

VILLAGE OF BINGHAM FARMS, MICHIGAN

CODE OF ORDINANCES

2021 S-18 Supplement contains

Local legislation current through Ord. 262, passed 4-26-2021

Published by:

American Legal Publishing Corporation

525 Vine Street, Suite 310

Cincinnati, Ohio 45202

Tel: (800) 445-5588

Fax: (513) 763-3562

Internet: <http://www.amlegal.com>

CHARTER OF

VILLAGE OF BINGHAM FARMS, MICHIGAN

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Preamble

We; the residents of Bingham Farms, by virtue of the rights granted us by the Constitution and the laws of the State of Michigan, wishing to preserve our simple rural way of life and the character of our neighborhood, do hereby ordain and establish this Village of Bingham Farms Charter.

CHAPTER I

BOUNDARIES AND WARD

The Village of Bingham Farms shall include those portions of Sections 4, 5, 8 and 9, Town 1 North, Range 10 East, Southfield Township, Oakland County, Michigan, included within the following described boundaries, to-wit:

"Part of Sections 4, 5, 8 and 9, Town 1 North, Range 10 East, Southfield Township, Oakland County, Michigan, described as beginning at the N. $\frac{1}{4}$ corner of said Section 4; thence southerly along N. and S. $\frac{1}{4}$ Section line to the S. $\frac{1}{4}$ corner of said Section 4 or North $\frac{1}{4}$ corner of said Section 9; thence southerly along N. and S. $\frac{1}{4}$ Section line to the center of said Section 9; thence easterly along the north line of Brooks Park Subdivision to the N.E. corner of said subdivision; thence southerly along the east line of said subdivision to the S.E. corner of lot 13 of said subdivision; thence westerly along the south line of lot 13 of said subdivision to the S.W. corner of said lot 13, thence northerly 60 feet to the S.E. corner of lot 12 of said subdivision; thence westerly along the south line of lots 12, 11, 10 and 9 of said subdivision to the S.W. corner of lot 9 of said subdivision; thence southerly 60 feet to the S.E. corner of lot 8; thence westerly along the south line of lot 8 of said subdivision to the S.W. corner of lot 8 of said subdivision; thence northerly along the west line of lot 8 of said subdivision to the south line of "Franklin River Heights" subdivision; thence westerly along the southerly line of said "Franklin River Heights" subdivision to S.W. corner of said subdivision; thence northerly along westerly line of said subdivision to N.W. corner of said "Franklin River Heights" subdivision located in E. and W. $\frac{1}{4}$ Section 9; thence westerly along E. and W. $\frac{1}{4}$ Section line of said Sections 9 and 8 to the westerly line of 150 ft. Telegraph Road; thence northerly along said westerly line of Telegraph Road to the northerly line of said Section 5; thence easterly along northerly line of said Sections 5 and 4 to the point of beginning," be incorporated as a village pursuant to the provisions of Act No. 278 of the Public Acts of 1909 as amended.

(Note: 9.2 acres of the above description were detached from the Village and attached to the Village of Beverly Hills at an election held March 11, 1963.)

CHAPTER II

POWERS IN GENERAL

SECTION 1. The Village of Bingham Farms shall have a corporate seal, may sue and be sued, may contract and be contracted with and shall have, exercise and enjoy such powers as are conferred by the Constitution and laws of the State of Michigan and by this charter and also such powers as are necessarily or fairly implied in or incidental to those expressly granted or are essential to the declared objects and purposes of the Village. The enumeration of specific powers in this charter shall not be construed as a limitation upon the general powers granted by State law or by this charter.

SECTION 2. The Village shall have the power:

- (1) To acquire by purchase, gift or lease, personal property of a value not to exceed \$20,000, for any public use or purpose within the scope of its powers, and to hold, manage, control, sell or otherwise dispose of the same without approval of the electorate and to acquire and dispose of personal property of a value exceeding \$20,000 with the prior approval of a majority vote of the electors voting thereon; (Section 2(1) as amended November 6, 2018)
- (2) To provide by ordinance for Village planning and zoning as provided for by the statutes of the State of Michigan;
- (3) To enact a building and housing code; to regulate the erection and repair of buildings and to require building permits therefor; to prevent the erection of unsafe buildings; to provide for the removal of unsafe buildings and to regulate the maintenance and occupancy of buildings insofar as the same affects health and safety;
- (4) To establish and maintain definite fire limits and to prohibit within such limits the construction of buildings and other structures of wood and other materials easily inflammable; to enact ordinances in relation to the prevention and suppression of fires; and to provide for the inspection of private property for the purpose of determining whether a fire hazard exists;
- (5) To regulate the location, construction, size and height of billboards and the maintenance thereof;
- (6) To prohibit hunting within the Village limits;
- (7) To regulate and license trades, occupations and public places of amusement, not inconsistent with state and federal laws, whether the same be specifically herein mentioned or not;
- (8) To prescribe the terms and conditions upon which licenses shall be granted and may require the payment of such license fees and the furnishing of such bond as the Commission shall deem reasonable and proper. Licenses shall be subject to revocation by the Commission as provided in each particular ordinance;
- (9) To regulate the speed of motor vehicles and to prohibit the reckless driving thereof upon the streets, highways and alleys of the Village and also upon any private road dedicated as such upon any recorded plat;
- (10) To regulate traffic and parking of automobiles and other vehicles; to prohibit such parking on designated highways, streets, and alleys or parts thereof; to provide for the impounding of vehicles parked in violation of such regulations or prohibitions and of vehicles abandoned and left on the streets, highways and alleys of the Village; and to provide for the sale of any impounded vehicle which shall not be claimed and the impounding and other charges paid within sixty days after being impounded. The word "highways" as used in this paragraph shall include any private road dedicated as such upon any recorded plat;
- (11) To prohibit by ordinance the pollution of any stream or water course within the Village limits;
- (12) To make contracts or arrangements with the Franklin Village Volunteer Fire Department, Inc., and/or any governmental unit, individual or corporation for fire protection and for the services of a fire department and with any governmental unit for police protection and the services of a police department. (Section 2 as amended September 13, 2005)

SECTION 3. The Village shall not have the power:

- (1) To acquire by purchase or gift or any real property if the value exceeds \$10,000 or by lease if the annual rental exceeds \$10,000, any real property, unless the acquisition shall have first been approved by two-thirds of the electors voting thereon at any general election. The Village may lease office space which shall be exempt from the annual rental limitation. (Section 3 as amended September 13, 2005)

CHAPTER III

PLAN OF GOVERNMENT

SECTION 1. All powers of the Village of Bingham Farms, except as otherwise provided by statute or this charter, shall be vested in the Council which shall consist of a president and six (6) trustees to be elected at large.

SECTION 2. The Council shall constitute the legislative and governing body of said Village of Bingham Farms, with power

and authority to pass such ordinances and adopt such resolutions as they shall deem proper in order to exercise the powers possessed by said Village of Bingham Farms.

SECTION 3. The president and trustees shall be elected on a non-partisan ticket from the Village of Bingham Farms at large and shall be subject to recall as hereinafter provided. No person shall be eligible to the office of president or trustee who shall not be at the time of his election or appointment 25 years of age, a citizen of the United States, a resident of the territory incorporated as the Village of Bingham Farms, and an owner of real property in the Village of Bingham Farms, or the lawful wife or husband of such person.

SECTION 3-A. With the exception of the offices of Clerk, Treasurer, and Assessor, no person shall be elected or appointed to any office unless he or she shall be an elector of the Village of Bingham Farms. No person shall be elected or appointed to any office in the Village of Bingham Farms who has been or is a defaulter to the Village or to any board or municipal corporation of the state. All votes for any appointment of such defaulter shall be void. Not more than 30 days after receiving notice of his or her election or appointment, all officers of the Village, whether elected or appointed, shall take and subscribe the oath of office prescribed by the constitution of the state, and Chapter III, Section 23 of this Charter and file the oath with the Village Clerk. An officer who fails to comply with the requirements of this subsection shall be considered to have declined the office. (Section 3-A as amended September 13, 2005)

SECTION 4. At the election at which this charter shall be submitted there shall be elected a president whose term of office shall begin upon the taking effect of this charter and who shall serve until 8:00 p.m. on the second Monday following the regular municipal election in the year 1957. At the regular municipal election in the year 1957 and every second year thereafter shall be elected a president, whose term of office shall begin at 8:00 p.m. on the second Monday following the regular municipal election in the second year thereafter.

SECTION 5. At the election at which this charter shall be submitted there shall be elected six (6) trustees whose terms of office shall begin upon the taking effect of this charter. The three (3) candidates for trustee receiving the highest number of votes at said election shall be deemed to be elected and shall serve until 8:00 p.m. on the second Monday following the regular municipal election in the year 1957, and the three candidates for trustee receiving the next highest number of votes at said election shall be deemed to be elected and shall serve until 8:00 p.m. on the second Monday following the regular municipal election in the year 1956. In the event that the determination of the term of office of two or more candidates is impossible because of a tie vote, then the same shall be determined by lot. At the regular municipal election in the year 1956 and every year thereafter there shall be elected three trustees. The term of office of each trustee, except those elected at the election at which this charter is submitted, shall begin at 8:00 p.m. on the second Monday following his election, and shall expire at 8:00 p.m. on the second Monday following the regular municipal election in the second year thereafter. The Council shall be the judge of election and qualification of its own members, subject, however, to the provisions of the laws of the State in respect to recounts and to review by the courts in appropriate proceedings.

SECTION 6. At 8:00 p.m. of the day upon which this charter shall take effect, and at the same time on the second Monday following each regular municipal election thereafter, the Council shall meet for the purpose of organization. The first organization meeting shall be held on the premises of the Outland Riding Academy or such other place as council may adjourn to and thereafter the organization meetings shall be held at the usual place for holding meetings of the Council. Other meetings of the Council shall be held at such times as may be prescribed by ordinance or resolution, provided that it shall meet regularly and not less than once a month. The president or any two trustees may call special meetings of the Council upon at least twenty-four (24) hours' written notice to each member, served personally or left at his usual place of residence, provided, however, any special meeting at which all members of the Council are present shall be a legal meeting for all purposes, without such written notice. All meetings of the Council shall be public and any person may have access to the minutes and records thereof at all reasonable times. The Council shall determine its own rules and order of business. It shall keep a journal of the proceedings in English which shall be signed by the President and Clerk.

SECTION 7. Four members of the Council shall constitute a quorum, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance, and all pending business noticed or set down for hearing at such meeting shall be taken up and heard at such adjourned meeting or at the next regular meeting without further notice. The Council shall act only by ordinance or resolution. The affirmative vote of a majority of the Council shall be required for the passage of any ordinance or resolution unless in any given case a different number is required by this Charter or State law. (Section 7 as amended March 11, 1974)

SECTION 8. Duties of President.

(1) The President shall be the chief executive of the village of Bingham Farms. He shall preside at the meetings of the Council. He shall be deemed a member of the Council. He shall from time to time give the Council information concerning the affairs of the corporation and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the affairs of the Village of Bingham Farms and over the public property belonging thereto and see that the laws relating to the Village of Bingham Farms and the ordinances and regulations of the Council are enforced. (Section 8 (1) as amended March 11, 1974)

(2) The Council may establish and/or contract for a Police Department, including appointing and/or contracting a Police Chief. The Police Department and Police Chief shall be subject to the direction of the President and Council. It shall be the Police Department and Police Chief's duty to see that all ordinances and regulations of the Council made for the preservation of quiet, good order, and for the safety and protection of the inhabitants of the Village, are promptly enforced. The Police Department and Police Chief shall, within said Village, be vested with all the powers conferred upon sheriffs for the preservation of quiet and good order. The Police Department and Police Chief shall have the power to serve and execute all process directed or delivered to them, in all proceedings for violations of the Ordinances of the Village. Such

process may be served anywhere within the County in which said Village is located. (Section 8(2) as amended November 6, 2018)

(3) The President may remove any officer appointed by him at any time when he shall deem it for the public interest. He shall have authority at all times to examine and inspect the books, records and papers of any agent, employee, or officer of the corporation, and shall perform generally all such duties as are or may be prescribed by the ordinances of the Village of Bingham Farms. (Section 8(3) as amended November 6, 2018)

(4) In the absence or disability of the President, the President Pro Tempore of the Council shall perform the duties of the President.

SECTION 9. The Council shall at its organization meeting following the adoption of this Charter and at each organization meeting following each regular municipal election, elect by ballot a member of the Council as President Pro-Tem, who, during the absence or disability of the President to perform his duties, shall act in his stead and shall exercise all the duties and possess all the powers of the President. In the absence or disability of the President Pro-Tem, the Council may temporarily appoint one of its members to preside.

SECTION 10. The President and Trustees shall receive not less than one dollar (\$1) for each meeting but not more than twenty-five dollars (\$25) in any one year. Said officers shall receive no other compensation for services performed for and on behalf of said Village of Bingham Farms during their term of office. All other officers except where other provision is made herein or by law regulating fees for services shall receive such compensation as the Council shall prescribe.

SECTION 11. Absence from five (5) consecutive regular meetings of the Commission shall automatically operate to vacate the seat of a member of the Council, unless the absence is excused by the commission by resolution setting forth such excuse.

SECTION 12. The Village of Bingham Farms Council shall have authority to appoint advisory committees, and to change the same from time to time. One person may be appointed to two or more offices except that the office of the Clerk and Treasurer shall not be filled by the same person.

SECTION 13. The Council shall whenever a vacancy occurs elect a Village Clerk, Treasurer and Assessor who shall serve for a period of one year and the term of office of such officials shall begin at 8:00 p.m. on the second Monday following their election. The salaries of the Clerk, Treasurer and Assessor shall be set by the Council and the salary of the Clerk shall not be less than the salary of the President and/or Trustee. (Section 13 as amended March 9, 1987)

SECTION 14. Village Clerk Powers and Duties.

The Clerk shall keep the corporate seal and all the documents, official bonds, papers, files and records of the Village, not by this act or the ordinances of the Village entrusted to some other officer; he shall be Clerk of the Council and shall attend its meetings. In case of the absence of the Clerk, or if from any cause he shall be unable to discharge, or be disqualified from performing the duties required of him, then the Council may appoint one (1) of their own number, or some other person, to perform the duties of the Clerk for the time being. The Clerk shall record all the proceedings and resolutions of the Council, and shall, when required, make and certify, under the seal of the Village, copies of the papers and records filed and kept in his office; and such copies shall be evidence in all places of the matters therein contained, to the same extent as the original would be. He shall possess and exercise the powers of the Township Clerk so far as the same are required to be performed within the Village, except as to the filing of chattel mortgages; and he shall have authority to administer oaths and affirmations.

SECTION 15. The Council may provide by ordinance for the appointment of additional officers for the Village of Bingham Farms.

SECTION 16. Village Treasurer and Duties.

The Treasurer shall have the custody of all moneys, bonds other than official, mortgages, notes, leases, and evidences of value belonging to the Village; he shall receive all moneys belonging to, and receivable by the corporation and keep an account of all receipts and expenditures thereof; he shall pay no money out of the treasury, except in pursuance of, and by authority of law, and upon warrants signed by the Clerk and President, which shall specify the purpose for which the amounts thereof are to be paid; he shall collect and keep an account of and be charged with all taxes and moneys appropriated, raised, or received for each fund, and shall credit thereto all moneys raised, paid in, or appropriated therefor, and shall pay every warrant out of the particular fund raised for the purpose for which the warrant was issued. He shall give bond in such amount and with such sureties as is satisfactory to the Council. Premium on all bonds of officials shall be paid by the Village of Bingham Farms.

SECTION 17. The Village Assessor shall perform such duties in relation to the assessing of property and levying of taxes as are prescribed by this Charter.

SECTION 18. All officers of the Village of Bingham Farms shall perform such duties and possess such powers as are or may be prescribed by this Charter, by the general laws of the State and by the Council. (Section 18 as amended September 13, 2005)

SECTION 19. All elective officers, and all officers who are appointed for a definite term or periodically, shall hold office until their successors are elected or appointed, and duly qualify. (Section 19 as amended September 13, 2005)

SECTION 20. In addition to other provisions herein contained, vacancy shall exist in any elective office when an elected

officer fails to qualify as in this Charter provided, dies, resigns, is removed from office, moves from the Village of Bingham Farms or is convicted of a felony. (Section 20 as amended September 13, 2005)

SECTION 21. No member of the Council or other officer or employee of the Village of Bingham Farms shall solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person, firm or corporation which tends to influence the manner in which he or another Council member, officer or employee of the Village of Bingham Farms performs official duties. (Section 21 as amended March 8, 1982 and September 13, 2005)

SECTION 22. It shall be the duty of the Village Clerk, within two (2) days after the meeting and determination of the Council, as provided in this Charter, to notify each person elected, in writing, of his election; and he shall also, within two days after the appointment of any person to any office, in like manner notify such person of the appointment. (Section 22 as amended September 13, 2005)

SECTION 23. Every officer elected or appointed to any Village office, before entering upon the duties of the office, shall take and subscribe to an oath of office, which shall be filed and kept in the office of the Village Clerk, to support the Constitution of the State of Michigan; endeavor to secure and maintain an honest and efficient administration in the affairs of the Village of Bingham Farms, free from partisan distinction or control; and to perform the duties of the office to the best of his or her ability. An officer that fails to do so within thirty (30) days of receiving notice of his or her election or appointment shall be deemed to have declined the office. (Section 23 as amended September 13, 2005)

SECTION 24. If for any reason any appointment shall not be made by the Council within the time provided in this Charter, it may be made at any subsequent regular or special meeting. (Section 24 as amended September 13, 2005)

SECTION 25. A vacancy in any elective office shall within thirty (30) days after such vacancy occurs be filled by appointment by a majority of the members of the Council, or of the remaining members of the Council when the vacancy is in the Council. Such appointee shall hold office until the next regular municipal election, taking place more than forty (40) days after such vacancy occurs, at which election a successor shall be elected for the unexpired term of the person in whose office the vacancy occurs. Provided, however, that the term of no member shall be lengthened by his resignation and subsequent appointment. When a vacancy occurs in any office to which a person has been appointed for a definite term, such vacancy shall within thirty (30) days be filled for the unexpired term, by appointment made in the manner provided for full term appointment to such office. (Section 25 as amended September 13, 2005)

SECTION 26. When the Council shall deem it necessary, they may establish a Board of Health for the Village of Bingham Farms and appoint officers therefor, make rules for its government and invest it with such powers and authority as may be necessary for the protection and preservation of the health of the inhabitants. (Section 26 as amended September 13, 2005)

SECTION 27. The Council shall provide for the public peace and health, and for the safety of persons and property. (Section 27 as amended September 13, 2005)

CHAPTER IV

REGISTRATION, NOMINATION AND ELECTION

Registration

The Village of Bingham Farms originally shall consist of one ward and one voting precinct. The Council may from time to time establish by ordinance convenient election precincts.

SECTION 1. The registration and re-registration of electors in the Village of Bingham Farms shall be conducted as provided for in the Constitution and general laws of the State of Michigan.

Nomination

SECTION 2. Candidates for any elective office, to be voted for at any municipal election under the provisions of this Charter, shall be nominated by petition in the manner hereinafter prescribed and the names of such candidates for any office and no others shall be printed on the election ballot to be voted for at the next regular municipal election.

SECTION 3. Such petition for nomination shall be in substantially the following form:

We, the undersigned, being duly qualified electors of the Village of Bingham Farms do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for (name of office) at the election to be held in said Village on _____ the _____ day of _____, 19____. We further state that we know him to be a qualified elector of said Village and a person of good moral character and qualified in our judgment for the duties of such office.

Names of qualified electors:

It shall be unlawful for any person to sign more than one such nominating petition for the same office, except where two or more candidates are to be elected for the same office, then he may sign as many petitions as there are persons to be elected for said office.

Such petition shall be without any mark or designation showing the party affiliation of the person being so nominated. The person circulating a nominating petition shall, before the acceptance of such petition by the Village Clerk, subscribe to the following oath:

State of Michigan

ss.

County of Oakland

_____ being duly sworn deposes and says that he is the circulator of the foregoing petition containing _____ signatures, that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be, and that all of said signers are qualified electors of said Village to the best of his knowledge and belief.

Signed _____

Subscribed and sworn to before me this _____ day of _____, 19____ .

, Notary Public

Oakland County, Michigan

My commission expires _____

SECTION 4. All nominating petitions shall be filed with the Village Clerk on or before four p.m. on the sixth Monday prior to any regular or special election at which any officer or officers of the Village is or are to be elected. No person shall be nominated to any office in the Village unless the petition or petitions filed in his behalf for such office have been signed by not less than fifteen (15) qualified electors of the Village. The petition or petitions filed for any candidate shall not contain more than twenty (20) signatures of qualified electors. (Section 4 as amended March 14, 1983)

SECTION 5. The Village Clerk shall forthwith examine the petition or petitions filed for each candidate and if satisfied that the required number of electors have signed the same, he shall endorse thereon the word "APPROVED" with the date of filing the same; but should he find that the petition or petitions for any candidate do not contain the required number of names of the electors as herein provided, he shall immediately notify such candidate of the additional number of names of electors required.

SECTION 6. When the petitions for nomination of any candidate shall be found to contain the required number of names of electors, the Village Clerk shall forthwith notify the persons therein placed in nomination. Any person, desiring to become a candidate for any elective office, shall on or before four p.m. of the fourteenth day prior to such election, file with the Clerk an acceptance of such nomination in substantially the following form:

State of Michigan

ss.

County of Oakland

I, _____, being first duly sworn, say that I reside in the Village of Bingham Farms, County of Oakland, State of Michigan; that I am a qualified elector therein; that I accept nomination for the office of _____ to be voted upon at the election to be held on _____ the _____ day of _____, 19____, and that I possess the legal qualifications therefor, and I hereby request that my name be printed upon the official ballot for election to such office.

Signed _____

Subscribed and sworn to before me, a notary public, on this _____ day of _____, 19____ .

, Notary Public

Oakland County, Michigan

My commission expires _____

SECTION 7. All such petitions shall be open to public inspection after being filed in the Office of the Village Clerk, in accordance with such reasonable rules and regulations as shall be prescribed by him.

Elections

SECTION 8. Regular municipal elections shall be held for the Village of Bingham Farms on the second Monday in March of

each year for the election of officers of said Village in accordance with the provisions of this Charter.

SECTION 9. Special elections may, subject to the general laws of the State, be held at such times as the Council may by resolution determine, the purpose and object of which shall be set forth in the resolution calling such election.

SECTION 10. Notice of the time and place of holding any election and of the officers to be elected and the questions to be voted upon, shall except as herein otherwise provided, be given by the Clerk in the same manner and at the same times as provided in the State election laws for the giving of notices by village clerks in State elections. Such notice of the election shall be posted in three (3) public places in the Village of Bingham Farms, and a copy shall be published in a newspaper in the Village, if any is published therein, at least two weeks prior and not more than four weeks before the election. The affidavit of the Clerk as to such posting and publishing shall be conclusive proof thereof.

SECTION 11. Election ballots shall be printed without any party mark, emblem, vignette, or designation whatever, on plain, substantial paper, and the same shall be printed, numbered, and the names of candidates transposed and alternated, in accordance with the provisions of the general laws of the State regulating the same at elections in this State. Beneath the names printed on the ballots for each office, there shall be printed one or more blank lines according to the number to be elected to such office, with squares to the left thereof, so that the elector may write or paste thereon the names of any person other than those printed thereon, and to vote for such person by placing a cross in the square opposite his name.

SECTION 12. The ballot for officers shall be in substantially the following form:

OFFICIAL BALLOT

Candidates for election to the Village offices of (naming offices to be filled) of the Village of Bingham Farms at the election held on the _____ day of _____, 19____.

(Place a cross in the square opposite the names of the persons for whom you desire to vote.)

FOR PRESIDENT

Vote for One

(Here list the names of candidates with a square at the left of each name.)

FOR TRUSTEES

Vote for (designate the number of Commissioners to be elected)

(Here list the names of candidates with a square at the left of each name.)

SECTION 13. The Village Clerk shall prepare all ballots for printing and copies of all ballots shall be on file in the office of the Clerk at least ten (10) days before the election. The Clerk shall cause to be delivered at each polling place prior to the time of the opening of the polls a number of ballots equal to at least one and one-fourth (1-¼) times the registered electors in such polling precinct, and also all supplies, stationery, books, blanks and accessories necessary for the conduct of elections.

SECTION 14. Immediately upon the closing of the polls the Board of Election Inspectors shall count the ballots and ascertain the number of votes cast for each of the candidates and upon each of the questions and propositions voted upon and shall make immediate returns thereof to the Village Clerk upon blanks to be furnished by the Village Clerk.

SECTION 15. A recount of the votes cast at any Village election for any office or upon any proposition may be had in accordance with the general election laws of the State.

SECTION 16. The person receiving the highest number of votes for any office shall be deemed to have been duly elected to that office. If more than one person is to be elected to any office, then the persons, equal in number to the number to be elected to that office receiving the highest number of votes for that office, shall be deemed to have been duly elected to that office. (Section 16 as amended September 13, 2005)

SECTION 17. If any person shall make a false oath or affidavit in connection with any matter required by this Chapter or shall violate any provision of this Chapter or shall knowingly neglect or refuse to perform any duty herein prescribed, such person shall be guilty of a misdemeanor, and upon conviction shall be punished as in this Charter provided.

SECTION 18. The inhabitants of the Village, having the qualifications of electors under the Constitution and general laws of the State and no others, shall be electors therein. Every elector of the Village who is registered in the Village registration book in accordance with the general laws of the State shall be entitled to vote at any election held under the provisions of this Charter.

SECTION 19. The polls for all municipal elections shall be open at 7:00 a.m. of election day and remain open until 8:00 p.m. of said day.

SECTION 20. The Council shall provide all necessary voting booths, equipment, ballot boxes and supplies for the conduct of all elections.

SECTION 21. The general election laws of the State when applicable shall apply to all regular and special Village elections, in relation to polling places and their equipment, inspectors and clerks of election and their appointment, powers and duties, the powers and duties of all Village officers, the conduct of elections and the manner of voting, assisted voters, absent

voters, election returns, canvass by precinct inspectors, recounts and correction of frauds and errors in return, and in general to all election matters whether the same be herein specifically enumerated or not; provided, however, that when there is a conflict between such general laws and this Charter, then the provisions of the general laws of the State shall control. (Section 21 as amended November 6, 2018)

SECTION 22. Inspectors and clerks of election shall be appointed by the Village Council and shall receive such compensation as shall be fixed by the Council.

SECTION 23. The Village Council shall have power, and it shall be their duty to remove any inspector or clerk of election if in their judgment such inspector or clerk should be removed for the proper and efficient conduct of the election; to fill any vacancy in the office of inspector or clerk of election; and in general to perform such acts as election commissions in villages are authorized to perform.

SECTION 24. If at any election of municipal officers there shall be no choice between candidates by reason of two or more candidates having received an equal number of votes, then the Commission shall appoint a date for the appearance of such persons as have received tie votes, for the purpose of determining by lot among such persons the right to such office, and shall cause notice thereof to be given to all such persons interested, if such persons can be found. The manner of determining by lot shall be the same as provided by the general laws of the State for such determination in case of a tie vote for a County officer. In no case, however, shall the election of any person be determined by lot without first a recount of the votes cast at such election, if one of the persons receiving such tie vote shall demand such a recount.

SECTION 25. No informalities in conducting a municipal election shall invalidate the same if such election shall be conducted in substantial conformity with the requirements of this Charter.

CHAPTER V

RECALL

SECTION 1. Any elective officer of the Village of Bingham Farms may be removed by the qualified electors of the Village in accordance with the general laws of the State providing for recall of village officials.

CHAPTER VI

ORDINANCES

SECTION 1. The enacting clause of all ordinances shall read "The Village of Bingham Farms ordains," but such caption may be omitted when said ordinances are published in book form by authority of the Council. Each proposed ordinance shall be introduced in written or printed form.

SECTION 2. Except as otherwise provided in this Charter, the council shall have power by ordinance to amend or repeal any ordinance, in whole or in part. No ordinance shall be amended by reference to its title only, but the section or sections of the ordinance to be amended shall be re-enacted at length. Any ordinance may be repealed by reference only to its number and title.

SECTION 3. All ordinances shall be recorded in an indexed book marked "Ordinance Book" and the record of each ordinance shall be authenticated by the signature of the President and Clerk. Such record and authentication shall be done promptly after the final passage of the ordinance but failure to so record and authenticate any ordinance shall not invalidate it or suspend its operation. Within one (1) week after the passage of any ordinance, the same shall be published in a newspaper printed in the Village, if any is published therein, otherwise copies of the ordinance shall, within the same time, be posted in three (3) of the most public places in the Village; and the Clerk shall immediately after such publication or posting, enter in the record of ordinances, in a blank space to be left for such purpose under the record of ordinances, a certificate under his hand, stating the time and places of such publication or posting. Such certificate shall be prima facie evidence of the due publication posting of the ordinance.

SECTION 4. Every ordinance shall become effective upon its publication unless a later effective date is provided therein.

SECTION 5. The Village Council shall have the authority to provide in any Ordinance for the punishment of those who violate the same by a fine not exceeding \$500.00 or imprisonment not exceeding 90 days, or both. However, unless otherwise provided by law, an Ordinance may provide that a violation of the Ordinance is punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. The Village Council shall also have the authority to adopt Ordinances that designate a violation of the Ordinance as a civil infraction and provide a civil fine for that violation. (Section 5 as amended November 6, 2018)

SECTION 6. Prosecution for violation of any ordinance of the Village shall be commenced within two (2) years after the commission of the offense; provided that the limitation herein imposed shall not be construed as a limitation on the Village's

right to forfeit any franchise, grant or license for violation of the terms and conditions thereof after said two-year period.

SECTION 7. In all judicial proceedings, it shall be sufficient to plead any ordinance by title and the number of applicable section or sections, and it shall not be necessary to set forth the entire ordinance or section in any pleadings.

SECTION 8. Judicial notice shall be taken of the enactment, existence, provisions and continuing force of all ordinances of the Village.

SECTION 9. Whenever it shall be necessary to prove any ordinance in any judicial proceedings, the same may be proved by a record thereof kept by the Clerk, by a copy thereof duly certified as a true copy by the Clerk, under the seal of the Village, or from any volume purporting to have been published, printed and compiled by authority of the Council.

CHAPTER VII

INITIATIVE AND REFERENDUM

SECTION 1. Any ordinance which may legally be adopted by the Council of the Village of Bingham Farms may be proposed by petition signed by a number of registered electors of the Village of Bingham Farms equal in number to at least ten percent (10%) of the number of registered electors in the Village as certified by the Village Clerk. Such petition shall be addressed to the Council and shall set forth at length the ordinance proposed to be enacted. With each signature attached thereto, there shall be given the street and house number of the residence of the elector so signing and the date when such signature was attached. The petition may be signed on separate identical forms, but all signed counterparts of the petition shall be filed with the Village Clerk at one and the same time. An affidavit made by a registered elector of the Village shall be attached to each signed counterpart of the petition, which shall state that each signature appearing upon such counterpart is the genuine signature of the person of whom it purports to be, and that to the best of affiant's knowledge and belief, the signers whose names are attached thereto are registered electors of the Village of Bingham Farms.

SECTION 2. Said petition, when signed by the requisite number of registered electors, shall be filed with the Village Clerk. Such Clerk shall attach thereto a certificate, setting forth the name and address of the person or persons filing the said petition in his office and the date when said petition was filed. A copy of said petition, exclusive of signature, and of said certificate shall be entered in a record book to be kept for that purpose in the office of the Village Clerk.

SECTION 3. Within fifteen (15) days from the date of the filing of said petition with the Village Clerk, it shall be the duty of such Clerk to ascertain by comparison of said petition with the registration records of the Village of Bingham Farms, whether or not such petition is signed by the requisite number of registered electors and following such examination, the Clerk shall attach to such petition his certificate showing the result of such examination.

SECTION 4. If the certificate of the Clerk so attached shows the petition to be insufficient, he shall within ten (10) days cause notice in writing, setting forth the fact that such petition is found to be insufficient to be served upon at least one of the persons designated in the certificate attached by him to said petition as the persons who filed said petition in his office. Depositing the said notice in the United States mail, addressed to such person at the address shown on the certificate provided in Section 2 of this Chapter, shall be deemed sufficient service. Additional signatures to such petition, properly verified as hereinbefore provided, may be filed with the Clerk at any time within twenty (20) days from the date of the service of such notice. The Village Clerk shall attach his certificate to such additional signed counterparts of the petition showing the date when the same were filed, and shall cause said certificate to be entered in the record book along with the original record of the petition and certificate. The Clerk shall, within five (5) days after the filing of such additional signed copies of the petition, make like comparison of the additional signatures with the registration books and attach thereto his certificate of the results. If the number of signatures is still shown to be insufficient, or if no additional signatures are so filed, such petition shall be deemed to be of no effect. A new petition for the same purpose, however, may be later filed.

SECTION 5. When the petition shall be found by the Village Clerk to be sufficient, he shall so certify to the Council at its next regular meeting.

SECTION 6. If such petition shall be signed by the required number of registered electors of the Village, the Council shall, within twenty (20) days after the meeting at which such petition is submitted to it, either:

(a) Pass said ordinance without alteration, subject to the referendum provided by this Charter, or

(b) Reject said ordinance and submit the same without alteration to the vote of the qualified electors of the Village at the next regular or special election occurring not less than fifty (50) days from the date of such rejection by the Council; provided, however, that the Council may, by a five-sixths (5/6) vote of the Trustees, call a special election for the purpose of submitting such ordinance, the same to be held not less than fifty (50) days after the rejection of such ordinance by the Council.

SECTION 7. Within thirty (30) days after the publication of any ordinance duly passed by the Council, a petition may be presented to the Council by filing the same with the Clerk, protesting against such ordinance continuing in effect. Said petition shall contain the text of such ordinance and shall be signed by registered electors of the Village equal in number to at least ten percent (10%) of the number of registered electors in the Village as certified by the Village Clerk. Said ordinance shall thereupon and thereby be suspended from operation unless the Council shall, by unanimous vote of those present at its first meeting after the filing of said petition, declare that such ordinance is necessary for the immediate preservation of the

public health, peace or safety. The Council shall immediately reconsider such ordinance and if the same be not repealed, the Council shall submit the question of its approval or disapproval to a vote of the electors of the Village at the next regular or special election occurring in not less than fifty (50) days; provided, that the Council, by a five-sixths (5/6) vote of its members-elect, may call a special election for the purpose of submitting said question, such election to be held in not less than fifty (50) days from the calling thereof. If a majority of the electors voting thereon at such election vote in favor thereof, said ordinance shall be deemed to have been approved and shall be in full force and effect, otherwise it shall be null and void. The procedure in regard to such petition of protest and referendum shall be the same as provided in this Chapter for the initiative and referendum on proposed ordinance, with such modification as the nature of the case may require.

SECTION 8. The Council may, of its own motion, submit to a referendum for adoption or rejection at any regular or special election held in said Village for any proposed ordinance, in the same manner and with the same force and effect as provided in this Chapter for submission on petition. No such ordinance shall be submitted, however, at any election to be held less than fifty (50) days from the date of the meeting of the Council at which such ordinance is ordered submitted.

SECTION 9. If the provisions of two or more proposed ordinances adopted or approved at the same election are inconsistent, then the ordinance receiving the highest affirmative vote shall prevail.

SECTION 10. Whenever any ordinance is submitted to the voters of the Village at any election, the Council shall cause such ordinance to be published by inserting the same in full at least once in newspapers of general circulation in the Village or published by posting the same in ten (10) conspicuous places in the Village, such publication to be made not less than ten (10) days before such election.

SECTION 11. The ballot or ballot labels used when voting upon such ordinance shall be provided in accordance with law, and shall state the nature of the ordinance in terms sufficient to identify it. If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, the same shall thereupon become an ordinance of the Village.

SECTION 12. An ordinance adopted by the electors through initiatory proceedings may not be amended or repealed by the Council for one (1) year after the date of the election at which it was adopted. An ordinance repealed by the electors may not be re-enacted by the Council for one (1) year after the date of the election at which it was repealed.

SECTION 13. In computing the number of signers to any petition provided for in this Chapter, no signature shall be counted which was affixed thereto more than sixty (60) days prior to the filing of such petition with the Village Clerk.

CHAPTER VIII

CONTRACTS

SECTION 1. No contract shall be entered into by the Village for the making of any public improvement, performing any construction work or for the purchase of any materials, tools, apparatus or any other thing or things, the consideration or cost of which shall exceed \$20,000.00, without specifications being prepared and published advertisement made for sealed proposals thereon. Upon the vote of at least five (5) Council members determining that it is not necessary to securing sealed competitive proposals, the requirement for published advertisement may be waived. The Village shall have the right to reject any or all such proposals. (Section 1 as amended March 8, 1982 and September 13, 2005)

SECTION 2. Subject to the provisions of the Charter, the Village may through its departments, officers and employees perform public work of all kinds or it may let any of such work by contract. (Section 2 as amended September 13, 2005)

SECTION 3. No public improvement, costing more than \$20,000, shall be contracted for or commenced until drawings, profiles and estimates for same shall have been submitted to the Council and approved by it; and the same or a copy thereof shall thereafter remain on file in the Office of the Village Clerk subject to inspection of the public. (Section 3 as amended September 13, 2005)

SECTION 4. No member of the Council shall vote for the authorization of any contract with or for the village, or for the expenditure of any money on the part of the Village, if he shall be financially interested in the proceeds of such contract or in the money so expended.

CHAPTER IX

GENERAL FINANCE - VILLAGE BUDGET AND FUNDS

SECTION 1. The fiscal year of the Village shall begin on the 1st day of July of each year.

SECTION 2. The Village Treasurer shall be the general accountant of the Village and shall keep a complete set of accounts showing the financial transactions of the Village, which accounts shall conform to any uniform system required by law. The Village Treasurer shall receive and disburse all moneys belonging to the Village and shall keep an accurate detailed account of all money received and disbursed by him and of the particular fund into which or from which said is paid. He shall pay out no money except upon warrant issued as in this Charter provided. He shall at least once every three months and oftener if

required, furnish the Council with a statement showing all cash on hand and in the bank at the beginning of the preceding period, the receipts and disbursements for the preceding period, the cash and bank balances at the end of the preceding period and the condition of the several funds of the Village. He shall make such other reports as the Council may require.

SECTION 3. No money shall be drawn from the treasury except upon the warrant of the Clerk countersigned by the President. Every warrant shall specify the fund from which it is payable and shall be paid from no other fund. No warrant shall be drawn upon the treasury after the fund from which it should be paid has been exhausted and if any such warrant shall be drawn it shall be void. No warrants shall be issued until the same have first been authorized by the Council; provided, however, that warrants may be issued for the payment of labor and current expenses with the prior authorization of the Council, if authorized by the President, but the total amount of such warrants issued between any successive regular meetings of the Council shall not exceed such an amount as the Council shall from time to time establish. All liquidated accounts and demands against the Village shall be received and audited by the Treasurer who shall enumerate them on a regular form prescribed by the Council. The Treasurer shall certify to the Council as to the correctness or incorrectness of the various amounts on such list. The Council shall authorize the issuance of warrants on the treasury for the payment of such items as shall be approved by it.

SECTION 4. All taxes accruing to the Village shall be collected by the Village Treasurer. All moneys received by any officer or employee of the Village for or in connection with the business of the Village, shall be paid promptly into the Village treasury, and shall be deposited by the Treasurer with such responsible banking institution as may be designated by the Council and furnish such security as the Council may determine, and all interest on such deposits shall accrue to the benefit of the Village. The Council shall provide for the prompt and regular payment and deposit of all Village moneys as required by this section.

SECTION 5. All fees received by any officer or employee in his official capacity shall belong to the Village except as in this Charter otherwise provided and except also where it is otherwise provided in the resolution or ordinance fixing the salary of any officer or employee.

SECTION 6. The revenues raised by general taxation upon all property in the Village or by loan to be repaid by such tax, shall be divided into such and so many funds as the Council may by ordinance or resolution determine.

SECTION 7. The Village shall provide such financial reporting as is required by State law. (Section 7 as amended November 6, 2018)

SECTION 8. On or before the 3rd Monday of April of each year, the Council shall prepare and file a proposed annual budget for the ensuing fiscal year, based upon detailed estimates furnished by the several Village officers, according to classification as nearly uniform as possible. The Council shall also prepare the following information:

(a) A comparative statement, in parallel columns, of the appropriation and expenditures for the current and next preceding fiscal year and the increases and decreases in the appropriation recommended;

(b) An itemized statement of the taxes required and of the estimated revenue of the village from all other sources, for the ensuing fiscal year, with comparative statement in parallel columns of the taxes and other revenues for the current and next preceding fiscal year, and of the increases and decreases estimated or proposed.

Summaries of such budget shall be published one week in advance of a public hearing which shall be held by the Council before adopting the same.

SECTION 9. Not later than the last day of the meeting of the Board of Review in each year, the Council shall pass an annual appropriation resolution, which shall be based on the budget as approved by the Council.

The total amount of appropriation shall not exceed the revenues of the Village as estimated by the Council. No liabilities shall be incurred by any officer or employee of the Village, except in accordance with the provisions of the annual appropriation resolution, or under continuing contracts and loans authorized under the provisions of this Charter. At any meeting after the passage of the appropriation resolution and after at least one week's notice to the members of the Council, the Council may amend such resolution so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenues of a class not included in the annual budget.

SECTION 10. If for any cause there shall be at the end of any fiscal year a surplus in any current expense fund, such surplus may be transferred to such other fund as the Council may deem advisable.

SECTION 11. The Council, subject to the applicable provisions of law, may authorize the borrowing of money in anticipation of the payment of special assessments. Such special assessment bonds shall be both an obligation of the special assessment district and a general obligation of the Village. All collections on each special assessment roll, to the extent that the same are pledged for the payment of the principal of, and interest on, bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of such principal and interest and shall be used for no other purpose. (Section 11 as amended March 12, 1962)

CHAPTER X

GENERAL ASSESSMENTS AND TAXATION

SECTION 1. The Village Assessor shall on or before the 1st day of May of each year, make an assessment roll of all persons and property liable to taxation in the Village, and in so doing, unless otherwise provided in this Charter, he shall conform to and be governed by the provisions of the general laws of the State governing assessing officers performing like duties in the assessment of persons and property for State, County and School taxes.

SECTION 2. The subjects of taxation for municipal purposes shall be the same as for State, County and School purposes under the general laws of the State.

SECTION 3. The Board of Review shall meet for the purpose of reviewing and correcting said assessment roll, at a designated place in the Village, on the third Saturday in May of each year and shall continue in session between the hours of 9:00 a.m. and 8:00 p.m. It shall elect a Chairman and Clerk. A majority shall constitute a quorum. The members of said Board shall take the constitutional oath of office which shall be filed with the Village Clerk. For the purpose of reviewing and correcting such assessments, the Board of Review shall have the same powers and perform like duties in all respects, as are by the general tax law conferred upon and required of boards of review in townships, in reviewing assessments in townships for State and County Taxes. They shall hear the complaints of all persons considering themselves aggrieved by such assessment, and if it shall appear that any person has been wrongfully assessed, or omitted from the roll, the Board shall correct the roll in such manner as they shall deem just.

SECTION 4. The Clerk of the Board of Review shall keep a record of all proceedings of the Board and of all changes made in the roll, and shall sign and file the same with the Village Clerk, together with statements made by persons assessed.

SECTION 5. The Village Assessor shall on or before the 1st day of May of each year mail to each taxpayer at his last known address, a notice of the meeting of the said Board of Review stating the time and place of meeting. Such notice shall also contain a statement showing the assessment on all property owned or on which taxes are paid by such taxpayer. In addition to such notice, further notice shall be given of such meeting by posting said notice in six (6) public places in the Village, not less than seven (7) days before the day of review and by publishing such notice once in a newspaper in circulation within the Village, at least seven (7) days before the day of review. Failure to give any of the notices herein specified shall not invalidate the assessment roll or any assessment therein contained.

SECTION 6. Immediately after the review of the assessment roll as aforesaid, the Chairman and Clerk of the Board of Review shall endorse the roll as provided by the general tax laws. The omission of such endorsement shall not affect the validity of such roll. Upon the completion of said roll and its endorsement in the manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for such causes as are provided in the general laws of the State for the setting aside of assessment rolls for State, County and School purposes.

SECTION 7. Subject to the provisions of this Charter and the statutes of the State, the Council shall levy such taxes each year as may be necessary to meet the appropriations made (less the estimate of the amount of revenue from other sources) and all sums required by law to be raised on account of the Village debt.

SECTION 8. The Council shall have the authority within the limits herein prescribed, to raise annually, by taxation such sums of money as may be necessary to defray the expenses and pay the liabilities of the Village and to carry into effect the powers in this Charter granted.

SECTION 9. The aggregate amount which the Council may raise by general tax upon the taxable real and personal property in the village of Bingham Farms shall not exceed in any one year \$20.00 per \$1,000.00 of the assessed value of all the real and personal property in the Village as fixed by the assessment roll of the year in which the tax was levied. (Section 9 as amended March 11, 1974).

SECTION 10. The Village Clerk shall certify to the Village Assessor the total amount which the Council determines shall be raised by general tax.

SECTION 11. After the endorsement of the assessment roll by the Chairman and Clerk of the Board of Review, and upon receiving the said certificate of the several amounts to be raised, as provided in the preceding section, the Assessor shall proceed to assess the amount of the general Village tax according and in proportion to the several valuations set forth in said assessment roll. Said roll shall be known as the "Village tax roll."

SECTION 12. After extending the taxes as aforesaid, the Assessor shall certify under his hand said tax roll, and the President of the Village shall annex his warrant thereto, directing and requiring the Treasurer to collect from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment, and authorizing him, in case any person named therein shall neglect or refuse to pay such sums, to levy the same by distress and sale of his, her or their goods and chattels, together with the costs and charges of such distress and sale. Said warrant shall further direct that all taxes paid on or before the 31st day of August of the same year, shall be collected without additional charge, and that there shall be added to all taxes paid after each 31st day of August, one percent (1%) for each and every month or fraction thereof that the same remains unpaid. The Assessor shall also prepare a true copy of said Village tax roll and the President shall execute a duplicate of said warrant and annex the same thereto, said roll to be known as the "duplicate Village tax roll." Said Village tax roll and annexed warrant and said duplicate tax roll and annexed warrant shall be delivered by the Assessor to the Treasurer on or before the first day of July of the year when made. In event said tax roll shall be lost or destroyed a new roll and warrant may be made. Before the original tax roll is deposited with the County Treasurer at the time of returning delinquent taxes, the Village Treasurer shall endorse upon the duplicate tax roll all payments made on taxes assessed therein and such duplicate tax roll shall thereupon become the official record of the Village.

SECTION 13. Village taxes shall be due on the first day of July of the year when levied and shall be payable as stated in the

warrant of the President annexed to said roll. After the delivery of the tax roll to the Village Treasurer, said Treasurer shall mail tax statements to the several persons named therein. Failure to mail or receive any such statement shall not excuse the non-payment of any tax.

SECTION 14. The Village taxes when assessed shall become at once a debt to the Village from the person to whom they are assessed, and the amounts assessed on any interest in real property shall on the first day of July of the year when assessed, become a lien upon such real property, and the lien for such amounts for all interest and charges shall continue until payment thereof. And all personal taxes shall also be a first lien on all personal property of such persons so assessed, from and after the first day of July of the year when assessed, and shall so remain until paid, which said lien shall take precedence over all other claims, encumbrances and liens upon said personal property whatsoever, whether created by chattel mortgage, execution, levy, judgment or otherwise, and whether arising before or after the assessment of said personal taxes, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy such lien, except where such personal property is actually sold in the regular course of retail trade.

SECTION 15. If the Treasurer has been unable to collect any of the Village taxes on said roll on real property before the first day of March following the date when said roll was received by him, then it shall be his duty to return all such unpaid taxes on real property to the County Treasurer in the same manner and with like effect as returns by township treasurers of State and County taxes. Such returns shall include all the additional charges hereinbefore provided, which charges shall in such return be added to the amount assessed in said roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to such County Treasurer are collected under the provisions of the general tax laws of the State, and the same rate of interest and all charges shall be collected thereon, and all taxes upon land so returned as delinquent shall be and remain a lien thereon until paid.

SECTION 16. It shall be the duty of the Village Treasurer, upon request made by any party, to issue his certificate showing all unpaid taxes, and other charges which are a lien upon any specified property, and which are payable at his office, and he may upon being authorized by the Village Commission charge the party requesting the same such sum as the Council shall establish for each parcel. The issuance of such certificate shall not create any liability upon the part of the Village or Village Treasurer, except that in the event of fraud on the part of the Village Treasurer in the issuance thereof he shall be liable therefor.

SECTION 17. The Village Clerk, after the council has determined the several amounts which they require to be raised by general tax for the several funds of the Village, and the aggregate thereof, shall certify the same to the Village Treasurer. When such general taxes shall be received by the Treasurer, they shall be apportioned to the several funds of the Village pro rata according to the several amounts of said funds so certified.

SECTION 18. Money may be borrowed in anticipation of receipts from taxes for the payment of current expenses or to fund deficiencies in current revenue, by the issue of notes but the aggregate amount of such loans at any time outstanding shall not exceed the total of such unpaid taxes outstanding. All such loans shall be subject to the provisions of the laws of the State in relation thereto. No temporary loans authorized by this section shall be made without approval of four (4) of the members of the Council.

SECTION 19. The Village may not levy taxes for the purposes of purchasing grounds for a cemetery or for maintaining a cemetery.

CHAPTER XI

STREETS AND SIDEWALKS

SECTION 1. The Council shall have supervision and control of all public highways, streets, alleys, sidewalks, and public grounds within the Village, and may regulate the use thereof, subject to the established rights of the public therein.

SECTION 2. The Council shall have the power to construct, improve and maintain highways, streets and alleys within the Village, and shall have the authority to lay out, establish, open, widen, extend, straighten, alter, close, vacate, or abolish any highway, street or alley within the Village whenever they shall deem the same a public improvement.

SECTION 3. The cost of all construction, improvement and maintenance of highways, streets and alleys within the Village shall be paid for in accordance with the general laws of the State governing the construction, improvement and maintenance of highways, streets and alleys, within a village. In addition, the Council may determine that the whole, or any part, of the cost of the construction or improvement of highways, streets and alleys within the Village shall be defrayed by special assessment upon the property especially benefitted. The Council shall by general ordinance prescribe a complete special assessment procedure. (Section 3 as amended August 21, 1961)

SECTION 4. The Council shall have the authority to determine and establish the grade of all highways, streets, alleys, sidewalks, and public grounds within the Village, and may change any such established grades whenever in their opinion the public convenience will be promoted thereby. Whenever any such established grade is changed, however, and an adjoining property owner had previously made improvements in conformity to the established grade, such property owner shall be compensated for all damages reasonably resulting from the change in grade and the damages shall be paid by the Village and shall not be assessed against property owners benefitting from the change in grade.

SECTION 5. The Council shall not have the power to construct any new sidewalks in residential areas.

CHAPTER XII

FRANCHISES

SECTION 1. The Village shall not own or operate any public utility, nor shall it grant a franchise for the operation of any public utility within the Village limits other than for electric service, telephone service, gas service or public transportation, unless the same shall first have been approved by three-fifths (3/5) of the electors voting thereon at a general or special election.

SECTION 2. No franchise which is not revocable at the will of the Village shall be granted or become operative until approved by three-fifths (3/5) of the electors voting thereon at a general or special election.

SECTION 3. No franchise shall be granted for a longer period than thirty (30) years.

SECTION 4. No person, firm or corporation shall ever be granted an exclusive franchise.

SECTION 5. No public utility shall have the right to the use of the highways, streets, alleys or other public places for wires, poles, pipes, tracks, conduits or the like without first obtaining a proper permit from the Council, which permit shall be revocable at any time.

SECTION 6. All contracts granting, renewing, extending or amending a franchise shall be made by ordinance and not otherwise, and shall not be effective until a written acceptance is filed by the grantee with the Village Clerk.

SECTION 7. The grant of every franchise shall be subject to the right of the Village to make and enforce all regulations which shall be necessary to secure adequate and efficient service from all public utilities operating in the Village, and to protect the health, safety and welfare of the public.

CHAPTER XIII

PLANNING AND PLATS

SECTION 1. Within thirty (30) days after adoption of this Charter, the Council shall adopt an ordinance creating, under Michigan Public Acts 285 of 1931 as amended, a Village Planning Commission which shall serve without compensation. No lands or premises shall hereafter be laid out, divided or platted into lots, streets and alleys, within the Village, until such plats are approved in writing by the Council.

CHAPTER XIV

MAINTENANCE OF VILLAGE UTILITIES

(Chapter XIV as amended 3-12-1962)

SECTION 1. Public lighting and water systems or supplies shall not be constructed, provided or maintained, unless the proposed lighting, water systems or supplies shall first have been approved by three-fifths (3/5) of the electors voting at any general election or at any special election called for that purpose.

SECTION 2. The Council may determine that the whole, or any part of the cost of the acquisition, construction, replacement or improvement of any sewers or drains or facilities for the disposal of sewage or drain water shall be defrayed by special assessment upon the property especially benefitted, and the procedure therefor shall be prescribed by general ordinance.

CHAPTER XV

INTERIM LEGISLATION

The valid provisions of all by-laws, ordinances, resolutions, rules and regulations of the Township of Southfield which are not inconsistent with this Charter and which are in force and effect and lawfully applicable to the territory of the Village of Bingham Farms at the time of the effective date of this Charter shall continue in full force and effect and be administered by and for the Village until and unless repealed or amended under provisions hereof or otherwise by law; provided, however,

that if any such by-law, ordinance, resolution, rule or regulation provides for the appointment by the Township Board or Supervisor of any officer or member of a board or commission, future appointments of such persons shall be made by the Council. Fees originally payable to the Township under such provisions as to said territory hereafter shall be paid to the Village of Bingham Farms.

Any reference in any such by-law, ordinance, resolution, rule or regulation to a township board or commission shall be construed to refer instead to the Village Council.

Within thirty (30) days after the effective date hereof, the Clerk under direction of the Council shall procure, and enter and maintain in a record called "Interim Legislation," a copy of each existing township by-law, ordinance, resolution, rule and regulation disclosed by the public records of the Township; and the Council shall, within sixty (60) days after such entry, determine by resolution the provisions thereof which apply to said territory under authority of this section. The application of such provisions to this Village shall terminate not later than November 3, 1956. In the interim, as a substitute for such Township provisions, the Council shall enact whatever it deems necessary as Village legislation, with notices and hearings thereon as required by this Charter.

CHAPTER XVI

MISCELLANEOUS

SECTION 1. Whenever used in this Charter, the word "State" shall mean the "State of Michigan;" the word "Village" shall mean the "Village of Bingham Farms;" the word "Clerk" shall mean the "Village Clerk," unless from the context the contrary shall plainly appear; words referring to the several officers where not preceded by the word "Village" shall be deemed to mean such officers of the Village unless the context implies otherwise; the word "resolution" shall be deemed to include official action in form of a motion as well as in form of resolution; the terms "Commission" and "Village Commission" shall be construed as meaning "Council" or "Common Council" for the purpose of such general laws of the State as use one or the other of such latter terms in referring to the legislative body of the Village; words imparting the singular number only, may extend to and embrace the plural number and words imparting the plural number may be applied and limited to the singular number, words imparting the masculine gender only, may extend and be applied to those of the feminine gender.

SECTION 2. Eastern Standard Time shall be the official time of the Village until otherwise changed by the Council. Any references herein to time shall be construed to be according to the official time of the Village.

SECTION 3. Words purporting to give joint authority to two or more public officers or other persons either as a board or otherwise shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared.

SECTION 4. The word "person" may extend and be applied to bodies corporate as well as individuals. The words "written" and "in writing" may be construed to include printing, engraving, typewritten and lithographing, except that this rule shall not apply to provisions requiring written signatures, unless it be otherwise expressly herein provided.

SECTION 5. Should any portion of this Charter be declared void, illegal or unconstitutional, such finding shall not invalidate the remainder of the Charter.

SECTION 6. All records of the Village shall be public and open to inspection at all reasonable times.

SECTION 7. All books, papers, records, and accounts of any officer elected or appointed, or of any office or Department of the Village, shall be the property of the Village and shall at all times be subject to audit, examination or inspection by any member of the Council for that purpose. And all such books, papers, records, files and accounts shall be kept in such place as may be designated by the Council.

SECTION 8. When, by provision of this Charter, or the laws of the State, notice of any matter or proceedings is required to be published in a newspaper or posted, an affidavit of the publication or posting of the same, made by the printer of the newspaper in which the same was inserted, or by some person in the newspaper in which the same was inserted, or by some person in his employ knowing the facts, or by the person posting the same when required to be by posting, shall be prima facie evidence of the facts therein contained. Such affidavit of publication or posting shall be filed with the Village Clerk.

SECTION 9. The Village shall not be liable for unliquidated damages for personal or other injuries, unless the person suffering the injury or sustaining the damage, or someone in his behalf, shall serve a notice in writing upon the Village within sixty (60) days after such injury shall have occurred. Such notice shall specify the location and the nature of the defect or other basis of the claim, the injury sustained and the names of the witnesses to the accident which are known at that time by said claimant. The failure to so notify the Village within the time and in the manner specified herein shall exonerate, excuse and exempt the Village from any and all liability on account of such injury. Service of all notices of claims for unliquidated damages against the Village shall be made on the President or Clerk.

SECTION 10. Until otherwise changed by the Council, the seal of the village of Bingham Farms shall be circular form with the words, "Village of Bingham Farms, Michigan, 1955," around the outer edge and the words, "Corporate Seal," across the center.

SECTION 11. Every person convicted of a violation of this Charter or any Ordinance adopted pursuant thereto, shall be punished by a fine not exceeding \$500.00 or imprisonment for a period not exceeding 90 days, or both in the discretion of the Court, unless the conviction is for a violation of an Ordinance in which the Village Council has designated a punishment of imprisonment of not more than 93 days or a fine of not more than \$500.00, or both, or the conviction (finding of responsibility) for a violation of an Ordinance that has been designated by the Village Council as a civil infraction in which case the punishment shall be as provided in said Ordinances. (Section 11 as amended March 8, 1982 and November 6, 2018)

SECTION 12. Amendments to this Charter shall be initiated and submitted to the electors of the Village in the manner provided by the laws of the State. For the adoption of any amendment to this Charter or for the adoption of any revision thereof it shall require the favorable vote of a majority of the electors voting thereon at the election at which the same shall be submitted.

CHAPTER XVII

SUBMISSION AND ELECTION

SECTION 1. This Charter shall be submitted to the electors of the Village of Bingham Farms for their approval or rejection at an election the date of which shall be set by resolution of the Charter Commission; at which election the several elective officers provided for in this charter shall also be elected.

SECTION 2. Prior to the submission of this Charter it shall be published once in a newspaper published in the County of Oakland and circulated in the Village of Bingham Farms, not less than two (2) weeks, nor more than four (4) weeks, preceding said election, together with a notice of said election, which notice shall state that at said election the question of adopting said proposed Charter will be voted on, and the elective officers provided for therein will be elected, and shall also state the location of the polling place for such election and other matters required by law. Notice of said election shall also be posted in at least ten (10) public places within the Village not less than two (2) weeks prior to said election.

SECTION 3. Candidates for the several elective Village offices provided for in this Charter shall be nominated by petition signed by not less than fifteen (15) nor more than twenty (20) qualified electors of the Village and filed with the Secretary of this Charter Commission. The time and date of filing of said petitions shall be set by resolution of the Charter Commission. Such petitions shall be in substantially the form provided in Chapter IV for nominating petitions. At the said election, the names of candidates and those only, who have filed nominating petitions as aforesaid, shall be printed on the ballot.

SECTION 4. The election district for said election shall be the entire Village of Bingham Farms, and the polling place for said election shall be designated by this Charter Commission and published as herein provided.

SECTION 5. The ballots for elective offices at said election shall be in the form provided for in this Charter for the election of officers, and the form of the ballot on the question of the adoption or rejection of this Charter shall be substantially as follows:

OFFICIAL BALLOT

Election held in Village of Bingham Farms, Michigan, on _____, _____.

(Instructions: A cross (X) in the square after the word "yes" is in favor of the Charter, and a cross (X) in the square after the word "no" is against the Charter.)

"Shall the proposed Charter for the Village of Bingham Farms, drafted by the Charter Commission elected on the _____ be adopted?"

YES ()

"Shall the proposed Charter for the Village of Bingham Farms, drafted by the Charter Commission elected on the _____ be adopted?"

No ()

SECTION 6. The polls for said election shall be opened at 7:00 in the forenoon, Eastern Standard Time, or as soon thereafter as may be, and shall be continued open until 8:00 in the afternoon, Eastern Standard Time, of the same day.

Said election shall be conducted by such inspectors and clerks as shall be hereafter designated by resolution of this Charter Commission.

The votes cast at said election shall be canvassed by a canvassing board of three electors to be hereafter designated by resolution of this Charter Commission.

SECTION 7. The registration of electors shall be conducted in the manner provided by law for registration in new villages. The Secretary of this Charter Commission shall cause the ballots for said election to be printed and delivered to the polling place before the opening of the polls on said election day. The returns of the election board as to the results of said election shall be made to the canvassing board designated by this Charter Commission, immediately after the counting of the ballots is completed. Except as is in this Chapter and in the general laws of the State otherwise provided, and except as may be

otherwise provided by this Charter Commission within the scope of its powers, said election shall be conducted as is provided in Chapter IV of this Charter so far as the provision of said Chapter are applicable.

SECTION 8. The canvassing board appointed to canvass the votes cast at said election shall as soon as practicable after said election, meet and canvass the votes cast at said election and determine the result thereof.

SECTION 9. If this Charter be approved at said election, then two (2) printed copies thereof, with the vote for and against the same, duly certified by the Village Clerk, shall within thirty (30) days after the vote is taken be filed with each the Secretary of State and County Clerk of Oakland County, and upon the filing thereof this Charter shall become effective.

WILLIAM KING, Chairman

JAMES McGUIRE, Secretary

FRANK A. LAMBERSON

WILLIAM A. HYLAND

CARSON C. BINGHAM

Members of the Charter Commission

Resolved, that the Charter Commission of the Village of Bingham Farms does hereby adopt the foregoing Charter, and the Secretary is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of the statute, for approval.

Yeas: Commissioners King, McGuire, Lamberson, Hyland, Bingham.

Nays: None. Absent: None.

I, James McGuire, Secretary of the Charter Commission elected to frame a Charter for the Village of Bingham Farms, do hereby certify that the above Charter was adopted by said Charter Commission at a session thereof held on the 20th day of June, 1955, and that the foregoing is a true and correct copy of the resolution and vote thereon, by which said Charter was adopted.

I further certify that the above Charter gives effect to certain amendments adopted by proper resolution of the Charter Commission at a session thereof held on the 26th day of August, 1955, at which session a quorum of the Charter Commissioners were present.

Dated September 9, 1955

James McGuire

Secretary, Charter Commission

Approved Date: September 12, 1955

G. Mennen Williams

Governor of the State of Michigan

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE AND RUBBISH

51. WATER SERVICE

52. SEWER SERVICE

APPENDIX A: NATIONAL CATEGORICAL PRETREATMENT STANDARDS

APPENDIX B: PHENOLS LIMITATIONS

APPENDIX C: INTERIM DISCHARGE LIMITATIONS

53. ELECTRIC AND GAS SUPPLY FRANCHISES

CHAPTER 50: GARBAGE AND RUBBISH

Section

50.01 Definitions

- 50.02 Restrictions on disposal of rubbish
- 50.03 Storage and disposal of rubbish
- 50.04 Mandating separation of recyclable materials into approved containers
- 50.05 Separation of compostables; yard waste
- 50.06 Exemption from mandatory separation of recyclable materials
- 50.99 Penalty

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPROVED RECEPTACLE. A container of plastic or metal with carrying handles and a tight fitting cover having a capacity of not less than 20 gallons or more than five cubic yards. An **APPROVED RECEPTACLE** also includes containers supplied by the village for the purpose of collecting all recyclables.

COMPOSTABLES/YARD WASTE. The miscellaneous organic waste material resulting from landscaping and/or maintenance of a residential yard and/or property, including but not limited to grass, weeds, fallen leaves, shrub and plant clippings, plant materials, twigs and other times as further outlined in the rules and regulations promulgated by the Village of Bingham Farms.

GARBAGE. Animal or vegetable wastes resulting from the handling, preparation, cooking or consumption of foods. The term specifically includes animal carcasses or parts thereof.

HAZARDOUS WASTE. Any material or substance which by reason of its composition or characteristics is:

- (1) Hazardous waste as defined in the Solid Waste Disposal Act, 42 USC 6907*et seq.*, as amended, replaced or superseded and the regulations implementing the same;
- (2) Material the disposal of which is regulated by the Toxic Substance Control Act, 15 USC 2601*et seq.*, as amended, replaced or superseded and the regulations implementing the same;
- (3) Special nuclear or byproducts material within the meaning of the Atomic Energy Act of 1954; or
- (4) Hazardous waste as defined in Public Act 451 of 1994, being M.L.C.A. §§ 324.11103*et seq.*, as amended from time to time and as identified in the reasonable rules and regulations promulgated by the Village of Bingham Farms and/or by regulations adopted by the Department of Natural Resources.

NONRESIDENTIAL ESTABLISHMENT. Any premises devoted to any mercantile business such as, but not limited to, a store, shop, restaurant, theater, bowling alley, drive-in, office building, medical facility or gas station selling goods or services, either retail or wholesale.

PREMISES. The area of land surrounding or next to or used in conjunction with residential and nonresidential establishments, including all public and private walkways, parking lots and storage areas.

RECYCLABLES. Presorted materials that are separated from solid waste prior to collection. Materials may include but are not limited to newspaper, tin cans, glass bottles and jars and plastic containers or any other materials designated in the reasonable rules and regulations promulgated and published by the Village of Bingham Farms.

REFUSE. Miscellaneous waste material and includes garbage and rubbish.

RESIDENTIAL ESTABLISHMENT. Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch or steps belonging or appurtenant to such dwelling, house, building or other structure.

RUBBISH. Nonputrescible material from residential, nonresidential and vacant property such as, but not limited to, paper, cartons, boxes, barrels, wood, excelsior, tree branches, bedding, furniture, appliances, metal, cans, bottles, glass, crockery, ashes and miscellaneous refuse, but not including gravel, sand or earth.

SITE OF GENERATION. Any residential premises in the Village of Bingham Farms or on which solid waste or recyclable material is generated.

SOLID WASTE. Garbage, rubbish, compostables/yard wastes and recyclables and/or a mixture thereof. **SOLID WASTE** does not include hazardous waste and/or industrial special waste.

(O.C. § 2.1) (Am. Ord. 132, passed 10-28-92; Am. Ord. 142, passed - -)

§ 50.02 RESTRICTIONS ON DISPOSAL OF RUBBISH.

(A) No person shall throw or deposit any refuse upon or into any street, alley or other property, public or private, except as specifically permitted in this chapter. Any violation of this division only shall be a misdemeanor which shall be punished

as provided in § 32.03 of this code.

(B) Every occupant of a residential or nonresidential establishment and the owner of unoccupied premises, whether vacant land or vacant buildings, shall at all times maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse upon such premises unless stored or accumulated as permitted by this chapter.

(C) No person shall:

- (1) Burn garbage in an open air incinerator;
- (2) Burn leaves, grass or rubbish on any paved or bituminous surfaced street;
- (3) Burn any type of refuse where smoke, ashes or odor will create a nuisance, public or private;
- (4) Burn rubbish closer than 15 feet to a building;
- (5) Leave a rubbish fire unattended;
- (6) Bury garbage;
- (7) Collect, accumulate, process or store junk, used machines, old automobiles or materials for salvage;

(8) Dispose of any garbage within the village other than by means of an approved garbage grinder, licensed refuse collector or the collection service provided by the village.

(O.C. § 2.2) (Am. Ord. 158, passed 6-23-97)

§ 50.03 STORAGE AND DISPOSAL OF RUBBISH.

(A) Any rubbish accumulated or stored outside of a dwelling or other building shall either be placed in containers conforming to the requirements of this chapter or shall be stacked or piled in an orderly manner. All rubbish shall be placed at the rear or side of buildings at a place which is reasonably inconspicuous and away from streets and places occupied by other persons. Rubbish must be stored in a suitable covered place, enclosed or screened from public view, and the premises must be kept clean and free from rats.

(B) The occupant of any premises within the village in which any garbage shall be accumulated and which is not disposed of by an approved garbage grinder shall maintain on said premises the number of containers sufficient to conveniently store the normal accumulation of garbage on said premises over a period not to exceed seven days. Garbage must be securely wrapped prior to placing it in a container.

(C) (1) Except as allowed in division (D) of this section, every nonresidential establishment shall provide for rubbish and/or garbage storage areas inside the building, and all rubbish and/or garbage materials will be stored in these storage areas only. They shall further provide for regular collections and removal of all garbage and/or garbage materials. The accumulation of all rubbish and/or garbage materials shall not exceed seven days.

(2) Every nonresidential establishment operating a food service facility shall provide for rubbish and/or garbage storage areas inside the building, and all rubbish and/or garbage materials will be stored in these inside storage areas. They shall further provide for the daily collection and removal from their premises for each day of operation of all rubbish and/or garbage material.

(3) All rubbish and/or garbage materials shall be stored in such a manner as to prevent noxious odors and the attraction of vermin, insects or rodents. The outside storage of rubbish and/or garbage materials in proper containers may be permitted by the Village Council during the period of building construction.

(4) The Village Council may upon application vary the frequency of collections and the methods and location of storage areas upon determination that such a change will not adversely affect the public health and welfare and will fulfill the purpose and intent of this chapter. The Village Council may also, upon application, authorize an outside storage location for rubbish and/or garbage storage receptacles upon a demonstration by the owner of the property that:

(a) It would not be feasible to locate such storage receptacle inside the building; for purposes of this paragraph, locating the receptacle inside the building shall not be deemed to be unfeasible merely on the basis that the expense of construction and/or service would be relatively greater; and

(b) The applicant has presented a plan which includes landscaping and/or other screening and other design measures which would render such outside storage and the receptacle for and collection of rubbish and/or garbage outside reasonably compatible with surrounding properties and uses. The plan presented for this purpose shall include: elevations of the proposed receptacle and related improvements, including screening; zoning of the site and adjacent sites; minimum scale of one inch equals 50 feet; existing topography with two-foot minimum contour intervals; existing natural features; dimensions and distances of buildings and structures on the site and dimensions in relation to adjacent improvements; existing or proposed thoroughfares immediately adjacent to site.

(D) Refuse in residential areas in approved receptacles may be set out on the lawn extension not more than 12 hours prior to the established time for refuse pickup as prescribed by published Village Council resolution, and all containers shall be removed from such extension within 24 hours after pickup. Paper and other lightweight rubbish may be placed for collection in plastic bags.

(O.C. § 2.3) (Ord. 142, passed - -)

§ 50.04 MANDATING SEPARATION OF RECYCLABLE MATERIALS INTO APPROVED CONTAINERS.

(A) Commencing on February 6, 1992, all persons who are owners, lessees or occupants of any residence shall separate all recyclable materials and place them in an approved container at the curb on their designated collection day and in the manner set forth by the rules and regulation promulgated by the Village of Bingham Farms.

(B) If a container is lost, stolen or damaged, it shall be the responsibility of the property owner to replace the receptacle with a container approved by the village unless such loss, theft or damage is the fault of the solid waste collection contractor. All containers shall remain the property of the village. Any unauthorized possession of containers shall be a violation of this chapter.

(C) Nonrecyclable materials shall not be placed in the recycling containers.

(D) Failure to separate recyclables as required in this section excuses the village and/or its contractors from any obligation to remove the solid waste from the curb in addition to the other penalties imposed pursuant to this chapter.

(Am. Ord. 132, passed 10-28-92)

§ 50.05 SEPARATION OF COMPOSTABLES; YARD WASTE.

(A) Commencing on April 15, 1992, all persons who are the owners or occupants of any detached single-family residences located on acreage parcels or in subdivisions or in condominium developments wholly comprised of detached single-family residences shall either dispose of compostables/yard wastes on their property in a manner which will not create a nuisance and/or be injurious to the public health or shall participate in the compostable/yard waste program and separate compostables/yard waste program, compostables/yard waste must be placed at the curb in appropriate containers on pick up day and in the manner set forth in the rules and regulations promulgated by the village.

(B) Failure to separate compostables/yard waste as required in this section excuses the village and/or its contractors from any obligation to remove the solid waste from the curb, in addition to other penalties imposed pursuant to this chapter.

(Am. Ord. 132, passed 10-28-92)

§ 50.06 EXEMPTION FROM MANDATORY SEPARATION OF RECYCLABLE MATERIALS.

The following individuals shall be exempt from the mandatory recycling provisions and requirements of this chapter:

(A) Individuals who are living alone and have been determined by a physician licensed in the State of Michigan to be blind to the extent that they are unable to distinguish recyclable materials;

(B) Individuals who are living alone and who have been determined by a physician licensed in the State of Michigan to be permanently physically disabled to such an extent to prevent the individual from complying with the mandatory recycling provisions and requirements of this chapter;

(C) Individuals who are living alone and who have been determined by a physician licensed in the State of Michigan to be temporarily physically disabled to such an extent to prevent the individual from complying with the mandatory recycling provisions and requirements of this chapter shall for the period of their temporary physical disability be exempt from the mandatory recycling provisions and requirements of this chapter.

(Am. Ord. 132, passed 10-28-92)

§ 50.99 PENALTY.

Any violation of the provisions of this chapter, excluding § 50.02(A), shall be a municipal civil infraction, punishable upon a finding of responsibility as provided in § 32.03 of this code. In addition to the penalties prescribed in § 32.03, a violation of this chapter shall be deemed to be hazardous to the health and welfare of the residents of the village and shall constitute a nuisance per se, which may be enjoined through an action brought in the Circuit Court for the County of Oakland, Michigan or under the provision of § 32.03.

(O.C. § 2.4) (Am. Ord. 158, passed 6-23-97)

CHAPTER 51: WATER SERVICE

Section

51.01 Definitions

51.02 Title

51.03 Connections require written permission

51.04 Supervision and control

- 51.05 Meter required
- 51.06 Construction of public water systems
- 51.07 Construction and hydrant permits
- 51.08 Cross connections
- 51.09 Connection permit and use rates
- 51.10 Emergency water reduction
- 51.11 Conditions warranting initiation of water use reduction
- 51.12 Prohibitions of water use reduction emergency
- 51.13 Enforcement
- 51.99 Penalty

§ 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COUNTY. The Oakland County Department of Public Works.

CROSS CONNECTION. A connection or arrangement of piping or appurtenances through which water of questionable quality, waste or other contaminants can enter the public water supply system.

PREMISES. Any dwelling, building, structure or place where human beings reside, are employed or congregate and where such dwelling, building or structure is in existence shall include the lot, parcel or property upon which such building, dwelling or structure stands.

PUBLIC WATER SYSTEM. The water system which is dedicated to and/or controlled by the village or county, whether publicly or privately financed and whether or not located in public property or right-of-way.

WATER SYSTEMS. All potable water supply systems located in the village that are owned and operated by the village or the county, including water mains, hydrants and valves.

(O.C. § 2.21)

§ 51.02 TITLE.

This chapter shall be known and may be cited as the "Village of Bingham Farms Water Supply System Ordinance."

(O.C. § 2.22(1))

§ 51.03 CONNECTIONS REQUIRE WRITTEN PERMISSION.

Only authorized persons shall uncover and make any connections with or opening into, use, alter or disturb any part of the public water system, operate any valve, hydrant or other appurtenance and then only after written permission from the village or the county as its agent.

(O.C. § 2.22(2))

§ 51.04 SUPERVISION AND CONTROL.

The operation, maintenance and management of the public water system shall be under the immediate supervision and control of the village or the county acting as agent for the village.

(O.C. § 2.22(3))

§ 51.05 METER REQUIRED.

Each premises connected to the system shall have a metered water use as measured by a meter installed and controlled by the village or the county as its agent.

(O.C. § 2.22(4))

§ 51.06 CONSTRUCTION OF PUBLIC WATER SYSTEMS.

(A) All water systems proposed to be constructed in the village shall have engineering plans prepared by a registered professional engineer and shall be approved by the village and the county and a construction permit issued by the Michigan Department of Public Health.

(B) All construction of water systems shall have competent full-time inspection provided by or caused to be provided by the village.

(C) The cost of preparing engineering plans and the cost of providing inspection for the construction of a proposed water system shall be borne by the party causing said system to be constructed.

(D) All water systems located in the village shall be constructed in accordance with the standards and specifications of the village and the county.

(O.C. § 2.23)

§ 51.07 CONSTRUCTION AND HYDRANT PERMITS.

(A) In addition to inspection fees paid the village as provided for in § 51.06, prior to the start of constructing a proposed public water system or an extension to the existing system, the contractor of such construction shall have in his or her possession a permit issued by the county. A fee of \$100 shall be charged for the permit. An additional fee shall be charged for water used during flushing and testing of the new water system. The amount shall be as determined by the County and shall be five times the volume of the new system times the current use rate with a minimum charge of \$75.

(B) No person shall open or cause to be opened any fire hydrant without first securing a non-transferable "hydrant permit" at the county. The cost of said permit shall be a \$50 security deposit plus an amount to be determined by an estimate of water to be used. The water use estimate shall have a minimum charge of \$25. Such person must report to the county when such authorized use is terminated, at which time a hydrant inspection shall be made. Any costs of repairing the hydrants shall be deducted from the security deposit. The difference (if any) shall be refunded to the depositor. If the deposit is insufficient to cover said costs of repair the permit holder shall pay the deficit.

(O.C. § 2.24)

§ 51.08 CROSS CONNECTIONS.

(A) *Title.* The Village of Bingham Farms adopts by reference the Water Supply Cross connection Control rules of the Michigan Department of Environmental Quality, Public Act 399, 1976 R 325.11401 through R 325.11407 of the Administration Code, as amended from time to time. This section shall be known and may be cited as the "Village of Bingham Farms Cross Connection Control Ordinance."

(B) *Purpose.* The purpose of this provision is to promote and protect the public health, safety, and welfare by the prevention and elimination of cross connections which have been recognized as the cause of public health problems due to the hazard cause to drinking water quality.

(C) *Authority.* The Oakland County Drain Commissioner Operations and Maintenance Division shall be the designated authority and administrator of the cross connection control program.

(D) *Plan.*

(1) Pursuant to Michigan Public Act 399, 1976 R 325.11404 of the Administrative Code, a comprehensive cross connection control plan shall be developed and submitted to the Michigan Department of Environmental Quality, Division of Water Supply for review and approval.

(2) The plan shall outline the conduct of the Village of Bingham Farms cross connection control program including the method for performing initial inspections, determining inspection/reinspection frequencies, backflow prevention assembly tracking and testing schedules, annual reporting, generation of compliance, non-compliance, pertinent piping information requests, and water service shut-of notices.

(3) Upon approval by the Michigan Department of Environmental Quality, Division of Water Supply, the plan will become an instrument of this code for providing program conduct and policies.

(4) Any changes to the approved plan will be submitted to the Michigan Department of Environmental Quality, Division of Water Supply for review and approval before final approval by the authority/agent.

(5) The cross connection control plan will be made available to the public for review.

(E) *Designated agent.* The authority has the right to appoint a designated agent to administer the cross connection control program and perform inspections in accordance with the approved cross connection control program plan.

(F) *Water discontinuance.*

(1) The authority/agent shall have the right to enter any facility for the sole purpose of inspecting for cross connections. Failure on the facilities' part to allow the authority/agent entry shall be deemed of having a cross connection that is an immediate hazard to the public and as such, the authority/agent will follow the steps as outlined in the approved cross connection control plan.

(2) If a facility fails to comply in correcting any deficiencies identified during the cross connection inspection and subsequent re-inspection, follow-up inspection, and the steps as outlined in the approved cross connection control plan, the water service to the facility will be discontinued until such time that the deficiencies are corrected and approved by the authority/agent.

(G) *Penalties.*

(1) Any person who shall violate any of the provision of this section, shall, upon conviction, be punished by a fine not to

exceed \$500 for each day of violation, or by imprisonment not to exceed 90 days, or by both a fine and imprisonment in the discretion of the court.

(2) In addition to the penalty above, at the request of the authority/agent, the Village Council may bring an action for injunctive relief or other appropriate action in the name of the people of the Village of Bingham Farms to enforce this section, or an order issued pursuant to this section.

(H) *Conflicting laws.* Nothing herein contained shall be deemed to nullify any provision of Ordinance 161, as amended, entitled "Minimum Standards of Plumbing" or any other statute or legally adopted ordinance or code.

(I) *Conflicts.* Nothing herein shall be deemed to nullify any provision of this section, as amended, entitled "Minimum Standards of Plumbing" or any other statute or legally adopted ordinance or code.

(Ord. 161, passed 11-27-97; Am. Ord. 174, passed 5-28-02)

§ 51.09 CONNECTION PERMIT AND USE RATES.

(A) Charges for water supply services to each premises within the village connected with the water supply systems shall be determined by the Council and shall be fixed by ordinance or resolution adopted and amended from time to time by the Council and subject to any obligations and limitations set forth in such agreement pertaining to the water systems between the village and the county or any amendments thereto.

(B) The county as agent for the village shall make all water service connections to the water systems and provide water service to premises at their property line or in the case of a water main in easement to the limit of the easement.

(C) A water service installation permit shall be obtained at the county for each premises proposed to be connected to the system. The minimum size for water service shall be one inch diameter. The schedule of charges for such permit shall be as set from time to time by resolution of the Council.

(D) Charges for services furnished by the system shall be billed and collected quarterly, the first such charges for each premises to be due and payable on the first day of the calendar quarter following by at least one month the date such premises are connected to the system and successive charges to be due and payable on the first day of each quarter annual period thereafter. Said bills shall become due and payable within 30 days from date thereof.

(E) If any charges for water supply services are not paid on or before the due date then a penalty of 10% shall be added thereto. In the event that the charges for any such services furnished to any premises shall not be paid within 30 days after the due date thereof, then all services furnished by the water supply system may be discontinued as provided in this section. Service so disconnected shall not be restored until all sums then due and owing, including penalties, shall be paid, plus a shutoff charge of \$25 and a turn-on charge of \$25, respectively. If charges are not paid in full by the due date, prior to discontinuing water service, a written shut-off notice shall be mailed by the Village to the owner of the property at their address according to Village records and to the property to the attention of "Occupant." The notice shall identify a date that is after the next regular Village Council meeting and at least ten days after the date of the notice, when water service may be discontinued if payment in full is not made, and shall include the date, time and location of that meeting, a description of the right to request a hearing at that meeting on the intended discontinuance of water service and instructions on how to file the required written request with the Village. If a hearing is timely requested, water service to a property shall not be discontinued until the hearing has been completed and the Village Council has made its decision.

(Am. Ord. 178, passed 8-26-02)

(F) Charges for water supply services furnished by the system to any premises shall be a lien thereon as of the due date thereof, and on May 1 of each year the Village Clerk shall certify any such charges which have been delinquent 90 days or more, plus penalties accrued thereon, to the Village Council who shall cause the same to be entered upon the next village tax roll against the premises, to which such services shall have been rendered and said unpaid charges, with penalties accrued thereon, shall be collected and said lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll; provided that when a tenant is responsible for the payment of any such charge against any premises, and the Village is so notified in writing, in the form of an affidavit from the lessor, with a true copy of the lease of the affected premises (if there be one) attached, then no such charge shall become a lien against such premises from and after the date of such notice. However, upon the filing of a lessor's affidavit, no further service shall be rendered by the system to such premises until a cash deposit equal to the average annual charge for services, with a minimum use of 8 MCF (1,000 cubic feet) as security for the payment of charges is paid to the Village or operator of the system. This deposit will also include all miscellaneous expenses and assessments such as IPP (Industrial Pretreatment Program) and capital and other charges for the system. If quarterly payments for services provided are not received, the amount due will be paid from the funds on deposit. If the funds on deposit are exhausted, service will be shut off. Service will not be re-established until any unpaid balance is paid in full and another minimum deposit as described above has been paid. A lessor's affidavit shall include the date of the execution of the lease, the expiration of the lease, and a statement that the lessor shall not be liable for payment for service. Lessor shall provide 20 days notice to the Village prior to any change, cancellation or termination of the lease. If a lessor does not file an affidavit, or fails to provide the Village with 20 days notice of any change, cancellation or termination in accordance with this section, charges for services to any premises shall be a lien thereon in the same manner as provided herein.

(O.C. § 2.26) (Am. Ord. 190, passed 9-27-04)

§ 51.10 EMERGENCY WATER REDUCTION.

(A) Every person, firm or corporation whose premises are supplied with water by Southeast Oakland County Water Authority (SOCWA) and within the Village of Bingham Farms shall be subject to the provisions of this chapter and to all rules and regulations of the Village Council pertaining to use of village water.

(B) All officers authorized to enforce the ordinance code and issue citations in the village are authorized to issue ordinance violation notices to any person violating any provision of this chapter or any rule or regulation duly adopted in pursuance of this chapter.

(Am. Ord. 148, passed 3-27-95)

§ 51.11 CONDITIONS WARRANTING INITIATION OF WATER USE REDUCTION.

(A) A prolonged drought or other system-wide heavy demand periods that result in supply facilities, including system pump stations and reservoirs, being operated at their optimum capacity with no apparent means immediately available to adequately maintain flows and residual pressures throughout the system.

(B) Any emergency condition that may arise which will negatively affect operating flows and residual pressures in any substantial portion of the system for any appreciable length of time.

(C) The above conditions may warrant a wide range of options all the way from alternate day sprinkling in a limited area to no outside water use for any community serviced by Detroit water. In this case, the City of Detroit and/or the Michigan Department of Public Health would normally take the leadership in advising of any area-wide water reduction needs. However, the Village of Bingham Farms has the ultimate responsibility to initiate whatever measures are needed locally to see that all local emergencies are properly handled.

(D) Upon declaration of a water use reduction emergency, the Village of Bingham Farms will announce such declaration by use of public radio or television and newspapers with normal operating range covering the community. The Village Clerk or his or her designee will implement whatever reductions are necessary to meet the water reduction requirements.

(Am. Ord. 148, passed 3-27-95)

§ 51.12 PROHIBITION OF WATER USE REDUCTION EMERGENCY.

(A) The prohibition shall remain in effect 24 hours per day, seven days per week until the village has declared an end to the water use reduction emergency or the village determines that a limited prohibition will be sufficient to protect the health, safety and general welfare of the community.

(B) The Village Clerk or his or her designee may, upon written request, provide exception to §51.11(A) where necessary to prevent imminent financial loss to a water user.

(C) Property owners who maintain sprinkler service through an operational well are exempt from this chapter, provided that the entire sprinkler system is operated through said well.

(Am. Ord. 148, passed 3-27-95)

§ 51.13 ENFORCEMENT.

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

(O.C. § 2.7(1))

§ 51.99 PENALTY.

Any person found responsible for obtaining or using water in a manner contrary to the provisions of this chapter or in any other way violating the provisions in this chapter shall be punished as prescribed in § 32.03(A) of this code.

(O.C. § 2.7(2)) (Am. Ord. 158, passed 6-23-97)

CHAPTER 52: SEWER SERVICE

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GENERAL PROVISIONS

§ 52.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AVAILABLE PUBLIC SANITARY SEWER. A public sanitary sewer system located in a right-of-way, easement, highway, street or public way which crosses, adjoins or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

BUILDING SEWER. The sanitary sewer which directly services a premises and shall be limited to the sewer located between the building's sanitary plumbing and the public sewer.

CHARGES FOR SEWAGE DISPOSAL SERVICES. The amount charged to each premises in the area served by the sewage disposal system for sewage disposal services.

INSPECTION, APPROVAL and TAP FEE. The amount charged to each applicant by the village to cover the costs of inspecting and approving the physical connection to the system and the issuance of a connection permit.

PREMISES. Any dwelling, building, structure or place where human beings reside, are employed or congregate and where such dwelling, building or structure is in existence shall include the lot, parcel or property upon which such dwelling, building or structure stands.

PUBLIC SEWER. A sewer which is dedicated to and/or controlled by a public authority, whether publicly or privately financed and whether or not located in public property or right-of-way.

SANITARY SEWAGE DISPOSAL SERVICES. The collection, transportation, treatment and disposal of sanitary sewage originating from premises now or hereafter in the area served by the sanitary sewage disposal system.

SANITARY SEWAGE DISPOSAL SYSTEM or SANITARY SYSTEM. The "Evergreen Sewage Disposal System - Bingham Farms Extension No. 1" established under Public Act 185 of 1957, being M.C.L.A. §§ 123.731 through 123.786, as amended, constructed by the county under a certain contract dated April 1, 1971, between the County of Oakland and the Village of Bingham Farms, together with all additions and extensions of such new construction and all existing sanitary sewers in the Evergreen Interceptor District, within the limits of the Village of Bingham Farms.

STRUCTURE IN WHICH SANITARY SEWAGE ORIGINATES or STRUCTURE. A building in which toilet, kitchen, laundry, bathing or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial or other purposes.

UNIT. That quantity of sanitary sewage ordinarily arising 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 as defined by the Oakland County Board of Public Works Unit Assignment Resolution dated August 27, 1973, or as amended from time to time.

(O.C. § 2.41)

§ 52.02 TITLE.

This chapter shall be known and may be cited as the "Village of Bingham Farms Sanitary Sewage Disposal System Ordinance."

(O.C. § 2.42(1))

§ 52.03 USE OF SYSTEM; PROHIBITED CONNECTIONS.

The sanitary sewage disposal system shall be used for the collection and transportation of sanitary sewage only. Yard drains, patio drains, catch basins, downspouts, footing drains, weep tile or any conduit that carries storm water or ground water, alone or in combination with sanitary sewage, shall not be connected to the sanitary system directly or indirectly.

(O.C. § 2.42(2))

§ 52.04 GENERAL REGULATIONS ADOPTED BY REFERENCE.

All conditions of the "Oakland County Board of Public Works County of Oakland Sewage Disposal Systems - General Regulations" dated August 28, 1972, as amended from time to time, shall be included and adopted as part of this chapter. Copies of the General Regulations shall be kept at the office of the village.

(O.C. § 2.42(3))

§ 52.05 CONNECTIONS REQUIRE WRITTEN PERMISSION.

Only authorized persons shall uncover and make any connections with or openings into, use, alter or disturb any public sewer or appurtenance thereof and then only after written permission from the village or its agent.

(O.C. § 2.42(4))

§ 52.06 SUPERVISION AND CONTROL.

The operation, maintenance and management of the sanitary system shall be under the immediate supervision and control of the village or the Oakland County Department of Public Works acting as agent of the village.

(O.C. § 2.42(5))

§ 52.07 CHARGES AND COSTS FOR SANITARY SEWAGE DISPOSAL SERVICES.

(A) The rates to be charged for sewage disposal services furnished by the system shall be set from time to time by resolution of the Council.

(B) All recurring charges of the system shall be rendered quarterly during each operating year at the same time as the water bill is rendered and shall represent charges for the quarterly period immediately preceding the date of rendering the bill. The bills shall become due and payable within 30 days from date thereof, and for all bills not paid when due a penalty of 10% of the amount of such bill shall be added thereto.

(C) If any charges are not paid on or before the due date then a penalty of 10% shall be added thereto. In the event that the charges for any such services furnished to any premises shall not be paid within 30 days after the due date thereof, then all services furnished by the water supply system may be discontinued as provided in this section. Service so disconnected shall not be restored until all sums then due and owing, including penalties, shall be paid, plus a shutoff charge of \$25 and a turn-on charge of \$25, respectively. If charges are not paid in full by the due date, prior to discontinuing water supply service, a written shut-off notice shall be mailed by the Village to the owner of the property at their address according to Village records and to the property to the attention of "Occupant." The notice shall identify a date that is after the next regular Village Council meeting and at least ten days after the date of the notice, when water service may be discontinued if payment in full is not made, and shall include the date, time and location of that meeting, a description of the right to request a hearing at that meeting on the intended discontinuance of water service and instructions on how to file the required written request with the Village. If a hearing is timely requested, water service to a property shall not be discontinued until the hearing has been completed and the Village Council has made its decision.

(Am. Ord. 178, passed 8-26-02)

(D) Charges for services furnished by the system to any premises shall be a lien thereon as of the due date thereof, and on June 1 of each year the Village Clerk shall certify any such charges which have been delinquent six months or more, plus penalties and interest accrued thereon, to the Village Assessor who shall enter the same on the next tax roll against the premises to which such services shall have been rendered and against which said charges, with penalties and interest accrued thereon, shall be collected and said lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll.

(E) The number of units to be assigned to any particular premises other than single residences for sewage disposal services shall be determined by the current Board of Public Works Oakland County Unit Assignment Resolution. No less than one unit shall be assigned to each premises, but for purposes of computing sewage disposal service charges, units in excess of one may be computed and assigned to the nearest tenth. Once any premises has been connected to the system and has been assigned one or more units, subsequent changes in the character of the use of said premises shall not abate the obligation to continue the payment of service charges in the amount hereinabove provided for the number of units assigned at the time of connection or for such lesser or greater number of units as the changed character of the use of the premises justifies, but in no event for less than one unit. If said subsequent changes in use increase the amount of sanitary sewage originating from the premises, the village may increase the number of units assigned the said premises.

(F) No free service shall be furnished by said system to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(O.C. § 2.49)

§ 52.08 USER CHARGE SYSTEM FOR SEWER SERVICE.

(A) Rates and charges for the use of the wastewater system of the village are established and made against each lot, parcel of land or premises which may have direct or indirect connections to the system or which may otherwise discharge wastewater either directly or indirectly into the system.

(B) The rates and charges established shall be based upon a methodology which complies with applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance and replacement of the system as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to insure system expenses are met and that all users pay their proportionate share of operation, maintenance and equipment replacement expenses.

(C) The amount of such rates and charges and the intervals at which users of the wastewater system are billed shall be determined by resolution of the Village Council.

(D) The rates and charges for operation, maintenance and replacement established shall be uniform within the area serviced by the village. No free service shall be allowed for any user of the wastewater system.

(E) All customers of the village wastewater system shall receive an annual notification, either printed on the bill or enclosed in a separate letter, which will show the breakdown of the wastewater disposal bill into its components for:

- (1) Operation, maintenance and replacement; and
- (2) Debt service.

(Am. Ord. 135, passed 1-30-92)

§ 52.09 CHARGES AS LIEN AND WATER SERVICE TERMINATION.

Charges for water supply services furnished by the system to any premises shall be a lien thereon as of the due date thereof, and on May 1 of each year the Village Clerk shall certify any such charges which have been delinquent 90 days or more, plus penalties accrued thereon, to the Village Council who shall cause the same to be entered upon the next village tax roll against the premises, to which such services shall have been rendered and said unpaid charges, with penalties accrued thereon, shall be collected and said lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll; provided that when a tenant is responsible for the payment of any such charge against any premises, and the Village is so notified in writing, in the form of an affidavit from the lessor, with a true copy of the lease of the affected premises (if there be one) attached, then no such charge shall become a lien against such premises from and after the date of such notice. However, upon the filing of a lessor's affidavit, no further service shall be rendered by the system to such premises until a cash deposit equal to the average annual charge for services, with a minimum use of 8 MCF (1,000 cubic feet) as security for the payment of charges is paid to the Village or operator of the system. This deposit will also include all miscellaneous expenses and assessments such as IPP (Industrial Pretreatment Program) and capital and other charges for the system. If quarterly payments for services provided are not received, the amount due will be paid from the funds on deposit. If the funds on deposit are exhausted, service will be shut off. Service will not be re-established until any unpaid balance is paid in full and another minimum deposit as described above has been paid. A lessor's affidavit shall include the date of the execution of the lease, the expiration of the lease, and a statement that the lessor shall not be liable for payment for service. Lessor shall provide 20 days notice to the Village prior to any change, cancellation or termination of the lease. If a lessor does not file an affidavit, or fails to provide the Village with 20 days notice of any change, cancellation or termination in accordance with this section, charges for services to any premises shall be a lien thereon in the same manner as provided herein.

(Ord. 190, passed 9-27-04)

REGULATIONS

§ 52.20 CONNECTION OF PREMISES.

(A) Public sanitary sewer systems are essential to the health, safety and welfare of the people of the state and the septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety and welfare; presents a potential for ill health, transmission of disease, mortality and potential economic blight and constitutes a threat to the quality of surface and subsurface waters of the state and the village. The connection to available public sanitary sewer systems at the earliest, seasonable date is a matter for the protection of the public health, safety and welfare and necessary in the public interest which is declared as a matter of legislative determination.

(B) Structures in which sanitary sewage originates located in the village in the area served by the sanitary sewer system for which there is an available public sanitary sewer of the sanitary system shall not be used or occupied, unless the structures are connected to the sanitary sewage disposal system; provided, that structures within the district in which sanitary sewage is originating on the effective date hereof or in which sanitary sewage originates before availability of the system or any part thereof to serve said structures shall be connected to said system within 18 months after publication of a notice by the village in a newspaper of general circulation in the village of the availability of the system.

(C) When the structure in which sanitary sewage originates has not been connected to an available public sanitary sewer

system before use and occupancy, the village shall require the connection to be made forthwith after notice, which may be by first class or certified mail or posting on the property to the owner of the property on which the structure is located. The notice shall give the approximate location of the public sanitary sewer of the system which is available for connection of the structure involved and shall advise the owner of the requirements and of the enforcement provisions of this chapter.

(D) When any structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within 90 days after the date of mailing or posting of the written notice, the provisions of this chapter shall be enforceable through the bringing of appropriate action for injunction, mandamus or otherwise in any court having jurisdiction.

(E) This section is subject to the provisions and conditions of the State of Michigan Public Act 288 of 1972, being M.C.L.A. §§ 333.12751 through 333.12758, as amended.

(O.C. § 2.43)

§ 52.21 CONSTRUCTION AND MAINTENANCE OF BUILDING SEWERS.

(A) Any person desiring to do business as a sewer builder in connection with the Bingham Farms sanitary sewage disposal system must be licensed by the State of Michigan.

(B) All building sewers shall be privately operated and maintained.

(C) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no public sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(D) All building sewers shall be laid a minimum of ten feet from any existing and parallel water service lines.

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

(1) Six-inches full diameter extra strength vitrified sewer pipe manufactured in accordance with current N.C.P.C. Designation ER 4-67 Standards or equal with Oakland County Department of Public Works approved premium joints;

(2) Six-inches diameter Class 2400 asbestos cement pipe with ring-tite, fluid-tite or Oakland County Department of Public Works approved joint;

(3) Six-inches diameter, service strength, cast iron soil pipe with hot poured lead joint or Oakland County Department of Public Works approved equal;

(4) Other pipe and joints as may be approved by the Oakland County Department of Public Works;

(5) Copies of the Oakland County Department of Public Works approved joints shall be on file at the office of the Village of Bingham Farms;

(6) All house connection sewers shall be six-inch minimum diameter, except that four-inch pipe of comparable strength and joint material may be used when such meets all requirements of the Oakland County Department of Public Works and of the Village of Bingham Farms. All joints shall be tight and tested for infiltration or exfiltration and shall not exceed the requirements of the Oakland County Department of Public Works.

(F) 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 the first floor, the basement, if any, backfilled and the roof is on said building thereby preventing water from entering the sanitary sewer from the excavating basement or other excavated area beneath said building.

(O.C. § 2.44)

§ 52.22 PERMITS AND BONDS.

(A) Prior to start of constructing a building sewer, the owner and contractor shall obtain a permit from the village or its agent and pay an inspection and approval fee. The village and its agent shall be notified at least 24 hours prior to start of construction. The fee for said permit shall be \$15.

(B) (1) Prior to construction and during the life of permits obtained in accordance with this section, all owners or contractors shall furnish to the village or its agent a satisfactory surety bond in the amount of \$5,000 as security for the faithful performance of the work in accordance with the plans, specifications and permits and the village standards and furnish to the village or its agent a cash deposit in the amount of \$500. Such bonds shall not be canceled by the owner, the contractor or the surety without first having given ten-days' written notice to the village or its agent. Cash deposits may be returned to the owner or contractor within ten days of receipt of written request therefor, except that no deposits will be returned, nor bonds canceled until such time as all outstanding permits have received final inspection and approval.

(2) Procedure for exercising the rights of the village or its agent, under the terms and conditions of the cash deposit and surety bond shall be as follows:

(a) 1. The cash deposit shall provide funds for emergency work and/or other such work as may be deemed necessary by the village or its agent, arising as a result of construction by the owner or contractor;

2. In the event that it becomes necessary for the village to expend funds for work arising as a result of construction by the owner or the contractor, then the cost of such work shall be deducted from the aforementioned cash deposit. If the cost of such work exceeds the cash deposit, then the owner or contractor shall within 30 days of the mailing of written notice thereof pay the village or its agent the entire amount of such costs;

(b) For other than emergencies, the owner or contractor shall have the right and opportunity to correct any deficiencies promptly before any deposit funds will be expended by the village or its agent;

(c) If, after being notified by certified mail of other than emergency deficiencies, the owner or contractor fails to correct such deficiencies within 30 days of notification, then the village or its agent shall cause the deficiencies to be corrected and bill the owner or contractor for such work;

(d) If, after 30 days of being notified the owner or contractor has not paid the village or its agent for costs arising from work done by the village or its agent to correct deficiencies resulting from the owner's or contractor's work, then the village or its agent shall exercise its rights under the terms and conditions of the cash deposit and/or surety bond.

(O.C. § 2.45)

§ 52.23 PUBLIC SEWER CONSTRUCTION.

(A) All public sanitary sewers proposed to be constructed in the village shall have engineering plans prepared by a registered professional engineer and shall be approved by the village and the Oakland County Department of Public Works and a construction permit issued by the Michigan Department of Public Health.

(B) All construction of public sanitary sewers shall have competent full-time inspection provided by or caused to be provided by the village.

(C) The cost of preparing engineering plans and the cost of providing inspection for the construction of a public sanitary sewer shall be borne by the party causing said sewer to be constructed.

(D) All sanitary sewers, public or building, hereafter constructed in the village shall be in accordance with the existing standards and specifications of the Oakland County Department of Public Works and the village as may be from time to time be amended.

(O.C. § 2.46)

§ 52.24 INDUSTRIAL AND COMMERCIAL WASTE CONNECTIONS.

All industrial and commercial wastes may be discharged into the sanitary system only in compliance with the "Oakland County Board of Public Works County of Oakland Sewage Disposal Systems Industrial Waste Regulations" dated February 25, 1974, as amended.

(O.C. § 2.47)

§ 52.25 ABANDONMENT OF EXISTING SEWAGE TREATMENT FACILITIES.

At such time as a premises connects to the sanitary system, all existing septic tanks, cesspools or any similar sewage treatment facility serving said premises shall be abandoned in the following manner:

(A) The sludge held in the facility, solid and liquid, shall be pumped out and disposed of in a legal manner. The sludge shall not be disposed of into the sanitary sewer system; and

(B) The facility shall be filled with sand and its top broken out.

(O.C. § 2.48)

STORM WATER DISPOSAL SYSTEM

§ 52.40 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED ENFORCEMENT AGENCY. The building inspector or designees of the Village Clerk for the Village for Bingham Farms.

BEST MANAGEMENT PRACTICES (BMPS). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. **BMPS** also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits or the village's grading ordinance. These

include construction projects resulting in land disturbance of five acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quality, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in § 52.52 of this chapter.

ILLCIT CONNECTIONS. An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains, sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the authorized enforcement agency.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits as defined in 40 CFR § 122.26(b)(14).

INSPECTION, APPROVAL AND TAP FEE. The amount charged to each applicant by the village to cover the costs of inspecting and approving the physical connection to the system and the issuance of a connection permit.

NATIONAL POLLUTANT DISCHARGE (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the EPA (or by a state under authority delegated pursuant to 33 U.S.C 1342 (b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual group, or general area-wide basis.

NON-STORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that some may cause or contribute to pollution; floatables, pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking areas.

STORM DISTRICT. That district established by the terms of the "Bingham Farms Sewage Disposal System" contract dated April 1, 1971.

STORM DRAINAGE SYSTEM or MS4. Publicly-owned or privately-owned facilities by which stormwater is collected and/or conveyed including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORM WATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER BUILDING SEWER. The storm or ground water sewer which directly services a premises and shall be limited to the sewer located between the building's storm plumbing and the public sewer.

STORM WATER DISPOSAL SERVICES. The collection, transportation and disposal of storm water emanating within the established district of the "Bingham Farms Sewage Disposal System" and certain ground water being disposed of within the district.

STORM WATER DISPOSAL SYSTEM or STORM SYSTEM. The "Bingham Farms Sewage Disposal System" established under Public Act 185 of 1957, being M.C.L.A. §§ 123.731 through 123.786, as amended, constructed by the county under a certain contract dated April 1, 1971, between the County of Oakland and the Village of Bingham Farms, together with all additions and extensions of such new construction.

STORM WATER POLLUTION PREVENTION PLAN. A document which describes the best management practices and activities to be implemented by a person or business to identify sources or pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(O.C. § 2.81) (Am. Ord. 252, passed 12-16-19)

§ 52.41 TITLE AND APPLICABILITY.

This subchapter shall be known and may be cited as the “Village of Bingham Farms Storm Water Disposal System Ordinance.” This subchapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the authorized enforcement agency.

(O.C. § 2.82(1)) (Am. Ord. 252, passed 12-16-19)

§ 52.42 PURPOSES.

The purpose of this subchapter is to provide for the health, safety, and general welfare of the citizens of Bingham Farms through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with the requirements of the NPDES permit process. The objectives of this subchapter are:

- (A) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user;
- (B) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
- (C) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this article.

(Ord. 252, passed 12-16-19)

§ 52.43 USES OF SYSTEM; PROHIBITED CONNECTIONS.

The storm water disposal system shall be used for the collection and transportation of storm water and ground water from within the established storm district only. Sanitary sewers, overflows from septic tanks, septic tank tile fields, cesspools or any conduit that carries sanitary sewage, alone or in combination with storm water, industrial or commercial sewage, shall not be permitted to be connected to the storm water disposal system.

(O.C. § 2.82(2))

§ 52.44 CONNECTIONS REQUIRE WRITTEN PERMISSION.

Only authorized persons shall uncover and make any connections with or openings into, use, alter or disturb any public sewer or appurtenance thereof and then only after written permission from the village or its agent.

(O.C. § 2.82(3))

§ 52.45 SUPERVISION AND CONTROL.

The operation, maintenance and management of the storm system shall be under the immediate supervision and control of the village or the Oakland County Department of Public Works acting as agent of the village.

(O.C. § 2.82(4))

§ 52.46 RESPONSIBILITY FOR ADMINISTRATION.

The Village Clerk or the Village Clerk’s designee(s), shall administer, implement, and enforce the provisions of this subchapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Village Clerk/Administrator to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Ord. 252, passed 12-16-19)

§ 52.47 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards; therefore this subchapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. 252, passed 12-16-19)

§ 52.48 STORM WATER BUILDING SEWERS.

- (A) All storm water building sewers shall be privately operated and maintained.
- (B) The storm water building sewer connection extending from the public sewer in the street or easement to within five feet from the house or other building from which storm water or ground water is being disposed of shall be:
 - (1) Six-inch full diameter extra strength vitrified sewer pipe manufactured in accordance with current N.C.P.C. Designation ER 4-67 Standards or equal with Oakland County Department of Public Works approved premium joint;
 - (2) Six-inch diameter Class 2400 asbestos cement pipe with ring-tite, fluid-tite or Oakland County Department of Public works approved joint;

(3) Six-inch diameter, service strength, cast iron soil pipe with hot poured lead joint or Oakland County Department of Public Works approved equal;

(4) Other pipe and joints as may be approved by the Oakland County Department of Public Works;

(5) Copies of the Oakland County Department of Public Works approved joints shall be on file at the office of the village;

(6) All house connection sewers shall be six-inch minimum diameter, except that four-inch pipe of comparable strength and joint material may be used when such meets all requirements of the Oakland County Department of Public Works and of the Village of Bingham Farms.

(O.C. § 2.83)

§ 52.49 PERMIT.

Prior to start of constructing a storm water building sewer, the owner shall obtain a permit from the village or its agent and pay an inspection and approval fee. The village and its agent shall be notified at least 24 hours prior to start of construction. The fee for said permit shall be \$50.

(O.C. § 2.84)

§ 52.50 BOND.

Prior to construction and during the life of permits obtained in accordance with §2.49, all owners or contractors shall:

(A) Furnish to the village or its agent a satisfactory surety bond in the amount of \$5,000 as security for the faithful performance of the work in accordance with the plans, specifications and permits and the village standards; and

(B) (1) Furnish to the village or its agent a cash deposit in the amount of \$500. Such bonds shall not be canceled by the owner, the contractor or the surety without first having given ten-days' written notice to the village and its agent. Cash deposits may be returned to the owner or contractor within ten days of receipt of written request therefor, except that no deposits will be returned, nor bonds canceled, until such time as all outstanding permits have received final inspection and approval.

(2) Procedure for exercising the rights of the village or its agent, under the terms and conditions of the cash deposit and surety bond, shall be as follows:

(a) 1. The cash deposit shall provide funds for emergency work and/or such other work as may be deemed necessary by the village or its agent arising as a result of construction by the owner or contractor;

2. In the event that it becomes necessary for the village to expend funds for work arising as a result of construction by the owner or the contractor, then the cost of such work shall be deducted from the aforementioned cash deposit. If the cost of such work exceeds the cash deposit, then the owner or contractor shall within 30 days of the mailing of written notice thereof pay the village or its agent the entire amount of such costs;

(b) For other than emergencies, the owner or contractor shall have the right and opportunity to correct any deficiencies promptly before any deposit funds will be expended by the village or its agent;

(c) If, after being notified by certified mail of other than emergency deficiencies, the owner or contractor fails to correct such deficiencies within 30 days of notification, then the village or its agent shall cause the deficiencies to be corrected and bill the owner or contractor for such work;

(d) If, after 30 days of being notified, the owner or contractor has not paid the village or its agent for costs arising from work done by the village or its agent to correct deficiencies resulting from the owner's or contractor's work, then the village or its agent shall exercise its rights under the terms and conditions of the cash deposit and/or surety bond.

(O.C. § 2.85)

§ 52.51 PUBLIC SEWER CONSTRUCTION.

(A) All public storm sewers proposed to be constructed in the village shall have engineering plans prepared by a registered professional engineer and shall be approved by the village and the Oakland County Water Resources Commission.

(B) All construction of public storm sewers shall have competent full-time inspection provided by or caused to be provided by the village.

(C) The cost of preparing engineering plans and the cost of providing inspection for the construction of a public storm sewer shall be borne by the party causing said sewer to be constructed.

(D) All storm sewers, public or building, hereafter constructed in the village shall be in accordance with the existing standards and specifications of the Oakland County Water Resources Commission and the village as may be from time to time be amended.

(O.C. § 2.86) (Am. Ord. 252, passed 12-16-19)

§ 52.52 DISCHARGE PROHIBITIONS.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(A) The following discharges are exempt from discharge prohibitions established by this subchapter if they are identified as not being a significant source of pollutants and or a significant contributor to violations of State Quality Standards: water line flushing and discharges from other potable water sources, landscape irrigation or lawn watering runoff, diverted stream flows, rising groundwater and springs, uncontaminated groundwater infiltration and seepage, uncontaminated pumped groundwater (except for groundwater cleanups specifically authorized by NPDES permits), foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools from single, two or three family residences (if dechlorinated, typically less than one PPM chlorine), fire-fighting activities, and any other water source not containing pollutants.

(B) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(C) Dye testing is an allowable discharge, but requires authorization from the Michigan Department of Environmental Quality (Rule 97 certification of approval) and a verbal notification to the authorized enforcement agency prior to the time of the test.

(D) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(Ord. 252, passed 12-16-19)

§ 52.53 PROHIBITION OF ILLICIT CONNECTIONS.

(A) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(B) The prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(C) A person is considered to be in violation of this subchapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. 252, passed 12-16-19)

§ 52.54 RIGHT OF ENTRY FOR INSPECTION, ETC.

The authorized enforcement agency bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling, and testing of suspected illicit discharges or connections in accordance with the provisions of this subchapter.

(Ord. 252, passed 12-16-19)

§ 52.55 SUSPENSION OF MS4 ACCESS.

(A) *Suspension due to illicit discharges in emergency situations.* The authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health and welfare of persons, or the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this subchapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without prior approval of the authorized enforcement agency.

(Ord. 252, passed 12-16-19)

§ 52.56 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the authorized

enforcement agency prior to the allowing of discharges to the MS4.

(Ord. 252, passed 12-16-19)

§ 52.57 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with this subchapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility are in violation of a stormwater discharge permit and of this subchapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this subchapter.

(7) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violator of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 252, passed 12-16-19)

§ 52.58 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

An authorized enforcement agency may adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 252, passed 12-16-19)

§ 52.59 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. 252, passed 12-16-19)

§ 52.60 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency in person or by phone or fax no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agency within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. 252, passed 12-16-19)

§ 52.61 ENFORCEMENT, NOTICE OF VIOLATIONS.

(A) Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) The payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMP's.

(B) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. 252, passed 12-16-19)

§ 52.62 ENFORCEMENT MEASURES.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then representatives of the authorized enforcement agency may enter upon the subject's private property and are authorized to take any and all measures to abate the violation and/or restore the property upon the issuance of an order from a court of competent jurisdiction. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the governmental agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 252, passed 12-16-19)

§ 52.63 COST OF ABATEMENT OF THE VIOLATION.

(A) Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(B) Any person violating any of the provisions of this subchapter shall become liable to the village by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest rate of 10% per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

(Ord. 252, passed 12-16-19)

§ 52.64 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. If a person has violated or continues to violate the provisions of this subchapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compel the person to perform abatement or remediation of the violation.

(Ord. 252, passed 12-16-19)

§ 52.65 COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this subchapter, the authorized enforcement agency may allow a violator to perform alternative actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. 252, passed 12-16-19)

§ 52.66 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is deemed a threat to public health, safety, and welfare, and is declared a nuisance, public nuisance and nuisance per se and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. 252, passed 12-16-19)

§ 52.67 VIOLATIONS.

(A) Any person, firm or corporation determined to have been in violation of the provisions of this subchapter shall be responsible for a municipal civil infraction and subject to the provisions of this Code.

(B) The Village Council by way of the building inspector, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation.

(C) Each day's continuance of a violation shall be deemed a separate and distinct offense. Expenses in connection with such action, including actual attorney fees, shall be assessed as damages against the violation.

(Ord. 252, passed 12-16-19)

§ 52.68 REMEDIES NOT EXCLUSIVE.

The remedies listed in this subchapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. 252, passed 12-16-19)

WASTEWATER DISCHARGE

§ 52.80 PURPOSE.

(A) The purpose of this division is the protection of the environment, and of public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of wastes admitted to or discharged into the wastewater collection and treatment system under the jurisdiction of the village and enabling the village to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act, being 33 U.S.C. 1251 *et seq.* and the General Pretreatment Regulations, being 40 CFR 403.

(B) The objectives of this division are:

(1) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or contaminate the resulting sludge, or will pose a hazard to the health or welfare of the people or of employees of the City of Detroit Water and Sewerage department;

(2) To prevent the introduction of pollutants into the wastewater system which will pass inadequately treated through the system into receiving waters, the atmosphere or the environment, or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle or reclaim wastewater or sludge from the system in an economical and advantageous manner; and

(4) To provide for the recovery of the costs from users of the wastewater collection and treatment system sufficient to administer regulatory activities and meet the costs of the operation, maintenance, improvement or replacement of the system.

(C) This division provides for the regulation of contributors to the Detroit and village wastewater collection and treatment system through the issuance of wastewater discharge permits to certain users and through the enforcement of general requirements for all users, authorizes monitoring and enforcement, and authorizes fees and penalties.

(Am. Ord. 172, passed 10-22-01)

§ 52.81 AUTHORITY.

By virtue of the obligations and authority placed upon the village by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 *et seq.*; the 1963 Constitution of the State of Michigan; Public Act 245 of 1929, as amended, being M.C.L. 323.1 *et seq.*; M.S.A. 3.521 *et seq.*; the 1997 City Charter; the National Pollutant Discharge Elimination System (NPDES) permit for the City of Detroit Publicly Owned Treatment Works (POTW); the Consent Judgment in U.S. EPA v. City of Detroit, *et al.*, Federal District Court for the Eastern District of Michigan Case No.77-1100, as amended; and existing or future contracts between the Board of Water Commissioners and suburban communities or other governmental or private entities; or by virtue of common law usage of the system, this division shall

apply to every user contributing or causing to be contributed, or discharging, pollutants or wastewater into the wastewater collection and treatment system of the City of Detroit POTW.

(Am. Ord. 172, passed 10-22-01)

§ 52.82 DEFINITIONS.

For purposes of this division and unless the context specifically indicates otherwise, the following terms and phrases, shall have the meanings ascribed to them by this section:

ACT or the **THE ACT**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 *et seq.*

AS-BUILT PLANS. Engineering drawings prepared after installations of wastewater facilities which shall show a statement by a registered engineer or surveyor certifying this to be **AS-BUILT PLANS** and shall include, but not be limited to, length of sewer, invert elevation, locations with respect to property lines, wye and riser locations and depths, sewer material and joints used, and mechanical, electrical, and structural details for pump stations, wastewater treatment facilities, and other appurtenances.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER.

(1) Responsible corporate officer, where the industrial user submitting the reports required by this division is a corporation, who is either:

(a) The president, vice-president, secretary, or treasurer of a corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 in second-quarter 1980 dollars, when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or

(2) A general partner or proprietor where the industrial user submitting the reports required by this division is a partnership or sole proprietorship respectively.

AVAILABLE CYANIDE. The quantity of cyanide that consists of cyanide ion (CN⁻) hydrogen cyanide in water (HCNaq), and the cyano-complexes of zinc, copper, cadmium, mercury, nickel and silver, determined by EPA method OIA-1677, or other method designated as a Standard Method or approved under 40 CFR 136.

BEST MANAGEMENT PRACTICES (BMP). Programs, practices, procedures or other directed efforts initiated and implemented by the user which can or do lead to the reduction, conservation or minimization of pollutants being introduced into the ecosystem, including but are not limited to the Detroit sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control and may include technical and economic considerations.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quality of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five days at 20° C expressed in terms of mass and concentration (milligrams per liter (mg/l)) as measured by *Standard Methods*.

BOARD. The Board of Water Commissioners of the City of Detroit.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building's sewer (house sewer). The latter begins five feet outside the inner face of the building wall.

BYPASS. The intentional diversion of a waste stream from any portion of an industrial user's treatment facility.

(40 CFR 403.17)

CENTRALIZED WASTE TREATMENT (CWT) FACILITY. Any facility that treats any hazardous or nonhazardous industrial waste received from off-site by tanker truck, trailer/roll-off bins, drums, barges, or any other forms of shipment including:

(1) A facility that treats industrial waste received exclusively from off-site; and

(2) A facility that treats industrial waste generated on-site as well as industrial waste received from off-site.

COMPATIBLE INDUSTRIAL WASTEWATER. Wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater, and which can be efficiently and effectively transported and treated with domestic wastewater.

COMPATIBLE POLLUTANT. Pollutants which can be effectively removed by the POTW treatment system to within the acceptable levels for the POTW residuals and the receiving stream.

COMPOSITE SAMPLE. A collection of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provides a representative sample of the average stream during the sampling period. A minimum of four aliquot per 24 hours shall be used where the sample is manually

collected.

(40 CFR 403, Appendix E)

CONFIDENTIAL INFORMATION. The information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

CONSENT JUDGMENT. The judgment issued by Federal District Court on September 14, 1977, U.S. EPA v City of Detroit, *et al.*, C.A. No. 77-1100, as amended.

CONTROL AUTHORITY. The Detroit Water and Sewerage Department which has been officially designated as such by the State of Michigan under the provisions of 40 CFR 403.12.

(40 CFR 403.12(a))

COOLING WATER. The non-contact water discharged from any use such as air conditioning, cooling or refrigeration, and whose only function is the exchange of heat.

COUNTY. The County of Oakland, State of Michigan or the Oakland County Drain Commissioner.

COUNTY AGENCY. The Oakland County Drain Commissioner. References to the **OAKLAND COUNTY DEPARTMENT OF PUBLIC WORKS** shall also mean Oakland County Drain Commissioner.

DAYS. Consecutive calendar days for the purpose of computing a period of time prescribed or allowed by this division.

DEBT SERVICE CHANGE. Charges levied to customers of the wastewater system which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system. The debt service charge is separate and distinct and may be in addition to the user charge specified below.

DEPARTMENT. The City of Detroit Water and Sewerage Department, and authorized employees of the **DEPARTMENT**.

DIRECT DISCHARGE. The discharge of treated or untreated wastewater directly to the waters of the State of Michigan.

DIRECTOR. The Director of the Detroit Department of Water and Sewerage, or the Director's designee.

DISCHARGER. A person who, directly or indirectly, contributes, causes, or permits wastewater to be discharged into the POTW.

DOMESTIC SEWAGE. Waste and wastewater from humans or household operations which is discharged to, or otherwise enters, a treatment works.

ENVIRONMENTAL PROTECTION AGENCY or **ADMINISTRATOR** or **EPAADMINISTRATOR.** The United States Environmental Protection Agency or, where appropriate, the authorized representatives or employees of the EPA.

FACILITY. A location which contributes, causes or permits wastewater to be discharged into the POTW including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.

FATS, OILS, or GREASE (FOG). Any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other nonvolatile material of animal, vegetable or mineral origin that is extractable by solvent in accordance with *Standard Methods*.

FLOW PROPORTIONAL SAMPLE. A composite sample taken with regard to the flow rate of the waste stream.

FOOTING DRAIN. A pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits groundwater.

GRAB SAMPLE. An individual sample collected over a period of time not exceeding 15 minutes, which reasonably reflects the characteristics of the stream at the time of sampling.

GROUND WATER. Subsurface water occupying the saturation zone, from which wells and springs are fed.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

INDIRECT DISCHARGE or **DISCHARGE.** The discharge or the introduction of pollutants into the POTW from any non-domestic source regulated under 33 USC 1317(b), (c) or (d).

INDUSTRIAL USER. A person who contributes, causes or permits wastewater to be discharged into the POTW, including, but not limited to a place of business, endeavor, arts, trade or commerce, whether public or private commercial or charitable but excludes single-family and multi-family residential dwellings with discharges consistent with domestic waste characteristics.

INDUSTRIAL WASTE. Any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

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

INFILTRATION/INFLOW. The total quantity of water from both infiltration and inflow.

INFLOW. Any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas, and storm drain cross connections.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder or more stringent State or local regulations: Section 405 of the Clean Water Act, as amended, being 33 USC 1345, the Solid Waste Disposal Act (SWDA), as amended, (including the Resource Conservation and Recovery Act (RCRA), and State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

LOCAL. A prefix denoting jurisdiction by the Village of Bingham Farms.

MAY. The act referred to is permissive.

MUNICIPALITY. The Village of Bingham Farms.

NATIONAL CATEGORICAL PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 USC 1317 (b) and (c) which applies to a specific class or category of industrial users.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. A permit issued pursuant to 33 USC 1342.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

NEW SOURCE.

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 33 USC 1317(c) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided, that:

(a) The building, structure, facility or installation is constructed at a site where no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered; or

(2) Construction on a site where an existing source is located resulting in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of divisions (1)(b) or (1)(c) of this definition but otherwise alters, replaces, or adds to existing process or production equipment; or

(3) Construction of a new source has commenced where the owner or operator has:

(a) Begun, or caused to begin as part of a continuous on site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that are necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

OPERATION-MAINTENANCE (O&M). All work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation and treatment system consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations, and includes the cost of replacement.

OWNER. The **OWNERS OF RECORD** of the freehold of the premises or lesser estate therein, a mortgagor or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a building.

PASS THROUGH. Discharge which exits the POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, unit of government, school district, or any other legal entity, or their legal representative, agent or assigns.

pH. The intensity of the acid or base condition of a solution, calculated by taking the negative base-ten logarithm of the hydrogen ion activity. Activity is deemed to be equal to concentration in moles per liter:

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or industrial, municipal and agricultural waste which is discharged into water.

POLLUTION. The introduction of any pollutant that, alone or in combination with any other substance, can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.

POTW TREATMENT PLANT. That portion of the **POTW** designed to provide treatment to wastewater, including recycling and reclamation of wastewater.

PRETREATMENT. The reduction of the amount of pollutants, the removal of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction, removal or alteration may be attained by physical, chemical or biological processes, or process changes by other means, except as prohibited by federal, state or local law, rules and regulations.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(40 CFR 403.3(r))

PRETREATMENT STANDARDS. All National Categorical Pretreatment Standards, the general prohibitions specified in 40 CFR 403.5(x), the specific prohibitions delineated in 40 CFR 403.5(b), and the local or specific limits developed pursuant to 40 CFR 403.5(c), including the discharge prohibitions specified in Section § 52.59(B).

PRIVATE. A prefix denoting jurisdiction by a non-governmental entity.

PUBLIC. A prefix denoting jurisdiction by any governmental subdivision or agency.

PUBLIC SEWER. A sewer of any type controlled by a governmental subdivision or agency.

PUBLICLY OWNED TREATMENT WORKS (POTW). A treatment works as defined by 33 USC 1292(2)(A) which is owned by a state or municipality, as defined in 33 USC 1362, including:

(1) Any devices and systems used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial waste of a liquid nature;

(2) Sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant; or

(3) The municipality, as defined in 33 USC 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

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

REPRESENTATIVE SAMPLE. Any sample of wastewater, which accurately and precisely represents the actual quality, character, and condition of one or more pollutants in the waste stream being sampled. Representative samples shall be collected and analyzed in accordance with 40 CFR 136.

QUANTIFICATION LEVEL. The measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.

SANITARY WASTEWATER. The portion of wastewater that is not attributable to industrial activities and is similar to discharges from domestic sources including, but not limited to, discharges from sanitary facilities and discharges incident to the preparation of food for on-site non-commercial consumption.

SERVICE AREA. Area whose wastewater is received by the village or the county for the transmission for treatment by the City of Detroit DWSD.

SEWER. A pipe or conduit that carries wastewater or drainage water. See the following definitions modifying sewer:

(1) **BUILDING SEWER.** In plumbing, the extension from the building drain to the public sewer or other place of disposal. Also called a house connection.

(2) **COMBINED SEWER.** A sewer intending to receive both wastewater and stormwater, surface or drainage water.

(3) **COMMON SEWER.** A sewer in which all owners of abutting properties have equal rights.

(4) **COUNTY SEWER.** A public sewer controlled by the county agency.

(5) **INTERCEPTING SEWER.** A sewer that received dry-weather flow from a number of transverse sewers of outlets in frequently additional predetermined quantities of stormwater (if from a combined system) and conducts such waters to a point for treatment or disposal.

(6) **LATERAL SEWER.** That portion of the sewer system located under the street, within the street right-of-way, or easement and which collects sewage from a particular property for transfer to the trunk line or interceptor. A sewer which is designed to receive a building sewer.

(7) **MUNICIPAL SEWER.** A public sewer exclusive of a county sewer or City of Detroit sewer.

(8) **PUBLIC SEWER.** A common sewer controlled by a governmental agency or public utility.

(9) **SANITARY SEWER.** A sewer that carries liquid and water-carried waste from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of groundwater, stormwater, surface water and drainage water and are not admitted intentionally.

(10) **STORM SEWER.** A sewer that carries stormwater and surface water, street wash and other wash waters, or drainage, but excludes domestic wastewater and industrial wastewater. Also called a **STORMDRAIN**.

(11) **TRUNK SEWER or TRUNK SEWER LINE.** A sewer which connects the lateral sewer to the intercepting sewer and to which building sewers may be connected.

SEWER SERVICE CHARGE. The sum of the applicable user charge, surcharges and debt service charges.

SHALL. All acts referred to are mandatory.

SIGNIFICANT INDUSTRIAL USERS. Any user of the POTW who:

(1) Has an average discharge flow of 25,000 gallons per day or more of process wastewater excluding sanitary, boiler blowdown, and noncontact cooling water; or

(2) Has discharges subject to the national categorical pretreatment standards; or

(3) Requires pretreatment to comply with the specific pollutant limitations of this division; or

(4) Has in its discharge toxic pollutants as defined pursuant to 33 USC 1317, or other applicable federal and state laws or regulations that are in concentrations and volumes which are subject to regulation under this division as determined by the Department; or

(5) Is required to obtain a permit for the treatment, storage or disposal of hazardous waste pursuant to regulations adopted by this state or adopted under the Federal Solid Waste Disposal Act, as amended by the Federal Resource Conservation and Recovery Act as amended, and may or does contribute or allow waste or wastewater into the POTW including, but not limited to, leachate or runoff; or

(6) Is found by the City of Detroit or village to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.

SIGNIFICANT NONCOMPLIANCE. Any violation which meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a six-month period exceed by any magnitude the daily maximum limit or the average limit for the same parameter;

(2) **TECHNICAL REVIEW CRITERIA (TRC) VIOLATIONS.** Defined as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable **TRC** (**TRC** = 1.4 for BOD, TSS, Fats, Oil and Grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Department determines has caused, alone or in combination with other discharges, interference or pass-through including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority;

(5) Failure to meet a compliance schedule milestone contained in a local control mechanism, or enforcement order for starting construction, completing construction, or attaining final compliance within 90 days after the scheduled date;

(6) Failure to provide required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within 30 days after the due date;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the Department determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG. Slug means any discharge of a non-routine episodic nature including, but not limited to, an accidental spill or a

non-customary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended.

STANDARD METHODS. Methods set forth in 40 CFR 136, *Guidelines for Establishing Test Procedures for Analysis of Pollutants* or the laboratory procedures set forth in the latest edition, at the time of analysis, of *Standard Methods for the Examination of Water and Wastewater* prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, or methods set forth in 40 CFR 136, *Guidelines for Establishing Test Procedures for Analysis of Pollutants*. Where these two references are in disagreement regarding procedures for the analysis of a specific pollutant, the methods given in 40 CFR 136 shall be followed.

STATE. The State of Michigan.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUPERINTENDENT. The director of the Village department of public works or his or her duly authorized representative.

SURFACE WATER.

(1) All water on the surface as distinguished from groundwater or subterranean water.

(2) Water appearing on the surface in a diffused state, with no permanent source of supply or regular course for any considerable time, as distinguished from water appearing in watercourses, lakes, or ponds.

SUSPENDED SOLIDS (TOTAL). Total suspended matter which floats on the surface of, or is suspended in, water, wastewater or other liquids, and is removable by laboratory filtration or as measured by *Standard Methods*.

TOTAL EQUIVALENT MASTER METERED WATER CONSUMPTION. The equivalent to the total amount of potable water used by a municipality as recorded by a master water meter for sewered premises, and shall include, but not be limited to, fire protection water, gardening and lawn water.

TOTAL PCB. The sum of the individual analytical results for each of the PCB aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.

TOTAL PHENOLIC COMPOUNDS. The sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2, 4-dichlorophenol, 2, 4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/l.

TOXIC POLLUTANT. Any pollutant or combination of pollutants designated as toxic in regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the provisions of the Clean Water Act, being 33 USC 1317, or included in the *Critical Materials Register* promulgated by the Michigan Department of Environmental Quality, or by other federal or state laws, rules or regulations.

TRADE SECRET. The whole, or any portion or phase, of any proprietary manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value, and whose secrecy the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products or their constituents discharged or sought to be discharged into the Detroit wastewater treatment plant, or into the wastewater system tributary thereto.

UPSET. An exceptional incident in which there is unintentional and temporary noncompliance with limits imposed under this division or with national categorical pretreatment standards due to factors beyond the reasonable control of the industrial user but excludes noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

USER. Any person who, directly or indirectly, contributes, causes or permits the discharge of wastewater into the POTW as defined herein.

USER CHARGE. A charge levied on users of a treatment works for the cost of operation and maintenance of sewerage works pursuant to Section 204(b) of P.L. 92-500 and includes the cost of replacement.

VILLAGE. The Village of Bingham Farms.

WASTEWATER or WASTESTREAM. The liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which are contributed to or permitted to enter the POTW including infiltration and inflow waters, storm water, and cooling water.

WASTEWATER DISCHARGE PERMITS. Permits issued by the Department in accordance with § 52.59(D) of this code.

WATERS OF THE STATE. Groundwater, lakes, rivers, streams, all other watercourses and waters within the confines of this state as well as bordering this state in the form of the Great Lakes.

(Am. Ord. 172, passed 10-22-01; Am. Ord. 212, passed 12-22-08)

§ 52.83 ABBREVIATIONS.

For purposes of this subchapter, the following acronyms shall have the meanings designated by this section:

BMR. Baseline monitoring report.

BOD. Biochemical Oxygen Demand.

CFR. Code of Federal Regulations.

DWSD. Detroit Water and Sewerage Department.

EPA. Environmental Protection Agency.

FOG. Fats, Oil or Grease.

l. liter.

MDEQ. Michigan Department of Environmental Quality.

mg. milligrams.

mg/l. milligrams per liter,

NPDES. National Pollutant Discharge Elimination System.

P. Phosphorus.

POTW. Publicly Owned Treatment Works.

RCRA. Resource Conservation and Recovery Act, being 42 USC 6901 *et seq.*

SIC. Standard Industrial Classification.

SWDA. Solid Waste Disposal Act, being 42 USC 6901 *et seq.*

TSS. Total Suspended Solids.

USC. United States Code Section.

(Am. Ord. 172, passed 10-22-01)

§ 52.84 GENERAL WASTEWATER DISPOSAL REGULATIONS.

(A) *Delegation of authority.* The City of Detroit, through the Detroit Water and Sewerage Department as the State approved Control Authority, is authorized to administer and enforce the provisions of this section on behalf of the village. The village has executed and hereby ratifies its delegation agreement with the City of Detroit through the Detroit Water and Sewerage Department, which sets forth the terms and conditions of such delegated authority, consistent with this section, and shall allow the Detroit Water and Sewerage Department to perform the specific responsibilities of Control Authority pursuant to State and Federal law.

(B) *Discharge prohibitions.*

(1) *General pollutant prohibitions.* No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general discharge prohibitions shall apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or to any other federal, state, or local pretreatment standards or requirements. In addition, it shall be unlawful for a user to discharge into the POTW:

(a) Any liquid, solid or gas, which by reason of its nature or quantity, is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or to be injurious in any other way to persons, to the POTW, or to the operations of the POTW. Pollutants, which create a fire or explosion hazard in a POTW, include, but are not limited to, wastestreams with a closed cup flash point of less than 140°F or 60°C using the test methods specified in 40 CFR 261.21; or

(b) Any solid or viscous substance in concentrations or quantities, which are sufficient to cause obstruction to the flow in a sewer or other encumbrances to the operation of the POTW, including, but not limited to, grease, animal guts or tissues, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes, or tumbling and debarking stones; or

(c) Any wastewater having a pH of less than 5.0 units or greater than 11.5 units; or

(d) Any wastewater containing petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, or toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference, or pass through, or constitute a hazard to humans or animals; or

(e) Any liquid, gas, solid or form of energy, which either singly or by interaction with other waste is sufficient to create toxic gas, vapor, or fume within the POTW in quantities that may cause acute worker health and safety problems, or may

cause a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair; or

(f) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW, such as residue, sludge, or scum to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under 33 USC 1345, with any criteria, guidelines, or developed and promulgated regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act, or with State criteria applicable to the sludge management method being used; or

(g) Any substance which will cause the POTW to violate either the Consent Judgment in U.S. EPA v. City of Detroit *et al.*, Federal District Court for the East District of Michigan Case No. 77-1100, or the City of Detroit's National Pollutant Discharge Elimination System permit; or

(h) Any discharge having a color uncharacteristic of the wastewater being discharged; or

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150°F or which will cause the influent at the wastewater treatment plant to rise above 104°F (40°C); or

(j) Any pollutant discharge which constitutes a slug; or

(k) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable federal or State regulations; or

(l) Any floating fats, oil or grease which are sufficient to cause interference with or pass through the POTW; or

(m) Any solid materials having a specific gravity greater than 1.2 or a cross section dimension of ½-inch or greater which are sufficient to cause interference with the POTW.

(2) *Specific pollutant prohibitions.* No user shall discharge wastewater containing in excess of the following limitations:

(a) *Compatible pollutants.* See Appendix C.

(b) *Non-compatible pollutants.* No user shall discharge wastewater containing in excess of the following:

Pollutant	mg/l
Pollutant	mg/l
Arsenic (As)	1.0 mg/l
Cadmium (Cd)	See Appendix C
Chromium (Cr)	25.0 mg/l
Copper (Cu)	2.5 mg/l
Cyanide (CN) (Available)	1.0 mg/l
Iron (Fe)	1000.0 mg/l
Lead (Pb)	1.0 mg/l
Nickel (Ni)	5.0 mg/l
Silver (Ag)	1.0 mg/l
Zinc (Zn)	7.3 mg/l
Total Phenolic Compounds or see Appendix B	1.0 mg/l
All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR 136.	

1. *The limitation for Total PCB is non-detect.* Total PCB shall not be discharged at detectable levels, based upon U.S. EPA Method 608, and the quantification level shall not exceed 0.2 ug/m³, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of Total PCB, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the Total PCB concentration is below the detection level, or submission of a BMP in accordance with § 52.59(I)(8).

2. *The limitation of Mercury (Hg) is non-detect.* Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 ug/m³, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of mercury, the user shall be required to demonstrate compliance. For the purposes of this section, this demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with § 52.59(I)(8). All limitations are based on samples collected over an operating period representative of an industrial

user's discharge, and in accordance 40 CFR Part 136.

(c) *Compliance period.* Within 30 days of the effective date of this section, the Department shall notify all industrial user's operating under an effective wastewater discharge permit of the requirement to submit a compliance report within 180 days after the effective date of this section. The compliance report shall demonstrate the user's compliance or non-compliance with these limitations, and, in the event of non-compliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed 18 months from the effective date of this section. An industrial user who does not demonstrate compliance may petition the Department for a second extension as part of an administrative consent order. The Department shall include appropriate monitoring, reporting, and penalties into an administrative consent order that relates to a second extension, and shall enter into such an agreement only upon a good-faith showing by the industrial user of the actions taken to achieve compliance with this provision.

(3) *National categorical pretreatment standards.* All users shall comply with the applicable National Categorical Pretreatment Standards and requirements promulgated pursuant to the act as set forth in 40 CFR Subchapter N *Effluent Guidelines and Standards*, which are hereby incorporated by reference and with all other applicable standards and requirements, provided, however, that where a more stringent standard or requirement is applicable pursuant to state law or regulation or to this division, then the more stringent standard or requirement shall be controlling. Affected dischargers shall comply with applicable reporting requirements under 40 CFR 403 and as established by the Department. The National Categorical Pretreatment Standards which have been promulgated as of the effective date of this section are delineated in the Appendix attached hereto and made a part hereof as if appearing in total.

(a) *Intake water adjustment.* Industrial users seeking adjustment of National Categorical Pretreatment Standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15. Upon notification of approval by the Department, the adjustment shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial user's permit.

(b) *Modification of national categorical pretreatment standards.* The Department may apply to the U.S. Environmental Protection Agency, or to the Michigan Department of Environmental Quality, whichever is appropriate, for authorization to grant removal credits in accordance with the requirements and procedures in 40 CFR 403.7. Such authorization may be granted only when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought, provided, that any limitation of such pollutant(s) in the NPDES permit neither are being exceeded nor pose the prospect of being exceeded as a result of the removal credit being granted. Where such authorization is given to the Department, any industrial user desiring to obtain such credit shall make an application to the Department, consistent with the provisions of 40 CFR 403.7 and of this division. Any credits which may be granted under this section may be subject to modification or revocation as specified in 40 CFR 403.7, or as determined by the Department. A requisite to the granting of any removal credit may be that the industrial user pay a surcharge based upon the amounts of such pollutants removed by the POTW, such surcharge being based upon fees or rates which the board may establish and, when appropriate, revise from time to time. Permits shall reflect, or be modified to reflect, any credit granted pursuant to this section.

(c) *New sources.* Industrial users who meet the new sources criteria shall install, maintain in operating condition, and start-up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed 90 days, new sources must meet all applicable pretreatment standards.

(d) *Concentration and mass limits.* When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Department may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users. Equivalent limitations shall be calculated in accordance with Sections 40 CFR 403.6(c)(3) and/or 40 CFR 403.6(c)(4) and shall be deemed pretreatment standards for the purposes of 33 USC 1317(d) and of this division. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(e) *Reporting requirements for industrial users upon effective date of categorical pretreatment standards-baseline report.* Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under Section 40 CFR 403.6(x)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the Detroit POTW shall submit to the Department a report containing the information listed in 40 CFR 403.12(b)(1-7). Where reports containing this information have already been submitted to the Director or regional administrator in compliance with the requirement of 40 CFR 128.140(b), the industrial user will not be required to resubmit this information. At least 90 days before commencement of any discharge, each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the Department a report which contains the information listed in 40 CFR 403.12(b)(1-5). In such report, new sources shall include information concerning the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 CFR 403.12(b),(4) and (5).

(4) *Dilution prohibited.* Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall increase the use of process water, or in any way dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant specific limitation or requirement imposed by the Village, the City of Detroit or by the State of Michigan.

(5) *Hauled in wastewater.* Any waste material or wastewater which is hauled into or within the service region for

discharge to the POTW is subject to the requirements of this division including, but not limited to, permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the department for unloading such waste in accordance with the Board's rules pertaining thereto. The discharger shall be subject to applicable terms and conditions, surcharges, fees or rates as established by the Board. Hauled in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirements specified in Section § 52.59(D) of this subchapter. The Department may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this division.

(6) *Centralized waste treatment.*

(a) It is unlawful for a centralized waste treatment (CWT) facility to discharge any industrial waste or wastewater into the POTW without a wastewater discharge permit from the Department. Any authorization granted, or permit issued, by the Department to a centralized waste treatment (CWT) facility shall specify the type of wastewater for which treatment is provided, and discharge approval is sought, from the POTW

(b) Unless such industrial waste or wastewater is determined by the Department to require further authorization, a centralized waste treatment (CWT) facility that has submitted an application to, and received previous approval from, the Department to discharge wastewater is not required to obtain further authorization from the Department before discharging such wastewater.

(c) An industrial user, that provides centralized waste treatment services and files an application for the treatment and discharge of such types of wastewater to the POTW, shall provide the following minimum information in support thereof:

1. The general nature, source and processes generating the type of wastewater. Any wastewater, which is generated from those processes and is subject to national categorical pretreatment standards as delineated in the Appendix to this chapter, shall be so designated;

2. The identity of the toxic pollutants known or suspected to be present in the wastewater;

3. At least one sample report showing the results of an analysis for the EPA priority pollutants for each type of wastewater for which application is made in § 52.59(6)(c)1.;

4. A statement, that is certified by a professional engineer, which addresses the treatability and compatibility of the wastewater, received or collected by the facility's treatment process(es);

5. The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the State, or by any other governmental agency. Upon request, the centralized waste treatment (CWT) facility shall provide a copy of its permit and/or license to the Department; and

6. Other information requested by the Department including, but not limited to, information required by § 52.59(D) (3)(a) through (r), or by rules adopted by the Board. The discharge from a centralized waste treatment (CWT) facility will be deemed approved for those specific types of wastewater delineated in a permit and, upon issuance of such permit in accordance with the procedures contained in § 52.59(D), will be deemed approved for discharge into the POTW. The centralized waste treatment (CWT) facility shall comply with all applicable provisions contained in § 52.59(D) regarding permits. In furtherance of its obligations as control authority, the Department may include in the permit a requirement to report at selected intervals the information mandated in § 52.59(B)(6)(c)1. through 6.

7. All users granted a permit under this section shall maintain records which, at a minimum, identify the source, volume, character, and constituents of the wastewater accepted for treatment and disposal. These records may be reviewed at any time by the Department.

(7) *Groundwater discharges.* Unless authorization has been granted by the Department, the discharge of any groundwater into the POTW is prohibited.

(a) The Department may authorize the discharge of groundwater resulting from maintenance and related activities of gas, steam, or electrical utilities through the use of general permits. Subject to appropriate reporting requirements, the general permit shall authorize discharge in accordance with the terms of the permit. Utilities shall comply with this provision within 180 days after its enactment.

(b) If a person, who proposes to discharge groundwater resulting from purge, response activity, or UST projects, has applied for and received a permit from the Department, the Department may authorize the discharge of such wastewater. Permits shall be issued in accordance with the procedures contained in § 52.59(D), or in accordance with any rules adopted by the Board.

(8) *Village right of revision.* The City of Detroit and the Village reserve the right to establish rules or regulations adopted by the Board, additional or more stringent limitations or requirements on discharges to the POTW. Ninety days after adoption by the Board, industrial users shall comply with such rules and regulations.

(9) *Accidental discharges.*

(a) *Requirements if no approved plan.*

1. Each industrial user, which does not currently have an approved spill prevention plan or slug control plan, shall

provide protection from accidental discharge of prohibited materials or other substances regulated by this division, and all significant industrial users shall submit to the Department detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided, and maintained at the owner's or industrial user's cost or expense. Unless the significant industrial user has an approved spill prevention or slug control plan, all existing significant industrial users shall complete and submit such a plan within 60 days of the effective date of this division. New significant industrial users shall submit such a plan prior to the time they commence discharging.

2. For purposes of this section, the information provided shall include the approximate average and maximum quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemicals and/or waste therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of 5% or greater in the raw material, chemical solution or waste material, are required to be reported. Volumes of less than 55 gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass through or cause interference with the POTW.

3. The industrial user shall promptly notify the Department of any significant changes or modifications to the plan including, but not limited to, a change in the contact person, or substance inventory.

(b) *Department evaluation.* At least once every two years, the Department shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined by 40 CFR 403.8(f)(2)(v). Unless otherwise provided, all significant users shall complete, implement, and submit such a plan within 30 days of notification by the Department.

(10) *Notification requirements.* Unless a different notice is provided by this division or applicable law, within one hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state or village laws, rules, regulations or permit requirements, or which could cause problems to the POTW, or which has the potential to cause the industrial user to implement its plan prepared in accordance with subdivision (C)(9)(a) of this section, the industrial user shall telephone the Department at its control center and notify the Department of the discharge. The notification shall include the name of the caller, the location and time of discharge, the type of wastewater, the estimated concentration of excessive or prohibited pollutants and estimated volume, and the measures taken, or being taken, to abate the discharge into the POTW. Within five calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences and when required by the department, the industrial user's wastewater discharge permit may be modified to include additional measures to prevent such future occurrences. Such notification shall not relieve the industrial user of any expense, cost of treatment, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other environmental impairment or any other damage to person or property.

(11) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board, or other prominent place, advising employees whom to contact in the Department in the event of an actual or excessive or prohibited discharge.

(12) *Recovery of costs.* Any user discharging in violation of any of the provisions of this division, which produces a deposit or obstruction, or causes damage to or impairs the Department's POTW, or causes the Department to violate its NPDES permit, shall be liable to the Department for any expense, loss, damage, penalty or fine incurred by the Department because of said violation or discharge. Prior to assessing such costs, the Department shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction impairment, or violation of the City's NPDES permit and the Department's intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this division. Such charge shall be in addition to, and not in lieu of, any penalties or remedies provided under this division, or this code, or other statutes and regulations, or at law or in equity.

(13) *Hazardous waste notification.* All industrial users, who discharge into the Village Collection System, shall notify the Department in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR 261. Such notification must comply with the requirements of 40 CFR 403.12(p).

(14) *Authorized representative.* The authorized representative, as defined in §52.57, may designate a duly authorized representative of the individual designated in Section § 52.57 where:

(a) The authorization is made in writing by the individual defined in §52.57;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(c) The written authorization is submitted to the Department.

(15) *Pollution prevention.* The Department shall encourage and support industrial users to develop and implement pollution prevention programs which eliminate or reduce pollutant contributions beyond the levels required by this division. The Department may require an industrial user to implement pollution prevention initiatives or BMP as part of an enforcement response, or as necessary to comply with its NPDES permit.

(C) *Fees.*

(1) The purpose of this section is to provide for the recovery of costs from users of the POTW. The applicable charges

or fees established by the Board shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system, or as provided by law or by Board action.

(2) The Board shall adopt charges and fees which shall include, but not be limited to:

(a) Fees for reimbursement of costs of establishing, operating, maintaining, or improving the Department's industrial waste control and pretreatment programs; and

(b) User fees based upon volume of waste and concentration or quantity of specific pollutants in the discharge, and treatment costs including sludge handling and disposal; and

(c) Reasonable fees for reimbursement of costs for hearings including, but not limited to, expenses regarding hearings officers, court reporters, and transcriptions; and

(d) Other fees, which the Board may deem necessary, to carry out the requirements contained herein, or as may be required by law.

(D) *Wastewater discharge permits.*

(1) *Required.* It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference or pass through, or otherwise not comply with the discharge prohibitions of § 52.59(D)(4). It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the Detroit Water and Sewerage Department. Unless otherwise expressly authorized by the Department through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this division.

(a) All significant industrial users, which are in existence on the effective date of this division, shall apply for a wastewater discharge permit within 30 days of the effective date of this division. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this provision. These applications are to include all information specified in § 52.59(D)(3) and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 CFR 403.12(b).

(b) All new significant users shall apply for a wastewater discharge permit at least 90 days prior to commencement of discharge. The application must include all information specified in § 52.59(D)(3) and, where applicable, any additional information that may be needed to satisfy the federal BMR requirements of 40 CFR 403.12(b). Until a permit is issued and finalized by the Department, no discharge shall be made into the POTW.

(c) Any user, who proposes to discharge any wastewater other than sanitary or noncontact cooling water into the POTW, shall request approval from the Department for the discharge(s) at least 30 days prior to the commencement of the discharge.

(2) *Permit application or reapplication.* The Department may require any user to complete a questionnaire and/or a permit application and to submit the same to the Department for determining whether the industrial user is a significant user, or to determine changes in the wastewater discharges from a user's facility. Within 30 days of being so notified, a user shall comply with the Department's request in the manner and form prescribed by the Department. Failure of the Department to so notify a user shall not relieve the user of the duty to obtain a permit as required by this division.

(a) A user, which becomes subject to a new or revised National Categorical Pretreatment Standard, shall apply for a wastewater discharge permit within 90 days after the promulgation of the applicable National Categorical Pretreatment Standard, unless an earlier date is specified or required by 40 CFR 403.12(b). The existing user shall provide a permit application which includes all the information specified in § 52.59(D)(3) and (7).

(b) A separate permit application shall be required for each separate facility.

(c) Existing permittees shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of existing permits on a form prescribed by the Department.

(3) *Application or reapplication information.* In support of an application or reapplication for a wastewater discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

(a) Corporate or individual name, any assumed name(s), federal employer identification number, address, and location of the discharging facility;

(b) Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;

(c) All SIC numbers of all processes at this location according to the Standard Industrial Classification manual, issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended;

(d) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in § 52.59(B)(1) and (2), those pollutants limited by national categorical pretreatment standards regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge, regulated in the previous permit, or specifically requested by the Detroit Water and Sewerage Department. For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided. For industries subject to national categorical pretreatment standards or requirements, the data requested herein shall be separately shown for each categorical process

wastestream. Combined wastestreams proposed to be regulated by the combined wastestream formula shall also be identified. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to 33 USC 1314(g) and contained in 40 CFR 136, as amended. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.

(e) A listing and description of activities, facilities and plant processes on the premises. Those processes, which are subject to national categorical pretreatment standards or requirements, shall be so designated. As pertains to § 52.59(D)(3)(d), identify which pollutants are associated with each process;

(f) Restricted to only those pollutants referred to in §52.59(D)(3)(d), a listing of raw materials and chemicals which are either used in the manufacturing process or could yield the pollutants referred to in § 52.59(D)(3)(d). Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;

(g) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven days of the week;

(h) The following shall be denoted:

1. The average and maximum 24-hour wastewater flow rates including, if any, daily, monthly and seasonal variations;

2. Each national categorical process wastestream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW; and

3. Each combined wastestream;

(i) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive storm water, sanitary water or cooling water; also show which lines handle each combined wastestream. This schematic shall be cross-referenced to the information furnished in § 52.59(D)(3)(h);

(j) Each product produced by type, amount, process or processes and rate of production as pertains to processes subject to production based limits under the national categorical pretreatment standards or requirements only;

(k) A statement regarding whether or not the requirements of this division and of the national categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements. This statement shall be reviewed and signed by the authorized representative and, as appropriate, certified by a qualified professional;

(l) Basic information on the program for the prevention of accidental discharges in accordance with the requirements of § 52.59(B)(9);

(m) Proposed or actual hours of operation of each pretreatment system for each production process;

(n) A schematic and description of each pretreatment facility which identifies whether each pretreatment facility is of the batch type or continuous process type;

(o) If other than Detroit Water and Sewerage Department potable water, the industrial user's source of intake water together with the types of usage and disposal method of each water source, and the estimated wastewater volumes from each source;

(p) If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this division and the national categorical pretreatment standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;

(q) Identify whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other waste at the facility; and

(r) Any other information as may reasonably be required to prepare and process a wastewater discharge permit.

(4) *Permit issuance.* Upon receipt of an application, the Department shall review the application, determine, and so notify the industrial user in writing regarding any of the following:

(a) *User does not meet definition.* The industrial user does not meet the definition of a significant industrial user and is not required to have a wastewater discharge permit;

(b) *User does meet definition.* The industrial user does meet the definition of a significant industrial user but is found by the Department to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement, and is not required to have a wastewater discharge permit. The Department shall make such determination in accordance with the requirements of 40 CFR 403.8(f)(6);

(c) *Application incomplete.* The application is incomplete or the information only partially satisfies the information and data required by 40 CFR 403.12 or by the Department, and that additional information and data are required which shall be promptly furnished. Where appropriate, the industrial user is notified regarding specific information that is missing, or that the application is unacceptable;

(d) *Wastewater discharge permit required.*

1. The industrial user is required to have a wastewater discharge permit. The Department shall notify the industrial user of its determination and the basis of the determination.

2. The Department may withhold issuance of a permit to a significant user, which has not submitted an adequate or timely report, or permit application, to the Department as the control authority in accordance with the reporting requirements of 40 CFR 403.12, or whose discharge is in violation of this division. If the Department determines that an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the draft permit, so marked, for the industrial user's review. An industrial user has 30 days from the date of mailing to file a response to the draft permit and, in accordance with the procedures contained in § 52.59(J), 20 days from the date of mailing to file an appeal regarding a permit issued as final. Upon disposition by the Department of any contested terms or conditions, a permit shall be issued as final. Only one facility location shall be included in each permit.

(5) *Permit conditions.* Wastewater discharge permits shall contain all requirements of 40 CFR 403.8(f)(1)(iii) and shall be deemed to incorporate all provisions of this division, other applicable laws, rules, regulations, and user charges and fees established by the City of Detroit or the village without repetition therein. In addition, permits may contain the following:

- (a) Limits on the average and maximum wastewater constituents or characteristics which are equivalent, more restrictive than, or supplemental to the numeric limits enumerated in § 52.59(B), or the applicable national categorical pretreatment standards;
- (b) Limits on average, and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (c) Requirements for installation, operation, and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;
- (d) Restrictions on which of the user's discharge wastestreams are to be allowed to be discharged at each point of connection to the POTW;
- (e) Specifications for industrial user monitoring programs which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedules;
- (f) Requirements for the prevention of accidental discharges and the containment of spills or slug discharges;
- (g) Restrictions based on the information furnished in the application;
- (h) Additional reporting requirements:

1. All permittees shall submit a report on the form prescribed by the Department, or on an alternative form approved by the Department, indicating the status of compliance with all conditions enumerated or referred to in the wastewater discharge permit, or made applicable to the permit by this division. Unless required more frequently, the reports shall be submitted at six month intervals on a schedule to be established by the Department. Analytical data generated by the Department may not be submitted in lieu of the facility's own monitoring data as required by the wastewater discharge permit.

2. Permittee not subject to national categorical pretreatment standards or requirements shall submit a report in accordance with the requirements of § 52.59(D)(5)(h)(4) and (5). The report shall show the concentration of each substance for which there is a specific limitation in the permit, or which may be identified by the Department in accordance with § 52.59(D)(5)(i) and (k).

3. Permittee subject to national categorical pretreatment standards or requirements shall submit compliance reports at the times and intervals specified by federal regulations and by the Department. A compliance report shall be submitted to the Department no later than 90 days following the final compliance date for a standard, or in the case of a new source, no later than 90 days, following commencement of the introduction of wastewater into the POTW, and in accordance with 40 CFR 403.12(d). A report on continued compliance shall be submitted at six-month intervals thereafter on the schedule established by the Department and incorporated into the industrial users discharge permit and in accordance with § 52.59(D)(5)(h)(4) and (5). The reports shall be either on a form prescribed by the Department or on an alternate form approved by the Department, and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by national categorical pretreatment standards, or which there is a specific limitation in the permit, or which may be identified by the Department in accordance with § 52.59(D)(5)(i) and (k). The report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by the permit. The combined waste stream formula may be used for reporting purposes after the initial information has been furnished to the Department, provided there have been no changes to the elements composing the combined waste stream.

4. a. Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein, and, for significant industrial users subject to production based standards, shall be cross-referenced to the related flow or production and mass as required to determine compliance with the applicable pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable general pretreatment regulations, being 40 CFR 403, or by the Department, but no less than is necessary to assess and assure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements. All sampling and analysis shall be performed in accordance with applicable regulations contained in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.

b. If an industrial user monitors any pollutant more frequently than required by the Department using the procedures as prescribed in this section, the results of this monitoring shall be included in such report. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards.

5. a. This report, and those required under §§ 52.59(B)(3)(e) and 52.29(D)(5)(h)2. and 3., shall include the following certification statement:

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

b. Said certification shall be signed by the facility's authorized representative, as defined in §52.57. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the authorized representative definition must be submitted to the Department prior to, or together with, any reports to be signed by an authorized representative.

6. If sampling performed by a permittee indicates a violation the user shall notify the Department within 24 hours of the time said user becomes, or should have become, aware of the violation. In addition, the user shall repeat the sampling and analysis, and submit the results of the repeat analysis to the Department within 30 days after said user becomes, or should have become, aware of the violation.

(i) In the event the Director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW, or the receiving stream, the Department has the authority to develop and enforce effluent limits applicable to the user. To the extent the Department seeks to impose restrictions in a permit which are more restrictive than established in this division, the Department shall provide written documentation to explain the greater restriction for protection against pass through, interference, or violation of the NPDES permit;

(j) Requirement for pollution prevention initiatives; and

(k) Other requirements reasonably necessary to ensure compliance with this division.

(6) *Permit duration.* Permits shall be issued for a specified time period. Except as deemed necessary by the Department, or as otherwise provided for under this division, permits shall be issued for a specified period of not more than five years nor less than one year. The existing permit for significant industrial users who timely submit an application for permit reassurance to the Department, shall be automatically extended until a permit is issued as final.

(7) *Permit modification.*

(a) The terms and conditions of the permit may be subject to modification by the Department during the term of the permit as limitations or pretreatment standards and requirements identified in § 52.59(B) are amended, or other just cause exists. Just cause for a permit modification includes but shall not be limited to, the following:

1. Material or substantial changes to an industrial user's facility or operation, or changes in the characteristics of the industrial user's effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within 30 calendar days of the change;
2. Change(s) in the Department's NPDES permit;
3. Embodiment of the provisions of a legal settlement or of a court order;
4. Any changes necessary to fulfill the Department's role as control authority;
5. An industrial user's noncompliance with portions of an existing permit;
6. A change of conditions within the POTW;
7. A finding of interference or pass through attributable to the industrial user;
8. Amendments to, or promulgation of, national categorical pretreatment standards or requirements including 40 CFR 403 and those delineated in the Appendix attached to this chapter. Permittee shall request an application form and apply to the Department for a modified permit within 90 days after the promulgation of a new or revised national categorical pretreatment standard to which the industrial user shall be subject. Information submitted pursuant to this subsection shall be confined to that information related to the newly promulgated or amended national categorical pretreatment standard or requirement. However, information previously submitted need not be duplicated, insofar as the previously submitted information continues to be current and applicable. In addition, the Department may initiate this action;
9. Changes in the monitoring location pursuant to § 52.29(E);
10. Typographical errors or omissions in permits;

11. The Department may modify the permit on its own initiative based on its findings or reasonable belief of the above; or

12. The user may request a modification of the permit.

(b) When initiated by the Department, the industrial user shall be informed of any proposed change in its permit. The Department will issue a draft permit and an industrial user has 30 days to file a response to the draft modified permit. Thereafter, the Department will issue a final permit and, unless appealed in accordance with the procedures contained in § 52.29(J), the permit will become effective 20 days after issuance.

(8) *Permit custody and transfer.* Wastewater discharge permits are issued to a specific person as defined herein for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises, or a new or changed operation without notice to and written approval of the Department, and providing a copy of the existing permit to the new owner or operator. It shall be the permit holder's duty to notify the Department of any such change at least 30 days before the date of the change. Wastewater discharge permits, which do not receive the written approval of the Department prior to the change, shall be null and void regardless of reassignment, or transfer, or sale. If it has occurred, the Department may revoke a permit. If a change takes place, the Department may require the application for a new or modified permit. Any succeeding person shall comply with the terms and conditions of any existing permit which the Department allows to be retained.

(9) *Permit notification requirements.* All industrial users shall promptly notify the Department in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which initial notification under 40 CFR 403.12(p) has been made, request a permit application form, and apply for a modification of the permit at least 30 calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this division.

(E) *Monitoring facilities.*

(1) Significant industrial users shall provide, operate and maintain at their own expense a sampling manhole or special structure to facilitate monitoring, inspection, sampling, and flow measurement of their discharge by the Department and the industrial user, and to enable the Department to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits and standards as provided for in this division. In the event the Department determines that the monitoring facility identified in the permit application is inadequate, a new monitoring facility must be identified, or provided, which shall allow for collection of a representative sample of the wastewater discharged from the facility. Unless otherwise determined at the discretion of the Department, said facility shall be provided within 90 days of receipt of notification by the Department. The industrial user shall provide the Department with:

(a) A drawing showing all sewer connections and sampling manholes by the size, location, elevation, and points or places of discharges into the POTW;

(b) A flow schematic showing:

1. Which connections receive each national categorical process waste stream;
2. Which connections receive storm water, sanitary water or cooling water; and

3. Which lines handle each combined waste stream. This report shall be certified by a professional engineer. If a significant industrial user fails to install the monitoring facilities within the prescribed time limits, then the Department may install such structure or device and the significant user shall reimburse the Department for any costs incurred therein.

(2) The sampling manhole should be situated on the industrial user's premises in a location readily accessible to the Department. When such a location would be impractical or cause undue hardship to the industrial user, the Department may allow the facility to be constructed in the public street or sidewalk area when there is room and the location will not be obstructed by landscaping or parked vehicles. It shall be the responsibility of the industrial user to obtain any necessary approvals which may be required from other government agencies for the location and construction of monitoring facilities. There shall be ample room in or near such sampling or monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user. Whether constructed upon public or private property, the sampling and monitoring facilities shall be provided in accordance with the Department's requirements and all applicable local construction standards and specifications pursuant to § 52.59(D)(7).

(F) *Inspection, sampling and record-keeping.*

(1) For purposes of administering and enforcing this division, any other applicable provisions of this code or applicable state or federal laws and regulations, the Department may inspect the establishment, facility or other premises of the industrial user. The Department's employees or authorized representative shall have access to the industrial user's premises for purposes of inspection, sampling, compliance monitoring and/or metering activities.

(2) Each such inspection or sampling activity shall be commenced and completed at reasonable times, and in a reasonable manner. Upon arrival at the industrial user's premises, the Department shall inform the industrial user, or the industrial user's employees, that sampling and/or inspection is commencing, and that the facility's authorized representative has the right to observe the inspection and/or sampling. The Department shall neither refrain from, nor be prevented or delayed from, carrying-out its inspection or sampling duties due to the unavailability of the authorized representative of the facility to observe or participate in the inspection or sampling activity.

(3) While performing work on private property, employees or authorized representatives of the Department shall observe all reasonable safety, security and other reasonable rules applicable to the premises as established by the industrial user. Duly authorized employees or representatives of the Department shall bear proper credentials and identification, and at the industrial user's option may be accompanied by a duly authorized representative of the industrial user. Duly authorized Department representatives shall not be restricted from viewing any of the facility site. Department employees or representatives may take photographs of facilities subject to this division. Which shall be maintained by the Department as confidential in accordance with § 52.59(G).

(4) Where an industrial user has security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that, upon presentation of appropriate credentials, personnel from the Department will be permitted to enter for the purposes of performing their specific responsibilities.

(5) Significant industrial users shall sample and analyze their discharge in accordance with the provisions of their permit. The Department may require such samples to be split with the Department for the Department's independent analysis.

(6) Industrial users shall maintain records of all information from monitoring activities required by this division, or by 40 CFR 403.12(n). Industrial users shall maintain the records for no less than three years. This period of record retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user, or the operation of the City of Detroit's Industrial Waste Program, or when requested by the Department, by the state, or by the EPA.

(7) Upon the request of the Department, industrial users shall furnish information and records relating to discharges into the POTW. Industrial users shall make such records readily accessible to the Department at all reasonable times and allow the Department to copy such records.

(8) In the event the Department obtains samples, and analyses are made of such samples, a copy of the results of such analyses shall be promptly furnished upon written request by the industrial user's authorized representative. When requested by the industrial user, the Department employee or representative shall leave with the user, a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the Department shall be controlling unless proven invalid.

(9) In addition to any other violation caused by the discharge described herein, in the event a single grab sample of the industrial user's discharge is obtained by the Department, and then analyzed in accordance with 40 CFR 136, and found to contain concentrations of pollutants which are two or more times greater than the numeric limitations as listed in § 52.59(B)

(2), or as contained in the facility's wastewater discharge permit, the industrial user shall implement its slug control plan, and shall provide a written report to the Department within 14 days, which describes the cause of greater concentration and provides a description of the means by which future discharge concentrations will be held to values of less than two times the limitation in the future.

(G) *Confidential information.*

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

(b) When submitted to the Department, all information claimed to be confidential must be clearly marked confidential. When requested by the person furnishing the report, the portions of a report determined by the Department to disclose trade secrets or trade secret processes, and which are clearly labeled as confidential, shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this division, to the National Pollutant Discharge Elimination System (NPDES) permit, and to the State Disposal System permit and/or the pretreatment programs, provided, however that information shall be treated as confidential by the governmental agency, until such time as the information has been determined to be non-confidential by the governmental agency. Confidential information on industrial users, which the Department releases pursuant to a request of another governmental agency, should be handled by the other governmental agency pursuant to its own confidentiality procedures. The Department cannot control how another governmental agency handles such confidential information, and assumes no responsibility for the disposition of the information released to the governmental agency. The Department will use sufficient care to inform the other governmental agency of the existence of the industrial user's confidentiality claim.

(c) The Department shall determine whether the information requested to be treated as confidential, in fact, satisfies the requirements of confidential information as defined herein. The decision of the Department shall be made in writing.

(d) Wastewater constituents and characteristics will not be recognized as confidential information.

(2) Except as otherwise determined by the Department or provided for by applicable law, all information with respect to an industrial user on file with the City shall be made available upon request by such user or the user's authorized representative during normal business hours.

(H) *Statutes, laws and regulations.* The *National Categorical Pretreatment Standards* defined in 40 CFR Chapter I, Subchapter N, Parts 405-471, shall be and are incorporated by reference herein and made a part hereof. Unless otherwise provided, any reference in this division to a code, standard, rule, regulation, or law enacted, adopted, established, or promulgated by any private organization, or by any element or organization of government other than the Village shall be construed to apply to such code, standard, rule, regulation or law in effect or as amended or promulgated, from the date of enactment of this division.

(I) *Enforcement.*

(1) *Violations.* It shall be a violation of this division for any user to:

(a) Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;

(b) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in § 52.59(D)(7)(a);

(c) Refuse reasonable access to the industrial user's premises, waste discharge, or sample location for the purpose of inspection or monitoring;

(d) Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided, that upon request reasonable access to the facility is promptly provided to the Department;

(e) Restrict, interfere, tamper with, or render inaccurate any of the Department's monitoring devices including, but not limited to, samplers;

(f) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;

(g) Fail to comply with any limitation, prohibition, or requirement of this division including any rule, regulation, or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of this division shall be deemed to be in compliance with the requirements of this division, and such permits shall remain in effect and be enforceable under this division until a superseding permit is effective. Industrial users shall comply with applicable national categorical pretreatment standards and requirements on the date specified in the federal Regulations, regardless of compliance schedules.

(2) *Upsets.* An upset shall constitute an affirmative defense to an action brought for noncompliance with national categorical pretreatment standards where the requirements of subdivision (a) of this section are met.

(a) An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. An upset occurred and the industrial user can identify the cause(s) of the upset;
2. At the time, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
3. The industrial user has submitted the following information to the Department, orally or in writing, within 24 hours of becoming aware of the upset and where this information is provided orally, a written submission must be provided within five days:
 - a. A description of the discharge and cause of noncompliance;
 - b. The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(b) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof;

(c) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this division upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(3) *Bypass.* Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements, but only if it is for essential maintenance to ensure efficient operation of the treatment system. These bypasses are not subject to the provisions of § 52.59(1)(3)(a) and (b).

(a) *Notice of anticipated bypass.* Industrial users anticipating a bypass shall submit notice to the Department at least ten days in advance.

(b) *Notice of unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description of the bypass including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

(c) *Prohibition of bypass and enforcement.* Bypass is prohibited, and the Department may take enforcement action against a user for a bypass, unless:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
3. The industrial user properly notified the Department as described in §52.59(1)(3)(b).

(d) *Bypass approval.* Where it meets all conditions in §52.59 (1)(3)(c) of this section, the Department may approve an anticipated bypass.

(4) *Emergency suspensions and orders.* The Department may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where, in the opinion of the Department, such suspension is necessary to stop any actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW, or causes or may cause the City of Detroit to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event the Department provides informal notification under this section, written confirmation and an order shall be provided within 24 hours. In the event of a failure of the person to comply voluntarily with any suspension or revocation order, the Department shall take such steps as deemed necessary, including immediate severance of the sewer connection or services, to prevent or minimize damage to the POTW system or danger to any individual or the environment. In the event such steps are taken, the Director shall notify the industrial user within 24 hours in writing of such action and order, and the specific recourse available. In any event, the Department shall provide the industrial user with an opportunity for a hearing before the Director, or his designated representative, within ten days of such action. The industrial user shall submit a detailed written statement to the Department within 15 days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Upon proof of elimination of the noncomplying discharge, the Department shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

(5) *Notice of violation.* Except in the case of an actual or threatened discharge as specified in §52.59 (1)(4), whenever the Department has reason to believe that any industrial user has violated or is violating this division, the Department shall

serve a written notice stating the nature of the violation upon such industrial user. Where applicable, the Department shall pursue appropriate escalating enforcement action as defined within its approved enforcement response plan. The failure of the Department to issue a notice of violation shall not preclude the Department from escalating its enforcement response.

(6) (a) *Administrative actions.* Whenever the Department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, or a pretreatment standard or requirement or any prohibition of this division, the Department, except in the case of emergency or flagrant violation, may initiate appropriate administrative enforcement action in order to compel the industrial user to eliminate or to remedy such violation as soon as possible.

1. *Conferences.* The Department may order any person, who violates this division, to attend a conference wherein the Department may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violation shall be served at least ten days before the scheduled conference and shall set forth the date, time, and place thereof. The conference shall be conducted by a representative of the Department. The industrial user shall present a plan and schedule for achieving compliance with this division. Nothing contained herein shall require the Department to accept or agree to any proposed plan or schedule, or to prevent the Department from proceeding with a show cause hearing as set forth in § 52.59 (l)(6)(b). If the attendees agree upon a compliance schedule, the user and the Department's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement. An industrial user must exhibit good faith and expeditious efforts to comply with this division and any procedures, requirements, and agreements hereunder.

2. *Compliance schedules.* The user and the Department may agree upon a schedule which sets forth the terms and conditions, and time periods or schedules for completion of actions to remedy or to eliminate the causes of violation. These schedules may be developed as part of a compliance agreement, or an administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of upgraded or additional pretreatment facilities, or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards including, but not limited to, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, and completing construction;

b. No single increment referred to in §52.59(l)(6)(a)2.a. shall exceed nine months;

c. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Department including, at a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reason(s) for delay, and the steps being taken by the industrial user to return to the established schedule; and

d. Any deviations from the compliance schedule may result in the industrial user being found in violation of this division.

3. *Administrative orders.* The Department may order any industrial user, who violates or continues to violate this division or a duly issued permit, to install and to properly operate devices, treatment facilities, or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violation including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction, and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order, which is the result of an agreement, or a unilateral administrative order.

(b) *Show cause hearing.* The Department may order any industrial user, who violates this division or allows such violation to occur, to show cause before the Department why a proposed enforcement action should not be taken. A notice shall be served upon the industrial user specifying the time and place of a hearing before the Department regarding the violation, the reason(s) why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the Department why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally, or by registered or certified mail with return receipt requested, at least ten days before the hearing. Service may be made upon any agent or officer of a corporation, or its authorized representative.

1. *Hearing proceeding.* The hearing shall be conducted in accordance with the procedures adopted by the Board. A hearings officer shall conduct the show cause hearing and take the evidence, and may:

a. In the name of the Board, issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;

b. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Director for action thereon.

2. *Transcript.* At any show cause hearing held pursuant to this division, testimony shall be recorded by a court reporter.

(c) *Actions.* After a show cause hearing has been conducted, the hearings officer shall issue an order to the industrial user directing any of the following actions:

1. Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this division, or applicable local, state or federal law or regulation;

2. Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specified time period;

3. Submission of compliance reports on effluent quality and quantity as determined by self-monitoring and analysis during a specified time period;

4. Submission of periodic reports on effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;

5. Control of discharge quantities;

6. Payment of costs for reasonable and necessary inspection, monitoring, and administration of the industrial user's activities by the Department during compliance efforts; and/or

7. Any such other orders as are appropriate including, but not limited to, immediate termination of sewer or wastewater treatment services, or revocation of a wastewater discharge permit, or orders directing that following a specified time period sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices, or operation and maintenance practices have been employed.

8. A finding the user has demonstrated by a preponderance of the evidence that a violation either of this division or of a duly issued permit did not occur.

(d) *Public notification of significant noncompliance.* The Department shall publish in the largest daily newspaper published in the City of Detroit and the Village a list of all industrial users which were in significant noncompliance with applicable pretreatment requirements at any time during the previous 12 months. All industrial users identified in a proposed publication shall be provided with a copy of the proposed notice at least 30 days before publication and allowed an opportunity to comment as to its accuracy.

(7) *Legal actions.*

(a) *Criminal action.* Any user, who violates any provision of this division including the failure to pay any fees, fines, charges or surcharges imposed hereby, or any condition or limitation of a permit issued pursuant thereto, or who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or wastewater discharge permit, or who tampers with or knowingly renders inaccurate any monitoring device required under this division, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$500 for each violation per day, or by imprisonment for not more than 90 days, or by both. The Department, consistent with the terms and conditions of the Delegation Agreement entered into with Village, is hereby authorized, through its counsel, to seek prosecution of criminal charges against any person violating any provision of this division.

(b) *Civil action.* Whenever the Department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, a pretreatment standard or requirement or any requirement of this division, the Director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and/or to obtain appropriate relief to remedy the violations. The Department or Board may also seek additional legal and/or equitable relief. The commencement of suit does not constitute an exclusive election of remedies and does not prohibit the Department, Director, Board, City of Detroit or the Village from commencing action in Federal Court for discharges believed to be in violation of this division, State and Federal requirements contained in the Clean Water Act, the City of Detroit's NPDES permit, or other applicable laws or requirements. In addition, the City of Detroit and/or the Village may recover the reasonable attorney fees, court costs, court reporters' fees, and other unusual expenses related to enforcement activities or litigation against the person found to have violated this division, or the orders, rules, regulations and permits issued hereunder.

(c) *Fines, costs and penalties.* All fines, costs, and penalties which are imposed by any court of competent jurisdiction shall be payable to the City of Detroit Water and Sewerage Department and the Village where applicable.

(8) *Prevention initiatives/BMP.* Where one or more of the measurements taken for any pollutant defined in §52.59(B)(2) during a six-month period exceed by any magnitude the daily maximum non-detect limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP, as part of its response. The Department may, as part of an administrative order, also require development of a BMP as a part of the Department's enforcement response. Upon approval of the Department, these pollution prevention initiative, or BMPs shall be made an enforceable part of the wastewater discharge permit. Industrial users shall provide, at six-month intervals, analytical results and certifications in support of its implementation of an approved pollution prevention initiative or BMPs. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

(J) *Reconsideration and appeal.* Through the procedures of reconsideration and appeal, a user may contest actions, determinations, or decisions of the Department which result from its construction, application and enforcement of this division. The procedures contained within this section govern reconsideration and appeal with respect to construction, application, and enforcement of this division.

(1) *Selection of reconsideration or of appeal.*

(a) Except for those actions, determinations, or decisions which are expressly identified as subject only to appeal, reconsideration may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger, who is adversely affected by any action, determination, or decision that is made by, or on behalf of, the

Department by the Director, or an authorized representative, and that interprets, implements or enforces the provisions of this division.

(b) An appeal may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger, who is adversely affected

1. By a permit issued as final by the Department; or
2. By an administrative order entered after a show cause order and hearing, or after a hearing for reconsideration.

(c) Unless otherwise expressly provided for by this division, a request for reconsideration or appeal must be signed by an authorized representative, and received at the Department's General Offices within 20 days from the date of the occurrence of the action, determination, or decision in dispute. A request for reconsideration shall contain the requester's name and address, a brief statement of the reason(s), and the factual basis underlying the request.

(d) A request for reconsideration shall be filed in triplicate either by hand delivery or by certified mail to the General Offices of the Department. Where a request for reconsideration or appeal either is not filed within the time period provided for in this subsection or is improperly made, the action, determination or decision of the Director, or the Department's authorized representative, is final and any right to reconsideration or appeal may be deemed waived.

(2) *Reconsideration.* Within 15 days after receipt of a timely and proper request for reconsideration, the Department shall notify the applicant of the time and place for a hearing.

(a) A hearing for reconsideration shall be conducted by a hearings officer who is designated by the Director and may be an employee of the Department. The decision of the hearings officer shall be in the form of a recommendation to the Director and embodied in an administrative order. Except for an administrative consent order that was negotiated and agreed to by both parties, an administrative order is appealable in accordance with § 52.59(J)(3).

(b) Where improperly or untimely submitted, the Department may reject a request for reconsideration. The Department shall notify the requester in writing that the request has been rejected.

(c) Unless the date is mutually extended by both parties, the hearing shall be conducted neither less than ten days nor more than 30 days after mailing of the notice. For cause and at the discretion of the hearings officer, the hearing may be continued for a reasonable time.

(d) The hearing for reconsideration shall be an informal consultation and conference where the requester in person, or by counsel, shall present their argument, evidence, data, and proof in connection with the issue(s) being reconsidered. The parties shall not be bound by the Michigan Rules of Evidence. The hearing shall be transcribed and the requester may obtain a copy of the hearing transcript, as appropriate, from the Department or from the court reporter.

(e) Within 30 days after the close of the hearing, the hearings officer shall issue a final decision which shall contain a recommendation to the Director. The hearings officer shall send such decision to the requester by certified mail.

(f) Unless such action is necessary to prevent pass-through, interference or other harm to the POTW, to the public or to the waters of this State, the filing of a request for reconsideration in accordance with this section shall stay the action by the Department that is the subject of the hearing for reconsideration.

(3) *Appeal.* Within 30 days after receipt of a timely and proper request for an appeal, the Department shall notify the applicant in writing regarding the time and place for a hearing. The hearing shall be conducted in accordance with procedures set by the Board until rules are promulgated pursuant to Section 2-111 of the 1997 Detroit City Charter. In addition:

(a) Any request for an appeal must be made within 20 days of the Department's action, determination or decision regarding the request for reconsideration or any permit issued in accordance with this division.

(b) Where a request either is not filed within the time period contained in this subsection or is improperly made, the action, determination or decision of the Director, or the Department's authorized representative, is final and any right to appeal may be deemed waived. Where untimely or improperly submitted, the Department may reject the request for an appeal, and shall notify the requester in writing that such request has been rejected.

(c) The Department shall appoint a hearings officer. The hearings officer shall review the evidence, and within 15 days after the close of the hearing shall issue a written recommendation to uphold, modify or reverse the action, determination, or decision of the Department.

(d) The written recommendation of the hearings officer shall be submitted to the Board which shall render a final decision within 30 days of its next regularly scheduled meeting.

(e) In accordance with applicable law, the user or the Department may appeal any final decision of the Board to a court of competent jurisdiction.

(f) Unless such action is necessary to prevent pass through, interference, or other harm to the POTW, to the public or to the waters of this State, the filing of a request for appeal in accordance with this section shall stay the action by the Department that is the subject of the appeal.

(Am. Ord. 172, passed 10-22-01; Am. Ord. 212, passed 12-22-08)

§ 52.99 PENALTY.

(A) The provisions of this chapter, except §§ 52.40*et seq.* and §§ 52.22 through 52.84, shall be enforceable through the bringing of appropriate action for injunction, mandamus or otherwise in any court having jurisdiction. Any violation of this chapter is deemed to be a nuisance per se.

(B) Any person convicted of disposing of sanitary sewage in a manner contrary to the provisions of this chapter, of failing to connect with an available public sewer as provided herein or in any other way violating the provisions of this chapter, except §§ 52.40*et seq.* and §§ 52.22 through 52.84, shall be punished as provided.

(O.C. § 2.50) (Am. Ord. 252, passed 12-16-19)

APPENDIX A: NATIONAL CATEGORICAL PRETREATMENT STANDARDS

National Standards	Categorical Pretreatment	Code of Federal Regulations
Centralized Waste Treatment		40 CFR Part 437
Landfills		40 CFR Part 445
Metal Products and Machinery		40 CFR Part 438
Transportation Equipment Cleaning		40 CFR Part 442
Waste Combustors		40 CFR Part 444

(Am. Ord. 172, passed 10-22-01; Am. Ord. 212, passed 12-22-08)

APPENDIX B: PHENOLS LIMITATIONS

(A) An industrial user may elect, in lieu of the Total Phenols Limitation specified in §52.59(B)(2)(b), to substitute specific limitations for each of the eight 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

(B) 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.

(Am. Ord. 212, passed 12-22-08)

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 24-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 136.

(B) *Non-compatible pollutants.*

Cadmium (Cd)	1.0 mg/l
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(Am. Ord. 212, passed 12-22-08)

CHAPTER 53: ELECTRIC AND GAS SUPPLY FRANCHISES

Section

General Provisions

- 53.01 Short title
- 53.02 Purpose and findings
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- 53.04 Franchise requirement
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GENERAL PROVISIONS

§ 53.01 SHORT TITLE.

This chapter shall be known and may be cited as the “Village of Bingham Farms Electric and Gas Supply Franchise Ordinance.”

(Ord. 164, passed 4-17-00)

§ 53.02 PURPOSE AND FINDINGS.

(A) Pursuant to the Michigan Constitution of 1963, Art. 7, § 29, use of the highways, streets, alleys and other public places for operation of a public utility requires the consent of the village and the transaction of local business in the village by a public utility requires that a franchise first be obtained. This chapter is adopted for the purpose of confirming and providing the process, terms and conditions for suppliers of electricity and natural gas to obtain the required consents and franchises and to fully exercise the village’s constitutional authority which includes the reasonable control of its highways, streets, alleys and public places.

(B) As a result of regulatory changes that have or may occur and interpretations of existing laws at the state and federal levels, specifically including the Michigan Public Service Commission (Deregulation), the persons that may be authorized to supply electricity and natural gas to customers in the village are no longer limited to the public utility that owns and operates the facilities used to deliver electricity and natural gas to customers. This chapter is adopted in recognition of the deregulation which has and may continue to occur with the intent and purpose of confirming that all persons supplying electricity or natural gas to customers in the village are required to have a franchise as provided in this chapter, regardless of whether it is required as a condition of state or federal regulatory permits, approvals or certificates.

(C) The village will incur costs and expenses in reviewing and acting on franchise requests and, upon granting a franchise, monitoring and enforcing its terms and conditions. Such costs and expenses should be paid by franchise applicants and holders as provided in this chapter.

(Ord. 164, passed 4-17-00)

§ 53.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CUSTOMER. A residential, commercial or industrial end user of electricity or natural gas in the village.

DISRUPTION. A physical change, modification, alteration, disturbance, injury and/or damage to or in a right-of-way, including but not limited to construction, installation, location, maintenance, modification, alteration, replacement or repair of facilities and the removal or alteration of a right-of-way surface grade or material, tree, sign, marker, hydrant or other material or object.

FACILITY or FACILITIES. Any overhead or underground cable, wire line, main, pipe, pole, building, structure, equipment and all other man-made or placed materials or objects or combinations thereof for the transmission or distribution of electricity or natural gas to customers.

FRANCHISE. A nonexclusive limited authorization to transact a local business and the right to incidental use of right-of-way under this chapter.

GRANTEE. The holder of a valid and effective franchise granted by the village.

MPSC. The Michigan Public Service Commission.

RIGHT-OF-WAY. Any and all public rights-of-way, streets, highways, roads, sidewalks, alleys, thoroughfares, public easements and public places located within the village.

SUPPLIER. A person that supplies electricity (electric generation) or natural gas to customers in the village through

facilities in the village in which it has no ownership, operation, leasehold, repair or maintenance rights or responsibilities.

UTILITY. A person that owns, operates and maintains facilities used to provide electricity or natural gas to customers in the village.

VILLAGE. The Village of Bingham Farms.

(Ord. 164, passed 4-17-00)

§ 53.04 FRANCHISE REQUIREMENT.

Being a supplier of electricity or natural gas to customers in the village is the transaction of local business of a public utility, which shall not be done without a franchise.

(Ord. 164, passed 4-17-00)

§ 53.05 RIGHT-OF-WAY LIMITATIONS.

A franchise granted under this chapter constitutes the village's consent to the grantee's limited and incidental use of right-of-way to the extent that facilities are located within it.

(Ord. 164, passed 4-17-00)

FRANCHISE APPLICATION REQUIREMENTS AND PROCESS

§ 53.20 APPLICATION INFORMATION.

Applications for franchises shall be made to the Clerk by providing the following written information and documents.

(A) A nonrefundable franchise application fee of \$3,500;

(B) The name, age, if an individual, and address of the applicant, and if the applicant is not a natural person, the date, state and form of business organization;

(C) A description of the local business the applicant proposes to transact;

(D) Copies or certificates, articles, permits, approvals, licenses, last annual report and other written documentation of applicant's lawful incorporation, organization, existence, authorization and good standing to conduct its proposed business in the State of Michigan. If any of the listed items have not been received, documentation they have been applied for must be provided;

(E) If applicable, applicant's minimum quantity requirements of existing and potential customers;

(F) The length of the franchise term being requested, which shall have a duration of not longer than ten years;

(G) An acknowledgment and agreement to accept and comply with a franchise in the form of an ordinance that contains and incorporates by reference all of the terms and conditions contained in §§ 53.35 *et seq.*;

(H) On a separate sheet entitled Appendix A, the names and addresses of customers in the village that applicant is supplying or intends to supply with electricity or natural gas and the quantities thereof.

(Ord. 164, passed 4-17-00)

§ 53.21 APPLICATION PROCESSING.

(A) Upon receipt of a franchise application, the Clerk shall schedule the application and a proposed ordinance (with the Appendix A customer list attached) that would grant the franchise requested for introduction at the first available Village Council meeting.

(B) The applicant or its representative shall receive notice and may appear at the meeting when its franchise request is introduced. If the application meets the requirements of this chapter, the proposed ordinance will be accepted for introduction and scheduled for possible adoption at the first meeting thereafter that allows time to satisfy any publication and legal requirements for adoption of a valid franchise ordinance.

(C) After all publication and other legal requirements for adoption of a valid franchise ordinance have been satisfied at a regular or special meeting, the Village Council may adopt, reject or table adoption of a proposed franchise ordinance.

(Ord. 164, passed 4-17-00)

§ 53.22 FRANCHISE APPROVALS.

After a franchise ordinance is adopted and all publication and other legal requirements for it to become effective are satisfied, a certified copy of the ordinance shall be delivered or mailed to the approved grantee together with a written acceptance for the approved grantee to sign under oath, confirming its acknowledgment, agreement and acceptance of the franchise and all of its terms and conditions. If the required signed and notarized acceptance is not delivered to the Clerk within 30 days of the delivery or mailing of the franchise ordinance and agreement to the grantee, the effectiveness of the ordinance will be automatically terminated. Upon the approved grantee's timely acceptance of the franchise ordinance, it

shall constitute a contract between the village and the grantee.

(Ord. 164, passed 4-17-00)

§ 53.23 FRANCHISE TERMS AND CONDITIONS.

Unless amended by the individual franchise ordinance, all of the definitions, terms and conditions in and penalties and relief in this chapter shall apply and be incorporated by reference as part of every supplier's individual franchise ordinance. Any amendments to this ordinance shall be automatically included in every franchise.

(Ord. 164, passed 4-17-00)

GENERAL FRANCHISE TERMS AND CONDITIONS

§ 53.35 FRANCHISE RIGHTS.

Subject to all terms and conditions in this subchapter and the individual franchise ordinance, a franchise grants the grantee the right to transact a local business of supplying electricity or gas, as designated in the individual franchise ordinance, to customers in the village using facilities of an identified utility to the extent that it is lawful under applicable legislation, administrative rules, including those of the MPSC, and express or implied contract or agreement with the utility. A franchise does not grant the right to own, construct, operate, maintain or repair facilities in the village.

(Ord. 164, passed 4-17-00)

§ 53.36 TERM, REVOCATION AND TERMINATION.

The term of a franchise, which shall be stated in the individual franchise ordinance, is subject to revocation at the will of the village and may be surrendered and terminated by the grantee on 30 days written notice to the village. Any unsatisfied obligations of the grantee to the village shall survive revocation or termination and be enforceable by the village as provided in the franchise, as amended.

(Ord. 164, passed 4-17-00)

§ 53.37 NONEXCLUSIVE.

A franchise is nonexclusive and does not restrict the village from approving additional franchises or establish any priority between the grantees to transact local business and the incidental use of the right-of-way.

(Ord. 164, passed 4-17-00)

§ 53.38 ASSIGNMENT.

A franchise may not be sold, leased, assigned, transferred or used by any person other than the grantee without the written approval of the village by ordinance amendment.

(Ord. 164, passed 4-17-00)

§ 53.39 COMPLIANCE WITH LAWS AND ORDINANCES.

A franchise requires grantee compliance with all applicable current and future village, state and federal ordinances, laws, rules and regulations and any permit, approval, certificate or license requirements and conditions under such laws and shall not be construed as a waiver by the grantee of any of its rights under state or federal law.

(Ord. 164, passed 4-17-00)

§ 53.40 NO RIGHT-OF-WAY DISRUPTION.

Disruption or obstruction of and physical entry in or upon a right-of-way by a grantee, its personnel or equipment is prohibited.

(Ord. 164, passed 4-17-00)

§ 53.41 VILLAGE RIGHTS PARAMOUNT.

A franchise and the rights granted by it shall at all times be subject to the paramount rights of the village in its right-of-way and shall be subject to immediate suspension or termination by the village in the interest of the public health, safety and welfare.

(Ord. 164, passed 4-17-00)

§ 53.42 VACATION.

If a right-of-way is vacated, discontinued, abandoned, terminated or released, a grantee's incidental right to use the right-of-way shall immediately terminate.

(Ord. 164, passed 4-17-00)

§ 53.43 PUBLIC EMERGENCIES.

Without prior notice, the village has the right to remove, damage, destroy or otherwise disrupt and/or order a cessation of use of facilities used by the grantee or its customers when necessary due to a public emergency. Public emergency means any situation which, in the opinion of the village official authorized to declare an emergency, presents an immediate threat to persons or property in the village. The village shall have no liability or responsibility for repairing or restoring facilities damaged by actions taken under this section.

(Ord. 164, passed 4-17-00)

§ 53.44 INTERPRETATION.

A franchise shall not be construed in any manner as a waiver or limitation of the village's discretion and authority or rights to regulate and control the use of the right-of-way.

(Ord. 164, passed 4-17-00)

§ 53.45 ASSUMPTION OF RISK.

A grantee assumes all risks of damages or injuries to its officers, employees, agents and contractors from dangerous right-of-way conditions, if any.

(Ord. 164, passed 4-17-00)

§ 53.46 NO VILLAGE LIABILITY.

The village and its officials, employees, agents and contractors shall have no liability for damages or injuries to any person or property, including the grantee, that arise from the granting, enforcement or exercise of rights under a franchise.

(Ord. 164, passed 4-17-00)

§ 53.47 INDEMNITY.

A grantee shall, at its sole cost and expense, defend, indemnify and hold harmless the village and its officials, employees, agents, contractors, right-of-way and property from all claims and liability for damages or injury to persons or property caused by or resulting from the actions or omissions of the grantee and/or its officers, employees, agents and contractors. This obligation extends to all costs and expenses, including attorney fees that may be incurred by the beneficiaries of the grantee's obligation. The village shall notify the grantee of any claim or liability that is covered by the grantee's obligation and shall not be prevented from participating in the defense of any claim by its own attorney, the cost of which shall be the grantee's responsibility.

(Ord. 164, passed 4-17-00)

§ 53.48 INSURANCE.

The village reserves the right to require the grantee to have, maintain and provide specified liability insurance coverages.

(Ord. 164, passed 4-17-00)

§ 53.49 DISCLOSURES.

The grantee shall provide and update written disclosure to the village of its contact person(s), address, telephone numbers, fax numbers, Email addresses, if applicable, and procedures for service requests and complaints, together with a written disclosure of pricing, billing, warranty and contract rates, terms, policies and procedures.

(Ord. 164, passed 4-17-00)

§ 53.50 SUPPLY REQUIREMENTS.

The grantee shall supply electricity or natural gas in accordance with all applicable laws.

(Ord. 164, passed 4-17-00)

§ 53.51 FRANCHISE FEES.

Every three years commencing after December 31, 2001, the village has the right, after providing prior notice and an opportunity to comment to the grantee, to require the payment by the grantee on a periodic basis of a franchise fee, provided that any such fee is applied equally to all grantees under this chapter that are supplying the same commodity (electricity or natural gas) as the grantee. Such a franchise fee would be an additional franchise term and condition, to be adopted and presented to the grantee for acknowledgment, agreement and acceptance as an ordinance amendment as provided in § 53.22. In any such fee review, the grantee shall disclose and the village may consider if the grantee pays a franchise fee, charge or other periodic payment for a franchise to any other Michigan municipalities and the manner in which such fees are computed. It is a condition of a franchise that the grantee notify the village of any such fees that are paid, and the village shall have the right to inspect the grantee's books and records to monitor, enforce and determine the grantee's compliance and the accuracy of amounts paid or to be paid by the grantee under this section.

(Ord. 164, passed 4-17-00)

§ 53.52 VILLAGE COSTS.

The grantee shall reimburse the village for any costs it incurs, including reasonable attorney fees, in enforcing franchise terms and conditions.

(Ord. 164, passed 4-17-00)

§ 53.53 RESERVATION OF VILLAGE RIGHTS.

A franchise shall at all times be subject to the rights of the village, which are hereby reserved to make all regulations, take all actions and do all things provided for in its Charter.

(Ord. 164, passed 4-17-00)

§ 53.54 EXTENSION OF SERVICE.

The grantee may supply customers that are not identified in Appendix A of its individual franchise ordinance, provided that it first files a dated and signed amended Appendix A with the Clerk.

(Ord. 164, passed 4-17-00)

§ 53.55 FRANCHISE TERM; RENEWALS AND EXTENSIONS.

(A) No franchise granted under this chapter shall be for longer than ten years. The term of each franchise shall be stated in the individual franchise ordinance.

(B) There is no right to a franchise renewal or extension. Franchise renewal or extension may be applied for and approved as provided in §§ 53.20 *et seq.*

(Ord. 164, passed 4-17-00)

ADMINISTRATION AND ENFORCEMENT

§ 53.65 NO WAIVER.

Nothing in this chapter shall be construed as a waiver of any of the rights, remedies and/or authority of the village pursuant to any laws, ordinances, codes or regulations of the village, and the village reserves the right to exercise all authority and take any and all action granted to it by any constitution, law, village ordinance, code and/or regulation. Nothing in this section shall be construed to limit and/or preclude the village from exercising its right of eminent domain.

(Ord. 164, passed 4-17-00)

§ 53.66 NOTICES.

Any notices required to be sent to the grantee by this chapter may be delivered or may be sent by first-class mail to the grantee at the address listed in the franchise application or such other address as the grantee has provided to the Clerk in writing.

(Ord. 164, passed 4-17-00)

§ 53.67 TRANSACTION OF BUSINESS WITHOUT FRANCHISE.

Any person transacting business without a franchise required by this chapter shall be responsible for a municipal civil infraction and shall pay a fine in the following amount:

(A) First offense: \$3,500;

(B) Second or subsequent offense: \$5,000.

(Ord. 164, passed 4-17-00)

§ 53.68 RIGHT-OF-WAY RESTORATION.

Any person in violation of the franchise requirement of this chapter or a franchise issued under it who damages a right-of-way shall be responsible for restoration of the right-of-way to the condition that existed prior to the violation. If such person fails or refuses to restore the right-of-way after 30-days' notice from the village, and if the village determines that the civil infraction remedy is inadequate under the circumstances, the village may initiate proceedings in the appropriate court to recover the cost estimated to accomplish the restoration or recover such costs as have been actually expended by the village in achieving the restoration, as the case may be. Such costs shall include finance and reasonable administrative costs estimated or incurred.

(Ord. 164, passed 4-17-00)

§ 53.69 SEPARATE OFFENSES.

Each occurrence of a violation, and each day a violation exists, shall constitute a separate offense.

(Ord. 164, passed 4-17-00)

§ 53.70 INJUNCTIVE RELIEF.

Violations of this chapter or a franchise issued under it are considered to be a nuisance per se with such violations and correction of any conditions resulting from violations subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.

(Ord. 164, passed 4-17-00)

§ 53.71 ELECTION OF REMEDIES.

Violations of this chapter and franchises issued under it subject the violator to franchise revocation, if applicable, and village enforcement through one or more of the remedies provided in this subchapter, and the election by the village to pursue one form of remedy does not waive or restrict the village's option to pursue other remedies at the same or later time.

(Ord. 164, passed 4-17-00)

TITLE XV: LAND USAGE

Chapter

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CHAPTER 150: BUILDING REGULATIONS

Section

Building Code

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BUILDING CODE

§ 150.01 ADMINISTRATION AND ENFORCEMENT.

The village assumes and shall be responsible for administering and enforcing the Single State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, and the Building, Electrical, Plumbing, Mechanical and all other sections of the State Construction Code prepared and promulgated as provided in that Act (referred to in this chapter as the State Construction Code and Act and elsewhere in the code as the Building Code) within the boundaries of this village.

(Ord. 171, passed 7-23-01)

§ 150.02 ENFORCING AGENCY.

The Village Council, the Zoning Board of Appeals, the Village President, Clerk, administrative personnel and consultants, personnel of the City of Southfield Building Department with whom the village has contracted, and officers of the Franklin-Bingham Police Department that perform acts or provide services in the administration of the State Construction Code and Act, are hereby designated as the enforcing agency to discharge the responsibility of the village to administer and enforce the State Construction Code and Act.

(Ord. 171, passed 7-23-01; Am. Ord. 200, passed 7-24-06)

§ 150.03 VIOLATIONS AND ENFORCEMENT.

(A) Violations of the State Construction Code and Act shall be municipal infractions related to the use or occupancy of land, with violations punishable by a civil fine of up to \$500 plus costs, all of which shall be established and enforceable as provided in Act No. 12 of the Public Acts of 1994, as amended, and may be enforced by the village with the same power and authority it possesses for violations of village ordinances, with the village to retain any fines imposed upon a finding of responsibility.

(B) In addition, a person determined to be responsible shall pay damages and expenses incurred by the village in responding to a violation, including any costs in securing or placing a structure or property in a safe condition. Each occurrence of a violation of the State Construction Code and Act, and/or each day a violation exists, shall constitute a separate offense.

(C) Violations of the State Construction Code and Act are considered to be a nuisance per se, with such violations and correction of any conditions resulting from violations, subject to abatement by and injunctive or other appropriate order of a court of competent jurisdiction.

(D) Violations of the State Construction Code and/or Act subject the violator to village enforcement through one or more of the remedies provided in this section, and the election by the village to pursue one form or remedy does not waive or restrict the village's option to pursue other remedies at the same time or later.

(Ord. 171, passed 7-23-01)

§ 150.04 CONFLICTING ORDINANCES REPEALED.

All ordinances or parts of ordinances conflicting with the provisions of §§ 150.01 through 150.03 are hereby repealed.

(Ord. 171, passed 7-23-01)

§ 150.05 CODE APPENDIX ENFORCED.

Pursuant to the provisions of the State Construction Code, in accordance with § 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the Village Council, the Zoning Board of Appeals, the Village President, Clerk, administrative personnel and consultants, personnel of the City of Southfield Building Department with whom the village has contracted, and officers of the Franklin-Bingham Police Department.

(Ord. 200, passed 7-24-06)

§ 150.06 DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Flood Insurance Study, Oakland County, Michigan, and Incorporated Areas," and dated September 29, 2006, the Flood Insurance Rate Maps (FIRMS) panel numbers of 26125C0518F, and 26125C0519F, and dated September 29, 2006 are adopted by reference and declared to be part of § 1612.3 of the Michigan Building Code.

(Ord. 200, passed 7-24-06)

§ 150.07 CONSTRUCTION SITE MAINTENANCE.

(A) *Definitions.* The following word, when used in this section, shall have the meaning ascribed to it in this section, except where the context clearly indicates a different meaning.

FENCE. A chain-link barrier not less than six feet high with privacy screening of adequate strength to resist wind pressure.

(B) *General.* Wherever a building or structure is erected, altered, repaired, removed or demolished, the operation shall be conducted in a safe manner and suitable protection for the general public shall be provided.

(C) *Equipment storage.* All construction equipment and materials shall be stored in an orderly fashion and in compliance with the state construction code.

(D) *Airborne materials.* All construction shall provide control for on-site dust, soil and any other airborne materials so that such materials remain on the job site.

(E) *Construction site fences.*

(1) Every area of construction located five feet or less on the site from the street lot line shall be enclosed with a fence to prevent the entry of unauthorized persons.

(2) Every area of construction containing an excavation of 42 inches or greater on a site shall be enclosed with a fence to prevent the entry of unauthorized persons.

(3) For every excavation and/or area of construction located more than five feet from the street lot line and/or less than 42 inches in depth, a barrier shall be erected where required by the building official. All barriers shall be of adequate strength to resist wind pressure as required by the building official.

(4) All fences or barriers required under this section shall remain until a temporary certificate of occupancy is issued.

(Ord. 258, passed 11-23-20)

SWIMMING POOLS

§ 150.20 FINDINGS.

It is determined that outdoor swimming pools may endanger the public health and safety unless carefully regulated and supervised.

(O.C. § 8.51)

§ 150.21 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOT TUB. Any structure or container designed to hold water, whether partly or wholly above or below grade, located partly or wholly outside a permanent enclosed and roofed building, designed to hold water to a depth of greater than 12 inches when filled to capacity, intended for immersion of the human body, which is equipped with a whirlpool or other pulsating device and a permanent cover or lid. A hot tub shall be considered an accessory structure under the village zoning code.

PERSON. All individuals, groups of individuals, co-partnership, associations, firms or corporations. The singular shall include the plural and the masculine and the feminine.

SWIMMING POOL. Any structure or container, whether partly or wholly above or below grade, located partly or wholly outside a permanent enclosed and roofed building, designed to hold water to a depth of greater than 12 inches when filled to capacity, intended for immersion of the human body, whether for swimming or wading or both.

(O.C. § 8.52)

§ 150.22 NECESSITY FOR PERMIT.

It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Building Department and obtaining a permit therefore.

(O.C. § 8.53)

§ 150.23 FORM OF APPLICATION.

Application for such permit shall show the name of the owner, the location of the proposed swimming pool, the manner in which its use shall be supervised, the safety precautions to be made to protect those making use thereof or who might be endangered thereby, information showing the size, depth and capacity of such swimming pool and shall be accompanied by such other information necessary for the protection of the public health and safety as may be required by the Building Department. There shall be also filed with the Building Department a plot plan of the property showing the location of such swimming pool thereon and a detailed plan for such swimming pool, which shall contain full information as to the type, height and location of the fence surrounding such swimming pool and the number of gates therein. Approval of the county and state authorities having jurisdiction over swimming pools shall be obtained before applying for a permit. Proof that such approval has been obtained shall be filed with the Building Department at the time application is made for a permit.

(O.C. § 8.54)

§ 150.24 FENCE AND YARD REQUIREMENTS.

All swimming pools shall be completely enclosed by a wall or fence of not less than four feet in height. Any wall shall be of wood, brick or masonry and any fence shall be of wrought iron or aluminum; all openings in any such wall or fence shall be equipped with gates which can be securely locked. All such swimming pools, including any pool decking shall comply with side and rear yard setback requirements as stipulated in the village zoning code.

(O.C. § 8.55) (Am. Ord. 225, passed 6-24-13)

§ 150.25 SANITARY MEASURES.

Any outdoor swimming pool shall not be used unless adequate public health measures are periodically taken to insure that the use thereof will not cause the spread of disease. The water of all swimming pools shall be sterilized by chlorinated water. The current standards set by the State Department of Public Health and the Oakland County Department of Public Health to protect public health in the use of such swimming pools are adopted and made a part of this chapter. There shall be no connection between any swimming pool and any public sanitary or storm sewer or combination thereof. Water connections to such swimming pool shall be made to a potable supply and transferred to the pool in a potable condition.

(O.C. § 8.56)

§ 150.26 HOT TUB REGULATIONS.

(A) All hot tubs or similar structures shall be equipped with a permanent lid or cover which shall be securely locked at all times the hot tub is not in use. The lock shall be operated only by a combination or key.

(B) No person shall install or maintain a hot tub without a permit from the Building Official. The application for such permit shall show the name of the owner, proof that the hot tub complies with division (A) of this section, the location where such hot tub will be placed which shall comply with all zoning regulations for the zone district in which the property is located and such other information necessary for the protection of the public safety as may be required by the Building Department. Upon receipt of all information required, the Building Official shall issue a permit for the installation of a hot tub.

(O.C. § 8.58)

§ 150.27 PENALTY.

Each day on which any such violation of this chapter continues shall constitute a separate offense. Any swimming pool, installed, operated or maintained in violation of provisions of this chapter shall constitute a nuisance, and the village may maintain any proper action for the abatement of such nuisance.

(O.C. § 8.57)

STREET ADDRESS IDENTIFICATION

§ 150.40 INTENT AND PURPOSE.

(A) The intent and purpose of this chapter is to establish the requirement that all owners and/or occupiers of nonresidential properties located in the (PS) Professional and C-1 Districts on any main thoroughfare within the village, display, upon the all buildings and structures, affixed street address numbers clearly visible from the fronting road. Similar information shall be required to be displayed at or near the primary entrance drive.

(B) This section addresses the manner by which such display shall be affixed to or posted so as to promote, to the greatest extent possible, the safety and welfare of the public by assuring that such entities as the Police and Fire Departments and/or emergency medical service providers and rescue personnel are readily able to identify a location in case of any emergency.

(C) The regulations are structured to eliminate unnecessary traffic hazards created by drivers trying, unsuccessfully, to identify a location with inadequately small, obstructed or obscured address identification displays.

(D) These regulations are based on the pattern of past and proposed future development within the business districts of the village. The regulation regarding size, format and placement of the subject address identification display is based predominantly on the density of the business district. The regulations have been formatted to promote ease of recognition of address from the adjoining thoroughfare.

(E) This section may require elimination of, or alteration to, certain existing displays along main thoroughfares which contain information other than the street address numbers and name of the owner or occupant of the premises and/or fail to conform to provisions calculated to the greatest extent possible to eliminate hazards brought about by distracting displays.

(Ord. 168, passed - -)

§ 150.41 STREET ADDRESS IDENTIFICATION REGULATION.

All nonresidential buildings located along any main thoroughfare, including but not limited to U.S. 24, Telegraph Road, within the village shall display street address numerals in the following manner:

(A) One display of address numerals shall be affixed to each building at a location visible from the fronting road:

(1) In the (PS) Professional District, such address identification display shall be ten square feet in area and between 16 and 18 inches in height;

(2) In the (C-1) Commercial District, such address identification display shall be a minimum of ten square feet in area, but not exceeding 30 square feet in area;

(3) All address numerals shall appear in a contrasting color to the building or background to which they are affixed;

(4) All address numerals shall appear flat against the building and shall not project above the roofline;

(B) Each building shall also have a double-sided freestanding address identification display located within ten feet of the right-of-way in a visible location at or near the main or primary entrance drive:

(1) Such display shall be installed perpendicular to the fronting roadway and shall be three square feet in area with dimensions of one foot vertical by three feet horizontal. No such sign shall exceed 42 inches in height;

(2) The freestanding sign shall consist of white numerals on a black or similarly dark background;

(C) All address numerals shall be maintained so as to remain in a legible, functional condition.

(Ord. 168, passed - -)

§ 150.42 GENERAL REGULATION.

All identification displays situated on nonresidential property located along a main thoroughfare within the village are subject to approval by the Village Council and are subject to all applicable laws and ordinances.

(Ord. 168, passed - -)

PROPERTY MAINTENANCE CODE

§ 150.55 ADOPTION.

The *International Property Maintenance Code*, 2009 Edition, as published by the International Code Council, is hereby adopted by reference as an ordinance and Property Maintenance Code of the Village of Bingham Farms with the insertions and amendments in §§ 150.56 and 150.57.

(Ord. 173, passed 11-26-01; Am. Ord. 215, passed 11-23-09)

§ 150.56 INSERTIONS.

The following sections of the *International Property Maintenance Code*, 2009 Edition, are completed by inserting the following information:

(A) **101.1 Title.** Insert "Village of Bingham Farms, referred to as the 'Village'."

(B) **103.5 Fees.** Insert “As adopted by resolution of the Village of Bingham Farms Council.”

(C) **112.4 Failure to comply.** Insert \$75 and \$500 as the minimum and maximum fines.

(D) **302.4 Weeds.** Insert “eight (8) inches.”

(E) **304.14 Insect Screens.** Insert “May 1 to September 30.”

(F) **602.3 Heat Supply.** Insert “September 30 to May 1.”

(G) **602.4 Occupiable work spaces.** Insert “September 30 to May 1.”

(Ord. 173, passed 11-26-01; Am. Ord. 215, passed 11-23-09)

§ 150.57 AMENDMENTS.

The following sections of the *International Property Maintenance Code*, 2009 Edition, are amended, deleted and additional sections and sentences added as follows:

(A) **103.1 General.** Amended to read:

The Village President, Clerk, and consultants and personnel of other local governments with whom the village has contracted with for ordinance or code enforcement purposes, including the City of Southfield Building Department and Village of Beverly Hills Code Enforcement Department, shall constitute the Department of Property Maintenance Inspection and shall all be considered as a code official, with the Village Clerk being the code official responsible for the department records.

(B) **103.2 Appointment.** Amended to read:

The Village Council may appoint other code officials by resolution.

(C) **103.2 Deputies.** Deleted.

(D) **106.3 Prosecution of violation.** Amended by adding the following sentence to the end of this section:

Violations of this code shall be municipal civil infractions as provided for and subject to the definitions, fines, penalties, remedies and procedures in Chapter 32 of the Bingham Farms Village Code.

(E) **106.6 Enforcement options.** Added to read:

In addition to or in lieu of the actions or proceedings authorized in this code for violations, a code official may institute and utilize any other applicable administrative and enforcement proceedings provided for in the Bingham Farms Village Code.

(F) **106.7 Enforcement cost recovery.** Added to read:

The Village’s administrative and legal costs, fees and expenses that are incurred as a result of an unlawful act in violation of this code shall be a joint and several responsibility of, and be paid to the Village by, the owner of the real estate in violation and such other persons that are responsible for the violation. Costs under this section are in addition to the other fines and penalties under this § 106. Payment of fines, penalties, fees, costs and expenses shall be secured by a lien upon the real estate in violation, which may be assessed and collected as a delinquent special assessment on the tax rolls as provided by law.

(G) **110.5 Application of other ordinances.** Added to read:

Demolition notices and orders based on this code may be included in notices, orders and proceedings under other applicable provisions of the Bingham Farms Village Code.

(H) **111.2 Membership of the Board.** Amended to read:

The Village of Bingham Farms Council shall serve as the Board of Appeals for purposes of this code.

(I) **111.7 Court Review.** Amended to read:

Any person having the right to appeal to the Board of Appeals shall have a limited right to appeal a Board of Appeals decision to the Oakland County Circuit Court, in the manner required by law, no later than 21 days after the date of the meeting at which the decision of the Board of Appeals is made. The scope of review on appeal is limited to the record of the Board of Appeals and correction of errors of law by the Board of Appeals.

(Ord. 173, passed 11-26-01; Am. Ord. 215, passed 11-23-09)

RENTAL PROPERTY LICENSE

§ 150.70 PURPOSE.

(A) The purpose of this subchapter is to protect the public health, safety and welfare in buildings intended for human habitation and accessory structures as hereinafter provided by:

(1) Establishing minimum standards for exterior property areas, exterior structure, interior structure, basic facilities, light and ventilation, occupancy requirements and fire safety. These standards are designed to be reasonably high, but at the same time, practical and attainable, but should not be interpreted as a guarantee to the tenant;

(2) Fixing the responsibility of owners of every building or structure used or intended for use or occupancy, in whole or in part, as a rental unit; and

(3) Providing for administration, enforcement and penalties.

(B) The provisions of this subchapter shall apply to all existing rental units. Any new building construction or additions to existing structures in the village must comply with the requirements of the building code as amended. The minimum standards required under this code are designed to prevent fire hazard, structural deterioration, inadequate light, air and heat, and unsanitary and over crowded conditions, which constitute a menace to the safety, health and welfare of the tenants in a rental unit and/or the surrounding area.

(Ord. 186, passed 10-27-03)

§ 150.71 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LANDLORD. The owner, lessor, or sublessor of the rental unit, or the property of which it is a part and, in addition, a person authorized to exercise any aspect of the management of the premises, including a person who, directly or indirectly, acts as a rental agent, receives rent, other than a bona fide purchaser, and who has an obligation to deliver the receipts to another person.

RENTAL UNIT. A non-owner occupied structure, or part of a structure, used as a home, residence, or sleeping unit by a person or household unit, or any grounds, or other facilities or area promised for the use of a residential tenant, whether for remuneration or not, but without limitation, apartment units, boarding houses, rooming houses, mobile home spaces and single and two family dwellings.

(Ord. 186, passed 10-27-03)

§ 150.72 REQUIRED; LIMITS ON REMEDY.

It is the duty of every landlord to acquire a rental property license from the building department before allowing any person or persons to occupy a rental unit. A separate license is required for each rental property. A landlord shall be licensed with the village to be entitled to rents and/or to evict tenants and/or occupants residing and/or located on the premises.

(Ord. 186, passed 10-27-03)

§ 150.73 APPLICATION FEE.

Every landlord seeking a rental property license under this subchapter shall make an application to be accompanied by an annual fee, per unit, which shall be established by council resolution, payable to the Village. Such application shall state his/her name and address, the name and address of the managing agent if applicable, and identify the number of tenants occupying the property.

(Ord. 186, passed 10-27-03)

§ 150.74 ISSUANCE, REVOCATION; APPEAL.

(A) The Village Clerk shall issue a license under this section upon certification from the building official that:

(1) The applicant's property is not in violation of any ordinance of the village; and

(2) The applicant provides a full legal description of all parcels of property he or she rents.

(B) The Village Clerk is hereby empowered to revoke a license issued under this section if it is discovered that the applicant has either:

(1) Misrepresented himself or herself or the state of the property; or

(2) His or her property is or becomes violative of any of the ordinances of the Village; and the building official has given a 30 day notice to cure to the property owner/tenant, which cure has not been effective after the expiration of the 30-day cure.

(C) The Village Clerk shall maintain a registry of each rental property located within the Village, recording the address of the rental property, the number of rental units located on the rental property, the name, address and telephone number of the landlord and the name, address and telephone number of the property manager, if different than the landlord.

(Ord. 186, passed 10-27-03)

§ 150.75 INSPECTIONS BY BUILDING OFFICIAL.

(A) The building official, or such other persons as the building official may designate, is hereby authorized to make inspections of premises licensed under this subchapter.

(B) The building official shall inspect rental property not less than:

(1) Prior to occupation of any premises which has been vacated;

(2) Every two years for multiple dwellings and rooming houses;

(3) Prior to the issuance or renewal of a rental property license for a single or two-family rental property;

(C) An applicant for a license under this subchapter shall consent to such inspections to determine the condition of the apartment building, multiple unit, multiple dwelling, rooming house, dwelling or dwelling units within the village. For the purpose of making such inspections, the building official or his or her authorized representative is hereby authorized, upon seven days notice, to enter rooming houses and rental dwelling units. The landlord, tenant or person in charge of an apartment building, multiple dwelling, rooming house or rental dwelling unit shall give the building official or his or her designee free access to the premises.

(Ord. 186, passed 10-27-03)

§ 150.76 PENALTIES, SANCTIONS AND REMEDIES FOR CODE VIOLATIONS.

(A) A person violating this section shall be responsible for a municipal civil infraction. The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction:

(1) The civil fine for a first offense violation shall be in an amount of \$150, plus costs for each offense;

(2) The civil fine for any offense which is a repeat offense shall be in an amount of \$300, plus costs for each offense.

(B) Each act of violation, and each day upon which any such violation shall occur, shall constitute a separate offense.

(C) In addition to any penalties provided for in this code, any equitable or other remedies available may be sought.

(D) In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation of, this code.

(E) The judge or magistrate shall also be authorized to impose costs, damages and expenses as provided by law.

(Ord. 186, passed 10-27-03)

CHAPTER 151: DEMOLITION OF STRUCTURES

Section

General Provisions

151.01 Short title

151.02 Purpose

151.03 Definitions

Demolitions Required

151.15 Structures to be demolished

151.16 Demolition orders

151.17 Repair permits

151.18 Appeals

151.19 Enforcement

Demolition Permits

151.30 Permit required

151.31 Permit process

151.32 Permit approval applications

151.33 Expiration of permit

Demolition Work Standards

151.45 Explosives prohibited

151.46 Site security

151.47 Hazardous excavated areas

151.48 Protection of village streets

151.49 Disposal of debris

151.50 Soil erosion and sedimentation control

151.51 Restoration of property

151.99 Penalty

GENERAL PROVISIONS

§ 151.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Village of Bingham Farms Demolition Ordinance."

(Ord. 165A, passed 7-24-00)

§ 151.02 PURPOSE.

This chapter is adopted for the purpose of requiring the demolition of certain structures in the village to supplement Building Code requirements and conditions for demolition permits and work and to establish municipal civil infraction penalties for violations which the village finds are necessary to protecting and promoting the public health, safety and welfare.

(Ord. 165A, passed 7-24-00)

§ 151.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING. A structure that provides or was intended or designed to provide a facility or shelter for use or occupancy by person, animals or properly.

BUILDING CODE. The Building Code that is being administered and enforced in the village as provided under the State Construction Code Act of 1972, as amended.

BUILDING OFFICIAL. The person or persons administering and enforcing the Building Code.

CLERK. The Village Clerk.

DEMOLISH or DEMOLITION. The removal or dismantling of all or part of a structure.

PERSON. A natural person, company, corporation, partnership, joint venture, voluntary association, organization or other form of legal entity.

STRUCTURE. Any material or assembly of materials that is built or constructed on land so as to be attached to or part of that land.

VILLAGE. The Village of Bingham Farms.

(Ord. 165A, passed 7-24-00)

DEMOLITIONS REQUIRED

§ 151.15 STRUCTURES TO BE DEMOLISHED.

The following structures shall be demolished:

(A) Structures that have been or are built without a required permit under the Building Code;

(B) Incomplete structures, the Building Code permit for which has expired, been suspended or revoked;

(C) Structures that in the opinion of the Building Official are so old, dilapidated, out of repair or for any other reason in a condition that is dangerous, unsafe, unsanitary or otherwise unfit for human use or occupancy.

(Ord. 165A, passed 7-24-00)

§ 151.16 DEMOLITION ORDERS.

When a structure must be demolished as provided in § 151.15, the Building Official or Clerk shall give a written notice and order to the owner of the property upon which the structure is located that:

(A) Describes the property and why the structure must be demolished;

(B) Establishes a deadline for the owner to either apply for a demolition permit under §§ 151.30*et seq.*, a repair permit under § 151.17 or to appeal the order under § 151.18.

(Ord. 165A, passed 7-24-00)

§ 151.17 REPAIR PERMITS.

A person that wants to repair rather than demolish a structure may apply for a repair permit. Such an application shall be made to the Clerk and, in addition to any documents or plans required by the Building Code, shall include a plan for the necessary repairs that includes a timetable and proof of financial ability to complete required repairs within that time frame and demonstrates that the repairs proposed are reasonable and that upon completion the structure would be made safe, sanitary and fit for human use and occupancy. Upon village approval of a repair permit, the applicant must immediately apply for and secure a Building Code repair permit from the Building Official.

(Ord. 165A, passed 7-24-00)

§ 151.18 APPEALS.

A person aggrieved by an order under § 151.16 or denial of a repair permit under § 151.17 may appeal the order or decision to the Village Council, who, upon completion of the appeal hearing, may affirm, modify or reverse the demolition order or repair permit decision. Appeals of repair permit denials shall be filed with the Clerk within 14 days of the repair permit denial.

(Ord. 165A, passed 7-24-00)

§ 151.19 ENFORCEMENT.

Except where the structure presents an imminent danger and threat to persons or property during the pendency of any timely repair permit application and appeal, village enforcement of a demolition order shall be stayed. Failure to comply with a demolition order or repair permit and any conditions that are imposed by the Village Council in an appeal subjects the violator to the penalties provided for in §§ 151.45 *et seq.* and allows the village to cause the structure to be demolished and removed with the property restored as provided by law.

(Ord. 165A, passed 7-24-00)

DEMOLITION PERMITS

§ 151.30 PERMIT REQUIRED.

No persons shall demolish a structure without first applying for and obtaining demolition permit approval by the village and issuance of a Building Code demolition permit as provided in this subchapter.

(Ord. 165A, passed 7-24-00)

§ 151.31 PERMIT PROCESS.

Demolition permits must be approved for issuance by the village prior to applying for a Building Code demolition permit. Village approval will be given after all of the permit application requirements in § 151.32 have been satisfied. Upon permit approval by the village, the applicant must apply for and secure a Building Code demolition permit from the Building Official.

(Ord. 165A, passed 7-24-00)

§ 151.32 PERMIT APPROVAL APPLICATIONS.

Applications for permit approval by the village shall be made to the Clerk by providing the following:

(A) An application fee of \$100;

(B) A site plan drawn to scale and showing the property and the location of the structure and all utilities to which it is connected. The site plan shall also show soil erosion and sedimentation control measures and the implementation sequence for same;

(C) The length of time the demolition work will take. A description of the manner in which the demolition will be accomplished by reference to the types and amounts of equipment and identity of any contractors that will be performing the work.

(Ord. 165A, passed 7-24-00)

§ 151.33 EXPIRATION OF PERMIT.

If work for which a permit has been approved does not commence within three months of village approval or the work is started and then abandoned for a period of more than one month, the permit approval shall automatically expire and cease to be valid for any purpose.

(Ord. 165A, passed 7-24-00)

DEMOLITION WORK STANDARDS

§ 151.45 EXPLOSIVES PROHIBITED.

The use of explosives for the demolition of structures within the village limits is prohibited.

(Ord. 165A, passed 7-24-00)

§ 151.46 SITE SECURITY.

When demolition will require more than one working day, the structure(s) must be temporarily fenced when work ceases. Fences shall be suitable to prevent access to the structure and have appropriate warning signs indicating danger.

(Ord. 165A, passed 7-24-00)

§ 151.47 HAZARDOUS EXCAVATED AREAS.

All excavated areas, holes, swimming pools or basements must be kept free of standing water, filled or fenced. If new construction will not begin within six months, the hazardous areas shall be filled and the surface stabilized.

(Ord. 165A, passed 7-24-00)

§ 151.48 PROTECTION OF VILLAGE STREETS.

Unloading and loading of tracked demolition equipment shall not be done on public pavements. Loading and removal of debris shall be done without damaging or obstructing village streets. Repair of any damage to the pavement resulting from equipment or debris removal shall be the responsibility of the persons performing the work and the property owner.

(Ord. 165A, passed 7-24-00)

§ 151.49 DISPOSAL OF DEBRIS.

No demolition debris shall be buried, burned or otherwise disposed of on site. All demolition debris shall be removed from the site within seven days of demolition and lawfully disposed of.

(Ord. 165A, passed 7-24-00)

§ 151.50 SOIL EROSION AND SEDIMENTATION CONTROL.

During and following the demolition activities, adequate soil erosion and sedimentation controls must be provided to protect adjacent properties and the village's drainage system from soil erosion and deposition of sediment.

(Ord. 165A, passed 7-24-00)

§ 151.51 RESTORATION OF PROPERTY.

Upon completion of the demolition, the disturbed areas of the site shall be graded, seeded and mulched or the soil stabilized in a manner that has been approved by the village. The site shall be mowed and cared for so as not to be detrimental to the neighborhood or adjacent properties.

(Ord. 165A, passed 7-24-00)

§ 151.99 PENALTY.

(A) *Municipal civil infraction.* Municipal civil infraction violations of this chapter shall be municipal civil infractions related to the use or occupancy of land with violations punishable by a civil fine of up to \$500, plus costs, all of which shall be established and enforceable as provided in Public Act 12 of 1994, being M.C.L.A. §§ 600.8701 *et seq.*, as amended. In addition, a person determined to be responsible shall pay damages and expenses incurred by the village in responding to a violation, including any costs in securing or placing a structure or property in a safe condition.

(B) *Separate offenses.* Each occurrence of a violation, and each day a violation exists, shall constitute a separate offense.

(C) *Injunctive relief.* Violations of this chapter are considered to be a nuisance per se, with such violations and correction of any conditions resulting from violations, subject to abatement by and injunctive or other appropriate order of a court of competent jurisdiction.

(D) *Election of remedies.* Violations of this chapter subject the violator to village enforcement through one or more of the remedies provided in this subchapter, and the election by the village to pursue one form or remedy does not waive or restrict the village's option to pursue other remedies at the same or later time.

(E) *Enforcement.* This chapter may be enforced by the Building Official, Clerk and officers of the Franklin-Bingham Police Department.

(Ord. 165A, passed 7-24-00)

CHAPTER 152: VILLAGE PLANNING

Section

- 152.01 Village Planning Commission established
- 152.02 Village Planning Commission membership
- 152.03 Officers, committees, meetings, procedures
- 152.04 Employees, contracts, consultants, expenditures, restriction
- 152.05 Village Master Plan

§ 152.01 VILLAGE PLANNING COMMISSION ESTABLISHED.

In accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, the Village Planning Commission is hereby established, to have the powers and duties provided in that Act and this chapter. The Village Planning Commission existing on the effective date of Ord. 219 shall be the Village Planning Commission provided for in this chapter and its members shall continue to serve with their existing terms continued.

(O.C. § 5.301) (Am. Ord. 219, passed 6-27-11)

§ 152.02 VILLAGE PLANNING COMMISSION MEMBERSHIP.

(A) *Membership.* The Planning Commission shall consist of seven members, one of whom shall be a member of the Village Council, appointed by resolution of the Village Council, to serve as a member ex officio. The six remaining members shall not hold any other municipal office, nor shall they be employees of the village, except that one of the appointed members may be a member of the Village Zoning Board of Appeals. All members of the Planning Commission shall be qualified electors of the village and shall serve without compensation.

(B) The membership of the Planning Commission shall be representative of the entire geography and important segments of the village such as the economic, governmental, educational, and social development of the village, in accordance with the major interests that exist, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce.

(C) The term of the ex officio member shall correspond with the member's term of office as a Council member. The term of the remaining members shall be three years or until his or her successor takes office, except that the respective terms of two of the members first appointed shall be for one year and three for two years so that to the extent possible, the terms of office will expire in different years. A vacancy on the Commission occurring otherwise than through the expiration of a term shall be filled for the remainder of the expired term.

(D) The Village Council may remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonable be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by the Planning Commission bylaws or by a majority vote of the remaining members of the Planning Commission. Failure of a member to disclose a potential conflict of interest constitutes malfeasance in office.

(E) For purposes of this chapter, **CONFLICT OF INTEREST** shall have the meaning as defined in the Planning Commission bylaws and in the absence of such definition, means when a member of the Planning Commission or a member of their family has a proprietary or financial interest in an issue or matter that is before the Planning Commission beyond that which is experienced by the public in general, or when the member may receive or gain a financial benefit as a result of a vote on such issue or matter.

(O.C. § 5.302) (Am. Ord. 219, passed 6-27-11; Am. Ord. 240, passed 12-29-16)

§ 152.03 OFFICERS, COMMITTEES, MEETINGS, PROCEDURES.

(A) The Planning Commission shall elect a Chairperson and Secretary from among its members and create and fill such other offices, it considers advisable. An ex officio member of the Commission is not eligible to serve as Chairperson. The term of each officer shall be one year, with opportunity for reelection.

(B) The Planning Commission may appoint advisory committees whose members are not members of the Planning Commission.

(C) The Planning Commission shall hold at least four regular meetings each year and its first meeting of each calendar year, shall adopt and provide public notice of its regular meetings for that year in accordance with the Open Meetings Act, as amended. Unless it would result in less than four meetings in a calendar year, a meeting need not be held if pending matters do not warrant a meeting.

(D) Unless the Planning Commission Bylaws provide otherwise, a special meeting of the Planning Commission may be called by the Chairperson or by two other members, upon written request to the Secretary, who shall provide for written notice of the special meeting to Planning Commission members not less than 48 hours before the meeting.

(E) The business that the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the Open Meetings Act, as amended. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that Act.

(F) The Planning Commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings and determinations.

(O.C. § 5.303) (Am. Ord. 219, passed 6-27-11)

§ 152.04 EMPLOYEES, CONTRACTS, CONSULTANTS, EXPENDITURES, RESTRICTION.

The Commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the municipality. The Commission may also contract with village planners, engineers, architects and other consultants for such services as it may require. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Village Council which shall provide the funds, equipment and accommodations it deems necessary for the Village Planning Commission's work.

(O.C. § 5.304)

§ 152.05 VILLAGE MASTER PLAN.

The Planning Commission shall have the following powers, duties and responsibilities in accordance with any applicable provisions of the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, with respect to the Village Master Plan:

(A) Prepare, review and update a Master Plan as a guide for development within the village's planning jurisdiction.

(B) Promote public interest in and understanding of the Master Plan, including consultation and advice concerning promotion and implementation of the Master Plan.

(C) Review the Master Plan at least every five years and determine whether to commence the procedure to amend it.

(O.C. § 5.305) (Am. Ord. 219, passed 6-27-11)

§ 152.06 DUTIES AND RESPONSIBILITIES OF PLANNING COMMISSION.

In addition to those related to the Village Master Plan, the Planning Commission shall have the following powers, duties and responsibilities in accordance with the applicable provisions of the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, (referred to in this section as "Planning Act"), this chapter, and other applicable laws:

(A) Prepare an annual written report to the Village Council concerning the Planning Commission's operations and the status of planning activities, including recommendations regarding actions by the Village Council related to planning and development.

(B) Carry out duties and responsibilities authorized or required by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, except the annual preparation of a capital improvements program under Section 65 of the Planning Act, which is the responsibility of the Village Council under the Village Charter and from which the Planning Commission is therefor and hereby exempted.

(C) Provide recommendations to the Village Council on programs for and financing of public structures and improvements.

(D) Exercise all powers and duties of a zoning commission, as previously and hereby confirmed as transferred, to the Planning Commission, as provided in the Michigan Zoning Enabling Act, Public Act 110 of 2006.

(E) Review and take action on public construction as described in Sections 61 and 63 of the Planning Act.

(F) Review and provide recommendations to the Village Council on subdivision ordinances and plats as described in Section 71 of the Planning Act.

(G) Take actions authorized, required or requested by any village ordinance or Village Council resolution.

(H) Prepare special studies and plans, as deemed necessary by the Planning Commission or Village Council and for which appropriations of funds have been approved by the Village Council, as needed.

(I) Accept gifts for the exercise of its functions.

(J) With the Planning Commission's prior approval, members may attend planning conferences, meetings or institutes and hearings on pending village planning legislation. Any village payment or reimbursement of fees, costs or expenses for attendance, housing and travel expenses must be approved by the Village Council as part of its annual budget appropriations for the Planning Commission or separately.

(K) Request and receive information necessary to the Planning Commission's performance of its functions from public officials.

(Ord. 219, passed 6-27-11)

CHAPTER 153: DESIGN REVIEW BOARD

Section

General Provisions

- 153.01 Title
- 153.02 Definitions and rules of construction
- 153.03 Design Review Board; purpose, membership, authority
- 153.04 Application
- 153.05 Actions by Design Review Board
- 153.06 Reports and investigation
- 153.07 Effectiveness of approval and appeals
- 153.08 Enforcement
- 153.09 Fees
- 153.10 Issuance of permits
- 153.11 Performance guarantees
- 153.12 Disqualification of members for interest in buildings

Standards for Review of Application

- 153.25 General provisions
- 153.26 Preservation and provision of landscape
- 153.27 Relation of proposed building to environment
- 153.28 Drives, parking and circulation
- 153.29 Walks
- 153.30 Surface water drainage
- 153.31 Utility service
- 153.32 Advertising features
- 153.33 Special features
- 153.34 Landscaping
- 153.35 Application of design standards

GENERAL PROVISIONS

§ 153.01 TITLE.

This chapter shall be known and may be cited as the "Village of Bingham Farms Design Review Board Ordinance."
(O.C. Ch. 55, Art. I)

§ 153.02 DEFINITIONS AND RULES OF CONSTRUCTION.

- (A) *Rules of construction.* The following rules of construction apply to the text of this chapter.
- (1) The particular shall control the general.
 - (2) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
 - (3) The word **SHALL** is always mandatory and not discretionary. The word **MAY** is permissive and discretionary.
 - (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
 - (5) A building or structure includes any part thereof.
 - (6) The phrase **USED FOR** includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."
 - (7) The word **PERSON** includes an individual, firm, corporation, company, co-partnership, partnership, incorporated association, club, joint venture, estate, trust or any other similar entity, group or combination acting as a unit.
 - (8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either... or," the conjunction shall be interpreted as follows:
 - (a) **AND** indicates that all the connected items, conditions or provisions or events shall apply;

(b) **OR** indicates that the connected items, conditions or provisions or events may apply singly or in any combination.

(9) Terms not herein defined shall have the meaning customarily assigned to them.

(O.C. § 5.550)

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING OFFICIAL. The Building Official or person authorized to issue building permits for construction, renovation or other improvements in the village.

BUILDINGS. A structure enclosed within exterior walls or fire walls built, erected and framed of component structural parts, designed for the housing, shelter, enclosure or storage of individuals, animals or property of any kind.

BOARD, DESIGN REVIEW BOARD. The Village of Bingham Farms Design Review Board.

FENCE. Any artificial partition, structure or gate erected as a dividing market, barrier or enclosure.

IMPERVIOUS SURFACE. A structure or portion of a structure constructed of impenetrable material that repels water so as to prevent precipitation from infiltrating the ground occupied by the structure or that causes water to run off the structure in greater quantities or at a greater rate than existed prior to development.

LANDSCAPING. The treatment of an area of land or part of site design with plant materials, earth, rocks and water for the purpose of enhancing property, screening or separating land uses or lessening noise levels. The planting and maintenance of the **LANDSCAPING** shall be in accordance with this chapter.

ONE-FAMILY DWELLING UNIT. A building or portion thereof designed or used as a place of residence for one family. The dwelling unit may be either detached or attached/clustered to one or more other one-family dwelling units.

PERMIT. The written authority issued by the Building Official permitting construction, removal, moving, alteration, use, change of use or otherwise involving a building, structure or parcel of land, as is appropriate, in conformity with the provisions of this chapter.

STRUCTURE. An assembly of materials forming a construction for occupancy or use, including among others, buildings, stadiums, platforms, radio towers, water tanks, sheds, storage bins, shelters and outdoor advertising signs.

TWO-STORY ENTRY. A combination of all or portions of the height of two or more stories of a building as a single exterior architectural entrance feature that includes one or more doors and is characterized by an undivided vertical plan, unique glazing or window designs directly above the door(s), enlarged door(s), its own roof feature or gable and/or other construction materials or elements that are designed or appear to provide a single exterior architectural entrance feature. Designs that include a second-floor window above a door or doors do not constitute a two-story entry if the window style, size and placement is consistent and in harmony with other second-story windows on that side of the building.

UTILITY. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations to the public electricity, gas, steam, communication, transportation or water.

(O.C. § 5.551; Am. Ord. 199, passed 7-24-06)

§ 153.03 DESIGN REVIEW BOARD; PURPOSE, MEMBERSHIP, AUTHORITY.

(A) *Purpose.* A Design Review Board is created and established for the village to preserve, protect and enhance the ecologically and historically unique environment and aesthetic charm of the village and to promote the general public health, safety and welfare of the community. More specifically, the village declares that the purpose and objectives of the creation of the Board and of architectural and site design review are to:

- (1) Preserve the natural beauty of the village and to protect the village character from the effects of inharmonious, bizarre and out-of-scale developments in the context of their existing or proposed environments;
- (2) Encourage originality, flexibility and innovation in site planning and development, including the architecture, theme, landscaping and graphic design of said development;
- (3) Discourage monotonous, drab, unsightly, dreary and inharmonious developments;
- (4) Conserve the village's natural beauty, vegetation and visual character and charm by insuring that structures, signs and other improvements are properly related to their sites and to surrounding sites and structures with due regard to the aesthetic qualities of a natural terrain and landscaping and that proper attention is given to exterior appearances of structures, signs and other improvements;
- (5) Protect and enhance overall appearance of the village's appeal;
- (6) Stabilize and improve property values of real property in the area and prevent blighted areas, thereby directly contributing to the general welfare of the village;
- (7) Achieve the beneficial influence of pleasant environments for living and working environment;
- (8) Foster community pride and spirit so as to improve the quality and quantity of citizen participation in local

government and in community growth, conservation, change and improvement;

(9) Sustain the comfort, health, tranquility and contentment of residents by reason of the village's favorable environment and thus to promote and protect the peace, health and welfare of the village.

(O.C. § 5.552)

(B) *Membership.*

(1) The Design Review Board shall consist of seven voting members. One member shall be a member of the Council selected by resolution of the Council to serve as a member ex officio. Two members shall be appointed from the Village Planning Commission by its Chairperson. Four additional members shall be appointed by the Village President, subject to approval of the Village Council. The members appointed by the Village President shall include, insofar as possible, persons from the following professional disciplines or with the following credentials: a registered architect, a registered landscape architect, a registered professional community planner, an attorney, an artist, a geologist, an horticulturist, an environmentalist or persons professionally competent in a field related thereto. A quorum shall consist of four members. In addition to the above regular members of the Board, the Village President may also appoint, subject to approval of the Village Council, two alternate members who shall serve at the request of the Chairperson of the Board in the absence of a regular member of the Board, provided further that once appointed, an alternate member shall continue to serve on the Board on any matters which have come before it while he or she served on the Board.

(2) Appointments to the Design Review Board shall be for a term of three years, except that two members of the first Board to be so appointed shall serve for the term of one year, two for a term of two years and one for a term of three years, except that a member appointed from the Village Planning Commission shall serve for their term of membership on the Village Planning Commission and the term of the ex officio member from the Village Council shall not exceed their term of office as a Council member. Each member shall serve without compensation and until his or her successor is appointed and qualified. The Board may adopt such rules as needed for the conduct of its proceedings, including the selection of the member who shall serve as Chairperson. A Board member from the Planning Commission, or a member designated by the Chairperson, shall serve as Secretary to the Board. The Village Planning Consultant and Building Official shall serve as members ex officio, but shall have no vote. The Board shall carry out the duties specified in this chapter.

(O.C. § 5.553) (Am. Ord. 152, passed 8-26-96; Am. Ord. 216, passed 1-25-10; Am. Ord. 218, passed 6-28-10; Am. Ord. 220, passed 8-22-11)

(C) *Authority.* Applications or requests for permits for all new construction, renovation or placement of residential structures or facilities, as specified in divisions (C)(1) through (C)(5), shall be referred to the Design Review Board. Permits shall not be issued by the village until the applicant has received approval of plans as provided in this chapter:

(1) All applications for residential building permits to erect a building or structure, alter, add to or change overall appearance of an existing building when any building code requirement applies or otherwise use property for development or redevelopment;

(2) All applications for residential grading permits;

(3) Any change of the exterior color, texture and/or materials of any residential buildings or structure; except that for one-family dwelling units in lieu of filing an application as required under this chapter, the applicant shall submit proposed new color scheme to the Building Official for determination of whether the colors, texture and/or materials are compatible or not with the surrounding homes in the vicinity, and, if found compatible, approval shall be granted by the Building Official and a record made of such action in village files. Anyone aggrieved by a decision of the Building Official may appeal to the Design Review Board;

(4) Any residential district site development proposal, including but not limited to:

(a) Construction, remodeling and rebuilding, except that which has no effect on the exterior appearance of the building;

(b) Landscaping, fencing and greenbelting, except for one-family dwelling units;

(c) Drives, parking lots, sidewalks and sidewalk pavement materials;

(d) Awnings;

(e) Solar energy systems, solar collectors and other structures relating thereto;

(f) Lighting, including flood lighting and other exterior lighting, lighting poles and standards; and

(g) Substations and other buildings and structures of public utility companies.

(5) Any building or structure proposed to be erected upon any public land or allowed to extend over or upon any highway, street, road or other public property.

(O.C. § 5.554) (Am. Ord. 203, passed 1-22-07; Am. Ord. 238, passed 8-22-16)

§ 153.04 APPLICATION.

(A) Application shall be made to the Building Official on a form prescribed for this purpose by the village 14 days prior to a

Design Review Board meeting in order to be considered at such meeting.

(B) Drawings and plans shall be submitted at a scale of not smaller than one inch equals 20 feet and in sufficient detail to illustrate clearly the design for which approval is sought. To avoid undue delay and unwarranted expense, it is suggested that preliminary sketches of the design of a proposed building or structure be submitted for tentative approval. Such plans shall show the following:

(1) Existing conditions, topography, trees (both public and private) and natural features, all structures and uses, improvements, public streets, rights-of-way, sidewalks, zoning, public and private easements and restrictions and the official grade of public rights-of-way, as established by the Village Engineer or the Oakland County Road Commission, for the subject site and all property within 200 feet of the site.

(2) Site plan showing proposed structures, proposed topographic contours, site developments, landscaping and natural features retained, pedestrian walks, malls and open areas, parking and loading facilities, trash storage areas, circulation, public rights-of-way to be used for access, public and private easements, trees both public and private that are endangered to be removed or to be retained and sufficient other information to demonstrate the proposed development or improvement. Building elevations and cross sections shall be provided to indicate location of any special facilities such as underground parking garages.

(3) Architectural elevations of all exterior building elevations, colors of exterior walls, trims and roofs, lighting, materials, ornamental, pictorial or decorative material to be used in or about the exterior of the structure. Samples of building materials and colors shall be submitted.

(4) Such other information as may be required by the Design Review Board to permit reasonable consideration of the application.

(O.C. § 5.555)

§ 153.05 ACTIONS BY DESIGN REVIEW BOARD.

(A) A determination on an application shall be made based upon an affirmative vote of at least three members of the Design Review Board.

(B) Notice of the time, date and place of the Board's consideration shall be sent by regular mail to the owners of property within the village, as reflected on the village tax assessment records, within 300 feet of the boundaries of the property which is the subject of the application. The Board may continue consideration of an application to a new meeting date, and if a date certain is specified for such new meeting, a new notice shall not be required. If a meeting is continued without specifying a date certain, a new notice shall be sent as specified above.

(C) Within 45 days from the date of the meeting at which an application for design review first appeared on a Design Review Board agenda, the Board shall approve, conditionally approve or disapprove the application. The application shall be deemed approved if no action is taken by the Board within the 45-day period unless an extension of time is not objected to by the applicant or an extension is found necessary by the Board in order to receive reports from other persons, agencies or departments. An approval granted based upon the failure to act by the Board must be requested by the applicant by letter to the Clerk's office. If the Clerk determines that the 45-day period has expired and that the applicant has objected to an extension of time beyond the 45-day period, and the Board has not determined that an extension is necessary in order to receive reports from other persons, agencies or departments, the Clerk shall transmit notice of approval of the application in the same manner provided above for giving notice of the time, date and place of the Board's consideration of an application.

(D) If actual construction pursuant to a building permit, and in accordance with the approval granted by the Board has not been commenced within one year from the date of Board approval, such approval shall expire and shall be null and void unless extended by the Board upon request received by the applicant within the period of effectiveness of the approval. For purposes of this division, the approval of the Board shall be deemed to be the date on which the Board's vote was taken, or, if an approval is granted based upon the failure to act, upon the date of notice by the Clerk that the decision has been made, as provided in division (C) of this section.

(O.C. Ch. 55, Art. V) (Am. Ord. 145, passed 2-28-94)

§ 153.06 REPORTS AND INVESTIGATION.

Reports and investigations may be required by the Design Review Board prior to approval of any project. The Board shall have the authority to request reports or investigations from the Village Planning Consultant, Building Official, Village Engineer or other village official in writing prior to approval of any project, and all such costs shall be the responsibility of applicant pursuant to the fee schedule in § 153.09.

(O.C. Ch. 55, Art. VII)

§ 153.07 EFFECTIVENESS OF APPROVAL AND APPEALS.

(A) *Effectiveness of approval.* An approval granted under this chapter, with or without conditions, shall become effective upon the expiration of the time for appeal by aggrieved third parties or by an official charged with the enforcement or administration of the zoning ordinance on behalf of the village, as specified below.

(B) *Appeal to Zoning Board of Appeals.* Appeals from determinations by the Design Review Board shall be to the Zoning

Board of Appeals upon written request for a hearing before the Zoning Board of Appeals.

(C) *Persons entitled to appeal.* An appeal may be requested by the applicant, by an aggrieved third party and by an official charged with the enforcement or administration of the zoning ordinance on behalf of the village.

(D) *Time for appeal.*

(1) In the case of an appeal by an applicant, an appeal may be filed within 21 days after the determination by the Design Review Board.

(2) In the case of an appeal by an aggrieved third party or by an official charged with the administration or enforcement of the zoning ordinance on behalf of the village, an appeal shall be filed within seven days after the determination of the Design Review Board.

(3) For purposes of this section, the determination of the Board shall be deemed to have been made on the date the Board's vote is taken, or, if an approval is granted based upon the failure to act, upon the date of notice by the Clerk that the decision has been made, as specified in § 153.05.

(4) If an appeal has not been requested within the time provided for in this section, the determination of the Design Review Board shall become final.

(O.C. Ch. 55, Art. VIII) (Am. Ord. 145, passed 2-28-94)

§ 153.08 ENFORCEMENT.

Determinations of said Design Review Board shall be the responsibility and duty of the Building Official to enforce. Penalties for violation of this chapter shall be as provided under § 32.03.

(O.C. Ch. 55, Art. IX) (Am. Ord. 157, passed 6-23-97)

§ 153.09 FEES.

Fees, as established by Village Council, shall be paid to the Village Clerk at time application for the permit is made. No appeal of the Design Review Board's decision shall be considered by the Village Zoning Board of Appeals unless the appellant shall have first paid a fee as established by the Village Council.

(O.C. Ch. 55, Art. X) (Am. Ord. 185, passed 5-28-03)

§ 153.10 ISSUANCE OF PERMITS.

No building or grading permit, the application for which is subject to the review of the Design Review Board pursuant to this chapter, shall be issued without the approval of the Board or, on appeal, by the Village Planning Commission.

(O.C. Ch. 55, Art. XI)

§ 153.11 PERFORMANCE GUARANTEES.

(A) To ensure compliance with this chapter and proper completion of certain site improvements that are required by the Board as part or conditions of its approval of an application and plans, a performance guarantee may be required prior to issuance of any temporary certificate of occupancy. Performance guarantees shall be in the form of a cash deposit or irrevocable bank letter of credit in a form approved by the Village Attorney, be deposited with the Village Clerk and shall be in an amount determined as provided in division (C) for site improvements, including but not limited to, streets, drives, parking lots, handicapped parking signs, dumpster pads and enclosures, sidewalks, grading, required landscaping, required screens, storm drainage, exterior lighting and utilities. A performance guarantee shall not be required under this section for improvements for which a cash deposit, certified check, irrevocable bank letter of credit or surety bond has been deposited pursuant to Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

(B) The site improvements to be completed and for which a performance guarantee will be required prior to issuance of a temporary certificate of occupancy shall be identified by the Board at the time of application and plan approval. For each such item, prior to permit issuance the permit applicant shall provide the Village Clerk with a cost estimate or contract from a qualified contractor.

(C) An applicant for a temporary certificate of occupancy under the village zoning code shall provide a performance guarantee in an amount determined as provided below for any required site improvements that have not been completed at that time. For each such improvement, the applicant shall provide the Village Clerk with a current cost estimate or contract from a qualified contractor for completion of the improvement within the next six months. The Village Clerk shall refer the applicant's cost estimates or contracts to the Village Engineering and/or Planning Consultants for review and written recommendation on the amount of the performance guarantee to be required, which at a minimum shall be the applicant's estimates or contracts plus a 10% contingency and an administrative fee equal to 25% of that amount, and which shall also take into account the size and scope of the overall project and incomplete site improvements, current and likely future costs to the village of actually completing the site improvements, cost of as-built drawings for the entire project, estimated enforcement and legal fees and expenses, and other relevant factors and conditions. Based on the written recommendation of the Village Engineering and/or Planning Consultants, the Village Clerk shall provide the recommendation(s) and a written notice to the applicant of the required performance guarantee amount, and upon it being delivered, shall issue or approve

the issuance of a temporary certificate of occupancy as provided in the village zoning code.

(D) If required site improvements for which a performance guarantee is provided are not satisfactorily completed within the time allowed or required by the temporary certificate of occupancy or terms and conditions of the performance guarantee, the village shall have the authority to use the performance guarantee to have the site improvements completed and reimburse itself for all costs whatsoever for such work including administrative costs and attorney fees, consulting fees and similar costs.

(E) Cash performance guarantees shall be rebated by the village in reasonable proportion to the ratio of work that is satisfactorily completed on a site improvement. Rebates shall be made in response to a written application by the holder of the temporary certificate of occupancy. Upon receipt of an application, the Village Clerk shall request inspection and written certification by the Village Engineering and/or Planning Consultants of the portion of work performed and remaining. Upon receiving the Village Engineering/Planning Consultant certification(s), the village shall rebate an amount consistent with the certifications, provided that under no circumstance shall the rebate result in the remaining performance guarantee for a site improvement being less than the current cost to complete plus a 10% contingency. All required inspections for improvements for which the cash deposit is to be rebated shall have been made prior to any rebate being made.

(F) The provision of a performance guarantee only authorizes a temporary certificate of occupancy and no full or final certificates of occupancy will be issued or approved for issuance until all required site improvements have been satisfactorily completed.

(O.C. Ch. 55, Art. XII) (Am. Ord. 198, passed 3-27-06)

§ 153.12 DISQUALIFICATION OF MEMBERS FOR INTEREST IN BUILDINGS.

Any member of the Design Review Board who shall be employed to execute a building or structure of any kind, prepare site plan or landscape plans requiring the approval of the Board or who shall take part in competition for any such building or structure shall be disqualified from voting and participating in any discussion thereon.

(O.C. Ch. 55, Art. XIII)

STANDARDS FOR REVIEW OF APPLICATION

§ 153.25 GENERAL PROVISIONS.

In the carrying out the purpose of this section, the Design Review Board shall consider the standards provided in the village zoning code as well as the following standards in reviewing the plans, drawings, sketches and other documents in each specific case. Together, these standards are intended to provide a frame of reference for the applicant in the development of site and building plans, as well as a method of review for the Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The specification of one or more particular architectural styles is not included in these standards. To assure compliance with approved development plans, a performance guarantee may be required by the Design Review Board pursuant to § 153.11.

(O.C. Ch. 55, Art. VI(part)) (Am. Ord. 238, passed 8-22-16)

§ 153.26 PRESERVATION AND PROVISION OF LANDSCAPE.

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Landscaping shall be required on the site and shall be in keeping with the character and design of the building and existing vegetation and shall comply with this chapter.

(O.C. § 5.557)

§ 153.27 RELATION OF PROPOSED BUILDING TO ENVIRONMENT.

Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed building. The achievement of such relationship may include the enclosure of space in conjunction with other existing or proposed buildings and, except for two-story entries, the creation of focal points with respect to avenues of approach, terrain features or other buildings. All structures shall be in good proportion, have simplicity of details, shall not strive for picturesque and bizarre effect and shall use colors in good taste, never harsh or garish and be in harmony with themselves and their environment. Recognized principles of architectural design shall be followed so as to harmonize with or complement adjacent or nearby principal structures, with a two-story entry only allowed upon a specific showing to and finding by the Design Review Board that it satisfies this and the other standards in this section. When a new structure is proposed for erection in front of, or as an addition to an existing building, its architecture and treatment of material shall be in harmony with the design and materials of the existing building.

(O.C. § 5.558) (Am. Ord. 199, passed 7-24-06)

§ 153.28 DRIVES, PARKING AND CIRCULATION.

With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient, in compliance with other applicable village ordinance

standards and, insofar as practicable, do not detract from the design of proposed buildings and structures and the neighboring properties.

(O.C. § 5.559) (Am. Ord. 203, passed 1-22-07)

§ 153.29 WALKS.

All walks, walkways and pedestrianways, for other than one-family dwelling units, shall comply with the following standards:

- (A) Main walks shall be no less than 72 inches wide to permit wheelchairs and foot traffic to blend comfortably;
- (B) Walk grades shall not exceed 5% or 1:20. If a more direct route must exceed this standard and include steps, alternate routes at this grade should also be provided;
- (C) All buildings must provide entries with access ramps. These shall not exceed 16% or 1:6 grade;
- (D) At all road/walk intersections, beveled curb cuts shall be provided. These are to be designed and constructed to insure comfortable access and transit. Beveled curb ramps shall not exceed 16% or 1:6 grade;
- (E) All other conditions to be provided to meet at least minimum handicapped facilities specifications.

(O.C. § 5.560)

§ 153.30 SURFACE WATER DRAINAGE.

Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system, established flood plains will be considered and wet lands preserved. Existing natural drainage shall be maintained to the maximum extent feasible. Best stormwater management practices shall be encouraged, such as use of natural habitat to filter stormwater (bioswales, rain gardens, rain barrels, and vegetative filter strips), design to decrease the amount of impervious surfaces (permeable paving and green roofs), and dissemination of stormwater in a natural manner (level spreaders and multiple, connected ponds).

(O.C. § 5.561) (Am. Ord. 194, passed 9-26-05)

§ 153.31 UTILITY SERVICE.

For all new commercial and office projects, and other proposed developments other than one-family dwelling units, electric, gas, telephone and other utility lines shall be underground. Any utility installations (for example, substations, transformers and lift stations) above ground shall be located so as to have a harmonious relation to neighboring properties and the site.

(O.C. § 5.562)

§ 153.32 ADVERTISING FEATURES.

The location, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties and should harmonize with and be subordinate to the building it serves. No sign shall be approved in excess of the maximum limits set by the village zoning ordinance.

(O.C. § 5.563)

§ 153.33 SPECIAL FEATURES.

Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

(O.C. § 5.564)

§ 153.34 LANDSCAPING.

(A) Landscaping plans and landscaping in conformance thereto, as established in this section, will be required for all new development, including single family dwelling units. Such landscaping shall be completed within six months after the issuance of the certificate of occupancy for the building and also pursuant to an approved grading plan, as required by the village zoning ordinance, unless an extension of time, not to exceed six months, is authorized by the Building Official owing to seasonal weather conditions.

(B) Such landscaping shall thereafter be maintained with permanent plant materials to enhance and complement the building(s), structure(s) or open air land use on the site and to provide a screen to abutting properties.

(1) (a) Landscaping shall be planted and maintained in a healthy growing condition with suitable materials equal in characteristics to the plant materials listed below:

Evergreen Trees Narrow Evergreens

Douglas Fir Blue Columnar Chinese Juniper

Hemlock Column Hinok Cypress

Juniper Arborvitae

Pine Irish Yew

Spruce Pyramidal Red Cedar

White Fir Swiss Stone Pine

Evergreen Shrubs Ground Covers

Yews Euonymus (Winter Creeper)

Juniper Pachysandra

 Terminals (Japanese Spurge)

 Vincas (Creeping Myrtles)

Large Deciduous Trees

Beech Hop Hornbeam

Birch Linden

Ginkgo Oak

Hackberry Planetree (Sycamore)

Hard Maple Sweet-Gum

 Honeylocust

Small Trees

Dogwood Magnolia

Flowering Crab Mountain Ash

Hawthorn Redbud

Hornbeam Russian Olive

Large Deciduous Shrubs

Buckthorn Mock-Orange

Cotoneaster Ninebark

Euonymus Privet

Forsythia Rose of Sharon

Hazelnut Sumac

Honeysuckle Viburnum

 Lilac

(b) The following trees are not permitted:

Aspen - poplar

Box Elder

Catalpa

Cottonwood

Elms, Chinese

Horse Chestnut (nut bearing)

Poplars Soft Maples (Silver)

Tree of Heaven

Willows

(2) (a) Spacing of plant materials, where used as a greenbelt along a property line, shall conform to the following requirements:

1. Plant materials shall not be placed closer than four feet to the fence line or property line;
2. Where plant materials are placed in two or more rows, plantings shall be staggered in rows;
3. Evergreen trees shall be planted not more than 20 feet on centers and shall not be less than three feet in height;
4. Narrow evergreens shall be planted not more than six feet on centers and shall not be less than three feet in height;
5. Large deciduous trees shall be planted not more than 30 feet on centers and shall be not less than eight feet in height;
6. Small trees shall be planted not more than ten feet on centers and shall not be less than four feet in height;
7. Large deciduous shrubs shall be planted not more than six feet on centers and shall not be less than three feet in height.

(b) All trees shall be kept away from shrub plantings but shall be encouraged to be planted in association with said shrub plantings. The remainder of the greenbelt area which is not planted with the aforementioned stock shall be kept in lawn or planted in a ground cover with evergreen vines such as Vincas or Japanese Spurge or covered with stone or wood chips.

(3) Landscaping of parking areas shall comply with the following standards:

(a) No less than one tree shall be planted for every 15 car spaces, provided no spot in any parking area shall be more distant than 150 feet from a living plant, landscaped area. These landscaped areas shall include no less than one tree with a 30 foot plus high normal growth potential;

(b) Drainage for parking areas shall be so designed as to not drain into or discharge onto any planted or landscaped areas;

(c) Parking design should consider and provide for needs of the handicapped, including reserved stalls and safe unloading zones. Ramps through curbs shall also be provided, these ramps to meet minimum handicapped facilities specifications;

(d) Median strip planting in parking lots shall have a minimum width of eight feet. If median strips are to be walked across, tree planters shall be provided with mineral chip (slag, gravel and the like). Trees used shall be of a type to permit pruning up to a seven foot high clearance on curb side. No lawn grass shall be used in parking median strips.

(4) Lawn areas shall be used where fully accessible and comfortably maintainable with full normal access for irrigation, mowing and fertilizing. As far as practicable, shrub and ground cover areas shall be separated from lawn areas by a concrete mow strip four inches deep by six inches wide or 1-inch by 6-inch redwood headers or appropriate steel curb, their tops being placed flush with soil level. Angle corners shall be avoided. Edges at corners shall be curved. Lawn areas shall not be used in any planting strip or extension of a continuous larger area. Adequate and appropriate irrigation systems shall be provided.

(5) All planting areas shall be provided with adequate "on site" water sources. Sprinklers shall be designed to provide uniform, even coverage at a rate not to exceed one inch of water per hour.

(6) Lighting off site shall provide adequate but minimum outdoor illumination. To reduce energy consumption, only high efficiency lighting units shall be used and no direct lighting or glare shall be directed onto any adjacent residential property.

(7) Design and specifications for fences, walls and other protective barriers, where required, will be indicated on the greenbelt plan.

(8) All local air, water, land and noise pollution standards, laws and regulations will be complied with.

(O.C. § 5.565) (Am. Ord. 181, passed 1-27-03)

§ 153.35 APPLICATION OF DESIGN STANDARDS.

(A) The standards of review outlined in this subchapter shall also apply to all accessory buildings, structures, exterior signs and other site features, however related to the principal buildings or structures to which specific standards apply.

(B) If requested in an application, the Design Review Board may approve a maximum gross floor area greater than what is otherwise allowed in the zoning ordinance upon finding that one or more of the following standards are satisfied:

- (1) The lot contains sufficient vegetation or change in topography to effectively eliminate the appearance of excessive scale;
- (2) The placement or orientation of the residence or additions to the existing residence on the lot will not result in an appearance of excessive scale from the street view and from structures on adjacent and surrounding lots in the vicinity;
- (3) The scale of the residence or additions to the existing residence will generally be compatible with the scale of

buildings and structures on adjacent and surrounding lots in the vicinity.

(C) Unless otherwise authorized under this code of ordinances, the Board shall not have the authority to waive or modify the site development requirements of this code of the requirements of any other applicable village ordinances.

(O.C. § 5.566) (Am. Ord. 194, passed 9-26-05)

CHAPTER 154: ENGINEERING DESIGN STANDARDS

Section

- 154.01 General standards
- 154.02 Application
- 154.03 Sanitary sewers
- 154.04 Storm sewers
- 154.05 Water main
- 154.06 Retention basins
- 154.07 Grading and rear yard drainage
- 154.08 Site improvement plans
- 154.99 Penalty

Cross-reference

Sewer service, see Ch. 52

Water service, see Ch. 51

§ 154.01 GENERAL STANDARDS.

The following engineering design standards for construction projects in the village are intended to provide a reasonable and proper basis for the design and construction of subdivision, site condominium and other project site improvements, including sanitary sewer, storm sewer, water main, paving, retention basins and site grading.

(O.C. Ch. 57(part))

§ 154.02 APPLICATION.

This section applies to all projects.

- (A) Standard details and specifications for the village shall be a part of these engineering design standards.
- (B) Complete improvement plans for all projects shall be submitted prior to review and approval of any portion thereof.
- (C) Where improvements relate to a proposed plat, a copy of the proposed plat shall be submitted with the engineering drawings.
- (D) Plans submitted shall be on 24-inch by 36-inch white prints having blue or black lines and shall be neatly and accurately prepared. Judgment should be exercised in the design, layout and presentation of proposed improvements.
- (E) For projects or subdivisions having more than one sheet of plans, a general index plan having a scale of 1" = 100' shall be provided showing the overall project or subdivision and indicating the size and location of all improvements shown in the detailed plans. Street names, street and easement width, lot lines, lot dimensions, lot numbers and ownership shall be shown on all plans. Utilities shall be located in accordance with the village standards. Side or rear lot easements shall have a minimum width of 12 feet. Utilities in easements shall be kept at least three feet away from side or rear lot lines. Utilities shall parallel lot lines.
- (F) A separate grading plan must be submitted for the entire site. For all projects, the minimum scale shall be 1" = 100'. Superimposed on this grading plan shall be two-foot contours of the area, including the area at least 100 feet outside of the project.
- (G) Engineering plans having a scale of 1" = 50' horizontal and 1" = 5' or 1" = 10' vertical shall be provided. Sanitary sewers and water mains shall be shown on the same sheet. Plan and profile views are required on all sanitary sewer mains and on some water mains.
 - (1) Plan view is required on all water mains. A profile view of water mains is required only on 16-inch and larger mains or when unusual ground contours occur. Profile views must be located below the plan view.
 - (2) Storm sewer and pavement shall be shown on the same sheets. Plan and profile views are necessary for all storm

sewers except catch basin leads. Plan view is necessary on all paving. Show top of curb line on profile.

(3) In the profile view, all crossings of utilities must be shown. When a water main crosses a sewer, indicate an invert elevation for the water main. Minimum vertical clearance between utilities shall be 18 inches. Sand backfill is required between utilities. Generally only one plan and profile view per page will be accepted.

(H) Profiles of sewers shall indicate the size, class of bedding, top elevations of all manholes, length between manholes, slope and the existing and proposed ground elevations above the route of the sewer. The inverts of all sewers shall be given at manholes. The location of compacted porous backfill required shall be indicated on the plan and profile.

(I) Elevations shall be on U.S. G.S. datum indicated at two-inch intervals. Permanent bench marks for the work shall be indicated for all structures.

(J) Finished elevations shall be indicated for all structures.

(K) All plans submitted shall bear the seal of the registered professional civil engineer responsible for the design.

(L) Street names shall be approved by the approving agency. All street name and traffic-control signs on public or private roads are to be installed by and at the expense of the developer. All street signs of private roads must conform to standard village requirements if located in the village right-of-way.

(M) The project engineer shall forward plans for water and sewer to the village office for approval prior to going to the Oakland County DPS for permits. Plans should then also be forwarded to any public utility and state and other county agency whose facilities or rights-of-way may be affected by the proposed construction.

(N) For any plat, a mylar copy, a minimum of three-mils thick, of the plat accurately reduced to a scale of 1" = 200' shall be furnished to the village prior to final plat approval.

(O) Signed contracts for all improvements shall be submitted to the Village Engineer at least 14 days prior to the proposed start of construction. A preconstruction meeting between the Village Engineer and the contractor shall be scheduled at least seven days prior to the proposed start of construction. Inspections are done by the Village Engineer and must be requested with at least 48-hours' advance notice.

(P) A two-year maintenance and guarantee bond in an amount set by and acceptable to the village shall be furnished to the village prior to the acceptance of the improvements by the village.

(Q) All public improvements must be staked under the supervision of a registered civil engineer or land surveyor according to the most current approved plans. All plans used by the contractor for construction must be stamped "Approved" by the Village Engineer and must be on site and available when the contractor is working.

(R) A 24-inch by 36-inch mylar copy, a minimum of three-mils thick, of all as-built drawings of sanitary sewer, storm sewer, water main, retention basin, paving and grading shall be provided prior to acceptance of the improvements by the village. In all cases, the utilities installed must be extended to the boundaries of the development to provide for future extensions.

(S) Insurance:

(1) Prior to the construction of subdivision and/or project improvements, the contractor shall procure and maintain, during the term of the project, public liability and property damage insurance with a responsible insurance company which meets the approval of the village, in such amounts as will be adequate to protect the public, the village, individual members of the Village Council and all parties of interest and shall not be less than the limits set forth herein.

Type of Insurance	Limits
Worker's compensation and employer's liability	As required by laws of state
Public liability and property damage	
Bodily injury	Each occurrence: \$500,000
	Aggregate: \$1,000,000
Property damage	Each occurrence: \$250,000
	Aggregate: \$500,000
Owners and contractors protective liability and property damage	
Bodily injury	Each occurrence: \$1,000,000
Property damage	Each occurrence: \$250,000
	Aggregate: \$500,000
	Or combined single limit: \$1,000,000
Motor vehicle (including owner, hired and non-owned vehicles)	
Bodily injury	Each occurrence: \$500,000
Property damage	Each occurrence: \$200,000
	Or combined single limit: \$1,000,000

(2) Policies shall be made available to the village for examination as to their validity and any undesirable exclusions deemed improper by legal opinion rendered to the village regarding same. Underground construction, where applicable, shall be specified in the coverage. Certificates of coverage signed by the insurance carriers shall include a guarantee that 30-days' written notice shall be given by the insurance carrier to the village prior to the cancellation of, or any change in, the respective policies. In the event that the insurance is canceled, operations shall cease prior to the cancellation date and shall not resume until evidence is provided that proper insurance is again in effect. Additional named insured under owners and contractors protective public liability and property damage insurance shall include the village, individual members of the Village Council, the village consulting engineer and members of his or her staff, village employees and agents for the village and parties of interest.

(T) The proprietor shall obtain, or cause his or her contractor(s) to obtain, all permits, post all required bonds and pay all required fees for each and all departments having jurisdiction over the lands and rights-of-way involved in his or her project before work can commence. Proper notification shall be given each governmental agency and utility company prior to the beginning of construction. The village and the Village Engineer shall require a minimum 48-hour notice prior to the commencement of any construction.

(U) The as-built plans furnished by the project engineer shall contain a statement certifying that all surface grades, roads and structures are in conformance with the approved plans. The statement shall be signed by a registered professional engineer prior to acceptance of any improvements by the village.

(O.C. § 5.701)

§ 154.03 SANITARY SEWERS.

(A) *Plan submittal procedure.* For village approval of sanitary sewer plans, the applicant shall furnish the Village Clerk with four sets of the sanitary sewer plans along with any required fees and deposits. The Clerk will then stamp three sets as authorized to be reviewed, and the applicant will submit these copies to the Village Engineer for review, comments and/or approval. A detailed cost estimate must be submitted also at this time. The reviewing engineer shall review the plans for conformity to the standards set forth herein and certify that they are consistent with the overall utility plans of the village. After his or her review, he or she will return one of the sets with appropriate comments to the applicant and one to the Village Clerk. The applicant, after making any changes requested on the set of plans returned to him or her, shall submit a sufficient number of the revised plans to the Village Engineer for final approval. The Engineer shall review these revised plans for conformity to the comments mentioned heretofore and, if they have been properly done, will transmit a sufficient number of sets to other local and state reviewing agencies.

(B) *Design standards.*

(1) The following notes shall appear on the plans:

(a) All workmanship and materials shall be in accordance with the current standards and specifications of the village and Oakland County DPW. All sanitary sewer construction shall have competent full-time inspection provided by the local unit of government. Construction deposits and inspection deposits as set by the village must be made prior to the beginning of any work.

(b) It shall be the contractor's responsibility to verify and/or obtain any information necessary regarding the presence of underground utilities which might affect this project.

(c) All trenches under or within four inches of existing and/or proposed pavement shall be sand backfilled to the elevation shown on plans (95% maximum weight density).

(d) Downspouts, weep tile, footing drains or any conduit that carries storm or ground water shall not be allowed to discharge into this sanitary sewer.

(e) No sewer installation or portion thereof shall have an infiltration exceeding 200 gallons per inch diameter per mile of pipe length per 24-hour period.

(f) Each wye or end of house lead shall contain factory installed premium joint material of a type suitable and approved for use with house lead joint specified.

(g) Whenever existing manholes or sewer pipes are to be tapped, drill holes at four inches center to center around the periphery of the opening to create a plane of weakness joint before breaking section out. Non-shrink grout shall be used to seal the opening and a concrete collar shall be poured 12 inches thick around the pipe and extended 12 inches beyond the opening.

(h) For the purpose of testing infiltration, a temporary 12-inch deep sump shall be provided in the first manhole above the connection. Sump shall be filled in by the contractor after successful completion of the infiltration test up to the standard fillet provided for the flow channel. At all connections, provide a water-tight bulkhead with a one-inch diameter pipe through the bulkhead for measuring infiltration immediately upstream.

(i) All house leads shall extend to the property line or the easement line.

(j) At all connections to sewer interceptor system shall be inserted the following note: The contractor shall provide copies to the Village of Oakland County DPW tap permit and the receipts for the required inspection deposits at least 48

hours prior to the start of construction.

(2) Prior to starting any sanitary sewer design, the applicant is encouraged to make use of maps and information available at the village office. It shall be the responsibility of the applicant to verify utility locations.

(3) The following table of minimum slopes for sanitary sewers shall be adhered to:

Size	Minimum slope
8-inch	@ .40%
10-inch	@ .28%
12-inch	@ .22%
15-inch	@ .16%
18-inch	@ .12%
21-inch	@ .10%
24-inch	@ .08%

NOTE: The minimum allowable size of a sanitary lateral is eight inch diameter. The last upstream run of sewer must be at a slope of 0.60 or greater.

(4) A note or detail shall show the type of bedding upon which the sewer pipe shall be installed. Class "B" bedding is the minimum bedding allowable.

(5) The house lead installed with the lateral sewer shall be a minimum of six inches in diameter.

(6) (a) Sanitary sewer manholes spaced as follows:

Diameter of sewer	Maximum manhole spacing
8 inches to 21 inches	400 ft
24 inches to 30 inches	450 ft
36 inches to 42 inches	500 ft
48 inches and larger	600 ft

(b) Sanitary sewers may be placed in an easement in front of the lot. The sewer should be within 15 feet of the right-of-way line. In general, sanitary sewers will not be approved in the rear lot easement. Sanitary sewer manholes must be watertight and shall be precast sections with modified grooved tongue joints with rubber gaskets. Bolted watertight covers shall be used on all manholes.

(7) The following information shall be indicated on the sanitary sewer profile:

- (a) Length of run between manholes;
- (b) Type of pipe between manholes;
- (c) Class of pipe between manholes;
- (d) Size and slope of sewer between manholes;
- (e) Class of bedding;
- (f) Top and invert elevation of all manholes;
- (g) Existing and proposed ground elevation above the route of the sewer;
- (h) A logical numbering system for manholes shall be included;
- (i) Sand backfill stationing shall be indicated on the profile;
- (j) The plan view shall show length and size of sewer and ties to the property lines.

(8) Provide a minimum depth from top of curb (or road center line if uncurbed) to the top of any sanitary sewer of 8½ feet at local control points or a minimum of nine feet at locations where the sewer elevation is parallel to the road grade. In all cases, the sewer shall be deep enough to serve, by gravity, a standard depth basement.

(9) Each wye or end of house connection shall have an airtight or watertight plug with the same type of joint as the main sewer. The wye or end of house connection shall be marked by setting a 1-inch by 2-inch by 6-foot oak, ash or cedar stake vertically above the end of the lead. A clay pipe shall be set enclosing the surface end of the marking stakes.

(10) Sanitary sewer pipe shall conform to the following current tentative American Society for Testing and Materials Specifications.

(a) Concrete sewer pipe, ASTM designation: C14XM (extra strength, modified so that minimum crushing strength requirements for all sizes up to and including 12 feet diameter shall be 2400 lb. per lineal foot when tested in the three-edge bearing method).

(b) Reinforced concrete sewer pipe, ASTM designation: C76.

(c) Extra strength clay pipe, ASTM designation: C-700.

(d) Composite ABS plastic and Pearlite concrete truss pipe material as manufactured by Metal Products Division of Armco Steel Corporation or equal shall conform to the requirements of ASTM D-2680-74 or latest revision thereof.

(e) PVC pipe and fittings shall conform to requirements of ASTM D-3034 (SDR 35), latest revision. Deflection of pipe shall be limited to a maximum of 5.0%.

(11) The sanitary sewer shall be installed on the opposite side of the street from the watermain.

(12) House leads shall have compacted sand backfill to within three feet of the edge of the side of the road.

(13) External drop connections are required at new manholes where the outlet pipe is 18 inches or more below the inlet pipe.

(14) Where conditions require tunneling or boring, consult the Village Engineer for specific requirements.

(C) *As built plans.* Prior to the acceptance of any sewer system and prior to the removal of the outlet bulkhead (except under extenuating circumstances as may be approved by the Oakland County DPW Director) as-built plans shall be provided to the Oakland County DPW and to the Village Engineer.

(O.C. § 5.702)

Cross-reference:

Sewer service, see Ch. 52

§ 154.04 STORM SEWERS.

(A) *Submittal procedure.* For village approval of storm sewer systems, the applicant shall furnish the Village Clerk with four sets of the storm sewer plans along with any required fees and deposits. Concurrently, a detailed estimate of cost must be submitted. The Clerk will then stamp three sets as authorized to be reviewed, and the applicant will submit these copies to the Village Engineer for review, comments and/or approval. Detailed storm sewer design computations and the drainage area map showing the various areas contributing to the points of inlet shall be provided. The Village Engineer shall check the plans for conformity to the standards set forth herein, after which he or she will return one of the sets with appropriate comments. The applicant, after making any changes requested on the set of plans returned to him or her, shall submit three sets of revised plans to the Village Engineer for final approval. The Village Engineer shall review these revised plans for conformity to the comments mentioned heretofore, and if they have been properly made, will return one approved copy to the applicant. The applicant shall obtain approval of the Oakland County Road Commission, the County Drain Commission, MDOT or any other agency where applicable.

(B) *Design standards.*

(1) The following notes shall appear on the plans:

(a) All workmanship and materials shall be accordance with the current Bingham Farms standards and specifications as adopted by resolution of the Village Council;

(b) It shall be the contractor's responsibility to verify the existence and location of all underground utilities;

(c) All sewer trenches under or within four inches of existing or proposed pavement or road shoulder to be backfilled with thoroughly compacted sand to grade (95% maximum unit weight);

(d) All storm sewers shall be installed on a Class "B" bedding;

(e) Joints for all storm sewers shall be plain joints with:

1. Modified grooved tongues with rubber gaskets;

2. Rubber gasket joints; or

3. Bituminous joints (Dewitt #10). Sewers 27 inches in diameter and larger shall have inside mortar pointing.

(2) Storm drainage systems shall be designed for a minimum of a ten-year storm. The rational method for arriving at storm sewer runoff shall be used. An "n" value of 0.013 shall be used, except for uncoated and unpaved corrugated metal pipe where 0.025 shall be used. The design engineer shall provide design assumptions and calculations. The initial T is generally 20 minutes for residential areas and 15 minutes for high runoff areas. The Project Engineer shall use judgment in arriving at proper imperviousness factors.

(3) Sufficient capacity shall be provided in the storm sewer system to take fully developed upstream drainage into the system. When a storm sewer is designed to provide capacity for upstream areas, the hydraulic gradient shall remain in the pipe. If a storm sewer is designed to take on-site drainage only, the hydraulic gradient must be no higher than one foot

below ground. When the hydraulic gradient is above the top of the sewer pipe, the design elevation of the hydraulic gradient shall be indicated on the profile at each manhole. If the height of the hydraulic gradient exceeds two feet above the top of the pipe, rubber joints shall be used.

- (4) Manholes shall be located at:
 - (a) Changes in alignment in the main sewer;
 - (b) Points where the size of the sewer changes;
 - (c) Points where the slope of the sewer changes;
 - (d) The junction of sewer lines;
 - (e) Street intersections or other points where catch basins or inlets are to be connected.
- (5) (a) Manhole spacing for storm sewers shall be as follows:

<i>Diameter of sewer</i>	<i>Maximum manhole spacing</i>
12 inches to 15 inches	350
18 inches to 30 inches	400
36 inches to 48 inches	500
54 inches and 60 inches	550
66 inches and 72 inches	650
6 feet, 6 inches and larger	1,000

(b) The minimum size of a public storm sewer is 12-inch diameter. Catch basin leads may tap directly into sewers 48 inches and larger.

- (6) The following information shall be indicated on the storm sewer profile:
 - (a) Length of run between manholes;
 - (b) Type and class of pipe between manholes;
 - (c) Size and slope of sewer between manholes;
 - (d) Class of bedding;
 - (e) Top elevation of all manholes;
 - (f) Top of curb line/pavement/ground surface;
 - (g) Plus or minus top of curb elevations at 100 feet stations;
 - (h) Existing and proposed ground elevations above the route of the sewer;
 - (i) A logical numbering system for manholes shall be as included;
 - (j) Invert elevations of all sewers at manholes.

(7) (a) The following table of minimum slopes for storm sewers shall be adhered to in order to provide a design velocity greater than 2½ feet per second:

<i>Size</i>	<i>Minimum slope</i>
12 inches	.32%
15 inches	.24%
18 inches	.20%
21 inches	.14%
24 inches	.12%
27 inches	.10%
30 inches	.10%
36 inches	.08%
42 inches	.06%
48 inches	.05%
54 inches	.04%
60 inches	.04%

(b) The maximum desired velocity of storm sewers is 12 feet per second. Greater velocities may be allowed for unusual conditions.

(8) Where possible, provide a minimum of three feet of cover from the top of curb (or road centerline) to the top of any storm sewer. All catch basin leads within a street shall be a C-76 IV minimum, including the leads to the manhole. Under drain pipe shall be a six feet minimum and shall be fabric wrapped.

(9) A prefabricated bar screen shall be used on all storm sewer openings 12 inches in diameter and larger. The bar screens shall be constructed according to an approved separate enlarged detail in the drawings and shall be designed to be sturdy, permanent, easily maintained, nonclogging and shall have clear openings of no more than six inches.

(10) In general, catch basins shall be located as follows:

(a) At the radius return of street intersections. When drainage is required to go around corners, 150 feet maximum distance along the street between a high point and a corner catch basin is allowed;

(b) At all low points in streets;

(c) At intermediate points along the street such that there is a maximum of 500 feet of drainage from a previous intercepting catch basin to this catch basin;

(d) At a location to provide a maximum of 800 feet of drainage from two directions.

(11) Standard rear yard catch basins shall be provided at all low points in easements. The minimum size storm sewer from these catch basins is 12 inches in diameter. The minimum slope for rear yard swales is 0.5%. The intermediate catch basin shall be four feet in diameter with a two-foot sump. Where used, the under drain trench shall be completely filled with gravel to finish grade. Intermediate catch basins are required where rear yard pipe changes direction by more than 30 degrees. All catch basins shall be located within four feet of lot corners. Twelve feet side yard easements to the street shall be included at all catch basins. Beehive type covers are required for yard catch basins. Additional rear yard drainage requirements are listed under § 154.07.

(12) Headwalls and inlet structures shall be placed at all culverts and storm drain inlets and outlets.

(13) Finished easement elevations shall be indicated on the plans.

(14) Improved open drains may be permitted upon special circumstances, with Village Engineer approval.

(a) Oakland County Drain Commission and DNR approvals must also be obtained if they have jurisdiction.

(b) Adequate culverts are required at all roads crossing a drain. Minimum length of culvert is 60 feet or equal to the street right-of-way, whichever is greater. End sections, curtain walls and energy deflectors shall not be considered as part of this minimum length. A curtain wall and/or deflector is required at all culvert ends. Six-inch thick unreinforced concrete rip-rap (or approved equal) is required on all slopes at culvert crossings. This rip-rap must be anchored by a footer a minimum of two feet deep on the ends and edges where washing conditions may occur.

(c) Maximum side slope on a drain is three horizontal to one vertical.

(d) Open drains must have slope protection (riprap) at bends with a radius of 500 feet or less and other points designated by the Village Engineer.

(e) The drain bottom and slopes, to the hydraulic gradient line, must be seeded or sodded. The remainder of the easement may be seeded. The village will not accept the work until all turf is established.

(f) Specific drain cross-section and velocity control measures will be determined by the Village Engineer on an individual basis.

(g) An easement of at least 20 feet wider than the widest point from top of bank to top of bank is to be recorded on the plat and/or dedicated. The easement line must be fenced if side slopes are steeper than one on five. The treatment shall be consistent in the whole development.

(15) Allowable joints:

(a) Modified grooved tongue with rubber gasket;

(b) Tongue and groove with rubber gasket;

(c) Tongue and groove with cold mastic joints (Dewitt #10).

(O.C. § 5.703)

Cross-reference:

Sewer service, see Ch. 52

§ 154.05 WATER MAIN.

(A) *Plan submittal procedure.* For village approval of water main plans, the applicant shall furnish the Village Clerk with four sets of the water main plans along with any required fees and deposits. Concurrently, a detailed estimate of cost must

be submitted. The Village Clerk shall stamp three sets as authorized to be reviewed, and the applicant will submit these copies to the Village Engineer for review, comments and/or approval. The Village Engineer shall review the plans for conformity to the standards set forth herein and certify that they are consistent with the overall utility plans of the village. After his or her review, he or she will return one of the sets with appropriate comments to the applicant and one to the Village Clerk. The applicant, after making any changes requested on the set of plans returned to him or her, shall submit ten sets of the revised plans to the Village Engineer. The Village Engineer shall review these revised plans for conformity to the comments mentioned heretofore, and, if they have been properly made, will transmit eight sets to other local and state reviewing agencies for issuance of construction permits.

(B) *Design standards.*

(1) The following notes shall appear on the plans where applicable:

(a) Cast iron water main 16 inches and smaller in diameter shall be made in accordance with the current USAS Specification A 21.6 or A 21.8 except as to joints. Double thickness cement-lined pipe will be required.

(b) Joints for cast iron watermain shall be James B. Clow and Sons, Inc., "Bell-Tite Joint," U.S. Pipe and Foundry Company "Tyton Joint" or approved equal.

(c) Ductile iron water main 24 inches and smaller shall be made in accordance with the current ANSI-A-21.51 specification for ductile iron pipe. Double thickness cement-lined pipe shall be used.

(d) Joints for ductile iron pipe shall be push-on type joints. Fittings, valves and appurtenances may have push on, mechanical or flange type joints.

(e) All prestressed concrete pressure pipe shall be manufactured and delivered in accordance with current A.W.W.A. Standards C-301. Design of reinforcing mesh for this specification shall be submitted for approval prior to manufacture of pipe.

1. Prestressed concrete cylinder pipe with rubber and steel joints shall be used for 16-inch through 20-inch diameter water mains.

2. Prestressed concrete embedded cylinder pipe with rubber and steel joints shall be used for 24-foot diameter and larger water mains.

(f) All cast iron fittings and specials shall conform to all the requirements of the Detroit Water and Sewerage Department Supply Specification 5-193 or latest revision thereof and shall be mechanical joints or push-on type joints.

(g) All water mains shall be installed with a minimum cover of 5½ feet below finish grade. When water mains must dip to pass under a storm sewer or sanitary sewer, the sections which are deeper than normal shall be kept to a minimum length by the use of vertical 11¼° bends properly anchored.

(h) All workmanship and materials shall be in accordance with the current Bingham Farms standards and specifications.

(i) All trenches under or within four feet of existing or proposed pavement shoulders shall be backfilled with thoroughly compacted sand to grade (95% maximum unit density).

(j) Village standard valve is right hand open.

(k) Hydrants to be Muller No. 24015, East Jordan Iron Works or 6 BR Traffic Type, with two 2½-inch hose outlets and one- to 3¾-gpumper outlet. Threads to be Detroit Fire Department Standards. Hydrants shall have mechanical joint shoes only.

(l) The contractor shall disinfect and pressure test all new water main construction.

(m) Before any water main will be accepted by the village, it must be inspected and pass a pressure test of 150 psi for one hour for sizes 12 inches and under, 150 psi for two hours for sizes larger than 12 inches. Water loss shall not exceed 50 U.S. gallons per inch of diameter per mile of pipe in 24 hours.

(n) Before any fire hydrants will be accepted by the village, the fire hydrant must be brush coated with Rustoleum #1210 fire hydrant red paint or approved equal.

(2) At all open drain crossings, a separate enlarged scale view is required. A 5½-inch minimum clearance between the bottom of the drain and the top of the water main is required. All water mains within the drain right-of-way must be cast iron, ductile iron or prestressed concrete.

(3) In general, 8-inch mains shall be installed on the majority of streets in single-family residential areas. Hydrant runoffs may be 6-inch diameter. Water mains shall be ductile iron, cast iron or prestressed concrete mains. Cast iron or ductile iron mains must be used for hydrant assemblies and drain crossings. The minimum size allowed in major roads is 12 inches. Twelve-inch mains are considered to be the minimum size in commercial, office and multiple-family residential, except in a looped system of 1,500 feet or less, where eight-inch mains may be permitted. Water mains are to be looped whenever possible. The ability to serve at least 1,200 gpm in single-family detached residential, 2,000 gpm in apartment and similar complexes, institutional and school areas, and at least 3,000 gpm in office and commercial areas is essential. Profile view is required for 16 inches and larger water mains.

(4) Gate valves shall be spaced not to exceed 800-foot intervals on distribution lines. They shall be spaced such that not more than three valves need to be turned off to isolate any section of the water main. Sufficient valves shall be placed such that not more than 26 homes shall be out of service within such section of water main which can be so isolated. Where possible, gate valves shall be located at street intersections five feet from the intersecting street right-of-way line. All dead end mains shall be valued. In high density, commercial or other areas, valves shall be located to provide for not more than one hydrant out of service during any given main break.

(5) In single-family residential areas, hydrants shall be installed along the water main so that all units are within 300 feet of a hydrant. In all other areas, units must be within 250 feet of two hydrants. Hydrants shall be installed at the ends of all dead end water mains. When near a street intersection, hydrants shall be located 15 feet from the intersecting street right-of-way line. In other areas, hydrants shall be located at the center of the lot.

(6) When connecting to an existing water main, a tapping sleeve and gate valve in well will be required unless connection to the existing main can be made without interrupting service on the main. Only mechanical joint tapping sleeves shall be used.

(7) On all water mains that may be extended in the future, install a gate valve and minimum ten foot stub and plug for future connection.

(8) The plans shall indicate the finish grades of all hydrants and gate well rims.

(9) Ten-state standards require that all water mains have minimum of ten feet clearance between the sanitary sewer and storm drains.

(10) A minimum clearance of 18 inches shall be maintained between the bottom of the water main and the top of the sanitary sewer unless special measures are approved by the Village Engineer to comply with ten-state standards.

(O.C. § 5.704)

Cross-reference:

Water service, see Ch. 51

§ 154.06 RETENTION BASINS.

(A) *Plan submittal procedures.* For village approval of retention basins, the applicant shall furnish the Village Clerk with three sets of retention basin plans and one set of calculations and charts, along with any required fees and deposits. Detailed cost estimates shall be submitted concurrently. The Clerk shall stamp two sets as authorized to be reviewed, and the applicant will submit these copies along with the set of calculations and charts to the Village Engineer for review, comments and/or approval. The Village Engineer shall check the plans for conformity to the standards set forth herein and certify that they are consistent with the design standards of the village, after which, he or she will return one of the sets with the appropriate comments to the applicant. The applicant, after making any changes requested on the set of plans returned to him or her, shall submit three sets of the revised plans to the Engineer for final approval. The Village Engineer shall review these revised plans for conformity to the comments mentioned heretofore and, if they have been properly made, will return one approved copy to the applicant. The applicant shall obtain approval of the Oakland County Road Commission, the DNR and any other agency where applicable.

(B) *Design standards.*

(1) Storm water retention is necessary for all developments in the village. Waiver of this requirement will be considered by the Village Council upon submittal of a request for waiver, in report form, stating the reasons why a retention basin should not be necessary. Such report shall include maps, charts and calculations prepared by a registered professional engineer, registered in Michigan.

(2) Retention basins shall be designed to retain storm water for the developed site. The applicant is not required to retain water from off-site areas in the drainage district.

(3) Retention basins shall be designed to retain ten-year storm for all sites. The Oakland County Drain Commission method shall be used. The basin shall have a one-foot freeboard above the high water elevation and an emergency high water overflow spillway.

(4) The basin shall be designed to store all runoff in excess of agricultural runoff. A rule of thumb for determining agricultural runoff is 0.2 cfs/acre of imperviousness. It is recommended that the project engineer meet with the Village Engineer before design is begun.

(5) The retention basin shall be completely fenced if side slope is one on six or steeper. The fence shall be a six-foot high chain link. The gate shall be 12 feet wide, double opening. The fence specifications should have all detail information.

(6) The minimum side slope and beret requirements are:

(a) Three on one with ten feet beret area at the fence; or

(b) Four on one with a two feet beret area at the fence.

(7) If the three on one side slope is used for the retention basin, a ramp will be necessary from the beret area to the bottom of the basin. The minimum slope on the ramp shall be four on one. The width of the ramp shall be 20 feet at the

beret area and 12 feet at the bottom of the basin.

(8) The bottom of the basin shall have a minimum slope of 1.0%. As an alternate method, a 12-foot wide cunette may be constructed. A **CUNETTE** is a small channel to concentrate small flow to obtain desirable velocities. The minimum slope of the cunette shall be 0.30. The cunette shall be constructed of 6-inch thick unreinforced grade "A" concrete. The cunette shall have a cross slope of three feet from the edge to the center. A 2-foot deep footer shall be installed along both outer edges. The cunette shall extend from inlet pipe(s) to outlet pipe.

(9) The entire retention basin must be seeded or sodded. The village will not approve the basin until turf is established. Soil erosion control measures shall remain in place at the basin's outlet until the turf is established.

(10) Concrete rip-rap or approved equal is required at all pipe entrances to the basin. The minimum width of the riprap shall be twice the outside diameter of the pipe. The rip-rap shall extend from bottom of the basin to the top of slope. Three types of materials may be used:

(a) Fieldstone or broken concrete of 4-inch minimum thickness and 1-square foot minimum area. Broken concrete or stone shall be mortared to form a monolithic slab with minimum thickness of four inches;

(b) Poured Grade "A" concrete of 4-inch minimum thickness; or

(c) Maccaferri gabions, river type, reno mattress, size as designated on the plans and installed per manufacturer's recommendations.

(11) All pipe entering a retention basin shall have either a headwall or end section at the end of the pipe. Bar screens must be installed on all open ends of pipe 12 inches or larger in diameter.

(12) An overflow system must be provided. When possible, the overflow shall outlet into an adequate storm sewer. There are two alternate methods:

(a) Using an overflow pipe. The invert elevation of this pipe shall be above the maximum storage elevation of the basin;

(b) A low corner overflow. One corner of the basin shall be set at an elevation higher than the maximum storage elevation of the basin. A defined overflow route shall be shown, located on applicant's property. All gates constructed directly in front of a paved roadway shall have a "Road Ends" sign fastened securely to the gate. Scotchlite on 0.080 aluminum Michigan Manual of Uniform Traffic-Control Devices, sign W14-2a (30-inches by 30-inches), is required.

(13) Where the drain outlet for the retention basin is not deep enough to completely dewater the basin, pumps must be installed. The pumps shall be installed in duplicate, with each pump capable of handling the flow. Controls shall be set in the receiving water to regulate the flow. The controls may be:

(a) Electrodes placed inside a galvanized pipe stilling well at a location adequately protected from the back water curve during discharge;

(b) A bubbler system in a stilling well protected as in subsection (1) above. The operating controls and pump shall be set in a pump house with adequate dimensions for working area. The pump house and wetwell must be located inside the fenced area. Complete specifications for the pumps and controls and performance curves for the pumps called for and must be submitted to the Village Engineer for approval. A building permit is required for all electrical work and for concrete structures. A manhole with inside diameter of six feet is required between the lift station and the outlet. The discharge lines shall be ductile iron. They shall enter the manhole, and a storm sewer shall be installed from the manhole to the outlet. Flap gates shall be installed on the lines from the lift station. The manhole cover shall be E.J.I.W. No. 8247A hinged type or equivalent. A 2-foot deep sump in the manhole is required.

(14) The pump house and the gate(s) to the retention basin shall be locked at all times. It shall be the owner's responsibility to provide a lock and keys necessary to ensure that the basin is closed until final acceptance by the village and then furnish three key sets to the village when completed.

(15) A silt trap and bar screen shall precede a pumped outlet from the retention basin. The screen clear opening shall be 2-inches minimum.

(16) Aboveground, enclosed pump stations are preferred. Belowground stations will be considered, using either fiberglass or concrete chambers. Metal structures below ground are not to be used.

(17) Duplex pumps must be designed to a peak discharge equaling the maximum outlet rate established by the Village Engineer when the retention area is at the overflow elevation (point of minimum static head).

(O.C. § 5.705)

§ 154.07 GRADING AND REAR YARD DRAINAGE.

(A) *Plan submittal procedure.* For village approval of grading and rear yard drainage, the applicant shall furnish the Village Clerk with three sets of plans, along with any required fees and deposits. Detailed cost estimates shall be submitted concurrently. The Village Clerk will stamp two sets as authorized to be reviewed, and the applicant will submit these copies to the Village Engineer for review, comments and/or approval. The Village Engineer shall review the plans for conformity to the standards set forth herein and certify that they are consistent with the Village Master Drainage Plan, after which he or

she will return one of the sets to the applicant with the appropriate comments. The applicant, after making changes requested on the set of plans returned to him or her, shall submit three sets of the revised plans to the Engineer for final approval. The Village Engineer shall review these revised plans for conformity to the comments mentioned heretofore and, if they have been properly made, will return one approved copy to the applicant.

(B) *Design standards.* A grading plan is required for all developments. Rear yard storm drainage systems are required for all residential projects.

(1) *Grading plan.* A residential development grading plan provides all necessary information for the building contractor to establish his or her house elevation and finish grade his or her lot so that good drainage is provided. Specific items to be included are:

(a) List bench mark descriptions and elevations to be used for the development. These must not be disturbed during construction. In nonresidential areas, each site must have storm drainage provided to it and will be required to have internal drainage. Provide two benchmarks within 1,000 feet of the property;

(b) The practical scale for residential subdivision grade plans is 1" = 100'. This scale requires repetitive labeling to be kept to a minimum and lettering to be small and neat.

(c) The grading plan shall be designed to ensure that if a failure occurs in the storm system, water will drain away in overland swales without flooding houses.

(d) Show the proposed earth elevation at the house, the first floor elevation of the house unit and top of curb elevation at the center of each lot to hundredths of a foot. Earth elevations at the house exterior are to be placed in rectangular boxes drawn to dimensions comparable to a typical house to be built in the development. These boxes are to be placed on each lot according to the front yard setback.

(e) The proposed earth elevation at the house shall meet the following condition: on lots with rear to front drainage, the earth elevation shall be no lower than one foot above the highest point at the road elevation.

(f) Rear yard drainage is required in all residential developments.

(g) Indicate rear yard catch basins. Show the proposed castings and invert of pipe elevation for all catch basins and manholes to the hundredths. Catch basins are required to be at a lot corner and the catch basin elevation shall be the only proposed elevation shown at that corner.

(h) Indicate perforated plastic rear yard underdrains and tees for sump pumps where they are called for in the storm sewer plans. Use different symbols for plastic underdrains and concrete storm sewer.

(i) All existing and proposed ground elevations are to be in tenths of a foot.

(j) Show proposed ground elevations at all corners and grade high points on the side property lines.

(k) Rear yard swales shall be no longer than 500 feet before being intercepted by a catch basin and shall have a minimum slope of 1%. Rear yard swales shorter than 300 feet may have a minimum slope of .6%.

(l) All positive low points shall have a catch basin. Storm sewer runs from positive low points must be 12 inches or more in diameter plain joint with pea gravel trench fill in a modified trench with fabric wrap.

(m) Show both the existing and proposed ground elevation at lot corners at the subdivision boundaries. Proposed elevations shall be equal to or lower than existing.

(n) Show the proposed side yard swale elevation between all houses. This elevation must be a minimum of .5 feet below the lower adjacent earth elevation at the house.

(o) Where topography prevents rear yard drainage from being practical, rear to front drainage may drain only the specific lot in question and the lot directly behind it. Other bordering lots shall not drain across this lot. Lots with rear to front drainage must have swales shown around the house with swale slopes of 1% minimum. The following swale elevations shall be shown:

1. The high point of the swale(s) located generally behind the house, a minimum of ten feet from the house and .5 feet below the earth elevation at the house;

2. The swale elevation located even with the back of the house;

3. The swale elevation located even with the front of the house.

(p) All drainage directions on the lot shall be indicated with arrows.

(q) Additional elevations and slopes shall be shown under special conditions and as required by the Village Engineer.

(2) Rear yard storm drainage systems and footing drain outlets. The following details and specifications will be required in all residential projects:

(a) A rear yard drain shall be located in a drainage easement provided along the rear or side lot lines as necessary. This easement shall give access to every lot adjacent and shall total not less than 12 feet wide. The storm sewer and under drain shall be located three feet from the property line in the easement. Where abutting unplatted property, it shall be

located four feet from the property line.

(b) When under drain is used, it should be fabric wrapped and in a fabric lined trench.

(c) Catch basins shall be located:

1. At all bends of 30° or greater;

2. At positive low points;

3. So that rear yard swales shall be no longer than 500 feet before being intercepted by these catch basins. The minimum slope of these swales shall be 1%;

4. So that rear yard swales at a minimum slope of .6% shall be no longer than 300 feet before being intercepted by these catch basins.

(d) The rear yard drains must be placed with a minimum slope of .4%.

(e) The intermediate catch basin shall be four feet diameter and shall have a minimum 24-inch sump. A trap is not required for these basins. The catch basin cover shall be an E.J.I.W. No. 3000 with Type N Grate.

(f) No rear yard storm drainage shall be constructed until rear yard grading is completed and approved.

(g) Soil erosion controls must be in place prior to work start. If required, a soil erosion permit from Oakland County must be in hand before work is commenced.

(O.C. § 5.706)

§ 154.08 SITE IMPROVEMENT PLANS.

(A) (1) *General requirements.* These standards reflect the current requirements of the village. These standards are not intended as a substitute for good engineering judgment. All plans submitted for site plan review shall be prepared and sealed by a registered civil engineer. Elevations must be on U.S. G.S. Datum. Any changes required shall be made on the original drawings and three sets of plans resubmitted for approval. Site improvement plans submitted for review prior to a building permit application must be accompanied by a deposit for engineering review. Detailed cost estimates for improvements must be submitted concurrently with the plans. Plans shall be drawn to a scale of 1" = 50' horizontal if the site is three acres or greater. A scale of 1" = 20' horizontal is required on sites less than three acres. All profile views shall be drawn with a scale of 1" = 5' vertical. All site improvement plan sheets shall be 24-inches by 36-inches.

(1) *Additional requirements.* In addition to all information required under the village zoning code for site plan submittal, the following items must be shown on the prepared plan:

(a) The legal property description;

(b) The bench marks used these may be obtained from the Village Engineer;

(c) Existing grades on a 50-foot cross-section to a minimum of 50 feet beyond the site property line and sufficient intermediate grades to determine such things as ditches, swales, adjacent pavement, buildings and other important features;

(d) All existing topography;

(e) Off-site topography, adjacent building grades, paved parking areas or drives (indicate direction of drainage), drains, culverts and other pertinent features. Show typical cross-sections of existing drains or swales;

(f) Existing and proposed easements;

(g) Existing utilities (size, depth, location), manholes (rim and inverts), culverts;

(h) Street rights-of-way, existing and proposed;

(i) Proposed topography of the site;

(j) Proposed surface drainage;

(k) Proposed elevations should be underlined or boxed in to differentiate from existing elevations. It is expected that all hard surface elevations, such as foundation tops, pavement and structures, be in hundredths of a foot and all ground elevations be in tenths of a foot;

(l) A quantity list for all public improvements;

(m) A location map;

(n) Details of items proposed and standard notes.

(B) *Retention.* Storm retention is generally necessary for all developments. Retention may be provided by retention basins or by storage in paved areas. Storage in paved areas is most often economical where the proposed parking area is not small in relation to the proposed building roof area. Runoff from the roofs must be routed so that it can be stored. The maximum allowable discharge rate is .20 cfs/acre of imperviousness. Restricted catch basin covers must be used to provide

storage in the paved areas. Manhole covers with two vent holes often meet discharge requirements. The covers are designed to let the allowable discharge of water into the storm system. Flow calculations must be submitted for the restricted covers specified. The flow should be calculated for the maximum storage head. For retention basin design, see § 154.06.

(C) *Drainage.* All sites shall have internal storm drainage. Where required, storm sewer systems shall be sized to carry off-site drainage. For all projects, storm calculations are to be submitted, drainage districts must be shown and the hydraulic gradient calculated. A profile view may be required for storm sewers. The first catch basin above the public system or outlet must be sumped and trapped.

(D) *Grading.*

(1) The site plan should give proposed grades at all high points, grade-breaks and low points. It should show existing and proposed grades around the perimeter of the site and at site corners. The proposed exterior grades at building corners and the proposed finish floor elevation shall be shown to hundredths of a foot.

(2) All building grades shall be established such that there is positive drainage from the building to the designated drainage course. The perimeter grades shall remain the same or be lower than existing grades, unless tributary drainage is provided for by extending the storm sewer and installing catch basins at the property line.

(E) *Public water mains.*

(1) The project engineer shall arrange a meeting with the Village Engineer and the Chief of the Fire Department to discuss specific fire protection needs. Fire protection line must be sized to provide the following flows:

- (a) 3000 G.P.M. from two hydrants for nonresidential projects;
- (b) 2000 G.P.M. from two hydrants for multi-family and institutional.

(2) Public water mains are required for fire protection purposes. The standard size line is a minimum of 12 feet in diameter. If a looped system is less than 1,500 feet in length, an 8-inch line may be used. Hydrant leads longer than 60 feet must be 8 inches in diameter and have an 8-inch gate valve and well installed at the tee. In either case, cast iron pipe is required.

(3) No part of the exterior of the buildings, other than dwellings, shall be further than 250 feet from a hydrant. Distances are to be measured along the shortest feasible exterior route (never measured through buildings) for laying hose. Fire hydrants must be located at least 25 feet from any exterior wall of any masonry building and at least 50 feet from any exterior wall of frame or equivalent construction, including brick and stone veneer. High density and high rise developments shall be provided with sufficient valves and hydrants so located as to provide emergency exterior fire coverage in case of water main breaks.

(4) All public mains must be centered in clear 12-foot wide easements given to the village. Written descriptions of the easements will be prepared by the project engineer and presented to the village for examination before recording. Prior to plan approval, the project engineer shall supply a written, detailed estimate of the cost for the water main. All public water mains require Michigan Department of Health construction permits.

(F) *Public sanitary sewers.* If more than one building is to be served by a sanitary sewer line, an eight-inch minimum size public sewer must be built. A profile view is required on all sanitary sewers. All public sewers must be centered in clear 12-foot wide easements given to the village. Written descriptions of the easements must be prepared by the project engineer and presented to the village for examination before recording. The Project Engineer shall supply a written, detailed estimate of cost for the sanitary sewer prior to plan approval. All public sanitary sewers require Michigan Department of Health construction permits.

(G) *Plans.* Village design standards shall be used for design of all public utility construction. One as-built Mylar copy, a minimum of three-mils thick, of all public utility plans shall be provided to the Village Engineer prior to final acceptance of the improvements by the village.

(H) *Private agreements for public utilities.* If a public utility is required to be built, the following procedures must be followed before a building permit is issued for the site: A contract for construction of municipal improvements must be prepared and fully executed by the owner. The agreement shall be submitted to the Village Engineer for examination. The owner shall deposit with the Village Clerk cash, certified check or irrevocable bank letter of credit in an amount acceptable to the village to ensure the construction of all public improvements. The owner shall submit cash for required fees and deposits. The agreements will be presented to the Village Council for their approval.

(I) *Widening lanes.* Widening lanes may be required to preserve the safety and capacity of existing roadways. In general, concrete shall be used for the widening lane if the existing pavement is concrete. Full-depth asphalt pavement may be used in other locations with the approval of the Village Engineer.

(J) *Right-of-way permits.* The following notes must appear on the plans as applicable. Please adjust wording of note to apply to the specific site.

(1) For any work within public rights-of-way, the contractor must secure a permit and arrange for inspection from the Village or County Road Commission or MDOT.

(2) Site improvements shall be inspected and approved prior to issuance of a certificate of occupancy. Call Village

Engineer at least 48 hours ahead for an inspection.

(K) *Roads.* All private roads within a development shall conform with the minimum road standards and specifications of the village. In cases where specific village standards have not been established, Oakland County Road standards shall apply.

(L) *Standards for parking lot and drive paving for all residential and office developments.* Pavement shall consist of the following minimum design granular soil subbase, base courses and wearing surface courses.

(1) *Subbase.* Six-inch compacted thickness of MDOT Granular Material Class II shall be placed except where existing soils consist of approved granular material.

(2) *Base course options.*

- (a) Four-inch compacted thickness of bituminous aggregate, MDOT Spec. 4.00, Mixture No. 500.
- (b) Six-inch compacted thickness crushed limestone.
- (c) Eight-inch compacted thickness of 22A gravel.
- (d) Five-inch compacted thickness of bituminous aggregate MDOT Mixture No. 5, with no granular subbase.
- (e) Eight-inch crushed limestone with no granular subbase.

(3) *Wearing courses.*

(a) Three-inch compacted thickness of bituminous aggregate MDOT Mixture No. 1100, 20AA where placed over gravel and limestone base courses.

(b) One and one-half-inch compacted thickness of bituminous aggregate MDOT Mixture No. 1100, 20AA where placed over bituminous aggregate base courses.

(4) *Concrete pavement alternative.* Six-inch thick plain concrete pavement, MDOT Spec. 4.50, Mixture 35P with no granular subbase required.

(5) *Minimum parking space size.* See the village zoning code for minimum parking space size.

(O.C. § 5.707)

§ 154.99 PENALTY.

(A) Any person who shall violate § 154.02(T) shall be deemed responsible for a municipal civil infraction and upon determination of responsibility shall be punished pursuant to § 32.03 and shall be fined for a first offense in the amount of \$500 and \$1,000 for each repeat offense.

(B) Except as provided in division (A) of this section, any person who shall violate any provision of this chapter shall be deemed responsible for a municipal civil infraction and upon a determination of responsibility shall be punished pursuant to § 32.03 of this code.

(Am. Ord. 157, passed 6-23-97)

CHAPTER 155: SOIL REMOVAL AND LANDFILLS

Section

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§ 155.01 DEFINITION.

The word **SOIL** as used herein shall include topsoil, subsoil, sand, gravel, rock, stone and heavy aggregate, earth or any other material proposed to be removed from or dumped on land within the village limits. It shall be unlawful to remove soil from beneath any water surface or to dump soil onto any water surface without the specific approval of the Village Council.

(O.C. § 5.381)

§ 155.02 PERMIT REQUIRED.

It shall be unlawful for any person to dump on or remove or strip any soil from any land within the village without first securing a permit from the Village Council. No permit is required for the removing, grading or leveling of the aforesaid materials if carried on for the immediate use or development of the land upon which the soil is found or pursuant to a building permit issued by the Building Inspector; provided, however, that where soil is removed from the location where found to another location, a permit is required. No permit is required for the dumping of 20 cubic yards of soil or less within one calendar year upon land improved with an occupied residence, provided that such soil is used for landscaping and/or general grounds maintenance. Any person who shall violate this section shall be deemed responsible for a municipal civil infraction and, upon a determination of responsibility, shall be punished pursuant to § 32.03. The fine for violations of this section shall be \$500 for a first offense and \$1,000 for each repeat offense.

(O.C. § 5.382) (Am. Ord. 157, passed 6-23-97)

§ 155.03 PROCEDURE ON APPLICATION FOR PERMIT.

The application for a permit shall be filed with the Village Clerk in quadruplicate, shall set forth the following information and shall be accompanied by the following data:

- (A) An identification of the applicant;
- (B) The residence and business address of the applicant, including all members of any firm or partnership or all officers and directors of any corporation applying;
- (C) A complete description and location of the property to which the license is to apply prepared by a registered civil engineer or land surveyor;
- (D) An estimate of the approximate number of cubic yards to be removed or dumped, this computation to be made by a registered civil engineer or land surveyor;
- (E) A statement of the manner in which it is proposed to dump or excavate and remove the soil, including the slope of the sides and the elevation of the bottom of any excavation and the kind of equipment proposed to be employed in the proposed dumping or removal;
- (F) The route which the applicant proposes to use over the public streets and over private property in transporting such materials;
- (G) The experience of the applicant in the placement and removal of soil and the name, address and past experience of the person to be in charge of the proposed operations;
- (H) The location of the place and the name, address of persons and firms to whom the soil from an excavation is to be sold or delivered;
- (I) Whether or not any similar permit issued to applicant has been revoked and, if so, the circumstances of such revocation;
- (J) The time within which such excavation or dumping is to be commenced after the granting of said permit and the time when it is to be completed;
- (K) Such further information as the Village Engineer or Village Council may request;
- (L) A topographic map of the property on which the proposed work is to be done showing a ten-foot contour and covering an area having a radius of 300 feet from the exterior boundaries of the site;
- (M) A resident homeowner wishing to landscape the property upon which a single-family residence is located and requiring more than 20 cubic yards of soil to be dumped or removed may request a waiver of any or all of the foregoing requirements and of the fees required by this chapter. The request should be accompanied by data indicating the extent of the work to be done and acknowledgments from owners of property adjoining the petitioner's indicating that they have been informed of the proposed work. The Village Council upon determining that the proposed work will not cause problems or effect a major grade change may grant a waiver of any or all of the above requirements and/or the payment of any fee as a

condition of obtaining a permit.

(O.C. § 5.383)

§ 155.04 PAYMENT OF FILING FEE.

At the time of filing the application for permit, the applicant shall pay a filing fee of \$150, said sum is to be used to defray the cost of engineering services, investigations, publication charges and other miscellaneous expenses occasioned by processing such application.

(O.C. § 5.384)

§ 155.05 INVESTIGATION AND HEARING.

Upon the filing of an application for a permit, two copies thereof shall be delivered to the Village Building Inspector. The Village Building Inspector shall make an investigation of the facts set forth in the application and shall make a report of his or her investigation, together with his or her recommendations, to the Village Council. The Council shall act upon said application at a hearing set by the Council. Such hearing may be continued from time to time as the circumstances may require.

(O.C. § 5.385)

§ 155.06 NOTICE OF HEARING ON APPLICATION.

Notice of hearing on the application shall be given by the Village Clerk by publishing a notice thereof in a local paper designated for that purpose at least ten days prior to the date set for the hearing and by mailing a copy thereof addressed to the applicant and to the owners of the property, as appear on the last assessment rolls of the County of Oakland, within 500-foot radius of the exterior boundaries of the proposed site, at least five days prior to the date set for the hearing. The notice shall contain a statement of the time and place of the hearing, the name of the applicant, a general description of the premises where the applicant proposes to do the work and a general statement of the size and nature of the proposed excavation or dumping area.

(O.C. § 5.386)

§ 155.07 PAYMENT OF PERMIT FEE ON ISSUANCE OF PERMIT.

At the time of the issuance of the permit, the applicant shall pay a permit fee to cover the expenses of inspection of \$.01 for each cubic yard estimated in the application to be removed or dumped. At any time that the number of cubic yards removed or dumped equal the number of cubic yards set forth in the estimate filed with the original application, the permit granted shall terminate and no further materials may be removed from or dumped on the site until a new application has been filed and a permit granted in the same manner as the original application and permit. The fees and/or costs heretofore mentioned in this chapter shall not exempt the applicant from payment of any fees and/or costs required by the City of Southfield or the Village of Bingham Farms under any other ordinances.

(O.C. § 5.387)

§ 155.08 DEPOSIT OF BOND AND CERTIFICATE OF INSURANCE.

Prior to the issuance of a permit, the applicant shall provide the village with a surety bond, in an amount to be fixed by the Village Council, insuring to the benefit of the Village of Bingham Farms conditioned upon the applicant faithfully performing all of the conditions and requirements under which the permit is issued. The applicant shall also provide the certificate of a licensed insurance company, in an amount reasonably relevant to the proposed work to be done, insuring the village and the public against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant or any persons acting in his or her behalf in carrying on any work connected directly or indirectly with the issuance of said permit.

(O.C. § 5.388)

§ 155.09 CONSIDERATION BY VILLAGE COUNCIL.

(A) The Village Council shall approve the issuance of a permit only upon determining that all provisions of this chapter have been complied with, that the information provided by the applicant indicates that the proposed work will be performed expeditiously and in such manner as to not adversely affect the health, welfare and safety of the public and will create no nuisance or hazard.

(B) Any permit shall be denied if it appears from the investigation thereof that the project would remove lateral and subjacent support of the adjacent land and result in a nuisance dangerous to public safety or that it otherwise would in any manner endanger the public health, morals and prevent the preservation of natural resources or be detrimental to the general public welfare.

(O.C. § 5.389)

§ 155.10 EXCAVATIONS.

(A) Any person to whom a permit is issued authorizing the making of an excavation shall comply with the following:

(1) All vehicles transporting soil or other materials from such excavation over the public streets of the village shall travel only directly over such route as may be directed by the Village Road Commissioner to be least dangerous to public safety, cause the least interference with general traffic and cause the least damage to the public street;

(2) The bottom of any such excavation shall not be lower than the level thereof as set forth in the application;

(3) If the Village Building Inspector determines that any excavation will present a dangerous condition if left open, he or she shall order that such excavation be enclosed by a chain link or wire mesh fence completely surrounding the portion of the site where the excavation extends, said fence to be not less than five feet in height complete with gates which shall be kept locked when operations are not being carried on. Barbed wire shall not be used. So-called "snow fencing" is permitted where the excavation is intended for installation of utilities or for residential construction;

(4) Any soil that may be deposited on any public street or place from any vehicle transporting such materials from any such excavation shall be immediately removed in a manner satisfactory to the Village Road Commissioner at the expense of the person to whom the permit is issued;

(5) Any road used for the purpose of ingress and egress to the excavation site which is located within 300 feet of occupied residences shall be kept free of dust by hard topping with concrete, bituminous substance or chemical treatment;

(6) Except where the excavation is made for the purpose of residential construction or the installation of utilities, the slopes of the banks of the excavation shall in no event exceed a minimum of five feet to one foot (five feet horizontal and one foot vertical), and where ponded water results from the operation, this slope must be maintained and extended into the water to a depth of three feet;

(7) Where work authorized by a permit results in a body of water being formed, the permittee shall place appropriate "KEEP OUT - DANGER" signs around said premises not more than 100 feet apart. Such excavation shall not be allowed to remain longer than 90 days from date of issuance of permit;

(8) No permanent cut or excavation shall be made closer than 50 feet from the nearest street or highway right-of-way nor nearer than 40 feet to the nearest property line; provided, however, that the Village Council may prescribe more strict requirements in order to give sublittoral support to surrounding property where soil or topographic conditions warrant it;

(9) No person shall operate a gravel or sand mining pit;

(10) During the period in which excavation is being made, no person, firm or corporation shall allow puddles or pools of water to form and become stagnant.

(B) The Village Council shall require such other performance standards where, because of peculiar conditions, it deems it necessary for the protection of health, safety, morals, preservation of natural resources and well being of the citizens of the village.

(O.C. § 5.390)

§ 155.11 STRIPPING OPERATIONS.

Any person to whom any permit is issued for the removal of soil shall comply with the following:

(A) No soil or other material shall be removed below a point six inches above the mean elevation of the centerline of the nearest existing proposed street or road established or maintained by the village, county or state, except as required for the installation of utilities and pavements;

(B) No soil shall be removed in such a manner as to cause water to collect or to result in a place of danger or a menace to the public health. The premises shall at all times be graded so that surface water drainage is not interfered with;

(C) Sufficient top soil shall be stockpiled on said site so that the entire site, when operations are completed, may be recovered with a minimum of six inches of top soil, and the replacement of such top soil shall be made immediately following the termination of the removal operations. In the event, however, that such removal operations continue over a period of time greater than 30 days, the operator shall replace the stored top soil over the stripped areas as he or she progresses;

(D) The Village Council shall impose such other and further requirements as it deems necessary in the interest of the public health, safety, morals, preservation of natural resources and general welfare of the citizens of the village.

(O.C. § 5.391)

§ 155.12 DUMPING OPERATIONS.

Any person to whom any permit is issued for dumping operations shall comply with the following:

(A) Within six months following dumping, this land upon which the dumping has taken place must be graded in such manner as to prevent the collection of water, to provide drainage and to leave the ground surface fit for the growing of turf;

(B) No soil or other material shall be dumped on the spillways or flood plains of any natural or artificial streams or water courses or any area between the upper and lower banks of such streams or watercourses, except on the approval of the Village Council after a public hearing and on a satisfactory showing that such dumping will not result in damage to other

property within the limits of the Village of Bingham Farms and will not be detrimental to the public health, safety, preservation of natural resources or welfare;

(C) Waste and rubbish dumping shall meet the requirements of this section and all other requirements of the Charter and this code of ordinances.

(O.C. § 5.392)

§ 155.13 REVOCATION AND SUSPENSION OF PERMIT.

Any permit issued under this chapter may be revoked or suspended for failure to comply with any of the provisions hereof. Revocation of such permit shall be made only upon a hearing granted to the holder of the permit held before the Village Council after five-days' notice to such permit holder stating the grounds of complaint against permittee and giving the time and place where such hearing will be held. If Village Council shall determine that protection of the public health, safety or welfare requires it, the Village Council may suspend any permit granted hereunder pending the hearing. Such revocation or suspension of any permit shall be in addition to the penalties provided herein.

(O.C. § 5.393)

§ 155.14 EXPIRATION OF PERMIT.

In the event that any work for which a permit has been granted is not commenced within three months from the date of granting the permit or in the event work is started on excavations pursuant thereto and said work is abandoned for a period of three months, the permit shall automatically expire and cease to be valid for any purpose.

(O.C. § 5.394)

§ 155.99 PENALTY.

Unless otherwise specified, any violation of the provisions of this chapter shall be deemed to be hazardous to the health and welfare of the residents of the Village of Bingham Farms and constitute a nuisance per se. Any person violating the provisions hereof shall be punished as prescribed in § 32.03 of this code. In addition to the municipal civil infraction penalty, a violation of the provisions of this chapter may be enforced through action brought by the village in the Circuit Court for the County of Oakland, Michigan, for abatement of the violation.

(O.C. § 5.395) (Am. Ord. 157, passed 6-23-97)

CHAPTER 156: SUBDIVISIONS

Section

Subdividing Platted Lots

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156.02 Procedure for dividing lots

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SUBDIVIDING PLATTED LOTS

§ 156.01 AUTHORIZATION TO DIVIDE PLATTED PARCELS OF LAND.

A lot, outlot or other parcel of land in a recorded plat may be further partitioned or divided into not more than four parts in accordance with the provisions of Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, and the procedure

therefor established herein, subject to the following minimum lot standards, to-wit:

(A) The minimum lot size of any lot, outlot or other parcel of land in a recorded plat shall be in accordance with the applicable requirements of the village zoning code, except when the partitioning or dividing of such land is for the immediate development and use of such divided or partitioned land in conjunction with the adjoining lot, outlot or parcel in conformity with the requirements of the village zoning code;

(B) Any such lot, outlot or parcel that is of minimum lot size that has sewer or water available to it shall be connected to such facilities prior to when such partition or division or suitable provision is made for any connection by filing of a cash bond with the village to assure same.

(O.C. § 5.421)

§ 156.02 PROCEDURE FOR DIVIDING LOTS.

It shall be unlawful for any person to divide or partition any lot, outlot or other parcel of land in a recorded plat except in accordance with the following procedure.

(A) The applicant shall deliver a written instrument fully executed in form legally sufficient for recording with the County Register of Deeds to the Council for its approval. Such instrument shall contain the legal description of the partition or division of the parcel described therein. Accompanying such instrument shall be a policy of title insurance issued by a company doing title work in Oakland County, which policy of title insurance shall disclose that the person or persons executing the instrument are the owners in fee title to the property described. If the division or partition of the parcel will result in a minimum lot size less than the requirements of the applicable provisions of the village zoning code, then the applicant shall deliver in addition a fully executed affidavit in form legally sufficient for recording with the County Register of Deeds and signed by all persons who have a legal or equitable interest in the parcel acknowledging that they understand and agree the partitioned or divided parcel or parcels may not thereafter be developed or used separately but only in conjunction with the adjoining parcels of land, such to be covenant running with the land and such land to be and remain in common ownership.

(B) The review by the Village Council shall be to determine that the public health, safety and welfare will not be injured by such partition or division.

(C) The applicant shall pay the cost of recording such instrument or instruments as the case may be.

(D) The applicant shall also submit a plan or drawing drawn to scale by a registered engineer or surveyor showing the subject property, including dimensions, and also adjoining property for at least 300 feet in all directions from subject property so as to adequately portray the relationship of subject and adjoining property. All existing buildings and structures shall be located on said plan or drawing. The Village Council may also require the applicant to furnish it with such additional data as will enable the Village Council to decide the matter.

(O.C. § 5.422)

§ 156.03 ACCESS TO LOTS IN PLATS.

Access to lots in any plat recorded in the village, subject to approval by the Village Council, may be by a delineated private way or by private easement. The village shall assume no responsibility or liability for the maintenance and/or accessibility of any such private way or easement delineated on such approved plat.

(O.C. § 5.423)

SUBDIVIDING UNPLATTED LANDS

§ 156.20 PURPOSE.

This subchapter is enacted in order to maintain an orderly development of the community and provide for the health, safety and welfare of the residents and property owners of the village and to regulate the division and partitioning of land in the village which is not otherwise subject to platting procedures and requirements.

(O.C. § 5.600)

§ 156.21 COUNCIL APPROVAL; PROCEDURE AND REQUIREMENTS.

(A) No person shall partition or divide any parcel of land within the corporate limits of the village until such division is approved by the Village Council. To this end, all plans and applications for such shall be submitted to the village for review and approval, for consideration of the general layout, accessibility to parcels divided and compliance with all code requirements of the village. The application and plans shall be referred to the Planning Commission and to the Village Engineer for their comments and approval prior to placing the application on the agenda of the Village Council.

(B) All divisions of unplatted land shall meet the following requirements.

(1) Any parcel of land resulting from a division of lands pursuant to this subchapter which does not abut a public road shall abut a private road which shall be constructed in accordance with the village engineering design standards and shall be located in an easement not less than 60 feet wide, except in the case where one residentially zoned parcel is split into two such parcels, one of which does not abut a public road, there shall be provided a driveway easement of not less than 20 feet

in width to a public road. If any property which has been split subject to this exception is at any later date split again, the exception will not apply and a private road shall be required pursuant to the terms of this section.

(2) The minimum parcel size in area and the minimum front lot line width of any parcel of land shall be in compliance with the applicable requirements of the zoning ordinance. The minimum lot size in area shall be exclusive of all dedicated road rights-of-way.

(3) Any due or unpaid taxes or special assessments upon the property shall be paid.

(4) All parcels resulting from a land division pursuant to this subchapter shall be provided with access to water, sewer, electrical and communication utilities adjacent to said parcels in public roads or in easements granted to the village or to the Oakland County Department of Public Works.

(O.C. § 5.601)

§ 156.22 STANDARDS FOR PRIVATE EASEMENT ROADS.

(A) All single-family residential private easement roads serving 16 units or less but more than one unit shall be constructed in conformance with current Oakland County Road Commission Standards for full depth asphalt roads or equivalent concrete roads and shall be located on perpetual easements for roadway and public utility purposes. Private easement roads for developments with lots exceeding 1½ acres and having a minimum frontage of 200 feet may be constructed with open ditch drainage.

(B) All other single-family residential and all commercial multiple-family or other private easement roads shall be in conformance with current Oakland County Road Commission standards for full depth asphalt or concrete with curb and gutters and storm drainage and shall be located on perpetual easements for roadway and public utility purposes.

(O.C. § 5.602)

§ 156.23 PROCEDURE.

Persons seeking approval of a land division shall:

(A) File an application for a parcel split with the village and pay the required fees and deposits;

(B) Provide proof of ownership or written consent of owner;

(C) Provide drawings of the proposed land division, drawn on 24-inch by 36-inch sheets, sealed by a registered civil engineer and shall be eligible for recording under Public Act 228 of 1967, being M.C.L.A. §§ 560.101 through 560.293.

(O.C. § 5.603)

§ 156.24 APPLICATION; REQUIRED INFORMATION.

(A) Thirteen copies of the division plan prepared by a registered civil engineer in a scale of at least 1" = 100' shall be submitted to the Village Clerk who shall forward nine copies to the Planning Commission, three copies to the Village Engineer for review and shall retain one copy.

(B) The plans shall include the following information:

(1) Parcel identification number and/or legal description;

(2) A location map showing the general relationship area the proposed property division to the surrounding area within one-half mile in a scale not less than 1" = 2000';

(3) Proposed lines of division and dimensions;

(4) Locations, widths and names of existing or prior easements of record, public and private;

(5) Location of existing sanitary sewers, water mains, storm drains and other underground facilities;

(6) Topography drawn at contour intervals of four feet covering the parcel and an area 100 feet beyond the parcel boundaries in all directions;

(7) Location of significant natural features such as streams, wetlands, slopes over 20%, stands of trees, scenic views and geologic features. Location of individual trees, apart from stands of trees, having a caliper of 12 inches or greater shall be indicated within the area of proposed road construction;

(8) Proposed easements for utilities;

(9) Layout of any private road indicating easement width and connections to adjoining rights-of-way;

(10) Locations of proposed home sites, including elevations;

(11) Delineation of any proposed road right-of-way to be dedicated to the village or the Oakland County Road Commission;

(12) Provisions for storm drainage and retention;

(13) Each parcel shall have one lot line designated as the front lot line for the purposes of applying the village zoning ordinance to said parcel.

(O.C. § 5.604)

§ 156.25 PROCEDURE WHEN CONSTRUCTION REQUIRED.

Upon reviewing concept approval by the Village Council, the owner may proceed with preparation of construction plans if such are required in accordance with the village engineering design standards. Upon completion of the construction of roads and utilities and a statement from the Village Engineer that they are in accordance with the plans approved by the Village Council, the owner can request final approval by the Council.

(O.C. § 5.605)

§ 156.26 ADDITIONAL MATERIAL TO BE FILED.

The following information shall be submitted to the Village Clerk at least 14 days prior to the Council meeting at which final approval of an application is to be considered:

- (A) Eight copies of recorded land survey;
- (B) Two copies of recorded road maintenance agreements, if any;
- (C) Two copies of recorded deed restrictions and easements, if any.

(O.C. § 5.606)

§ 156.27 FINAL APPROVAL; SUBMISSION BY CLERK.

If the provisions of this chapter and other applicable code provisions have been complied with, the Village Council shall give final approval to the land division. Upon approval, the Village Clerk shall submit a copy of the recorded survey to the Oakland County Equalization Department to acquire a tax split and Sidwell numbers for the new parcels.

(O.C. § 5.607)

§ 156.28 PERMITS AND FEES.

(A) No building or occupancy permits shall be issued by the Building Department for the use of any parcel of land which has resulted from a division or partition without the approvals required by this chapter.

(B) Fees to be charged pursuant to this chapter shall be as set by resolution of the Village Council.

(O.C. § 5.608)

CHAPTER 157: ZONING CODE

Section

157.01 Zoning ordinance incorporated by reference

§ 157.001 ZONING ORDINANCE INCORPORATED BY REFERENCE.

(A) On December 16, 2019, the Village Council approved a new version of the zoning ordinance. It is easy to read and better organized with many hyperlinks. It includes searchable words and phrases, vivid diagrams and charts that clarify and illustrate the zoning code.

(B) The new zoning ordinance is hereby incorporated by reference as if set forth in full herein. Hard copies of the zoning ordinance can be reviewed in the village office weekdays during regular office hours. A digital version of the zoning ordinance can be accessed at: www.binghamfarms.org/Clearzoning%20Ordinance%202019%2012%2013.pdf.

TABLE OF SPECIAL ORDINANCES

Table

I. FRANCHISES

TABLE I: FRANCHISES

Ord. No.	Date Passed	Description
150	11-27-95	Granting to MCI Metro Access Transmission Services, Inc., a Delaware Corporation, a franchise to construct and operate a telecommunications system for a term of five years.
154	2-24-97	Granting to Metropolitan Fiber Systems of Detroit, Inc., a Delaware Corporation, a franchise to construct and operate a telecommunications system for a term of five years.
259	1-25-21	Granting to Consumers Energy Company, a franchise to lay, maintain and commercially operate gas lines and facilities and to conduct a local gas business for a period of 10 years.