. In the event the plans and specifications do not adequately insure for the proper protection, adjustment, and delineation of Township utilities, the plans shall be rejected. Rejected plans shall be returned to the applicant for correction.

(Comp. Ords. 1986, § 26.230)

Sec. 17-030. Permit and inspection fee

(a) Any contractor to perform work within a public right-of-way or easement on or for Township utilities shall first apply for and obtain a permit from the Public Works Official, including but not limited to work involving the adjustment, reconstruction, relocation or alteration of water gate wells, valve boxes, fire hydrants, curb-stops or sanitary sewer manholes. A non-refundable permit fee as established in accordance with Section 17-001 shall accompany the application.

(b) Prior to starting any work for which a permit is required herein, the contractor shall notify the Public Works Official at least twenty-four (24) hours in advance of a time designated for inspection.

(c) All construction inspection fees shall be deposited prior to commencement of construction activities. Such fees will be held in an escrow account until all work is completed. All unused fees will be returned to the owner. If further inspection is required upon depletion of inspection deposit, additional site work may be stopped until additional funds are deposited.

(Comp. Ords. 1986, § 26.240; Ord. of 12-11-1995)

Sec. 17-031. Performance bond

The contractor shall provide, prior to a permit being issued, a performance bond in the form of cash, or irrevocable bank letter of credit, surety bond, or other security in a form acceptable to the Public works Official, for each project in the amount as established in accordance with Section 17-001 as security for the faithful performance of the work in accordance with the plans, specifications, permit and standards in this Chapter.

(Comp. Ords. 1986, § 26.250)

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE II cont.)

Sec. 17-032. Reserve fund

The contractor shall provide, prior to any permits being issued, a cash reserve fund as established in accordance with Section 17-001 for each project. The cash reserve shall be escrowed in a non-interest bearing account available for use by the Township during the course of the project for emergency work, such as blockage of sewer or waterlines, and/or other work as may be deemed necessary by the Public Works Official due to job difficulties. The balance of the reserve fund for each project, less funds expended by the Township, shall be returned at such times as the project has final approval by the Public Works Official.

(Comp. Ords. 1986, § 26.260; Ord. of 12-11-1995)

Sec. 17-033. Correction of defects or infiltration to system

In the event of blockage or clogging of the sewer system, or blockage of access to the sewer system, or any part thereof, including any structure which is a part thereof, caused by any action performed by any property owner or his agent, the Township may, in its sole discretion, enter onto the subject property and proceed to correct the defect without notice to such property owner or his agent. All moneys expended and reasonable costs for labor performed by the Township shall be a lien against the real property involved and shall be reported to the Assessing Official who shall assess the cost against the property on which the blockage or clogging or blockage of access to the sewer system occurred. The owner or parties of interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within thirty (30) days after such notice, the Assessing Official shall add the same to the next tax roll of the Township and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes.

(Comp. Ords. 1986, § 26.270)

Sec. 17-034. Injunctive relief; nuisance per se

Any violation of this article is hereby deemed to be a nuisance per se and shall be enforceable through the bringing of appropriate action for injunctive relief in any court having jurisdiction.

(Comp. Ords. 1986, § 26.271)

Sec. 17-035. Miscellaneous standards

- (a) All sanitary sewer manholes shall be provided with "bolted waterproof" covers in accordance with current standards. All alterations, replacements, or adjustments of a gate well frame and cover will be in accordance with current Township standards. Any valve box found to be damaged or with missing parts shall be replaced with new material in accordance with current standards. Curb boxes damaged by the contractor shall be replaced with new material in accordance with current standards.
- (b) The County requirements as currently in effect for changing the elevation of manhole structures shall govern in all cases.

(Comp. Ords. 1986, § 26.280)

Secs. 17-036--17-050. Reserved.

(CHAPTER 17 cont.)

ARTICLE III SEWERS AND SEWAGE DISPOSAL*

*Cross references: Health and sanitation, Ch. 9.

Division 1. Generally

Sec. 17-051. Short title

This article shall be known and cited as the "Sanitary Sewer System Ordinance."
(Comp. Ords. 1986, § 25.051)

Sec. 17-052. Purpose

The purpose of this article shall be:

- (a) To provide for the maintenance, management, operation and repair of the Township sewer system.
- (b) To establish and provide for collection of such charges and rates pertaining thereto as shall be required to ensure revenues sufficient therefor.
- (c) To provide funds for payment of the Township's obligations and responsibilities to the County under the contracts pertaining thereto.
- (d) To incorporate the provisions of the Michigan Public Health Code which require connection of certain structures to the system.
- (e) To provide enforcement provisions and penalties for violations hereof.
(Comp. Ords. 1986, § 25.052)

Sec. 17-053. Definitions

In addition to those rules of construction and definitions contained in Sections 1-002 and 17-028, when used in this article, unless otherwise indicated by the context, the following definitions shall apply:

As addressed means the given place of destination by street and number or box and route, excluding a post office box, with any other details necessary for the direction of a letter or package for delivery to person. "Front foot as addressed" means the frontage of premises at the street and number or box and route addressed as owned or used by the person addressed.

Available public sanitary sewer system or system means a public sanitary sewer system located in a right-of-way, easement, street or public way which crosses, adjoins, abuts, or is contiguous to a property containing a structure in which sanitary sewage originates and which is located not more than 200 feet from the nearest point of that structure.

BOD means the biochemical oxygen demand which is the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20) degrees Celsius, expressed as milligrams per liter.

Building sewer means the sewer that connects the structure in which sanitary sewage originates to the public sewer or other place of disposal and conveys the sewage originating in only one (1) structure.

Capital charge means the amount charged at the time and in the amount hereinafter provided to each structure in the area served by the laterals for connecting or being connected to the new construction or to existing laterals, and represents the proportionate cost allocable to such structure for the interceptor, trunk line and pumping facilities by which sewage disposal services are immediately provided to such areas.

Charges for sewage disposal services mean the amount charged to the users of each structure in the area served by the laterals for sewage disposal services, and which may include a debt service factor.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION I, SECTION 17-053, cont.)

Commercial users mean persons who are occupants or users of any structure which is involved in a commercial enterprise, business or service and which, based upon a determination by the Township, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

Compatible pollutant means a substance amenable to treatment in a publicly owned wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus "additional pollutants" identified in the NPDES Permit of the publicly owned treatment works designed to treat such pollutants and which does in fact remove such pollutants to a substantial degree. Such "additional pollutants" may include but not be limited to: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen and nitrogen compounds, fats, oils and greases of animal or vegetable origin.

Debt service charge means the charge assessed users of the system which is used to pay principal, interest and administrative costs of retiring the debt incurred for the construction of the local portion of the system.

Direct connection means the connection of a premises and structure wherein sanitary sewage originates directly to sewer lines constructed by the Township.

Existing laterals means all sewer laterals in a safe and efficient operable condition existing on May 12, 1980.

Federal grant means a grant made for the construction of wastewater collection, transportation, and treatment works provided under P.L. 92-500, as amended, or other applicable Federal law.

Garbage shall be as defined in Article III of Chapter 9 of this Code on Waste Materials Control.

Incompatible pollutant means any pollutant which is not a compatible pollutant.

Indirect connection means the connection of a structure on any premises to any sewer lines not originally comprising the sewer system constructed by the Township but connecting thereto, e.g., premises served by subdivision and mobile home park private sanitary sewers which in turn connect to public sanitary sewers.

Industrial cost recovery system means a system whereby the Township recovers from industrial users of the system that portion of the grant amount allocable to the construction of the facility from such users pursuant to 40 CFR 35.928, as amended, or other applicable Federal law or regulation.

Industrial user means:

- (1) Any nongovernmental and nonresidential user of a publicly owned treatment works which discharges more than the equivalent of twenty-five thousand (25,000) gallons per day (gpd) of industrial wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one (1) of the following divisions:

Division A.	Agriculture, forestry and fishing.
Division B.	Mining.
Division D.	Manufacturing.
Division E.	Transportation, communication, electric, gas and sanitary services.
Division I.	Services.

- a. In determining the amount of a user's discharge for purposes of industrial cost recovery, the Township will exclude domestic wastes or wastes from sanitary conveniences.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-053, cont.)

- b. After applying the waste exclusion in subsection (1)a. of this section, discharges in the above divisions that have a volume exceeding twenty-five thousand (25,000) gpd or the weight of biochemical oxygen demand (BOD) or suspended solids (SS) equivalent to that weight found in twenty-five thousand (25,000) gpd of sanitary waste are considered industrial users. Sanitary wastes, for purposes of this calculation of equivalency, are the type of wastes discharged from residential users, but with BOD greater than 200 mg/l and SS greater than 250 mg/l.
- (2) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.
 - (3) All commercial users of an individual system constructed with grant assistance under Section 201(h) of P.L. 92-500.

Industrial wastes mean the wastewater discharges from industrial, trade or business process as distinct from their employees' domestic waste or waste from sanitary conveniences.

Inspection, approval and tap fee means the amount charged to each applicant by the Township to cover the cost of inspecting and approving the physical connection to the system and the issuance of a connection permit.

Lateral means a pipe or conduit, laying within the public right-of-way or easement, that receives sanitary sewage from abutting premises.

Lateral benefit fee means the amount charged at the time and in the amount hereinafter provided to the users of each structure on premises in the area served by the laterals for the availability directly to serve such structure by the new construction facilities of the system, and represents the proportionate cost allocable to such structure for the lateral service made directly available to the structure by the new construction.

Major contributing industry means an industrial user of the publicly owned sewage works that:

- (1) Has a flow of fifty thousand (50,000) gallons or more of industrial wastes per average work day.
- (2) Has a flow greater than five (5) percent of the flow carried by the public sanitary sewer system receiving the waste.
- (3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Water Pollution Control Act.
- (4) As found by the permit issuance authority in connection with the issuance of an NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact either singly or in combination with other contributing industries on the treatment works or upon the quality of effluent emanating from the treatment works.

Mg/l means milligrams per liter.

Natural outlet means any outlet into a drain, watercourse, pond, ditch, inland lake or stream, or other body of surface water or groundwater.

New construction means the laterals to be constructed pursuant to a contract dated April 28, 1969, between the County and the Township and any and all future additions and extensions thereof and present and future extensions of the Clinton-Oakland System which are being built or may be built by the County under contract with the Township now or hereafter.

Normal domestic strength wastewater means a sewage or other wastewater effluent which shall be a compatible pollutant and with BOD of two hundred (200) milligrams per liter or less, suspended solids of two hundred fifty (250) milligrams per liter or less, and total phosphorus of ten (10) milligrams per liter or less.

NPDES permit means a permit issued pursuant to the National Pollution Discharge Elimination System prescribed in P.L. 92-500, as amended, or other applicable Federal or State law.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-053, cont.)

- O & M charge** means the charge assessed to users of the system for the cost of operation and maintenance (including the cost of replacement) of the system pursuant to Section 204b of P.L. 92-500, as amended, or other applicable Federal or State law.
- Operation and Maintenance (O & M)** means all work, materials, equipment, utilities and other effort required to operate and maintain the system, including the cost of replacement, wastewater collection, transportation and treatment of effluent consistent with adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other county, state and federal regulations, if any.
- Owner** means where appropriate the person who owns, occupies or uses the premises and/or structure from or in which sanitary sewage originates.
- pH** means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- Premises** means any areas of land in the Township consisting of a lot, zoning lot, or real property upon which a structure stands or may be placed or constructed and "a premises" shall mean the single area included in a street address, tax roll description or tract index description attributed to a single occupant, taxpayer or property owner.
- Present system** means that part of the system which had been constructed as of May 12, 1980.
- Property shredded garbage** means the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers with no particles greater than one-half inch in any dimension.
- Property owner** means a person that holds or has interest in legal title to the premises according to the Township's tax and assessing records or register of deeds records, and shall include in the case of a land contract sale, the land contract vendee or vendees.
- Replacement** means the obtaining and installing of any equipment, accessories, and appurtenances which are necessary during the service life of the system to maintain the capacity and performance to which such system was designated and constructed and to preserve its financial integrity.
- Residential equivalent or equivalent unit** means the factor representing a ratio of the capacity requirement and estimated sewage generated by each user class to that required or generated by the normal single-family residential user.
- Residential user** means the user of the system whose premises or structure are used primarily as a residence for one (1) or more persons including dwelling units such as detached, semi-detached, row houses, mobile homes, apartments or permanent multifamily dwellings. For purposes of this article transient lodgings shall be considered to be a "commercial" use.
- Sanitary sewage** means the liquid or water carried waste discharge from structures on premises created by the use or occupancy thereof by persons who are residential users, commercial users or industrial users but excluding there from industrial wastes.
- Sanitary sewer** means the sewer which carries sanitary sewage and industrial waste or either of them into which stormwater, surface water and groundwater are not intentionally admitted.
- Sewage treatment plant** means any arrangement of devices or structures used for the treating of sanitary sewage or industrial waste.
- Storm sewers** means a rain and stormwater runoff drainage system within which no sanitary sewage is permitted to be deposited.
- Structure** means anything constructed or erected and located on or attached to the ground, including a dwelling and any other type of building that is designed or intended for, capable of, or actually used as or for a place of residence, employment, business, congregation, or other permanent, temporary, or intermittent use and occupancy.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-053, cont.)

Structure in which sanitary sewage originates means a structure for use for household, commercial, industrial or other purposes by persons, in which toilet, kitchen, laundry, bathing or other facilities are located and in which are or may be generated water carried sanitary sewage.

Surcharge means the additional charge which a user discharging wastewater having strength in excess of the limits set by the Township for transmission and treatment within the sanitary sewage system will be required to pay to meet the cost of treating such excessively strong wastewater.

Suspended solids means solids that either float on the surface of, or are in suspension in the water, sewage or other liquids and which are removable by laboratory filter.

Unit means that quantity of sanitary sewage ordinarily originating from the occupancy of a residential building by a single family. The number of units or fractional parts thereof to be assigned to types of usage other than single-family residential use shall be defined or determined by the Township Board from time to time, as hereinafter provided.

User charge means a charge on users of the system to recover costs of operation and maintenance for work performed pursuant to Section 204(b) of P.L. 92-500, as amended, or other applicable Federal or State law, which charges also include cost of replacement.

User class means the kind of the uses of structures on premises connected to the sanitary sewers including but not limited to residential, industrial, commercial, institutional and governmental users.

Wastewater means water which contains, or previous to treatment has contained, pollutants such as sanitary sewage and/or industrial wastes.

(Comp. Ords. 1986, § 25.033)

Sec. 17-054. Operation, maintenance and control

The operation and maintenance of the system shall be under the supervision and control of the Township subject to the terms of the County-Township contract. Pursuant to the terms of such contracts, the Township has retained the exclusive right to establish, maintain, and collect rates and charges for sewage collection, treatment, transmission and debt service, and in such capacity the Township Board may employ such persons in such capacities as it deems advisable, and may make such rules or regulations as it deems advisable and necessary to ensure the efficient establishment, operation, and maintenance of the system, to discharge its financial obligations, and collection of rates and charges as herein provided.

(Comp. Ords. 1986, § 25.054)

Sec. 17-055. State standards adopted

The provisions of the Michigan Public Health Code, as amended, requiring connection to an available public sanitary sewer system (MCL 333.12751 through 333.12758) are hereby incorporated and adopted by reference, as if fully set forth herein.

(Comp. Ords. 1986, § 25.056)

Sec. 17-056. Connection applications and permits

Application for permit to connect to the sewer system must be made in writing by the owner of the premises. Such application shall give the exact property description including address and parcel identification number, amount of front footage as addressed, number of structures to be connected, and the name of the master plumber, or licensed sewer builder, employed to do the work, and shall be made on forms furnished for the express condition that the owner for whose benefit the connection is made, shall, on behalf of himself, his heirs, or assigns, hold the Township harmless for any loss or damage that may in any way result or be occasioned by making of such connection.

(Comp. Ords. 1986, § 25.058)

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION I, SECTION 17-054, cont.)

Sec. 17-057. Connection permit fees

The owner of any structure or premises within the area served by the laterals shall pay such sewer permit fee as established in accordance with Section 17-001, which fee shall reimburse the Township for any and all cost necessary to issue a permit for the connection of such premises. This fee shall be in addition to all other charges and fees set forth herein.

(Comp. Ords. 1986, § 25.059)

Sec. 17-058. House connection--Materials

The house connection sewer extending from the lateral sewer in the street or easement to within five (5) feet from the house or other structure from which sewage originates shall be:

- (a) Six-inch diameter, Extra Strength Vitrified Sewer Pipe manufactured in accordance with current N.C.P.I. Designation ER4-67 Standards, or equal, with the County approved joint.
- (b) Six-inch diameter, Class 2400 Asbestos Cement Pipe with ring-tite, fluid-tite or County approved joint.
- (c) Six-inch diameter, service strength, cast iron soil pipe with hot poured lead joint, or County approved equal.
- (d) Other pipe and joints as may be approved by the County.
- (e) Copies of specifications for County approved joints shall be on file at the office of the Township.
- (f) All house connection sewers shall be six-inch diameter pipe, except that four-inch diameter pipe of comparable strength and joint material may be used when it meets all requirements of the County and of the Township. All joints shall be tight and when tested for infiltration, or exfiltration, shall not exceed the requirements of the County. Copies of these rules and regulations shall at all times be kept in the office of the Township.
- (g) The iron pipe inside any building or structure shall be plugged and leaded, and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement if any backfilled, and the roof is on such building, thereby preventing water from entering the sanitary sewer from the excavated basement or other excavated area beneath the building.
- (h) All house leads shall be properly bedded in sand a minimum of eight (8) inches below and six (6) inches above the pipe where the type of soil is hard clay or rocky. Unstable ground conditions shall also require proper bedding.

(Comp. Ords. 1986, § 25.075)

Sec. 17-059. House connection fees and inspection

- (a) A house connection shall not be installed without a plumbing permit having been issued for same by the Township Building Official under the building/construction code, with payment of associated fees, as established for such permits and in accordance with Section 17-001. Opportunity for such inspection shall be provided after all pipe is in place and before the covering of such pipe or other backfilling.
- (b) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner of such property.
- (c) All required water and sewer connection fees shall be paid in full prior to any physical connection to the public water and/or public sewer system.

(Comp. Ords. 1986, § 25.076)

Sec. 17-060. Conditions requiring sewage pump

In cases where conditions prohibit the flow of sewage by gravity, the premises may be served by a sewage ejector pump, as determined by the Public Works Official or Township Engineer.

(Comp. Ords. 1986, § 25.077; Ord. of 12-11-1995)

Sec. 17-061. Sewer connection contractors

Any person desiring to secure permits to make sanitary sewer connections shall, prior to the issuance of such permits, provide the Building Official with the following:

- (a) Surety bond. A satisfactory corporate surety bond, renewable yearly, in an amount established by the Building Official as security for the faithful performance of the work in accordance with the Township ordinances, standards, specifications, rules and regulations. The surety bond shall be

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-061, cont.)

kept in full force and effect by the sewer contractor until such contractor shall have given ten (10) days written notice to the Township of his intention to terminate such bond and shall thereafter have received a written release from the Building Official.

- (b) Reserve fund. A reserve fund shall be provided in an amount as established in accordance with Section 17-001. The cash reserve shall be escrowed in a non-interest bearing account and be available for use by the Township to reimburse:
- (1) The Township for labor required or monies expended to correct damages or deficiencies in the entire sewer system, including the portion on private property occasioned by the acts or omissions of the sewer contractor.
 - (2) Any and all owners of premises contracting with the sewer contractor for connection to the sewer, in the event the sewer contractor has perpetrated a fraud or gross, wanton breach of contract with one (1) or more owners, resulting in damages or injuries which are actionable at law or equity.

A gross or wanton breach of contract shall include any and all negligence exceeding ordinary negligence, such as overall poor or shoddy workmanship.

Upon such event occurring with one (1) or more owners, the Township Board shall have the sole discretion as to the terms of reimbursement to be made, if any. In the event such reserve funds shall be insufficient to cover reimbursement deemed necessary by the Township, the sewer contractor in question shall be liable for restitution of such costs. The contractor may be given the opportunity to correct said damages or deficiencies prior to the invasion of the reserve fund by the Township. Failure to comply with the regulations and standards of the Township, and failure to make restitution as hereinbefore mentioned may result in the immediate execution of collection procedures including all legal remedies available and shall be grounds for suspension or revocation of the sewer contractor's permit.

The balance of moneys remaining in the reserve fund, if any, shall be returned to the sewer contractor not later than one (1) year following final inspection and approval of the sewer connection, or earlier, in the discretion of the Township Board. The sewer contractor shall first be required to submit a written request for return of the reserve fund to the Building Official, who shall forward such request, along with its recommendation, within thirty (30) days to the Township Clerk.

- (c) Certificate of insurance. A certificate of insurance indemnifying the Township for public liability and property damage, with limits of at least one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each occurrence.
- (d) Contractor's license. Any person may be issued permits upon being licensed by the Township as contractors. As a pre-requisite to obtaining a contractor's license, an applicant must complete and file an application as supplied by the Building Official and pay an annual license fee in an amount as established in accordance with Section 17-001 which shall be renewable as of January first of each year. This license may be suspended or revoked upon non-compliance with the Township ordinances, standards, specifications, rules and regulations.
- (e) Connection permit. Before either a direct or indirect connection is made into any interceptor sewer system of the County, or any work done on such connection, a connection permit shall be obtained by the owner or contractor from the County. Such permit shall be obtained in accordance with the rules and regulations of the County.
- (f) Permits; total number, expiration. The total number of permits which may be issued and outstanding to any contractor at any one (1) time shall not exceed ten (10). All permits shall expire one (1) year from the date of issuance.

(Comp. Ords. 1986, § 25.078)

Sec. 17-062. Home owner connection permit

A permit shall be issued to an owner of premises only if the owner has executed an affidavit verifying the applicant is the owner and occupant, or intended occupant of the structure where the work is to be performed and performance bond conforming to Section 17-031 is provided.

(Comp. Ords. 1986, § 25.079)

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 1 cont.)

Sec. 17-063. Contract between sewer contractor and owner

With respect to written or oral agreements, contracts or transactions between owners of premises and a sewer contractor licensed herein, the Township, notwithstanding any provisions contained in this article, shall not be deemed to have knowledge of a contract between such parties, shall not be deemed a principal or master, or the agent or servant of the sewer contractor. The Township does not in any way act as guarantor or surety for any sewer contractor licensed herein, and does not extend warranties, expressed or implied for the contractor's performance.

(Comp. Ords. 1986, § 25.080)

Sec. 17-064. Premises lying outside Township

Any person whose property lies outside the Township desiring to connect to the sewer system shall be subject to one and one-half (1 1/2) times the normal connection fees and one and one-half (1 1/2) times the normal quarterly billing rate. Such parties outside the Township interested in connecting to the sewer system shall provide a letter of no objection from the local governing body of the township or city within which the building or property is located. The proposed connection shall thereafter be submitted to the Township Board by the Public Works Official for review and decision, in its sole discretion.

(Comp. Ords. 1986, § 25.084; Ord. of 6-24-1991)

Sec. 17-065. Sewer revenue fund account

The Township Treasurer, in conjunction with the Public Works Official, shall consolidate all existing bank accounts and funds into a single sewer bank account and fund to be managed by the Township Treasurer in accordance with the requirements of this article and with existing agreements with the County.

(Comp. Ords. 1986, § 25.085; Ord. of 6-24-1991)

Sec. 17-066. Fiscal year

The system shall be operated upon the basis of the calendar year as the fiscal year.

(Comp. Ords. 1986, § 25.090)

Sec. 17-067. Inspection powers; corrective orders

(a) The duly authorized officials and agents of the Township shall continue at all times to have the right to enter any structure or premises within which sewage originates at any reasonable time and to examine and inspect all plumbing equipment, machinery, processes, wastes or discharges which relate to the effluents that are or have been introduced into the sewage system. This shall be in addition to and not by way of limitation of the powers otherwise possessed by the Township.

(b) The authorized inspecting agent shall make written report of such inspection in the event the user is ordered to take preventative or corrective action. The failure of the user to:

(1) Permit an inspection as demanded, or

(2) Take the corrective action within a reasonable time as demanded,

shall empower the Township Board, at its option, to terminate sewage services to the premises or bring an action for equitable relief. In the event suit is commenced, the Township shall be entitled to costs and attorney's fees where the Township prevails in the action.

(Comp. Ords. 1986, § 25.091)

Sec. 17-068. Enforcement

(a) The provision of this article shall be enforceable through the bringing of appropriate action for injunction, mandamus, or otherwise in any court having jurisdiction. Any violation of this article is deemed to be a nuisance per se.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 1, SECTION 17-068 cont.)

- (b) Any person convicted of disposing sewage in any manner contrary to the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-010(a) of this Code, together with costs of such prosecution; provided that no person shall be confined or jailed for a single but continuing violation for a period longer than ninety (90) days.

(Comp. Ords. 1986, §§ 25.092, 25.094)

Sec. 17-069. Right to amend

The Township specifically reserves the right to amend this article in whole or in part, at one (1) or more times hereafter, or to repeal the same, and by such amendment or repeal to abandon, increase, decrease or otherwise modify any of the fees or charges presently specified herein. Adoption of this article or its subsequent amendment or repeal shall in no way change, relieve or release the contractual or legal obligation of the Township:

- (a) To make the required payments to the County under and as set forth in any contract pertaining to the Clinton-Oakland Sewage Disposal System, the Waterford Extension of the Clinton-Oakland Sewage Disposal System, and any improvements, extensions and enlargements thereof under applicable law; or
- (b) To use any other means or available funds to make the required payments to the County, and the article shall not be deemed to be a part of any contractual obligation or bond contract pertaining to such laterals.

(Comp. Ords. 1986, § 25.093)

Sec. 17-070. Civil procedures to compel compliance

The Township may bring a civil proceeding for a mandatory injunction or injunctive order or for such other remedial relief as will correct or remedy the violation, including damages for the costs or expenses thereof. The Township may join in such action or actions any number of property owners.

(Comp. Ords. 1986, § 25.095)

Secs. 17-071--17-090. Reserved

Division 2. Use Of Public Sewers

Sec. 17-091. Stormwater, groundwater and unpolluted water

- (a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater or roof water to any sanitary sewer.
- (b) Stormwater, groundwater and all other unpolluted drainage (including noncontact industrial cooling water) shall be discharged into storm drains or into a natural outlet suitable for such purpose.

(Comp. Ords. 1986, § 25.057(a))

Sec. 17-092. Prohibited discharges

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (a) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit.
- (b) Any waters or wastes which may contain more than one hundred (100) milligrams per liter, by weight of fat, oil or grease.
- (c) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive, liquid, solid or gas.
- (d) Any garbage that has not been properly shredded.
- (e) Any ashes, cinders, sand, mud, straw, shaving metal, glass, rags, feathers, tar, plastics, woods, paunch manure or any other solid or viscous substance capable of causing obstruction to flow in sewers or other interference with the proper operation of the sewage works.
- (f) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, or to constitute a hazard to humans or animals, or to create any hazard in the receiving waters of the treatment plant.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 2, SECTION 17-092 cont.)

- (g) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (h) Any industrial waste that may cause a deviation from the NPDES permit requirements, pre-treatment standards and all other state and federal regulations.
- (i) Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(Comp. Ords. 1986, § 25.057(b))

Sec. 17-093. Grease, oil and sand interceptors

- (a) Grease, oil and sand interceptors (traps) shall be provided at the expense of the property owner when liquid wastes may contain grease, oil and sand in excessive amounts. All interceptors (traps) shall be of a type and capacity approved by the Building Official and shall be located as to be readily and easily accessible for cleaning and inspection. Grease, oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted into place shall be gastight and watertight.
- (b) Where installed, all grease, oil and sand interceptors (traps) shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(Comp. Ords. 1986, § 25.057(c))

Sec. 17-094. Preliminary treatment

- (a) The admission into the public sewers of any waters or wastes:
 - (1) Containing a five-day BOD greater than two hundred (200) mg/l or containing more than two hundred fifty (250) mg/l of suspended solids;
 - (2) Containing any quantity of substances having the characteristics described in Section 17-092;
 - (3) A chlorine demand of more than fifteen (15) milligrams per liter; or
 - (4) Total phosphorous concentration greater than ten (10) milligrams per liter as phosphorous, shall be subject to review and approval for acceptance by the County.
- (b) Preliminary treatment shall be provided, at no expense to the Township, as may be necessary to reduce the BOD to two hundred (200) mg/l and suspended solids to two hundred fifty (250) mg/l or to reduce objectionable characteristics of such effluent to within the maximum limits provided for in Section 17-092, or to control the quantity and rates of discharges of such waters or wastes. On direction of the Township, a person may be required to remove, exclude, or require pre-treatment of any industrial waste in whole or in part for any reasons deemed to be in the Township's interest. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained in satisfactory and effective operation at no expense to the Township. Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval to the Township and no construction of such facility shall be commenced until said approvals are obtained in writing. All preliminary treatment or pre-treatment shall be in accordance with federal and state laws and regulations. All expenses of Township services as to such preliminary treatment facilities plans and specifications shall be borne by the owner.

(Comp. Ords. 1986, § 25.057(d))

Sec. 17-095. Industrial wastes

- (a) The owner of any property served by a building sewer carrying industrial wastes may be required by the Township to install a suitable control manhole or other structure in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, or structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Township. The manhole or structure 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.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 2, SECTION 17-095 cont.)

- (b) All measurements, tests and analysis of the characteristics of waters and wastes to which references are made in Sections 17-092 and 17-094 hereof shall be determined in accordance with Standard Methods for Examination of Water and Wastewater and Guidelines Establishing Test Procedures for the Analysis of Pollutants, Federal Regulations 40 CFR 136, published in the Federal Register on October 16, 1973, and shall be determined at the control manhole.

(Comp. Ords. 1986, § 25.057(e))

Sec. 17-096. Rejection or surcharge of deleterious substances.

If any water or wastes are discharged to the public sewer, which contain the substances or possess the characteristics enumerated above in this section which, in the judgment of the Public Works Official, may have deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitutes a public nuisance, the manager may:

- (a) Reject the wastes in whole or part for any reason deemed appropriate by the Township;
(b) Require pre-treatment of such wastes to within the limits of normal sewage as defined; and/or,
(c) Require payments of a surcharge on any excessive flows or loading discharged to the system to cover the additional costs of having capacity for and treating such wastes.

(Comp. Ords. 1986, § 25.057(f))

Sec. 17-097. Special agreements

Special agreements and arrangements between the Township and any person may be established by the Township Board within the terms and intent of this article when, in the opinion of the Township Board, extraordinary circumstances compel special terms and conditions whereby an unusual wastewater may be accepted for treatment, subject to payment of applicable fees.

(Comp. Ords. 1986, § 25.057(g))

Secs. 17-098--17-115. Reserved.

Division 3. Private Disposal

Sec. 17-116. Prohibited acts

- (a) Without prior consent of the Township Board, it shall be unlawful for any person to place, deposit or permit to be deposited in any structure or upon any public or private premises within the Township (or any area under its jurisdiction) any sanitary sewage, garbage, industrial waste or other objectionable waste.
(b) It shall be unlawful to discharge to any natural outlet any sanitary sewage, industrial waste, or other polluted water except where suitable treatment has been provided in accordance with subsequent provisions of this article.
(c) Except as hereinafter provided, it shall be unlawful to construct any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sanitary sewage or industrial waste.

(Comp. Ords. 1986, § 25.055(1--3))

Sec. 17-117. When use permitted

Where a public sanitary sewer system is not available under the provisions of this article, the building sewer shall be connected to a private sanitary sewer disposal system which shall be approved by the County health department.

(Comp. Ords. 1986, § 25.055(4))

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 3 cont.)

Sec. 17-118. Discontinuance, connection to public system

At such time as the public sanitary sewer system becomes available to premises served by a private sanitary sewage disposal system, connection to the public system shall be made in compliance with this article; and any septic tank, cesspools and similar private disposal facilities located thereon shall be abandoned and discontinued for sanitary sewage disposal use.

(Comp. Ords. 1986, § 25.055(5))

Sec. 17-119. Maintenance

All private sanitary sewage disposal systems maintained in compliance with this article shall be maintained in a sanitary manner at all times at the sole expense of the owner thereof.

(Comp. Ords. 1986, § 25.055(6))

Sec. 17-120. Permits restricted

Permits for the construction, remodeling or improvement of any structure situated upon a parcel of land or platted lot which premises or structure thereon is required to be connected to the sanitary sewer system shall not be issued unless such premises or structure shall first be connected to the sewer lateral.

(Ord. of 1-22-1990, § 25.055(7))

Cross references: Business regulations and Licensing, Ch. 10.

Secs. 17-121--17-135. Reserved

Division 4. Laterals Generally

Sec. 17-136. Extensions of, changes in

Extension of, or changes in, sanitary sewer laterals may be initiated by the Township Board, or by petition from the property owners. Petitions for the construction of new sanitary sewer laterals shall be addressed to the Township Board upon blank forms provided for that purpose. The Township Board may refuse to grant, or may grant the same, and may prescribe the conditions upon which the petition will be granted, and may require the written acceptance of such terms and conditions by the petitioners. If the petition be granted, the Township shall proceed promptly as practical with the proposed work under the terms and conditions named. The work shall be done at the expense of the property owners unless otherwise stipulated, and any and all extensions shall be subject to the provisions of this article.

(Comp. Ords. 1986, § 25.081)

Sec. 17-137. Plans of proposed extensions

Any persons who propose installing sanitary sewer laterals shall first submit complete plans and specifications for such work, prepared by a registered civil engineer, to the Public Works Official for approval, upon receipt of which the Township Board shall determine the conditions for such installation.

(Comp. Ords. 1986, § 25.082; Ord. of 6-24-1991)

Sec. 17-138. Control generally

The sanitary sewer laterals of the sewer system are under the exclusive control of the Township Board, and all persons other than agents or employees of the Board are forbidden to disturb, tap, change, obstruct access to or interfere with them in any way.

(Comp. Ords. 1986, § 25.083)

Secs. 17-139--17-155. Reserved

(CHAPTER 17, ARTICLE III cont.)

Division 5. Rates And Charges

Sec. 17-156. Capital charges--Existing structures

- (a) Owners of existing structures or premises within the area served by the laterals from which sanitary sewage originates on May 12, 1980 and which premises are hereafter connected to the system and owners of existing structures on premises presently being provided with sewage service by existing independent sewage treatment plans shall pay a capital charge for connection to the system.
- (b) The owner may pay the capital charge in full upon application for the permit or, the owner may elect to defer the payment over a period of thirty (30) years. The initial payment, and annual payments thereafter, including interest at six and five-tenths (0.065) percent on the unpaid balance, compounded annually, shall be paid in accordance with the applicable annual payment as established by the resolution of the Township Board.
- (c) Any owner electing the deferred method payment plan may, no more than once a year, pre-pay additional annual principal payments in numerical order, with interest on the amount of such prepayment from the last payment date, as indicated on the applicable per unit payment schedule. The complete principal balance may be paid at any time with accumulated monthly interest from the last annual payment date.

(Comp. Ords. 1986, § 25.060; Ord. of 12-11-1995)

Sec. 17-157. Same--New structures

Owners of premises within the area served by the laterals upon which structures are constructed, from which sanitary sewage or industrial waste shall originate and which premises are to be connected to the system, shall pay a capital charge for connection to the system to be paid in full at the time of application, or issuance of, a permit. Capital charge fees shall be in any amount to be established periodically by resolution of the Township Board.

(Comp. Ords. 1986, § 25.061; Ord. of 12-11-1995)

Sec. 17-158. Lateral benefit fee--Existing structures

- (a) Owners of premises on which are existing structures within the area served by the laterals from which sewage originates on May 12, 1980 and for which premises there is an available public sanitary sewer system as part of the new construction financed by the Township shall pay a lateral benefit fee for connecting to the system.
- (b) The lateral benefit fee for the connection shall be an amount as established in accordance with Section 17-001.
- (c) The owner may pay the lateral benefit fee in full upon application for the permit or, the owner may elect to defer the payment over a period of thirty (30) years. The initial payment, and annual payments thereafter, including interest at six and five-tenths (0.065) percent on the unpaid balance, compounded annually, shall be paid in accordance with the applicable annual payment, as established by the resolution of the Township Board.
- (d) Any owner electing the deferred payment plan may, no more than once a year, pre-pay additional annual principal payments in numerical order, with interest on the amount of such prepayment from the last payment date, as indicated on the applicable per unit payment schedule. The complete principal balance may be paid at any time with accumulated monthly interest from the last annual payment date.

(Comp. Ords. 1986, § 25.062; Ord. of 12-11-1995)

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 5 cont.)

Sec. 17-159. Same--New structures

- (a) Owners of premises within the area served by the laterals upon which structures in which sanitary sewage or industrial waste will originate are hereafter constructed and for which premises there is an available public sanitary sewer system as part of the new construction financed by the Township, shall pay a lateral benefit fee to be paid in full at the time of application for, or issuance of a permit. Capital charge fees shall be in any amount to be established periodically by resolution of the Township Board.
- (b) The total fees required by this section and Section 17-157 shall be paid prior to the issuance of any certificate of occupancy for structures on such premises.
- (c) The lateral benefit fees shall be in an amount as established in accordance with Section 17-001.

(Comp. Ords. 1986, § 25.063; Ord. of 12-11-1995)

Sec. 17-160. Sewer line unavailable on private property; owner to assume cost maintenance

- (a) If an owner desires to construct a structure on premises that abut a sanitary sewer lateral but there is not a sanitary sewer lead available to the property line, then it shall be the responsibility of the owner, his agent, or his contractor to install the sanitary sewer service from the lateral to the property line and to the structure. All costs shall be borne by the owner, and no credit will be allowed toward the lateral benefit fee. It shall also be the responsibility of the owner, his agent, or his contractor to obtain all necessary permits and inspections for the work performed within the street right-of-way or easement.
- (b) The property owner shall be responsible for the maintenance and repair of their building sewer line from the structure in which the sanitary sewage originates to the lateral sewer line within the public sanitary sewer system. In the event that the property owner fails or refuses to timely repair any condition which may result in contamination of the system or a sewage leak, the Township shall have the power and authority to enter upon the property, after ten (10) days' written notice to the property owner, and make the necessary repairs. The cost thereof shall be billed to property owner, and if not paid, collected in the same manner as delinquent water and sewer charges under this division.

(Comp. Ords. 1986, § 25.065)

Sec. 17-161. Debt service agreement and lien

An owner of premises shall not be permitted to elect to pay any charges required under the provision of Sections 17-156 and 17-158 over any extended period of annual payments unless such owner executes a debt service agreement and lien in a form to be provided by the Township, which form shall be recorded with the County Register of Deeds office. The Township authorizes and directs that the Public Works Official execute the above cited debt service agreement and lien for and on behalf of the Township.

(Comp. Ords. 1986, § 25.066)

Sec. 17-162. Annual installments; When payable

All annual installments to be paid under the provisions of Section 17-174 shall be due and payable as of the first of the month one (1) year following the date of issuance of the connection permit. A penalty of one (1) percent per month for late payment shall be added beginning one (1) month from due date of any installment.

(Comp. Ords. 1986, § 25.067)

(CHAPTER 17, ARTICLE III, DIVISION 5 cont.)

Sec. 17-163. Usage units generated

The number of units generated by different types of use and occupancy shall be determined and established by separate resolution enacted by the Board and may, from time to time, thereafter be amended by the Board; provided, however, that such resolution shall not be contrary to the obligation and limitation set forth in any contractual agreement between the Township and the County pertaining to the laterals, or contrary to the contract between the Township and the County pertaining to the Clinton-Oakland Sewage Disposal System.

(Comp. Ords. 1986, § 25.068)

Sec. 17-164. Usage units assigned

The number of units to be assigned to any particular premises used for other than single-family residential purposes shall be determined by the Board or its designee, and its decision shall be final. The Board or its designee, if the circumstances warrant, may assign more than one (1) unit to a single-family use. No less than one (1) unit shall be assigned to each premises and for purposes of computing the capital charge and lateral benefit fee herein set forth, assignment of units in addition to one (1) shall be to the nearest one-tenth of a unit. After premises have been connected to the lateral, subsequent changes in the character of the use or type of occupancy of such premises (including destruction, removal or abandonment of any and all structures thereon) shall not abate the obligation to continue the payment of the capital charge or the lateral benefit fee, as set forth herein, charged to such structures in the amount and for the period hereinbefore provided. If such subsequent changes in the character of the use or type of occupancy increase the amount of sanitary sewage originating from the structures, the Board may, in its discretion, increase the number of units assigned to such structure and thereupon any additional capital charge occasioned by such increase in units or fractional parts thereof shall be payable in cash at the time that construction or other permit is issued or required.

(Comp. Ords. 1986, § 25.069; Ord. of 6-24-1991)

Sec. 17-165. Notice of increase of capital charge; contents

In the event of a preliminary determination by the Public Works Official that an increase in the capital charge for any given premises is required due to an increased use capacity, the Public Works Official shall prepare and forward by certified mail to the owner or responsible party, a notice of the increased assessment for the connected capital charge to the public sanitary sewer system. The notice shall contain the following:

- (a) The present unit factor assignment based on existing or previous usage.
- (b) A statement setting forth the nature of the increased use capacity necessitating an additional capital charge.
- (c) A statement of the proposed increased unit factor assignment for the premises based upon the increased use capacity.
- (d) The date upon which the increased unit factor assignment shall become effective and the cost thereof. This date shall be at least thirty (30) days from the date of mailing.
- (e) Notice to the owner or responsible party that if the amounts due are delinquent for more than six (6) months the amount shall be added to the tax rolls and collected pursuant to the general property tax laws.
- (f) Notice to the owner or responsible party that the party has thirty (30) days following the date of the notice to review this preliminary determination with the Public Works Official, and further notice that the party has forty (40) days after date of the written notice of the preliminary determination to file with the Township Clerk a request for review and appeal of determination to the Township Board.

(Comp. Ords. 1986, § 25.069)

Sec. 17-166. Administrative hearing

The Public Works Official shall provide an opportunity for the owner or responsible party to be heard on objections to the determination within thirty (30) days of the date of the notice. After review with the owner or responsible party, the Public Works Official shall forthwith provide a

(CHAPTER 17, ARTICLE III, DIVISION 5, SECTION 17-166 cont.)

written notice of the preliminary determination of increase to the owner and to the Township Board. The owner, if aggrieved by such determination, shall have an additional ten (10) days thereafter to file with the Township Clerk a written request for review and appeal to the Township Board. If no appeal is filed within the time allowed, the preliminary determination shall become final.

(Comp. Ords. 1986, § 25.069)

Sec. 17-167. Township Board appeal

From the time of filing of an appeal with the Township Clerk, the Township Board shall thereafter review the preliminary determination of the Public Works Official and shall have the authority to modify in whole or in part the determination made by the Public Works Official. The decision of the Township Board shall be final and shall be furnished to the Public Works Official in writing by the Township Clerk.

(Comp. Ords. 1986, § 25.069)

Sec. 17-168. Delinquent charges

All delinquent charges for additional capital charges as established herein shall be made a lien on the premises and on September first of each year, the person or persons charged with the management of the sewage disposal system shall certify any such charges which have been delinquent six (6) months or more to the Township Supervisor who shall enter the same upon the next tax roll against the premises for which such services have been furnished, and such charges shall be collected and such lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll.

(Comp. Ords. 1986, § 25.069)

Sec. 17-169. Sewer service charge

Charges for sewage disposal services to each premises in the area served by the sewage disposal laterals shall be as follows:

- (a) *Premises with metered water supply:* Applied first is a fixed charge, also called a ready-to-serve charge, and a usage charge based upon all water consumption calculated upon a one hundred (100) cubic foot basis, to be established and adjusted from time to time by resolution of the Township Board. These charges shall be quarterly or other invoicing periods.
- (b) *Premises with structures with non-metered water supply - commercial and residential.* Quarterly, or other invoicing periods, sewage disposal service charge shall be a ready to serve charge based upon the number of residential equivalent units (REU) assigned to the respective premises. The service charge(s) shall be established and adjusted from time to time by resolution of the Township Board.
- (c) *Definition:* For purpose of subsection (1) above, a metered water supply is defined as one (1) meter measuring water consumption in a single-family residence or in a single apartment, unit or part of a multiple-dwelling from which sewage originates, and one (1) meter for each and every business entity of any kind or description occupying commercial structures or any portion thereof from which structures sewage originates.
- (d) *Other charges:* All other charges are to be established and adjusted by the Township Board, in a like manner.
- (e) *Charges subject to contracts for Clinton-Oakland System:* The Township Board's power to establish and adjust the rates and charges herein is within the sound discretion of the Board, provided, however, that the charges shall not be altered in such a manner as shall be contrary to the obligations and limitations set forth in any contractual agreement between the Township and the county pertaining to the laterals, or contrary to the obligations and limitations of the contract between the Township and the county pertaining to the Clinton-Oakland Sewage Disposal System. The charges shall be audited biennially to ensure continued proportionality.

(Comp. Ords. 1986, § 25.070; Ord. of 6-24-1991; Ord. of 3-26-2007)

Sec. 17-170. Charges for sewage disposal services; When billed and payable

- (a) Rates and charges for sewage disposal services shall be billed and collected quarterly, or more often as determined by the Township Board. Failure to receive a bill shall not excuse

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 5, SECTION 17-170 cont.)

failure to pay the billing when due. Bills shall be due and payable, without discount, at such time as the Township Board shall determine, but not more than thirty (30) days after specified date, which date shall be indicated on the face of each bill. If the bill is not paid when due, a penalty of five (5) percent shall be added thereto.

- (b) Free sewage disposal facilities or services shall not be furnished to the Township, any person or to any government agency.
(Comp. Ords. 1986, § 25.071)

Sec. 17-171. Additional burden; surcharges

- (a) The rates and charges set forth herein notwithstanding, if the character of the sewage of any user shall impose an unreasonable additional burden upon the sewage disposal and transmission system of the Township, an additional charge shall be made over and above the rates herein established. Effluent in excess of the maximum limitations imposed by this division shall be deemed prima facie subject to surcharge. If necessary to protect the system or any part thereof, the Township shall deny the right of any user to empty such sewage into the system. Surcharges required by this section shall be computed as the prorated share of the annual cost of operation and maintenance, including replacement, attributable to treating the substance multiplied by the ratio of weight of surchargeable excess of the discharged substance to the total weight of such substance that is treated in that year. This amount shall be collected on the basis of estimated surchargeable amounts with each periodic billing and shall be adjusted annually to reflect actual operation, maintenance and replacement costs (OM&R).
- (b) The current sewage surcharges are as set out in the following table:

	Price per Pound		
	Total	OM&R	Local Capital Cost
BOD (for each lb. in excess of 200 mg/l)	\$0.103	0.099	.004
TSS (for each lb. in excess of 250 mg/l)	0.104	0.102	.002
P (for each lb. in excess of 10 mg/l)	1.193	1.167	.026

(Comp. Ords. 1986, § 25.072)

Sec. 17-172. Delinquent charges, usage or other cost due, lien, tax rolls assessed; exceptions where lessee provides deposit

- (a) All delinquent charges for lateral benefit fee, front footage fee, capital charge, charges for sewage disposal service, cost reimbursement and penalties shall be a lien on the premises served, as set forth herein. On August 15 of each year, any such charges which have been delinquent ninety (90) days or more shall be transferred to the next tax roll against the premises served, plus a surcharge of ten (10) percent to cover certain administrative expenses of the Township. Such charges shall be collected and such lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll under the general property tax law.
- (b) In the case where a lease has been legally executed for property served by Township water or sanitary sewer, the property owner shall not be subject to the lien provisions above where the lessee and the property owner comply with requirement of this section, and MCL 123.165. All of the following must be completed to exempt the property owner from the lien provision:
 - (1) An affidavit filed with the department of public works by the property owner that a lease has been legally executed which provides that the lessor shall not be liable and that the lessee shall

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 5, SECTION 17-172 cont.)

be liable for payment to the Township for water and sewage charges accruing subsequent to the filing of the affidavit. A copy of the lease shall be attached to the affidavit, with the expiration date thereon.

- (2) The lessee shall provide a deposit in an amount equal to two (2) times the average quarterly water and sewer invoice before the department shall be required to provide or continue services. The deposit shall be held for and applied to any delinquent charges, as stated above.
- (3) Twenty (20) days written notice shall be given to the Department of Public Works by the lessor of any cancellation, change in, or termination of the lease.

In the event of a failure to comply with any of the above requirements or the termination of the lessee's responsibility to pay the water and sewer expenses the lessor's property shall be thereafter subject to the lien provisions of this section, and the property owner shall be liable for all such water and sewer expenses which were incurred thereafter.

(Comp. Ords. 1986, § 25.074; Ord. of 9-12-2005; Ord. of 11-26-2007)

Secs. 17-173--17-190. Reserved

Division 6. Sewer Connection Hardship Provisions

Sec. 17-191. Short title

This division shall be known and cited as the "Charter Township of Waterford Sewer Connection Hardship Ordinance."

(Comp. Ords. 1986, § 25.301)

Sec. 17-192. Purpose

The purpose of this division is declared:

- (a) To enact an ordinance under Public Act 368 of 1978, Public Health Code (MCL 333.12756 et seq.) allowing deferment of sewer tap-in expense in cases where hardship prevents the owners of premises to connect to the available sewer.
- (b) To establish a H.A.R.B. (hardship advisory review board) to review and recommend property owners to be considered under this division.
- (c) To establish procedures for connection of premises to the sewage system by the Township.
- (d) To require the eventual connection of all premises to the sewage system.
- (e) To establish enforcement powers and penalties for violations.

(Comp. Ords. 1986, § 25.302)

Sec. 17-193. Definitions

In addition to those rules of construction and definitions contained in Sections 1-002, the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section:

Premises means and includes any zoning lot from which sanitary sewage originates, for which sewage services are available and required by law to be serving such zoning lot.

Private plumbing expense means the estimated costs of the installation of all necessary sewage disposal facilities on the property of the applicant for hardship.

Property owner means and includes any person having a legal or possessory interest in a premises or zoning lot, which interest includes the legal obligation to assume the expenses of sewer connection charges.

Sewage system or services means any municipality operated sewage collection facility, serving premises within the Township.

(Comp. Ords. 1986, §§ 25.304--25.308)

Sec. 17-194. Hardship advisory board--Membership; terms; compensation

- (a) A three-member hardship advisory review board shall be created by the Township Board, with the Public Works Official or that Official's designee as the chairman, one (1) member of

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 6, SECTION 17-194 cont.)

the Township Board and one (1) resident of the Township qualified to determine economic hardship.

- (b) The term of the Township board member shall correspond to their current term on the Township Board and the term of the resident member shall be three (3) years, unless removed for good cause shown, with compensation at a per diem rate as established by resolution of the Township Board.

(Comp. Ords. 1986, § 25.309)

Sec. 17-195. Same--Duties, powers and meetings

- (a) The hardship advisory review board shall periodically examine those premises which have not made connection to an available public sanitary sewer system as required by this Article based on a claim of hardship by a property owner, and shall render their recommendation to the Township Board on that claim.
- (b) Meetings, not to exceed two (2) per month, shall be designated by the chairman, who shall prescribe all procedural rules.

(Comp. Ords. 1986, § 25.310)

Sec. 17-196. Guidelines

In determining whether hardship exists with respect to a property owner who is unable to make the connection, the following criteria shall be applied by the hardship advisory review board:

- (a) Annual income by property owner.
(b) Net worth of property owner.
(c) Current financial obligations of fixed nature of property owner.
(d) Land use.
(e) Land value.
(f) Availability of public welfare funds.
(g) Sewer connection expense to property owner.
(h) Special and unique circumstances.

(Comp. Ords. 1986, § 25.311)

Sec. 17-197. Determination; Connection

- (a) Following a recommendation by the hardship advisory review board to the Township Board on any premises not connected to an available sewage system, the Township Board shall take effective action to achieve connection of said premises to the sewage system, whether the connection is made under the provisions of this article or otherwise. The hardship advisory review board shall within thirty (30) days of the close of its investigation file with the Township Board its report and recommendation clearly stating whether any proposed deferment includes private plumbing expenses as well as capital charges and lateral benefit fees.
- (b) Upon receipt of the hardship advisory review board recommendation regarding any premises, the Township Board shall promptly determine, without the necessity of a public hearing or public meeting, whether to accept the recommendation. No recommendation of hardship for any premises shall be rejected without good cause shown and until the property owner has had an opportunity to answer the objections before the Township Board. A recommendation of hardship not rejected by the Township Board within thirty (30) calendar days of receipt thereof shall be deemed accepted and shall entitle the owner thereof to be qualified for connection under the provisions of this division.

(Comp. Ords. 1986, § 25.312)

Sec. 17-198. Deferred payment; Lien; Costs

- (a) In the event an owner accepted for hardship herein requests the Township to effectuate connection to the sewage system, the Township Supervisor shall direct the Public Works

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE III, DIVISION 6, SECTION 17-198 cont.)

- Official to ascertain the cost to connect the premises to the system, and/or the reasonable value of its labor and materials. The Township Board shall specify to the Public Works Official whether the physical connection is to be accomplished by a licensed sewer contractor or by the agencies and employees of the Township. The Township Board reserves to itself the sole and exclusive right to make or alter its designation as made herein previous to the commencement of the physical connection. Previous to the connection, the owner shall execute a promissory note, and lien or mortgage to the Township for deferred payment payable on or before death, or in any event, on the sale or transfer of the property.
- (b) In cases where the Township Board directs the agencies and employees of the Township to accomplish the physical connection to a premises, the Public Works Official shall submit to the Township Board for approval a documented opinion of the market value of private plumbing expenses of that premises. In cases where the Township Board directs the Public Works Official to engage the services of a licensed sewer contractor, the Public Works Official shall engage such services in accordance with the Township Procurement Policy as adopted by resolution of the Township Board.
 - (c) The private plumbing expenses, as determined by the Township Board, in addition to capital charges and lateral benefit fees, may be included within the amount of the note, mortgage and/or lien which shall also include annual interest on the balance of such indebtedness to the Township at the rate of six and five-tenths (6.5) percent per year, commencing the date of the documents of indebtedness.
 - (d) The property owner shall also be responsible for all costs of the Township in connection with processing the property owner's application for deferred payments, such as, by way of illustration, and not by way of limitation, costs of recording the mortgage, costs of title insurance insuring the mortgage interest of the Township, and any direct legal fees in connection with reviewing of the foregoing and preparation of the mortgage to be recorded. Such costs shall be added to the amount due and owing upon the note and mortgage to be executed by the owner of the premises.

(Comp. Ords. 1986, § 25.313)

Sec. 17-199. Physical connection

Upon execution of the documents in accordance with the provisions of Section 17-198, the Township Board shall direct the Public Works Official to complete the physical connection of the premises, in the method approved by the Township Board, to the sewage system in accordance with all laws, ordinances, rules and regulations of the State, County and Township.

(Comp. Ords. 1986, § 25.314)

Sec. 17-200. Hardship revolving fund; Board control

The monies necessary to implement the provisions of this division shall be drawn from and returned to the "hardship revolving fund" to be created and maintained by the Township Board. The improvement and reserve fund, as established in Section 18.3 of Ordinance No. 79, shall be the sole source of Township monies deposited to the "hardship revolving fund." The Township Board shall transfer funds between the improvement and reserve fund and the hardship revolving fund as necessary to properly implement the provisions of this division.

(Comp. Ords. 1986, § 25.315)

Sec. 17-201. Nuisance

Any premises, which has not made connection to the sewer system at the close of an eighteen-month period following availability is declared a public nuisance per se, and shall be abated forthwith.

(Comp. Ords. 1986, § 25.316)

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

Sugar processing	40 C.F.R. Part 409
Textile mills	40 C.F.R. Part 410
Timber products	40 C.F.R. Part 429
Transportation equipment cleaning	40 C.F.R. Part 442
Waste combustors	40 C.F.R. Part 444

Chapter 17, Article IV, Division 4, Appendix B

An industrial user may elect, in lieu of the total phenols limitation specified in this article, to substitute specific limitations for each of the eight (8) individual phenolic compounds identified under the total phenols limitation. The following specific limitations, expressed in mg/l, shall be applied in lieu of the total phenols limitation, upon election;

2-Chlorophenol	2.0 mg/l
4-Chlorophenol	2.0 mg/l
4-Chloro-3-methylphenol	1.0 mg/l
2,4-Dichlorophenol	5.5 mg/l
2,4-Dinitrophenol	2.0 mg/l
4-Methylphenol	5.0 mg/l
4-Nitrophenol	15.0 mg/l
Phenol	14.0 mg/l

Following election, the wastewater discharge permit shall be modified to incorporate these substituted parameters and an industrial user shall be responsible for monitoring and reporting compliance with these parameters.

Chapter 17, Article IV, Division 4, Appendix C, Interim Discharge Limitations

No user shall discharge wastewater containing any of the following pollutants in excess of the following interim pollutant discharge limitations:

- (a) *Compatible pollutants:*
- (1) Any fats, oil or grease (FOG) in concentrations greater than 1,500 mg/l based on an average of all samples collected within a twenty-four-hour period.
 - (2) Any total suspended solids (TSS) in concentrations greater than 7,500 mg/l.
 - (3) Any biochemical oxygen demand (BOD) in concentrations greater than 7,500 mg/l.
 - (4) Any phosphorus (P) in concentrations greater than 250 mg/l.

Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a user's discharge, and in accordance with 40 CFR Part 146.

- (b) *Non-compatible pollutants:* Cadmium (Cd) 1.0 mg/l
(Ord. of 12-9-2002; Ord. of 3-24-2003)

Secs. 17-301--17-325. Reserved

ARTICLE V WATER

Division 1. Generally

Sec. 17-326. Definitions

In addition to those rules of construction and definitions contained in Sections 1-002, 17-208, and 17-053, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Department of public works or DPW means the department of the Township encompassing the operation of the water and sewage division or department and the public works division or department.

Main and water main means those pipes, other than supply pipes and services pipes, used for conveying or distributing water.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

Multiple occupancy means a structure or building containing separated units of occupancy where there are two (2) or more such separate occupants, users or residents, each of which has access to municipal water supplied to the structure or building.

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

Service pipe means that portion of the water pipe extending from the supply pipe from the point of the private property line into the building or structure being served with water, and shall include the water meter attached to the service pipe.

Supply pipe means a pipe tapped into a main and extending thence to and including the curb cock or valve at the property line.

Unit means that measure of potential water consumption equal to the quantity ordinarily consumed by occupants of a residence of a single family of average size. The number of units assigned to any premises or type of premises by the Township Board is designed to represent the potential water consumption thereof as a multiple of the quantity ordinarily consumed by occupancy of a residence by a single family of average size as determined from time to time by the Township Board.

Water department mean collectively those officials, employees and agents of the Township invested by the Township Board with authority over the system.

Waterford Water Supply System, water system and system mean collectively all plants, work, properties and instrumentalities, as the same shall from time to time exist, which are used or useful in connection with the obtaining of a water supply, the treatment of water, and/or the distribution of water by the Township.

(Comp. Ords. 1986, §§ 26.001-26.010; Ord. of 2-28-2003; Ord. of 11-26-2007)

Sec. 17-327. Organization and management

- (a) In pursuance of and within the limits of applicable laws and the contract with the County, dated November 1, 1963, the operation, management, maintenance and repair of the system, including collection and disposition of the revenues thereof, shall be under the immediate supervision and control of the Public Works Official.
- (b) All officers, employees and agents of the Township Board, 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 or exceed the authority conferred upon them.
- (c) The Township Treasurer, in conjunction with the Public Works Official, shall consolidate all separate bank accounts and funds existing as of June 24, 1991, into a single bank account and fund to be managed by the Township Treasurer in accordance with the requirements of this article and with existing agreements with the County.

(Comp. Ords. 1986, §§ 26.021-26.023; Ord. of 6-24-1991)

Sec. 17-328. Extension of mains

- (a) Extension of or changes in water mains may be initiated by the Township Board or by petition from property owners. Petitions for the construction of new mains shall be addressed to the Township Board upon blank forms provided for that purpose. The Township Board may refuse to grant, or may grant the same, and may prescribe the terms and conditions upon which the petition will be granted and may require the written acceptance of such terms and conditions by the petitioners. If the petition be granted, the Township Board will proceed as promptly as practical with the proposed work under the terms and conditions named. The work will be done at the expense of the property owners unless otherwise stipulated, and any and all extensions shall be subject to the provisions of this article.
- (b) The water mains of such system are under the exclusive control of the Township Board and all persons other than agents and employees of the Township Board are forbidden to disturb, tap, change, obstruct access to or interfere with them in any way.
- (c) Any person installing mains at their own expense shall first submit complete plans and specifications, prepared by a registered civil engineer, for such work, to the Township Engineer and the Public Works Official for review and approval.
- (d) Any person whose property lies outside of the Township desiring to connect to the water system will be subject to one and one-half (1 ½) times the normal connection fees and one and one-half

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(1 ½) times the normal quarterly billing rate. Such parties outside the Township interested in connecting to the water system shall provide a letter of no objection from the local governing body within which the building or property is located. The proposed connection shall thereafter be submitted to the Township Board by the Public Works Official for review and decision by the Township Board, in its sole discretion.

- (e) If a builder or developer undertakes to install water mains in new construction projects, which mains shall become part of the water system of the Township, the capital charge assessable for such waterlines shall be reduced by fifty (50) percent of the effective rate or charge.
- (f) All new construction of water main shall be served by a double source of water supply ("looped main") in accordance with the Township engineering Standards, or shall be designed so as to be served by a double source of water supply when adjacent properties are developed. Where water mains have previously been provided to the property limits of adjoining developments, they shall be extended by the Developer in like size, or larger as required, either to a circulating water main of at least equal size, or to the property limits of the present proposed development.
- (g) Terminal dead-end water mains with water service connections are discouraged, and will not be allowed without the written approval of the Public Works Official. This approval will only be granted if supporting data indicating that the "average day demand" for the proposed main will result in a complete turnover of the water in the dead-end main within a 24-hour period; and that the proposed dead-end main size and length is in accordance with the Township Engineering

(CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-328 cont.)

Standards. All dead-end water mains shall terminate with a complete fire hydrant assembly and such fire hydrant assembly shall be the only fire hydrant assembly allowed on the dead-end main.

(Comp. Ords. 1986, §§ 26.031--26.033; Ord. of 6-24-1991)

Sec. 17-329. Service pipes and supply pipe connections

- (a) Before any connection shall be made to any water main, application for same shall be made in writing to the water department by the owner on the premises to be served and a tapping permit secured. Such applications shall be made on forms provided by the water department. The owner, user, and/or applicant for a water tapping permit by such application impliedly agrees to abide by all rules and regulations of the water department in all respects, but more especially with those regarding the responsibility for the payment of water and/or sewer billings.
- (b) All supply and service pipes shall be of type "K" copper or polyethylene plastic pipe of size and quality as approved by the water department. All fittings and connections, underground, shall be approved by the water department.
- (c) No water shall be passed through any service pipe, as defined herein, unless the installation of said pipe(s) is in conformance with the Code of Ordinances or other applicable regulations and has been installed under the supervision and inspection of Township staff or their designated representative. For each service pipe installed after January 1, 2008, only one (1) domestic master meter may be installed. Such meter can be installed inside the premises, or in a meter pit for commercial applications.

Any proposed connection through which water may pass from one (1) property or premise to another, or within multiple occupancies, shall be only as set forth in Section 17-344, or as may be specially approved by the Director.

- (d) Excessive or unnecessary use or waste of water, whether caused by carelessness or by defective or leaky plumbing or fixtures, is strictly prohibited. For disregard of, or repeated violation of this requirement, the water may be turned off by the water department.
- (e) Service pipes shall be the responsibility of a licensed plumber, or a homeowner exercising his constitutional privilege as provided in Section 141 of the State plumbing code, and all the fixtures and attachments put in on the premises in connection therewith, must conform to character, design and quality to the laws of the State and the State plumbing code as adopted by the Township Board.
- (f) All service pipes shall enter the building under the foundation with a minimum of five (5) feet of cover in yard areas, six (6) feet of cover in all drive and parking areas. All depths shall be

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-329(f) cont.)

measured from finish grade. Installation must be inspected before backfill by an inspector from the Township. No new connection will be made until written approval by the Township inspector is given to the DPW. A distance of ten (10) feet from all sewer or septic lines shall be maintained where possible.

- (g) An approved valve the same size as the meter connections shall be placed on the service pipe on both sides of the meter. Such valves shall be equal to the service cock.
- (h) No supply pipe of less than one-inch copper tube size is permitted. Supply pipes of larger size shall be determined by the water department.
- (i) The charges for installation of supply pipes, supply lines in excess of one hundred (100) feet, and meters, referred to as "tapping charge," shall incur the fee(s) for installation as established in accordance with Section 17-001 of this Chapter.
 - (1) All new meter installations shall have a remote reading system as furnished by the DPW.
 - (2) For larger sizes than listed above, the charge shall be the actual cost of installation plus twenty-five (25) percent thereof. Upon receipt of the application for service requiring such larger sizes, an inspection of the premises shall be conducted in accordance with the procedures established by the Public Works Official and, unless service is rejected for cause, the applicant will be required to deposit with the Public Works Official an amount which, in the judgment of the Public Works Official is sufficient to cover the charge therefor. The DPW will then complete the installation and will keep or cause to be kept a detailed record of the cost, including labor and materials, and will add thereto the twenty-five (25) percent surcharge to cover the cost of administration, depreciation of equipment, and other related costs and expenses. If the deposit exceeds such total charge, the excess will be refunded, but if the total charge exceeds the deposit, the balance shall be paid by the applicant before service is commenced.
- (j) At the time application is made for a water service connection to a building under construction, applicant must pay a flat rate for water usage as determined by the Public Works Official. Such fee for construction water shall entitle the applicant to water for construction purposes for a period of not more than three (3) months. Where water is provided, without a meter, for construction of a building, any wasting of water, whether caused by carelessness or by defective fixtures is strictly prohibited. For disregard of, or repeated violation of this requirement, the water may be turned off by the water department. The water service shall not be turned on again until an agreement is reached between the parties involved.
- (k) No supply pipe shall be installed when the service pipe is in line with a driveway, tree, fire hydrant, catchbasin or other obstruction.
- (l) All supply pipes from the main to the lot line shall be put in only by properly authorized employees of the water department. Before receiving a permit for a service connection, there must be paid such a sum, as required, to cover the expense of furnishing and installing the supply pipe, curbstop, stop box and meter.
- (m) The water supply pipe, from the main to the property line, shall be maintained by the DPW, but this clause shall not apply to old services installed by private parties, i.e., Venice of the Lakes. The service pipe from the property line to the premises shall be considered private plumbing and be maintained by the owner of the premises. Failure to keep the service line in good repair will result in discontinuance of service.
- (n) No person shall interfere in any way with the supply pipe installed by the DPW. No person is permitted to turn water on or off at the curbstop except for the purpose of testing his work, in which case the curbstop shall be left in the same condition and position as he found it.
- (o) All Township water used on any premises where a meter is installed must pass through the meter. No bypassing of the meter will be permitted except as provided in Section 17-340.
- (p) The water distribution system and plumbing fixtures of any new building or structure, and existing building or structure for which potable water was provided by a private well or water source that has failed or is no longer available, shall be connected to the Waterford Water Supply System if available at the property line of the premises upon which the building or structure is located and the connection can be provided at a cost that does not unreasonably

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION I, SECTION 17-330 cont.)

exceed the cost to install or secure a well or other private source of potable water as determined by the Public Works Official.

(Comp. Ords. 1986, §§ 26.041--26.055; Ord. of 6-24-1991; Ord. of 12-11-1995; Ord. of 11-26-2007)

Sec. 17-330. Use of water restricted

- (a) No steam boiler shall be directly connected to the water service pipe. The owner shall provide a tank of sufficient capacity to afford a supply for at least ten (10) hours, into which the service pipe shall discharge.
- (b) No person shall take or use water from premises other than his own, or of which he has possession.
- (c) In cases where multiple occupancies are served by a single meter, the owner or entity contracting for service under that meter shall be responsible for payment of the water provided to that metered structure.

In existing multiple meter installations, no master meter will be allowed unless said master meter is maintained and read by the department of public work staff, and the multiple meters are read by the owners.

- (d) Where a building, originally built as a single building or premises and fitted with one (1) service pipe, but capable of being divided by sale or otherwise, has been or may be hereafter subdivided and each subdivided section of the building shall be separately owned, the separate division so made must be connected to the main by separate service pipes no later than thirty (30) days after such division.
- (e) In cases where water service has been terminated to a premise by an authorized agent or employee of the DPW, only such DPW personnel shall turn the water back on again. Any unauthorized resumption of water service shall be reversed by DPW personnel, and the cost and expense, in personnel time, equipment use and materials of the DPW shall be a charge upon the property, and collectible as a lien upon the property under the provisions of Section 17-349, and under the cost recovery provisions in the Waterford Code of Ordinances (Sections 16-300--16-306).
- (f) It is a violation of this section for any interference or obstruction with a curb cock, valve or fixture connected with the system, including but not limited to the placing in, on or about it, building materials, rubbish, soil, shrubbery, flowers or other hindrances to easy and free access thereto.

(Comp. Ords. 1986, §§ 26.061--26.066; Ord. of 12-11-1995; Ord. of 2-28-2005; Ord. of 11-26-2007)

Sec. 17-331. Cross connections prohibited--Generally

All cross connections between any type of water supply and municipal water supply are strictly prohibited. In the event a cross connection is discovered the water will be turned off at the curb cock until the cross connection is severed. No direct connection of any type to a sewer line shall be allowed.

(Comp. Ords. 1986, § 26.067)

Sec. 17-332. Water supply cross connection provisions; State regulations adopted

- (a) *Title.* This section shall be known and cited as the "Waterford (Charter) Township Water Supply Cross Connection Ordinance."
- (b) *Purpose.* The purpose of this section shall be:
 - (1) To adopt by reference the water supply cross connection rules of the Michigan Department of Environmental Quality (MDEQ).
 - (2) To provide for inspection of water supply cross connection within the Township;
 - (3) To provide penalties for any and all violations of this section.
- (c) *Adoption by reference.* The Michigan Department of Environment Quality (MDEQ) water supply cross connection rules, as contained in R325.11401 through R325.11407 of the Michigan Administrative Code, are hereby adopted by reference. Copies of these water

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION I, SECTION 17-332(c) cont.)

supply cross connection rules shall be maintained on file at the office of the Township Clerk, and shall be available for public inspection.

- (d) *Inspection.* The Public Works Official is hereby authorized and directed to cause inspections to be made of all properties served by the public water supply system where cross connections with the public water supply system are deemed possible. The frequency of inspections and re-inspections shall be based on potential health hazards and shall be as established by the Public Works Official and approved by the S.E.A.
- (e) *Right of entry for inspection.* DPW employees, and its authorized contractors, shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply system of the Township for the purpose of inspecting the piping system or systems thereof to investigate potential cross connections. The owner, lessees or occupants of any property so served shall, on request, furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal to provide such information or the refusal of access to property, when requested, shall be deemed evidence of the presence of cross connections.
- (f) *Discontinuance of service.* The DPW is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. The water service to such property shall not be restored until any cross connection has been eliminated in compliance with the provisions of this section. The cost and expense to the DPW for investigating, terminating, and/or resuming water service, in personal time, equipment use and materials shall be a charge upon the property, and collectible as a lien upon the property under the provisions of Section 17-349.
- (g) *Protection from contamination.* The potable water supply made available on any property served by the public water supply system of the Township shall be protected from possible contamination in accordance with the provisions of this section, the rules of the MDEQ or successor S.E.A., and the State plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system shall be labeled in a conspicuous manner as: Water Unsafe for Drinking.
- (h) To insure backflow prevention assemblies are maintained in proper working order, all such assemblies, as listed in the State plumbing code, shall be tested at the following times:
- (1) Upon initial installation;
 - (2) Immediately following repairs or relocation;
 - (3) Within a year following installation, repair or relocation, and annually thereafter.
- Such testing shall be done in accordance with the MDEQ or successor S.E.A. requirements and the State plumbing code. Only individuals that are approved and State-certified shall be qualified to perform such testing. Such qualified individual(s) shall certify the results of his/her testing. It is the property owner's primary responsibility for arranging and completing the testing of backflow prevention assemblies, including the furnishing of tests results to the DPW upon demand, and paying all expenses in connection therewith.
- (i) *Penalties.* Any persons or customer found guilty of violating any of the provisions of this section, or any written order of the water department, which is issued in pursuance thereof, shall be punished in accordance with Section 1-010(b) of this Code.

(Comp. Ords. 1986, §§ 26.161--26.185; Ord. of 2-28-2005; Ord. of 7-14-2008)

Sec. 17-333. Air conditioning units

Only approved water conserving type air conditioning units will be allowed. An approved water conserving type shall be one:

- (a) Which is equipped with cooling tower, atmospheric condenser, spray pond or other equipment which shall directly or indirectly cool refrigerant.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-333 cont.)

- (b) Which can use water from the Township water system only for makeup water to replace water lost by evaporation or by flushing of the equipment.
- (c) Which uses an average of less than twelve (12) gallons of water from the Township water system per hour per ton of cooling capacity when the unit is operating.
- (d) Which has no piping connection to allow operation of the air-conditioning unit by direct use of water from the Township water system either in conjunction with or in place of such cooling tower, atmospheric condenser, spray pond or other recirculating and heat-exchanging equipment.
(Comp. Ords. 1986, § 26.068)

Sec. 17-334. Water scarcity regulations

- (a) Whenever the unrestricted use of water from the Township water supply system would, in the opinion of the Township Supervisor, or Supervisor's designee, endanger or be likely to endanger the health or safety of its citizens, the Township Supervisor, or Supervisor's designee, may declare a water usage emergency and impose such restrictions on the use of water from public and private sources as may be reasonably necessary.
- (b) During a period of water usage restriction, the use of water from private wells for purposes other than for drinking and for sanitary purposes is hereby declared to be a matter of public concern, affecting the public health, safety and welfare.
- (c) ~~Whenever in the discretion of the Township Supervisor, or Supervisor's designee, the imposition of lawn sprinkling or surface watering restrictions or bans becomes necessary, and the difficulties of enforcement of such restrictions require it, lawn sprinkling and surface use of water from the Township water supply system and private wells may be restricted or prohibited.~~
- (d) Regulations imposed hereunder shall be for the purpose of restricting less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for firefighting.
- (e) No declaration as provided in this section shall be effective until twenty-four (24) hours after the publication thereof in a newspaper of general circulation in the Township.
- (f) Any persons violating any of the provisions of a water restriction regulation shall be subject to the following:
 - (1) Upon conviction thereof, be subject to the penalties as provided in Section 1-010 of this Code.
 - (2) Termination of water service to their property turned off by the water department as provided in subsection 17-329(d) and Section 13-351.
 - (3) Liable to re-payment to the DPW for the cost and expense to the DPW for investigating and enforcing this section in personnel time, equipment used and materials, and such cost shall be a charge upon the property and collectible as a lien upon the property under the provisions of Section 17-349, and shall be a debt to the Township from all responsible persons or entities under the cost recovery provisions in this Code (Sections 16-300 to 16-306).
- (g) The Township Board shall have full authority to review and revise any water regulations or declarations issued under this section.
(Comp. Ords. 1986, § 26.069; Ord. of 7-25-1988, § 1.00; Ord. of 2-28-2005)

Sec. 17-335. Fire hydrants

- (a) Fire hydrants are provided for the use of the Fire Department and DPW of the Township or by such persons as may be specifically authorized by the Public Works Official.
- (b) No person shall open or cause to be opened any fire hydrant, without first securing a permit to use a fire hydrant, at the DPW office. A deposit in such amount as established by the Public Works Official from time to time will be required. Such person must report to the Public Works Official when such use is terminated, at which time a hydrant inspection will be made and an inspection charge of such amount as established by the Public Works Official from time to time, the cost of the estimated amount of water used, and the cost of repairing the hydrant, if any, shall be deducted from the deposit and the difference (if any) refunded to

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION I, SECTION 17-335 cont.)

- the depositor. If the deposit is insufficient to cover such costs, the permit holder shall pay the deficit.
- (c) The Public Works Official must approve the type, size of openings, and types of nozzle thread on all hydrants installed on private property serviced by Township water.
 - (d) No person shall in any manner obstruct or prevent free access to, or place or store temporarily, any object, material, snow, debris, vehicle, or structure of any kind within a distance of twenty (20) feet of any hydrant. Any such obstruction when discovered shall be subject to summary removal at the discretion of the Public Works Official. The cost and expenses thereof in personnel time, equipment used and material shall be debt to the DPW from all responsible persons or entities under the cost recovery provisions of this Code (Sections 16-300 to 16-306).
 - (e) Hydrants are located within the road right-of-way or easement and any person desiring to have a hydrant moved to another location shall bear the complete cost of moving such hydrant.

(Comp. Ords. 1986, §§ 26.071--26.075; Ord. of 6-24-1991; Ord. of 2-28-2005; Ord. of 11-26-2007)

Sec. 17-336. Pipes provided for fire protection

Where pipes are provided for fire protection in any premises or where hose connections for fire apparatus are provided on any pipe, each connection or opening on such pipes shall have not less than twenty-five (25) feet of firehose constantly attached thereto, and no water shall be taken or used through such openings or hose for any purpose other than for extinguishing fires, except for the purpose of testing such fire equipment. In such case the test must be conducted under a special permit and under the supervision of the water department.

(Comp. Ords. 1986, § 26.076)

Sec. 17-337. Quarterly charges

Each premises to or for which a separate unmetered fire line connection is provided for sprinkler or hydrant service shall pay therefor a quarterly charge in such amount as established in accordance with Section 17-001 of this Chapter.

(Comp. Ords. 1986, § 26.077; Ord. of 12-11-1995)

Sec. 17-338. Annual rate charge

The Township shall pay for all water used by it at the established rates for each hydrant connected to the system. Such rental may be paid in equal quarterly installments.

(Comp. Ords. 1986, § 26.078)

Sec. 17-339. Firelines; Standby

All standby firelines shall have an approved detector check installed, which shall have provisions for a five-eighths-inch by three-fourths-inch meter on the bypass. The required meter must be purchased from the water department. No domestic service shall be allowed on a standby fireline.

(Comp. Ords. 1986, § 26.079)

Sec. 17-340. Water meters

- (a) All service connections, except separate fire connections, shall be metered and shall be billed for water at the rate established by the Township Board. In no case will water be supplied, except for temporary use with water department approval, at other than the established water rate.
- (b) The supply pipe and meter, installation charge for which provision is made in subsection 17-329(i) shall include the cost of the water meter assembly furnished by the DPW and the installation thereof, but such meter shall remain the property of the DPW and will at all times remain under its control. The meter couplings or flanges will be furnished by the DPW.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-340(b) cont.)

The Township shall have the option, for premises with metered water at the time of adoption of this provision, to install alternate or auxiliary meter-reading devices on the exterior of the structure enabling the water department staff to remotely read the water meter settings, without cost to the user. In the event the owner or occupant of a premises with existing service cannot or will not provide, or allow the placement of such remotely read equipment at a location on the exterior of the structure which allows for reasonable access and accommodation by DPW staff, then the DPW reserves the right assess a charge for an alternate installation, and to assess a reoccurring fee for meter reading each billing cycle, with all the extra expense and cost thereof to be collected from the owner under the provisions of Section 17-349.

The maintenance of the meter will be the obligation of the DPW provided, that where replacements, repairs or adjustments of the meter are made necessary by acts of misuse, neglect, tampering, or damage, including the exposure to cold or hot water, by the owner or occupant of any premises, the cost and expense to the DPW in personnel time, equipment and materials for inspections, investigation, monitoring and the repairs or replacements shall be a charge against the property, and be collectible as a lien upon the property under the provisions of Section 17-349 and shall be a debt to the Township by all responsible persons or entities under the cost recovery provisions (Sections 16-300 to 16-306).

- (c) All meters shall be set in dry, clean, sanitary places, easily accessible within the house or structure, no less than twelve (12) inches from floor level or more than twenty-four (24) inches from floor level, with a minimum of six (6) inches from any wall, twelve (12) inches from top, for reading purposes, to an immovable object, with an approved valve on both sides of the meter, and where a small leak or the spilling of water will not create a hazard or nuisance.
- (d) All services one and one-half-inch and larger shall have a "dresser" type coupling installed on the discharge side of the meter. All services one and one-half-inch and larger shall also have a tee between the meter and outlet valve, to be used for testing the water meter without its removal. The size of the opening of this tee shall be one and one-half inch for one and one-half inch service pipes, two inch for all service pipes up to and including four inch, and three inch for all larger service pipes; the side opening of such tee shall be plugged.
- (e) If a meter fails to function or to register, the consumer will be charged at the average quarterly consumption, as shown by the meter when in order. The accuracy of any meter installed in any premises will be tested by the DPW upon request of the customer, who shall pay in advance a fee of such amount as established by the Public Works Official from time to time to cover the cost of the test. If, on such test, the meter shall be found to register over five (5) percent more water than actually passes through it, another meter will be installed and the testing fee will be refunded to the customer, and the water bill may be adjusted as hereinafter provided.
- (f) It is a violation of this ordinance to interfere with or tamper with a water meter in service, including but not limited to breaking or removing any seal on the by pass valves or meter, or to move a water meter from any service connection, or diverting water around or by passing the meter, or any other acts which disable or render the meter inaccurate.

In the event the Township determines a meter to be damaged, or not properly functioning, through no fault of the DPW or its agents or employees, the meter will be replaced by the DPW at the expense of the owner or occupant of the premises. The cost and expense thereof shall be a charge against the property, and a lien thereon, collectible under Section 17-349, and shall be a debt to the Township by all responsible persons or entities under the cost recovery provisions of the Waterford Code of Ordinances (Article III of Chapter 14).

(Comp. Ords. 1986, §§ 26.081--26.083, 26.085--26.088; Ord. of 6-24-1991; Ord. of 2-28-2005)

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

Sec. 17-341. Inspection and inspectors

- (a) DPW agents and employees whose duty is to enter upon private premises to make inspection and examination of the pipes, fixtures or attachments used in connection with the water supply will be provided with a badge or such other credentials to identifying them as authorized agents of the DPW. No such person shall be entitled to enter upon any private premises unless such person carries and exhibits such badge or credentials. It is a violation of this code for unauthorized persons to pose as agents or employees of the DPW in an attempt to gain entry to any premise.
- (b) Any agent or employee of the DPW shall, upon the presentation of the badge or other credentials provided for in subsection (a) above, have free access at all reasonable hours to any premises supplied with water for the purpose of making any inspection thereof, including the examination of the entire water supply and plumbing system upon such premises. No person shall refuse to admit any authorized inspector, for any such purpose. In case any authorized employee refused admittance to any premises, or being admitted shall be hindered or prevented in making such examination, the Township Supervisor, or his designate, may order water service terminated from such premises, after giving twenty-four (24) hours' notice to the owner or occupant of such premises.

(Comp. Ords. 1986, §§ 26.091--26.093; Ord. of 2-28-2005)

Sec. 17-342. Water consumption rates

Quarterly water bills shall be computed on the basis of meter size, which charge shall permit quarterly usage of a specified quantity of water without further charge, such charges and quantities to be in such amounts as established in accordance with Section 17-001 of this Chapter.

(Comp. Ords. 1986, § 26.101)

Sec. 17-343. Minimum quarterly charge

A minimum quarterly charge shall be made to each premises connected to the system. In the event the service is discontinued, such charge shall not be applicable.

(Comp. Ords. 1986, § 26.102)

Sec. 17-344. Multiple occupancies; minimum quarterly charge

- (a) All applications filed with the department of public works for water service after December 31, 2007 to new commercial development with multiple occupancies shall have one (1) service line and meter for each separate building structure, except in cases of commercial services that require a compound meter.
- (b) All residential developments constructed as attached condominiums of multiple occupancies shall be served by a separate supply pipe, service pipe, and meter to each such dwelling unit or occupancy.
- (c) All residential developments constructed as rental units of multiple occupancies shall be served by one (1) service pipe and meter for each separate building or structure.
- (d) In cases where a landscape sprinkling system is in place, for use of water solely for that purpose, a separate meter may be installed for service on that water line, subject to the rules of the department and the ordinances.
- (e) In cases of premises served by one (1) service line and meter, there shall be a quarterly or other periodic charge of such amount as established by the Township Board from time to time.

(Comp. Ords. 1986, § 26.103; Ord. of 11-26-2007)

Sec. 17-345. Consumption in excess of minimum charge

Should more water be consumed by any premises in a quarter than the quantity permitted for the minimum charge as specified in Section 17-342 then an additional water consumption charge of such amount as established in accordance with Section 17-001 of this Chapter shall be made for all water consumed in excess of those specified quantities.

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION 1, SECTION 17-345 cont.)

(Comp. Ords. 1986, § 26.104)

Sec. 17-346. Capital equalization charges

Each premises connecting to any of the Township water mains shall pay a capital equalization charge, in accordance with this division.

(Comp. Ords. 1986, § 26.111)

Sec. 17-347. Method of payment

(a) Owners or occupants of existing structures requiring water service, upon being directly connected to water mains, shall pay a capital equalization charge computed upon the basis of meter size, in such amounts as established in accordance with Section 17-001 of this Chapter. If the owner elects to pay such charge in full, full payment shall be made prior to issuance of the permit.

(1) The owner may elect to defer the payment of such charge over forty (40) quarterly installments and in that event shall pay the required down payment prior to the issuance of the permit. The principal balance shall be payable in thirty-nine (39) quarterly installments plus interest on the unpaid balance at six and five-tenths (6.5) percent compounded annually in accordance with the schedule as adopted by the Township Board. In order to qualify for the deferral and installment payment method, the titleholder, and land contract vendee, if any, shall execute an installment payment agreement and lien form on the premises which shall be recorded with the Oakland County Register of Deeds.

(2) Any owner electing the deferred payment plan may, at any regular payment date, prepay additional principal payments in numerical order without interest as indicated on the applicable payment schedule. The complete principal balance may be paid at any time with accumulated monthly interest from the last payment date.

(b) Premises upon which residential or other water-using buildings or structures are hereafter constructed, upon being directly connected to water mains, shall pay prior to issuance of the permit a capital equalization charge established in accordance with Section 17-001 of this Chapter.

(c) Premises connected to water mains hereafter financed by land developers or property owners by special assessment or otherwise shall pay, prior to issuance of the permit, a capital equalization charge established in accordance with Section 17-001 of this Chapter.

(Comp. Ords. 1986, §§ 26.112-26.114; Ord. of 12-11-1995; Ord. of 2-28-2005)

Sec. 17-348. Bills; quarterly; delinquent; penalties

Rates and charges shall be billed and collected at least quarterly, as determined by resolution of the Township Board. Failure to receive a bill shall not excuse failure to pay the bill when due. Bills shall be due and payable, without discount, at such time as the Township Board will determine, but not more than thirty (30) days after rendered, and such due date shall be indicated on the face of each bill. If any bill is not paid when due, a penalty of five (5) percent shall be added thereto. If a bill is not paid within thirty (30) days after due date, a shutoff notice may be sent to the premises by certified mail, or by posting on the structure and if the bill is not paid within the time states in the notice (which shall not be more than an additional thirty (30) days) then all water service to the premises may be discontinued.

Before water service is restored, an additional fee and penalty shall be chargeable to the property to reimburse the DPW for costs and expenses in personnel time, equipment used and materials, as determined by the Public Works Official. Such additional fees and costs shall be payable before service is restored.

(Comp. Ords. 1986, § 26.121; Ord. of 6-29-1991; Ord. of 2-28-2005)

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION 1 cont.)

Sec. 17-349. Delinquent charges for services, cost recovery; lien on premises; collected on taxes.

Except as provided in Section 17-173(b), all charges for services, fees, cost reimbursement provisions and penalties, as provided for in this chapter shall be a lien on the premises served as set forth herein. Any charges which, on August 15 of each year, have been delinquent for ninety (90) days or more shall be transferred to the next Township tax roll against the premises served, plus a surcharge of ten (10) percent to cover certain administrative expenses of the Township, which sums shall be collected and such lien enforced in the same manner provided in respect to Township taxes assessed on such roll under the general property tax law.

(Comp. Ords. 1986, § 26.122; Ord. of 2-28-2005)

Sec. 17-350. Emergency termination of service

- (a) In the event the DPW determines that, for reasons of system malfunction or other disruption to a portion of the water system, it is necessary to shut off water service to any users of the system to make repairs, or finalize construction, the Public Works Official shall endeavor to furnish prompt and timely notice to all affected users. The department shall attempt to minimize the loss of service necessitated by such events.
- (b) ~~Whenever notice is required to be given hereunder, the same may be given, either by personal service of a notice in writing to the person to be notified; or by sending an employee of the DPW to the premises with a written or printed notice, which shall be served on the person to be notified or in case it is impossible to make such service at that time, the same may be posted in some conspicuous place on the premises; or by enclosing a copy thereof in an envelope with postage prepaid, plainly addressed to the person to be notified, at the post office or residence address of such person, as the same appears on the books of the Township, and depositing the same in any United States Post Office; such notice so given shall be conclusively deemed to have been given at the time of such depositing.~~
- (c) Any person violating any of the provisions of this division, upon conviction thereof, shall be punished as provided in Section 1-010 of this Code.

(Comp. Ords. 1986, §§ 26.131, 26.132, 26.134; Ord. of 6-24-1991; Ord. of 2-28-2005)

Sec. 17-351. Termination of service; bypass or tampering with meter

In addition to the powers granted to the Public Works Official in this chapter, the Public Works Official is empowered to impose additional requirements and conditions, including termination of service, to persons who have repeatedly deliberately by-passed or interfered with the function of the water meter in order to defraud the Township of payment for water.

In such cases where, on more than one (1) occasion within the previous three (3) years, inspections of the water-metering facilities and apparatuses of a premise convincingly demonstrates that the owner or occupant has deliberately bypassed or interfered with the proper function of the meter, the Public Works Official may do one (1) or more of the following:

- (a) Confiscate the meter and replace it at the owner's expense;
- (b) Install a data-logger on the meter, at the owner's expense;
- (c) Require regular, frequent and/or unannounced inspections of the meter and by-pass valves.
- (d) Back-charge the premises on the basis of average usage for the period of time the metered usage was abnormally low.
- (e) Terminate water service to the premises upon fourteen (14) days written notice by first class mail and posting on the property.

In the event any owner or occupant is aggrieved by a termination of service under this section, such person(s) may apply to the Township Clerk, in writing, stating the reasons and grounds therefore, for a hearing before the Township Board. The Board shall set a date for a hearing at a regularly scheduled meeting to determine if water service should be resumed, and under what circumstances. The Board shall request a report and recommendation from the Public Works Official, prior to the hearing. Any action of the Board shall be by vote in open session. Thereafter, the Public Works Official shall resume all authority over the administration of water service to the property. In the

CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES
CHAPTER 17 WATER AND SEWERS

(CHAPTER 17, ARTICLE V, DIVISION 2, SECTION 17-351 cont.)

event that a service line is to be permanently terminated or disconnected from the public water supply system, the physical termination of the service is to be performed by the DPW. Temporary disconnections shall be performed per the township standard details, and shall be coordinated with the DPW so that DPW staff may witness the termination.

(Ord. of 2-28-2005)

Secs. 17-352--17-365. Reserved.

Division 2. Supply Wells

Sec. 17-366. Maintaining, etc., possible contamination sources

It shall be unlawful for any person to construct or maintain, or permit to be constructed or maintained, within a radius of two hundred (200) feet from any of the municipal water wells within the Township from which the Township draws its water supplies, any source of possible contamination or pollution to such wells.

(Comp. Ords. 1986, § 26.151)

Sec. 17-367. Contaminating prohibited

~~it shall be unlawful for any person to do any act, or to allow to be done any act, that may contaminate or pollute or contribute to the contamination or pollution of the water supply wells or water system of the Township.~~

(Comp. Ords. 1986, § 26.152)

Sec. 17-368. Penalty

Any person violating any of the provisions of this division shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1-010 of this Code.

(Comp. Ords. 1986, § 26.153)

EXHIBIT B

2016 Admin Fee Schedule

<u>Expense</u>	<u>2015 Budget Amt.</u>
Fiscal & HR - (12280):	\$ 224,022
Information Systems - (12550):	328,480
Clerk's Office - (12160):	583,689
Facilities & Operations - (12650):	1,206,970
Treasurer's Office - (12530):	584,806
General Services (20% of (12480) Budget)	346,001
Total Expense	\$ 3,274,958

<u>Department</u>	<u>Admin. Fee %</u>	<u>2015 Budget - Expenses</u>	<u>2016 Admin Fee: (@4880):</u>
DPW - (590 Fund):	5.297%	\$ 19,700,000	\$ 1,043,658 *
Library - (277 Fund):	2.178%	2,285,773	50,000
P&R - (280 Fund):	1.842%	1,876,850	34,000
Sub-total		\$ 23,872,623	\$ 1,127,658
General Fund (w/ Police-Fire-w/o Transfers)		\$38,874,110	\$ 2,147,398 5.52%
		\$ 62,746,733	\$ 3,274,958

Crosscheck

Blue = Input data

* Note:
DPW Budgeted Expenses do not include SRF/DWRF expenses in 599 Fund.

Rationale: The DPW (Water-Sewer) and Library contribute to the General Fund for the Administrative Services they receive. If the General Services rendered by Township Hall were not available these funds would be compelled to incur expenses for the provided expenses.



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WATERFORD TOWNSHIP
G/L ACCOUNT - MASTER INQUIRY

P 1
glactinq

Org code: 59044 WATER/SEWER GEN. ADMIN. Type: E
 Object code: 84800 SERVICES - ADMINISTRATION Status: A
 Project code: Budgetary: Y

Fund 590 WATER/SEWER FUND
 Department 444 ADMINISTRATION
 Function 000

UNKNOWN
 UNKNOWN
 UNKNOWN
 UNKNOWN

Full description: SERVICES - ADMINISTRATION Short desc: SERVICES -
 Reference Acct: Auto-encumber? (Y/N) N

PER	CURRENT YEAR MONTHLY AMOUNTS				BUDGET
	ACTUAL	ENCUMBRANCE	BUD TRANSFER		
00	.00	.00	.00	.00	.00
01	1,043,557.00	.00	.00	.00	86,963.12
02	77.00	.00	.00	.00	86,963.08
03	.00	.00	.00	.00	86,963.08
04	4.95	.00	.00	.00	86,963.08
05	.00	.00	.00	.00	86,963.08
06	.00	.00	.00	.00	86,963.08
07	40.00	.00	.00	.00	86,963.08
08	.00	.00	.00	.00	86,963.08
09	.00	.00	.00	.00	86,963.08
10	.00	.00	.00	.00	86,963.08
11	.00	.00	.00	.00	86,963.08
12	.00	.00	.00	.00	86,963.08
13	.00	.00	.00	.00	.00
Tot:	1,043,678.95	.00	.00	.00	1,043,557.00

CURRENT YEAR TOTAL AMOUNTS			
Actual (Memo)	1,043,678.95	Original Budget	1,043,557.00
Encumbrances	.00	Budget Tranfr In	.00
Requisitions	.00	Budget Tranfr Out	.00
Total	1,043,678.95	Carry Fwd Budget	.00
Available Budget	-121.95	Carry Fwd Bud Tfr	.00
Percent Used	100.01	Revised Budget	1,043,557.00
Inceptn to SOY	.00	Inceptn Orig Bud	.00
		Inceptn Revsd Bud	.00
Encumb-Last Yr	.00	REQUESTED	1,043,557.00
Actual-Last Yr	.00	RECOMMEND	1,043,557.00
Estim-Actual	1,043,557.00	APPROVED	1,043,557.00
	.00		.00
			.00

Received for Filing Oakland County Clerk 2017 JAN 31 AM 10:46

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WATERFORD TOWNSHIP
G/L ACCOUNT - MASTER INQUIRY

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LAST YEAR MONTHLY AMOUNTS			
PER	ACTUAL	ENCUMBRANCE	BUDGET
00	.00	.00	.00
01	1,043,557.00	.00	86,963.12
02	.00	.00	86,963.08
03	.00	.00	86,963.08
04	.00	.00	86,963.08
05	.00	.00	86,963.08
06	.00	.00	86,963.08
07	.00	.00	86,963.08
08	.00	.00	86,963.08
09	.00	.00	86,963.08
10	.00	.00	86,963.08
11	.00	.00	86,963.08
12	.00	.00	86,963.08
13	.00	.00	.00
Tot:	1,043,557.00	.00	1,043,557.00

PRIOR YEARS TOTAL AMOUNTS			
2014 Actual	1,043,557.00	2014 Orig Budget	1,043,557.00
2014 Closed @ YE	1,043,557.00	2014 Bud Tfr In	.00
2014 Encumbrance	.00	2014 Bud Tfr Out	.00
2014 Memo Bal	1,043,557.00	2014 C Fwd Budget	.00
2013 Actual	1,043,597.00	2014 Revsd Budget	1,043,557.00
2012 Actual	1,043,557.00		
2011 Actual	1,043,557.00	2013 Orig Budget	1,043,557.00
2010 Actual	1,043,587.00	2013 Revsd Budget	1,043,557.00
2009 Actual	948,688.00	2012 Orig Budget	1,043,557.00
2008 Actual	948,688.00	2012 Revsd Budget	1,043,557.00
2007 Actual	912,200.00		
2006 Actual	880,000.00	2014	0.00
2005 Actual	835,000.00	2013	0.00
		2012	0.00

FUTURE YEAR AMOUNTS			
PER	2016 BUDGET	2016 REQUESTED	BUDGET
00	.00	1,043,557.00	.00
01	86,963.12	1,043,557.00	.00
02	86,963.08	1,043,557.00	.00
03	86,963.08	2016	.00
04	86,963.08	2016	.00
05	86,963.08	2016 Revised	1,043,557.00
06	86,963.08	2017 Estimate	.00
07	86,963.08	2018 Estimate	.00
08	86,963.08	2019 Estimate	.00
09	86,963.08	2020 Estimate	.00
10	86,963.08		
11	86,963.08	2016 Memo Bal	1,043,557.00
12	86,963.08	2016 Encumbrance	.00
13	.00	2016 Requisition	.00
Tot:	1,043,557.00		

ACCOUNT NOTES

** END OF REPORT - Generated by Derek Diederich **

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

GARY MASON, individually and as
representative of a class of
similarly-situated persons and entities,

Case No. 2016-152441-CZ
Hon. Nanci Grant

Plaintiff,

v.

CHARTER TOWNSHIP OF WATERFORD,
a municipal corporation,

Defendant.

Gregory D. Hanley (P51204)

Jamie K. Warrow (P61521)

Edward F. Kickham Jr. (P70332)

32121 Woodward Avenue, Suite 300

Royal Oak, MI 48073

(248) 544-1500

Attorneys for Plaintiff

Gary L. Dovre (P27864)

Johnson, Rosati, Schultz & Joppich, P.C.

27555 Executive Drive, Suite 250

Farmington Hills, Michigan 48331

(248) 489-4100

Attorneys for Defendant

ORDER PERMITTING PLAINTIFF LEAVE TO FILE FIRST AMENDED COMPLAINT

At a session of the Oakland County Circuit Court

held in the City of Detroit, State of Michigan

on this 25 day of January 2017

PRESENT: HON. JAN 26 2017

Circuit Court Judge

This matter having come before the Court upon Plaintiff's motion for leave to file an amended complaint, filed on December 7, 2016; Defendant having filed a response brief on January 13, 2017 stating, among other things, that it objected to Plaintiff filing an amended complaint that contained citation to case law and attached deposition transcripts; the Court having heard oral argument and being otherwise advised in the premises:

IT IS HEREBY ORDERED that Plaintiff's motion for leave to amend his complaint is granted and that Plaintiff may file a First Amended Complaint within 14 days after this Order is entered by the Court.

IT IS FURTHER ORDERED that Plaintiff may not cite to case law or attach deposition transcripts to the First Amended Complaint.

SO ORDERED.

/s/ Judge Nanci J. Grant

Circuit Court Judge AF

Agreed as to form:

Kickham Hanley PLLC

/s/ Jamie Warrow

Jamie Warrow (P61521)
Counsel for Plaintiffs and the Putative Class

Johnson, Rosati, Schultz & Joppich, P.C.

/s/ Gary L. Dovre (with permission)

Gary L. Dovre (P27864)
Counsel for Defendant
KH149349

CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2017, I electronically filed the foregoing pleadings with the Clerk of the Court using the court's electronic filing system.

/s/ Kim Plets

Kim Plets

Kim Plets

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Case title: MASON,GARY,, VS WATERFORD TWP

Document title: Order Permitting Plaintiff Leave to File First Amended Complaint

Repository ID: 8a6a811359d4dae60159d7522e812ade

Number of pages: 2

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Edward F. Kickham III

Kimberly A. Plets

No Firm Specified

Gary L. Dovre

Gregory D. Hanley

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Case title: MASON,GARY,, VS WATERFORD TWP
Document title: First Amended Class Action Complaint
Repository ID: 8a6a811359f3c1150159f535262f0a75
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