

FIFE LAKE TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN

**CODE OF
GENERAL LAW
ORDINANCES**

Adopted September 29, 2003
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As Amended through May 14, 2007

Fife Lake Township Offices

**Office of Planning and Zoning
134 Morgan Street
Fife Lake, MI 49633**

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FIFE LAKE TOWNSHIP

CODE OF TOWNSHIP ORDINANCES

The Township of Fife Lake Ordains:

ARTICLE 100

ADMINISTRATION AND FINANCE

CHAPTER 101 FEES AND CHARGES.

101.001 **In General.** It is necessary for the proper functioning of Township government that the costs of certain services and activities of the Township be supported by fees and charges paid by the beneficiaries of said services and activities of the Township. The Township Board of Fife Lake Township is hereby authorized to establish by resolution reasonable fees and charges for any service, activity, facility or function of the Township government where the primary beneficiary of such services, activities, facilities or functions are not the tax payers of the Township in general. The amount of such fees and charges may be adjusted from time to time as needed to assure that the fees and charges result in sufficient revenue to cover the actual cost of providing the service.

101.002 **Zoning Fees.**

1. To assist in defraying the costs of investigation, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following.
 - a) Building and zoning permits.
 - b) Special use permits.
 - c) Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 - d) Classification of unlisted property uses.
 - e) Requests to change a Nonconforming use to another Nonconforming use.
 - f) Requests for variances from the Zoning Board of Appeals.

- g) Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
- h) Site Plan reviews.
- I) Requests for a planned unit development (PUD).
- j) Any other discretionary decision by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

2. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals as necessary, the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additions escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

101.003 Cemetery Fees.

1. Each burial space shall cost the sum of \$100.00 for residents. Non-residents shall pay the sum of \$200.00 for each burial space.
2. The Township Board shall from time to time by separate resolution establish the fee for the opening and closing of a burial space, prior to and following a burial therein, including the interment of ashes.

CHAPTER 102 TOWNSHIP CEMETERY.

102.001 **Title.** This Chapter shall be known and cited as the Fife Lake Township Cemetery Ordinance.

102.002 **Definitions.** As Used in this Chapter.

1. "Adult burial space" means an area of land within a cemetery lot four (4) feet wide and ten (10) feet long.
2. "Cemetery lot" means an area of land within a cemetery sufficient to accommodate from one (1) to six (6) adult or infant burial spaces.
3. "Heirs at law" means a person's spouse, natural and adopted children, natural and adopted grandchildren, parents, grandparents, brothers and sisters.
4. "Infant or stillborn burial space" means an area of land within a cemetery lot three (3) feet wide and three and one-half (3-1/2) feet long.

102.003 **Sale of Lots or Burial Spaces.**

1. After the effective date of the Ordinance adopting this Chapter, cemetery lots or burial spaces shall be sold only to residents or taxpayers of the Township for the purpose of burying the purchaser or his or her heirs at law. The Township Clerk may grant exceptions to this sales restriction, but only when the purchaser discloses sufficient personal reasons for burial in the Township. In exercising the discretion granted in this section, the Township Clerk shall apply the following standards: (1) whether the prospective purchaser was a previous resident or taxpayer within the Township, (2) the length of time the prospective purchaser was a resident or taxpayer within the Township, (3) the length of time that has elapsed from when the prospective purchaser was a resident or taxpayer of the Township and the application to purchase a cemetery lot or burial space, and (4) whether the prospective purchaser falls within the definition of an heir at law of any person interned within the cemetery.
2. All such sales shall grant a right of burial only and shall not convey title to the cemetery lot or burial space sold. The sale of a cemetery lot or burial space shall be documented on a form approved by the Township Board and shall be executed by the Township Clerk.
3. Cemetery lots and burial spaces may be transferred only to those persons eligible to be original purchasers of cemetery lots or burial spaces under this Chapter. All such transfers shall be accomplished through the following procedures: (1) the

owner of the cemetery lot or burial space to be transferred shall complete and sign the assignment of cemetery lot of burial space on the original burial permit issued by the Township Clerk, (2) the Township Clerk shall determine whether the assignee is qualified to hold a cemetery lot or burial space under this Chapter, (3) if qualified, the Township Clerk shall approve the transfer and enter the assignee's interest in the cemetery lot or burial space in the official cemetery records, and (4) the Township Clerk shall cancel in the official cemetery records the burial permit assigned and issue a new burial permit to the assignee.

102.004 Purchase Price And Transfer Fees.

1. The charges and fees established pursuant to subsection (a) above shall be paid to the Township Treasurer and deposited in the cemetery fund for the particular cemetery involved in the sale or transfer.
2. The Township Board, by resolution, may periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

102.005 Grave Opening Charges.

1. The fee established pursuant to **Section 101.003** shall be paid to the Township Treasurer and deposited in the cemetery fund for the particular cemetery involved.
2. No burial space shall be opened and closed, except under the direction and control of the cemetery sexton. However, this provision shall not apply to proceedings for the removal and re-interment of bodies and remains that are under the supervision of the local Health Department.

102.006 Monuments, Markers or Memorials.

1. Only one (1) monument, marker or memorial shall be permitted per burial space.
2. No monument, marker or memorial larger than four (4) feet by eight (8) feet shall be allowed in any Township cemetery.
3. After the effective date of the Ordinance adopting this Chapter, all monuments, markers and memorials shall be of stone or equally durable material and shall be placed on concrete footings or other solid foundations that are no higher than ground level.

102.007 Internment Regulations.

1. Only one (1) person may be buried in a burial space; provided, however, a mother and her child less than two (2) years of age and two (2) children ages ten (10) years or less may be buried at the same time in the same burial space.
2. Not less than thirty-six (36) hours advanced notice shall be given to the Township Clerk or cemetery sexton of the time for any funeral to allow for the opening of the burial space or spaces.

3. The burial permit for the burial space involved, together with the identification of the person to be buried, shall be presented to the Township Clerk or cemetery sexton prior to interment. Where such burial permit has been lost or destroyed, the Township Clerk shall be satisfied from a review of the official cemetery records that the person to be buried in the burial space is eligible for burial in that burial space before any interment is commenced or completed.
4. All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

102.008 Ground Maintenance.

1. No grading, leveling, or excavating upon a burial space shall be allowed without the prior written permission of the Township Clerk or cemetery sexton.
2. No shrubs, trees or vegetation of any type shall be planted without the prior written approval of the Township Clerk or cemetery sexton. Any of the foregoing items planted without such approval may be removed by the Township or the cemetery sexton.
3. All flower urns or containers shall be placed to the side of the monument, marker or memorial. Real flowers shall be planted next to the monument, marker or memorial or in urns or containers. Artificial flowers are allowed, but only in containers.
4. The Township reserves the right to remove or trim any tree, plant or shrub located within a Township cemetery that hinders the use of a lawn mower or other gardening apparatus.
5. All mounds which hinder the use of a lawn mower or other gardening apparatus are prohibited.
6. The Township or cemetery sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefore that through decay, deterioration, damage or otherwise become a source of litter or a maintenance problem.
7. Ground surfaces other than earth or sod, such as stones, bark, or wood chips are prohibited.
8. All refuse of any kind or nature, including but not limited to dried flowers, wreaths, papers and flower containers, must be removed from the cemetery or deposited in containers located within the cemetery for that purpose.

102.009 Forfeiture of Vacant Cemetery Lots or Burial Spaces.

1. If a cemetery lot or burial space remains vacant for more than ten (10) years after a burial permit is issued to an original purchaser or a qualified assignee, the Township Clerk shall send by certified mail to the last owner of record a written notice informing him or her that the ten (10) year period has expired and that all rights in the cemetery lot or burial space shall be forfeited to the Township if he or

she fails within sixty (60) days of the date of mailing the notice to affirmatively indicate in writing to the Township Clerk his or her desire to retain the cemetery lot or burial space.

2. If the Township Clerk receives no written response within sixty (60) days after mailing the notice required to be sent pursuant to subsection (a) above, the cemetery lot or burial space identified in the notice shall revert to the Township free and clear from any claims of that original purchaser or qualified assignee. The Township Clerk shall then cancel in the official cemetery records the burial permit issued and indicate in those records that the cemetery lot or burial space is eligible for resale under the terms and conditions of this Ordinance.

102.010 **Repurchase of Cemetery Lots or Burial Spaces.** Upon the written request of the original purchaser or qualified assignee of any cemetery lot or burial space, or the legal heirs or representatives of the original purchaser or qualified assignee, the Township shall repurchase the cemetery lot or burial space from the owner at the original price paid to the Township for that cemetery lot or burial space.

102.011 **Cemetery Records.** The Township Clerk shall maintain records concerning all burials, issuance of burial permits, and any perpetual care fund separate and apart from other Township records. These cemetery records shall be open to public inspection during reasonable business hours.

102.012 **Family Independence Agency Burials.** No person whose burial is paid by the Michigan Family Independence Agency shall be eligible for burial in any cemetery within Fife Lake Township, unless that person was a resident of the Township at the time of his or her death.

102.013 **Vaults.** All burials shall be within a standard concrete vault installed or constructed in each burial space before interment.

102.014 **Cemetery Hours.** The Township cemeteries shall be open to the general public during daylight hours only. No person shall be permitted in the Township cemeteries at any other time, except after receiving written permission from the Township Board or the cemetery sexton.

102.015 **Municipal Civil Infractions.** Any person who shall violate any provision of this Chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Chapter is violated shall be considered as a separate violation.

102.016 **Enforcement.** The Township Supervisor is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Chapter to appear in court.

102.017 **Nuisance.** A violation of this Chapter is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

102.018 **Injunctive Relief.** In addition to enforcing this Chapter through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter.

CHAPTER 103 USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS.

103.001 **Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

1. Authority. The Fife Lake Area Utility Authority.
2. B.O.D. (Biochemical Oxygen Demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20° C., expressed in parts per million by weight.
3. Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside of the walls of the building and conveys to the building sewer, beginning five feet outside the inner face of the building wall.
4. Building Sewer. The extension from the building drain to the public sewer or other place of disposal.
5. County. The County of Grand Traverse, Michigan.
6. C.O.D. (Chemical Oxygen Demand). The oxygen consuming capacity of inorganic and organic matter present in wastewater.
7. Combined Sewer. A sewer receiving both surface runoff and sewage.
8. Compatible Pollutant. The pollutants which are treated and removed to a substantial degree by the treatment works. These pollutants are biochemical oxygen demand, suspended solids, pH and fecal coliform, phosphorus and its compounds, and nitrogen and its compounds.
9. EPA Administrator. The head of the Environmental Protection Agency.
10. Garbage. Solid wastes from the preparation, cooking, dispensing, handling, storage, or sale of food including produce and food products.
11. Industrial Cost Recovery. The Township's recovery from certain Industrial Users of the Sewage Works and Wastewater Treatment Plant of the federal grant amount allocable to the treatment of waste from such users.
12. Industrial Cost Recovery Period. That period during which the federal grant amount allocable to the treatment of wastes from certain Industrial Users of the Sewage Works and the Wastewater Treatment Plant is recovered from said users.

13. Industrial Wastes. The liquid wastes from industrial processes as distinct from Sanitary Sewage.
14. Industrial User. A recipient of wastewater treatment services, as defined in **Section 103.006 1, (a)**, hereof.
15. Major Contributing Industry. An Industrial User of the publicly owned treatment:
 - a) having a flow of 50,000 gallons or more per work day.
 - b) having a flow greater than 5% of the total flow carried by the municipal system receiving the waste.
 - c) having in its discharge a toxic pollutant in amounts exceeding the desired limits.
 - d) is found by the permit issuance authority, in connection with the issuance of an NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.
16. MG/L. Milligrams per liter.
17. NPDES Permit (National Pollution Discharge Elimination System Permit). According to the Federal Water Pollution Control Act, as amended by Public Law 92-500, it prohibits any person from discharging pollutants into a waterway from a point source unless its discharge is authorized by a permit issued either by the U.S. Environmental Protection Agency or by an approved State agency.
18. Natural Outlet. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
19. Non-Industrial User. A recipient of wastewater treatment services as defined in **Section 103.006, 1, (b)**, hereof.
20. Normal Strength. Wastes which have a BOD of 200 milligrams per liter, suspended solids of 250 milligrams per liter, phosphorus of 10 milligrams per liter having a pH between 6.5 and 9.5 and do not contain a concentration of other constituents which will interfere with the normal wastewater treatment process.
21. Operation and Maintenance. All costs, direct and indirect, inclusive of all expenditures attributable to administration, replacement and treatment and collection of Sewage but not including debt service necessary to insure adequate treatment and collection of Sewage on a continuing basis in conformance with the NPDES Permit, U.S. EPA grant conditions and other applicable regulations.
22. PPM. Parts per million.
23. pH. The logarithm of the reciprocal of the hydrogen ion concentration in moles per liter.
24. Person. Any individual, firm, company, association, society, corporation or group.

25. Properly Shredded Garbage. The wastes from the preparation, cooking, and dispensing of foods that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2-inch in any dimension.
26. Public Sewer. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
27. Replacement. Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance, for which such works were designed and constructed
28. Sanitary Sewer. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
29. Sanitary Sewage. Liquid wastes consisting primarily of segregated domestic wastes or waste from sanitary conveniences.
30. Sewage or Wastes. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, including Industrial Wastes and Sanitary Sewage together with such ground surface, and storm waters as may be present.
31. Sewage Works. All facilities for collecting, pumping, treating and disposing of sewage.
32. Sewer. A pipe or conduit for carrying sewage.
33. "Shall." Mandatory; "may" is permissive.
34. Storm Sewer or Storm Drain. A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
35. SS (Suspended Solids). Solids that either float on the surface of, or are in suspension water, Sewage, or other liquids, and which are removable by the wastewater treatment process.
36. System. The Sewage Works and Wastewater Treatment Plant and all appurtenances thereto, which together comprise the complete Fife Lake Area Utility Authority Sewage Disposal System No. 1 now owned or hereafter acquired by the Authority pursuant to control with the Township and all extensions and improvement thereto hereafter made.
37. Township. The Township of Fife Lake, Michigan, and/or its duly authorized agent or representative.
38. U.S. EPA. The United States Environmental Protection Agency which assures the protection of the environment by abating or controlling pollution on a systematic basis.

39. Unit Surcharge. A charge imposed on a recipient of wastewater treatment services who discharges Sewage in excess of Normal Strength.
40. User Charge. A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance (including replacement).
41. User Class. That the recipient of wastewater treatment services will be assigned to one of the two classes as discussed in **Section 103.006**, hereof.
42. Wastewater Treatment Plant. Any arrangement of devices and structures used for treating sewage.
43. Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

103.002 Use of Public Sewers Required.

1. It shall be unlawful to discharge or cause to be discharged into any storm sewer, natural water course, or artificial water course, any Sewage or other polluted waters other than storm water or uncontaminated industrial Wastes as heretofore defined; or to increase an approved use except upon special agreement or arrangement with the Township and in accordance with the rules and procedures of appropriate agencies of the State of Michigan.
2. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of Sewage.

103.003 Private Sewage Disposal.

1. Where a public sanitary or combined Sewer is not available under the provisions of **Section 104.002 of this Article 100** (formerly Section 2.01 of Township Ordinance No. 1, as amended), the Building Sewer shall be connected to a private sewage disposal system constructed in compliance with State and local laws.
2. Where private sewage disposal systems are constructed, they must be located at least 50 feet from any surface water, natural or artificial drain, or open joint, sub-surface ground water, or tile drain unless otherwise approved by the Township. All installations shall comply with existing State laws and regulations.
3. At such time as a public Sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 104.002 of this Article 100**, a direct connection shall be made to the public Sewer in compliance with said **Section 104.002 of this Article 100**, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable materials. All such filling and demolition shall be subject to approval of the Township.

Upon application of the owner of such property, the Township may grant a delay of not more than one year before making connection to public Sewer. Such delay

to be granted only if private facilities are satisfactory and create no nuisance or health hazard.

4. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Township.
5. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Township, the Authority or other regulatory agencies with respect to private sewage disposal.

103.004 Building Sewers and Connections.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public Sewer or appurtenance thereof without first obtaining a written permit from the Township.
2. All connections with any Sewer of the Township shall be made only by written authorization and permits issued by the Township and on such forms and on payment of such fees as shall be established from time to time by the Township.
3. All costs and expenses incident to the installation and connection of the Building Sewer shall be borne by the owner of said property. The owner shall indemnify the Township and the Authority from all loss or damage that may directly be occasioned by the installation of the Building Sewer.
4. All applicants for sewer connection permits shall, when required, submit plans and specifications of all plumbing construction within such building or premises and such plans and specifications shall meet the requirements of the Plumbing Code of the State of Michigan, and all orders, rules and regulations of the Department of Health. The approval of connection permit shall also be contingent upon the availability of capacity in all downstream sewer, lift stations, force mains, and the Authority's Wastewater Treatment Plant including BOD and suspended solids capacity. When such plans and specifications have been approved by the Township or by such officials as they may designate, a sewer or plumbing permit shall be issued, subject to final inspection and approval when construction is completed.

Final approval will be subject to compliance with the Plumbing Code of the State of Michigan, and all orders, rules and regulations of local and State regulatory agencies.

5. The applicant for a Building Sewer permit shall notify the Township when the Building Sewer is ready for inspection. The Township or its designated representative shall then inspect the said building and plumbing construction therein and if such construction meets the previous requirements as so approved in the construction permit, a sewer connection approval shall be issued, subject to the applicable provisions of other sections of this Ordinance.

Upon final approval of any sewer connection, all sewer supports, testing of sewer, back filling of sewer, including material and other elements contingent on

completion of installation, shall comply with State of Michigan Plumbing and Township Building Codes.

6. The cost of all repairs, maintenance and replacements of existing Building Sewers and their connection to public Sewers shall be borne by the property owner. Such owner shall make application for permit to perform such work to the Township through the designated representative.
7. All connections to existing or new Sewers will be made by employees of the Authority or its approved representatives. The connection of the Building Sewer into the public Sewer shall be made at the "Y" branch, if such branch is available at a suitable location.
8. The applicant for the Building Sewer permit shall notify the Township when the building sewer is ready for inspection and connection to the public Sewer.
9. All excavations for Building Sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Township.

103.005 Use of the Public Sewers.

1. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water or unpolluted industrial process waters to any Sanitary Sewer.
2. Storm water and all other unpolluted drainage shall be discharged to such Sewers as are specifically designated as Storm Sewers, or to a natural outlet approved by the Township, and in compliance with rules and procedures of various agencies of the State of Michigan. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Township, to a Storm Sewer or natural outlet. The Township has the right to exclude industrial or commercial waste in whole or in part, for any reason.
3. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public Sewer:
 - a) any liquid or vapor having a temperature higher than 150 F;
 - b) any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
 - c) any garbage that has not been properly shredded;
 - d) any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in Sewers or other interference with the proper operation of the Sewage Works;
 - e) any wastes having any other corrosive properties capable of causing damage or hazard to structures, equipment, and personnel of the Sewage Works;

- f) any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, fish or aquatic life, or create any hazard in the receiving waters or in the Wastewater Treatment Plant;
 - g) any waters or wastes containing Suspended Solids of such character and quantity that unusual attention or expense is required to handle such materials at the Wastewater Treatment Plant;
 - h) any noxious or malodorous gas or substance capable of creating a public nuisance;
 - i) any water and/or waste not complying to all NPDES permit requirements, pretreatment standards, and all other unspecified State and Federal regulations;
 - j) any waters or wastewaters having chlorine demand in excess of 15 mg/l;
 - k) any waters or wastes having pH less than 5.5 and greater than 9.5;
 - l) any water or waste which may contain more than one hundred parts per million (100 PPM), by weight, of fat, oil, or grease or exceed a daily average of twenty-five parts per million (25 PPM);
 - m) any grease, oil or other substance that will become solid or viscous at temperatures between 32 degrees F and 150 degrees F, including mineral oils from the viscosity range of kerosene on up;
 - n) any wastes that contain insoluble solids in excess of ten thousand parts per million (10,000 PPM) or exceeds a daily average of five hundred parts per million (500 PPM) or that contains a combination of soluble and insoluble material in excess of twenty thousand parts per million (20,000 PPM) and must not contain any insoluble substance having a specific gravity greater than 2.65.
4. Grease, oil, sand interceptors, and conventional grease traps shall be provided when, in the opinion of the Authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients; except that such interceptors shall not be required for single family dwellings. All interceptors shall be of a type and capacity approved by the Authority, and shall be located as to be readily and easily accessible for cleaning and inspection.
- Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight.
- 5. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.
 - 6. Where necessary in the opinion of the Authority, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

- a) reduce objectionable characteristics or constituents to within the maximum limits as provided for in **Section 103.005, 2**, hereof, or
 - b) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Authority and of the State regulation agencies and no construction of such facilities shall be commenced until said approvals are obtained in writing.
7. Application for use of sewers requires each person or establishment, with any other than domestic waste discharge, to do any or all of the following:
- a) Request service for Sanitary Sewer, Storm Sewer, or other;
 - b) Request to include all of the following:
 - 1) State nature of business or enterprise.
 - 2) State source and volume of water used both in processing, cooling and waste transportation.
 - 3) State volumes in gallons of water to be discharged to sanitary, storm or other surface or ground areas.
 - 4) List all substances of a chemical, biological, or radioactive nature, other than those found in the source water supply, which are now or will be found in all wastewater discharges.
 - 5) Provide plan maps of buildings, waste treatment works, process flow patterns, outfall lines, and in-plant drainage lines.
 - 6) Sample, test and file reports with the Authority and appropriate State agencies on specified waste characteristics. All schedules, locations and methods to be approved by the Authority.
 - 7) Place waste treatment facilities, process facilities, waste streams or other facilities generating wastes or possessing potential waste problems under designated control and supervision of persons who have been approved by appropriate State agencies.
 - 8) Provide a report on all raw materials entering the process or support systems, including analyses and assays provided by suppliers of raw materials.
 - 9) Maintain records and file reports on final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents or other hazardous wastes.
8. Upon completion of any or all of the items under **Section 103.005, 7**, above, the Township will, after reviewing applications, issue a sewer use permit which will include all or part of the following:

- a) State location of discharge points into Sanitary, Storm Sewers, or surface water areas.
- b) Designation of maximum allowable volumes of Sewage to be discharged at discharge points.
- c) Designation of any discharge restrictions.
- d) Designation of types and sizes of containment facilities to control process spills to the designated Sewers.
- e) Provision for sampling and analysis of waste discharged to designated Sewers.
- f) Provisions for filing reports on waste analysis with the Authority.
- g) Provisions for notifying the Township and the Authority of any changes in process and/or wastes or proposed additional waste, or connections to the designated or other Sewers.
- h) Establish limits on specific waste constituents in mg/l and in pounds per day. Limits can include, but are not limited to, BOD, COD, temperature, pH, suspended solids, volatile suspended solids, soluble metal wastes, toxins, pesticides, herbicides, solvents, detergents and other wastes capable of creating hazards to humans, animal, or aquatic life or which might create any hazards to Sewers, the Sewage Works, the Wastewater Treatment Plant or the receiving waters.
- i) Establishment of any fees deemed necessary to defray costs of sampling and/or analysis by the Township or the Authority.
- j) The Township reserves the right, at any time, to reappraise the requirements of any industry for its use permit.

Any industry that does not normally discharge to the Sanitary Sewer, Storm Sewer, or receiving stream, but has the potential to do so from accidental spills or other circumstances, may be requested by the Township to file or accomplish any of the above listed items.

9. Where preliminary treatment facilities are provided for waters or wastes, they shall be maintained continuously in satisfactory and effective operation, by the owner at his expense.
10. When required by the Township, the owner of any property served by a Building Sewer carrying Industrial Wastes shall install a suitable control manhole in the Building Sewer to facilitate observation, sampling and measurement of the wastes. The control manhole may be required by the Township for any industrial or commercial Building Sewer whose water supply is from an unmetered private well. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Township and the Authority. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

11. All measurements, tests, and analyses of the characteristics of water and wastes to which reference is made in **Section 103.005, 3**, shall be determined in accordance with "Standard Methods for the Examination of Water and Sewer," and shall be determined at the control manhole provided for in **Section 103.005, 10**, or upon suitable samples taken at said control manhole. In the event that a special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public Sewer to the point at which the Building Sewer is connected. In addition to the "Standard Methods," all testing should conform with "Guidelines Establishing Test Procedures for Analysis of Pollutants" as published in October 16, 1973, Federal Register (40 CF 136).
12. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Township and any Industrial User whereby an Industrial Waste of unusual strength or character may be accepted by the Township for treatment, subject to payment therefore by the Industrial User. The strength of any wastes referred to herein shall be under the requirements of **Section 103.005, 11**.
13. Notwithstanding anything herein to the contrary, all requirements including discharge limits of the NPDES permit shall be adhered to.

103.006

User Classification.

1. The recipients of wastewater treatment services will be assigned to one of the following classes:
 - a) Industrial User
 - 1) Any nongovernmental, nonresidential user of the Sewage Works and Wastewater Treatment Plant which discharges more than the equivalent of 25,000 gallons per day (gpd) of Sewage (which may, at the discretion of the Township, be exclusive of domestic wastes or discharges from sanitary conveniences) and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:
 - Division A. Agriculture, Forestry and Fishing
 - Division B. Mining
 - Division D. Manufacturing
 - Division E. Transportation, Communication, Electric, Gas and Sanitary Service
 - Division I. Services

For purposes of this subparagraph, the equivalent of 25,000 gpd of Sewage shall be determined on an actual volume basis or by the weight of BOD or SS equivalent to that weight found in 25,000 gpd of Normal Strength Sewage.

- 2) Any non-governmental user of the Sewage Works and Wastewater Treatment Plant which discharges Sewage containing toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of the Sewage Works and Wastewater Treatment Plant, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the water receiving any discharge from the treatment works.
- b) Non-industrial User. Any user which is not an Industrial User, as defined herein, including those which discharge primarily segregated domestic wastes or wastes from sanitary conveniences.
2. The user may appeal his assigned classification by submitting a written appeal to the Township thirty (30) days in advance of a regularly scheduled Township Board meeting at which time the appeal will be heard.

103.007 User Rates and Charges for Wastewater Disposal Service.

1. The System shall, as far as possible, be operated and maintained on a public utility basis as authorized by law. Each premise within the Township connected to and using facilities of the System shall pay user rates and charges as fixed and established from time to time by the Township. The Township shall annually review the user rates and charges as required by Public Law 92-500.
2. If the character of Sewage from any manufacturing or industrial plant, or from any other building or premises is such that it imposes an unreasonable burden upon the System, in the discretion of the Township upon advice by the Authority, such owner may be required to separately and satisfactorily treat such Sewage before being emptied into any public Sewer, or the right to empty said Sewage may be denied, if necessary, for the protection of the System, public health or safety.
3. If it is determined pursuant to **Section 103.005, 11**, that any premises connected to the Sewage Works is discharging Sewage in excess of Normal Strength, then the owner of such premises shall be subject to the following requirements:

- a) If BOD exceeds Normal Strength BOD, then said owner shall be liable for a Unit Surcharge calculated in accordance with the following formula, where "X" equals the total number of gallons discharged each day and "Y" equals the BOD of the Sewage discharged expressed in parts per million by weight:

$$\left(\frac{X}{300} \times \frac{Y}{200} \right) \times (\$3.74) = \text{Unit Surcharge pursuant to } \mathbf{Chapter\ 104_}$$

of this Article 100

The Unit Surcharge shall be payable in addition to the other charges imposed upon said premises, shall be treated as an additional User Charge as defined in **Chapter 104 of this Article 100**, and shall be payable monthly in accordance with the terms and provisions of **Chapter 104 of this Article 100**.

- b) If SS exceeds Normal Strength SS, then the said owner shall be required to provide preliminary treatment of the Sewage in accordance with **Sections 103.005, 6 and 103.007, 2**, hereof.

103.008 Industrial Cost Recovery Charges for Wastewater Disposal Service.

1. Federal assistance has been provided for construction of certain portions of the System. In accordance with Public Law 92-500, one hundred percent (100%) of the Federal assistance allocable to the treatment of Wastes generated by an Industrial User or capacity committed to industrial use must be recovered by an Industrial Cost Recovery System. The Industrial Cost Recovery Charges shall be established by the Township and shall be reviewed annually.
2. Commencing on the effective date of this Ordinance Industrial Users will be subject to Industrial Cost Recovery Charges. These charges will be billed periodically in accordance with this Ordinance. These charges are separate from and in addition to the User Charges.
3. Where metered water consumption is not representative of the quantity of wastewater discharged by an industry, special consideration will be given by the Township for establishing an equitable basis for determining Industrial Cost Recovery Charges.
4. Bills shall be payable periodically and simultaneously with payments made for sewer services and shall be subject to such penalties as may apply to the bills for sewer services, as provided in **Chapter 104 of this Article 100**.
5. Each year during the Industrial Cost Recovery Period, each Industrial User shall pay its share of the total amount of the federal grant awarded pursuant to this part, divided by the recovery period.
6. The Industrial Cost Recovery Period shall be equal to 30 years or the useful life of the System, whichever is less.
7. The first payment by an Industrial User shall be made not later than 1 year after such user begins use of the System.
8. An Industrial User's share shall be based on all factors which significantly influence the cost of the System. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included to insure a proportional distribution of the grant assistance allocable to Industrial use to all Industrial Users. As a minimum, an industry's share shall be proportional to its flow, in relation to Sewage Works' flow capacity. To aid in the determination of said share, the Sewage of all Industrial Users shall be monitored on a regular basis, not less often than annually, during periods of normal discharge.
9. If there is a substantial change in the strength, volume, or delivery flow rate characteristics introduced into the System by an Industrial User, such user's share shall be adjusted accordingly.

10. If there is an expansion or upgrading of the System, each existing Industrial User's share shall be adjusted accordingly.
11. An Industrial User's share shall include only that portion of the grant assistance allocable to its use or to capacity firmly committed for its use.
12. All unallocated treatment works capacity must conform with the requirements of Section 204(a)(5) of the Clean Water Act (33 U.S.C. 1215 et seq., as amended).
13. An Industrial User's share shall not include an interest component.
14. An Industrial User may appeal the volume of flow, BOD, and SS upon which the user's share is calculated to the Township Board.

103.009 Allocation of Revenues - Fiscal Year.

1. From and after the effective date of this Ordinance, the revenues and income derived from the collection of rates and charges as authorized in **Section 103.007** of this Ordinance and pursuant to **Chapter 104 of this Article 100**, shall be deposited into a separate depository account entitled "Sewer Receiving Fund," from which they shall be periodically paid to the Authority pursuant to the Contract between the Authority and the Township.
2. From and after the effective date of this Ordinance, the revenues and income derived from the collection of rates and charges as authorized in **Section 103.008** of this Ordinance, shall be deposited as received in a separate depository account designated INDUSTRIAL COST RECOVERY SYSTEM RECEIVING FUND (hereinafter referred to as the "ICRS Receiving Fund"), and said revenues shall be transferred periodically from said fund to the Authority for the uses specified as follows, to wit:
 - a) Ten percent of the original ICR payments can be invested or spent by the Authority, subject to two limitations. They may not be used for industrial pretreatment facilities or as rebates to Industrial Users.
 - b) Fifty percent of the original amount, together with 50 percent of the accumulated interest, is to be paid by check to the U.S. Environmental Protection Agency and forwarded to the Financial Management Office of the Regional Administrator. The closing date for making such payments has been established as no later than four months after the end of the Authority's annual accounting period.
 - c) The remaining 40 percent of the original amount is to continue to be invested in appropriate accounts (together with the optional 10 percent if desired) until its use is required by the Authority for expansion or reconstruction of the treatment works. Eligible costs are defined in 40 CFR, Section 35.940. The written approval of the Regional Administrator is required prior to commitment of any of this 40 percent 40 CFR. Approval is not considered a grant, since these funds are considered to belong to the Authority.

3. The ICRS Receiving Fund and the Sewer Receiving Fund shall be (i) invested, pending transfer pursuant to **Sections 103.009, 1, and 2**, hereof in obligations of the U.S. Government or in obligation guaranteed as to principal and interest by the U.S. Government or any agency thereof, or (ii) deposited in accounts fully collateralized by obligations of the U.S. Government or any agency thereof.
4. The fiscal year, for the purposes of this Ordinance, shall be from January 1 to the last day of December each year.

103.010 **Powers and Authority of Inspectors.** The duly authorized employees of the Township and the Authority bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling, and testing, in accordance with the provisions of this Ordinance.

103.011 **Enforcement.** The Unit Surcharge and Industrial Cost Recovery Charges provided above are hereby made a lien on all premises served thereby and whenever any such charge against any piece of property shall be delinquent for six (6) months, the Township official or officials in charge of the collection thereof shall certify annually, on March 1 of each year, to the tax-assessing officer of the Township, the fact of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as charge against such premises and shall be collected and the lien thereof enforced in the same manner as general Township taxes against such premises and shall be collected and the lien thereof enforced.

103.012 **Annual Audit.** The Township and the Authority shall together maintain complete books and records relating to the operations of the System and its financial affairs and the Authority will cause such books and records to be audited annually at the end of each fiscal year and an audit report to be prepared. A copy of each audit report will be made available upon written request to holders of outstanding debt incurred to finance part or all of the cost of the Sewage Works and to the U.S. EPA.

103.013 **Penalties.**

1. Any person found to be violating any provision of this Chapter except **Section 103.009** hereof, shall be served by the Township with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice, permanently cease all violations.
2. Any person who shall continue any violation beyond the time limit provided for in **Section 103.012, 1**, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Any person violating any of the provisions of this Chapter shall become liable to the Township and the Authority for any expense, loss, or damage occasioned the Township and the Authority by reason of such violation.

103.014 **Validity.**

1. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
2. The invalidity of any section, clause, sentence, or provision of this Chapter shall not affect the validity of any other part of this Chapter which can be given effect without such invalid part or parts.

103.015 **Enactment.** This Ordinance shall be in full force and effect thirty (30) days after its publication as provided by law.

103.016 **Amendment.** The Township specifically reserves the right to amend this Chapter in whole or in part, at one or more times hereafter, or to repeal the same, and by such amendment to repeal, abandon, increase, decrease or otherwise modify any of the fees, charges or rates herein provided. It being understood, however, that the adoption of this Chapter or its subsequent amendment or repeal shall in no way change, relieve or release the contractual and legal obligation of the Township under any contract or Chapter authorizing the issuance of bonds by the Authority for the acquisition, construction and improvement of the System.

CHAPTER 104 TOWNSHIP OF FIFE LAKE SANITARY SEWER SYSTEM CONNECTIONS AND RATES (formerly called Ordinance No. 1).

104.001 **Definitions.** As Used in this Chapter:

1. The term "Authority" shall be construed to mean the Fife Lake Area Utility Authority.
2. The term "Available Public Sewer" shall mean a public sewer which is part of the System (tapped or untapped) located in a right of way, easement, highway, street or public way which crosses, adjoins, or abuts upon a property and passes not more than 200 feet at the nearest point from a Structure in which Sanitary Sewer Originates.
3. The term "Board" shall be construed to mean the Township Board of said Township of Fife Lake, the legislative and governing body thereof.
4. The term "Buildable Site" shall be deemed to mean a premises or a portion of a premises upon which a single family home could be constructed in compliance with the Michigan Subdivision Control Act or any Township zoning ordinance which may be in effect at the date of publication of this Ordinance. A premises may contain one or more Buildable Sites.
5. The term "Charges for Sewer Services" shall be deemed to mean the charge levied on users of the System and treatment works for the proportionate share of Township debt service on Authority debt incurred pursuant to contract between the Township and the Authority to pay part or all of the acquisition and construction and related costs of the System.

6. The term "Operation and Maintenance" shall be deemed to mean all costs, direct and indirect, inclusive of all expenditures attributable to administration, replacement and treatment and collection of sanitary sewage, but not including debt service necessary to insure adequate treatment and collection of sanitary sewage on a continuing basis in conformance with the National Pollution Discharge Elimination System Permit, United States Environmental Protection Agency grant conditions and other applicable regulations.
7. The term "Debt Service Charge" shall be deemed to mean the charge levied on users of the System and treatment works for the proportionate share of Township debt service on Authority debt incurred pursuant to contract between the Township and the Authority to pay part of all of the acquisition and construction and related costs of the System.
8. The term "Premises" shall be deemed to mean the lands included within the boundaries of a single description as set forth, from time to time, on the general tax rolls of the Township as a single taxable item in the name of the taxpayer or taxpayers at one address but in the case of platted lots shall be limited to a single platted lot unless an existing building or structure is so located on more than one lot as to make the same a single description for purposes of assessment or conveyance now or hereafter.
9. The term "Sanitary Sewage" shall mean the liquid or water carried waste discharged from the sanitary conveniences of users of the System including dwellings (including apartment houses and hotels), office buildings, commercial and industrial establishments, institutions, and other structures.
10. The term "Sewer Services" shall refer to the collection, transportation, treatment and disposal of sanitary sewage emanating from premises now or hereafter.
11. The term "Structure in which Sanitary Sewage Originates" or "Structure" means 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.
12. The term "System" shall mean the complete Fife Lake Area Utility Authority Sewage Disposal System No. 1 as the same is located in the Township, including all sewer mains, laterals and treatment facilities, all appurtenances thereto now owned or hereafter acquired by the Authority pursuant to contract with the Township and all extensions and improvements thereto hereafter made.
13. The term "Township" shall be construed to mean the Township of Fife Lake.
14. The term "Trunkage Connection Fee" shall be deemed to mean the amount charged at the time and in the amount hereinafter provided, to each premises in the Township for connecting or being connected to the system and represents the proportionate cost allocable to such premises for the facilities by which sewer services are immediately provided to the premises and the cost of inspecting and

- approving the physical connections to the System and the issuance of a connection permit.
15. The term "Unit" or "Units" shall be related to the quantity of sewer use and the benefits derived from such sewer use ordinarily arising from the occupancy of a residence building by a single family of ordinary size (but such term shall not necessarily be related to actual use arising from any such building) and shall be defined or determined from time to time by the Township through its Township Board. Said units are set forth in Exhibit A to this Ordinance, according to the type of use to which the property is put. Any use not enumerated in Exhibit A shall, in the discretion of the Township Supervisor, upon authority of the Township Board, possess those units which attach to the property based upon the most similar use enumerated in Exhibit A.
 16. The term "User" shall be deemed to include a premises which discharge sanitary sewage into the system and shall consist of the following classes:
 - a) "Residential User" a user of the System whose premises are domiciles for single or multiple family use and discharge only sanitary sewage.
 - b) "Governmental User" a user of the system whose premises are publicly-owned facilities performing local government functions (e.g., government office building, post office, library, school) and which discharge only sanitary sewage.
 - c) "Commercial User" a user of the System whose premises are privately owned and offer to perform and/or sell services and/or products for profit (e.g., retail and wholesale stores, restaurants, motels, gasoline stations).
 - d) "Institutional User" a user of the System whose premises are owned by a non-profit organization pursuant to Section 501 of the Internal Revenue code of 1954, as amended (e.g., churches, hospitals).
 - e) "Industrial User" an industrial user as defined in **Section 103.001, of this Article 100.**
 17. The term "User Charge" shall be deemed to mean a charge levied on users of a System and treatment works for the user's proportionate share of the cost of operation and maintenance.

104.002 Connections Required.

1. **Sewer System Deadline.** All structures in which Sanitary Sewage Originates situated within the limits of the Township of Fife Lake are hereby required, at the owner's expense, to promptly install suitable toilet facilities therein and connect said structure to an Available Public Sewer, and in no event shall said connections be completed later than twelve (12) months after date of official notice to make

such connection or the modification or construction of a structure so as to become a Structure in which Sanitary Sewage originates, whichever occurs last.

2. Plats for premises subdivided into four or more lots or parcels and permits to improve platted or unplatted premises, after the effective date hereof, which premises are within the area in the Township served by the System shall not be approved or issued on behalf of the Township and none of said premises shall be improved hereafter by the erection thereon of a structure in which sanitary sewage originates unless lateral sewers, the design of which is approved by an engineer designated by the Authority to serve all of said premises, as subdivided or to be improved are provided and connected to the System as part of the System, such extensions to be installed at private cost or by special assessment (or a bond furnished or the estimated cost thereof deposited with the Township, as otherwise provided by law).
3. **Enforcement in the Event of Failure to Connect to Sewer System.** In the event a required connection to an Available Public Sewer is not made within the time provided by Section 104.003, 1, the Township shall require the connection to be made immediately after notice given by first class or certified mail or by posting on the property. The notice shall give approximate location of the Available Public Sewer and shall advise the owner of the affected property of the requirement and enforcement provisions provided by Township Ordinance and state law. In the event the required connections is not made within 90 days after the date of mailing or posting of written notice, the Township may bring into action, in the manner provided by law, in a court of competent jurisdiction or court order to compel the property owner to immediately connect the affected property to the Available Public Sewer.

104.003 **Connection Fee for Improved Structures.** Owners of premises which as of April 1, 1980, are improved by a structure in which sanitary sewage originates within the area in the Township served by the System, who make application and receive a permit for connection to the System:

1. On or before June 30, 1980, and who are hereafter connected directly or indirectly to the system shall pay a trunkage connection fee for connection to the System in the amount of \$50.00 per connection, which amount shall be payable at the time of application;
2. After June 30, 1980, and on or before January 1, 1981, which premises are hereafter connected directly or indirectly to the system, shall pay a trunkage connection fee for connection to the System in the amount of \$500.00 per connection, which amount shall be payable in 10 equal annual installments, with interest on the unpaid balance from time to time from January 1, 1981, payable annually at the rate of 5% per annum, the first installment being payable on or

before January 1, 1981, and succeeding installments being payable on or before each January 1, thereafter. Any such owner may discharge the obligation to pay such trunkage connection fee by the payment of \$500.00 without interest in cash for each connection on or before January 1, 1981, or may pay any part of such trunkage connection fee in cash without interest on or before January 1, 1981, and thereafter prepayment of said trunkage connection fee may be made in advance by paying interest on the amount prepaid to the next succeeding January 1, following the date of prepayment;

3. After January 1, 1981, which premises are hereafter connected directly or indirectly to the System shall pay a trunkage connection fee for connection to the System in the amount of \$500.00 per connection, which amount shall be payable in cash at the time of application.

104.004 **Connection Fee for Each Buildable Site.** Owners of premises all of which or a portion of which, which portion constitutes a Buildable Site, as of April 1, 1980, are not improved by a structure in which sanitary sewage originates, who make application and receive a permit for connection of said premises or portion thereof to the System:

1. On or before June 30, 1980:
 - a) shall pay a trunkage connection fee for connection to the System in the amount of \$50.00 per connection for each Buildable Site which amount shall be payable at the time of application, provided that the owner of said premises, or portion thereof, agrees in writing to pay the charges for sewer services imposed by **Section 104.006**, below at a minimum rate of one unit per Buildable Site; or
 - b) shall pay a trunkage connection fee for connection to the System in an amount equal to 1.15 times the actual cost incurred in constructing the wye and/or service lead to the property line of the premises, which amount shall be payable in the manner set forth in **Section 104.003 C, 2**, above, provided that the owner of said premises shall not be required to pay the charges for sewer service imposed by **Section 104.006** below, until connection required by **Section 104.002** above, is completed;
2. After June 30, 1980, shall pay a trunkage connection fee for connection to the System in an amount equal to 1.15 times the actual cost incurred in constructing the wye and/or service lead to the property line of the premises or \$500.00, whichever is greater, which amount shall be payable in the manner set forth in **Section 104.003, 2**, above, if the application is made and permit is received on or before January 1, 1981, and in the manner set forth in **Section 104.003, 3**, above, if the application is made and the permit is received after January 1, 1981, provided that the owner of said premises shall not be required to pay the charges for sewer services imposed by **Section 104.006** below, until connection required by **Section 104.002** above is completed.

104.005 **Number of Units.** The number of units to be assigned to any particular premises used for other than single residence purposes shall be determined by the Township Board based on unit factors set forth on Exhibit A. The Township Board, if the circumstances justify, may assign more than one unit to a single family dwelling. No less than one unit shall be assigned to each premises but, for purposes of computing the connection fee, 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 or type of occupancy of said premises (including destruction, removal or abandonment of any or all improvements thereon) shall not abate the obligation to continue the payment of the trunkage connection fee charged to said premises in the amount and for the period hereinabove provided, for the number of units assigned to said premises at the time of imposition of such fee. If subsequent changes at any time increase the amount of sewer service to the premises, the Township Board shall increase the number of units assigned to said premises and thereupon a trunkage connection fee computed on the same basis as in **Section 104.003**, above for the additional units, shall be payable in cash at the time a construction or other permit is issued by the Township for such changes in use or at the time such change in use occurs, if no permit is issued or required.

104.006 **Charges for Sewer Services.**

1. Charges for sewer services to each premises within the Township connected with the System or for which a trunkage connection fee has been paid pursuant to **Section 104.004, 1, (a)**, above, shall consist of a monthly user charge per unit and a monthly debt charge per unit as follows:

	<u>User Charge</u>	<u>Debt Service Charge</u>
Residential User	\$3.74/unit	\$8.76/unit
Governmental User	\$3.74/unit	\$8.76/unit
Commercial User	\$3.74/unit	\$8.76/unit
Institutional User	\$3.74/unit	\$8.76/unit
Industrial User	\$3.74/unit	\$8.76/unit

The user charge and the debt service charge shall be separately itemized and may be amended from time to time by the Board subject to any obligations and limitations set forth in any contract between the Township and the Authority and any bond ordinance or resolution or other agreement pertaining to the System

between the Authority and Farmers Home Administration. These charges shall be payable in the first month the System becomes operational and monthly thereafter.

2. The minimum monthly charge shall be due and payable for each premises without regard to the use of any such premises on a part-time or seasonal basis.
3. No free service shall be furnished by the System to the Township or to any person, firm or corporation, public or private, or to any public agency or instrumentality.
4. It shall be the duty of the Township Treasurer to collect all charges for sewer services and to keep the books and advance on or before the 10th day of each month. Payment of the bill which is rendered by the Township Treasurer is due and payable on or before the 25th day of the month in which it is rendered. Payment of said bill shall be made at a location designated by the Township Board.
5. All moneys received by the Township Treasurer pursuant to this Ordinance shall be remitted in full on the last day of each month to the Authority Treasurer.

104.007 Late Fees.

1. If any charges for sewer service 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 90 days after the due date thereof, then all services furnished by the System may be discontinued upon ten (10) days written notice to owner and occupants. Service so discontinued shall not be restored until all sums then due and owing, including penalties and interest, shall be paid, plus all expenses incurred by the Township for shutting off and turning on the service.
2. If any installment of a trunkage connection fee is not paid on or before the due date, the same shall draw interest at the rate of ½ of 1% per month until paid. In the event that any such installment remains unpaid for 90 days or more after the due date, service may be discontinued as provided in **Section 104.007, 1**, above, and shall not be restored until all amounts due are paid plus the shut-off and turn-on charges so provided are paid.

104.008 Lien Authorized for Unpaid Charges. Charges for sewer services furnished by the system to any premises and the trunkage connection fee, including all installments thereon, pertaining to any premises shall by this Ordinance be a lien thereon and those charges and fees delinquent for six (6) months or more shall be certified by the Township annually on March 1 of each year to the Township tax accessing officer who shall enter the same upon the next tax roll against the premises to which the service shall be rendered, and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement of the lien therefore.

104.009 Industrial Cost Recovery. There shall be established by the Township Board a system of industrial cost recovery charges applicable to any use of the system subject thereto under the terms and conditions of the Federal Grant(s) financing a portion of

the cost of the System. The industrial cost recovery charges shall be imposed, collected, held and used in accordance with the federal grant conditions.

- 104.010** **Compliance with Laws and Regulations.** The System shall be used, operated, and maintained at all times in accordance with existing state and federal law and applicable state and federal regulations.
- 104.011** **Hardship Deferment.** The owner of a premises may file a hardship application with the Township Board seeking a deferment in the partial or total payment of charges imposed under **Sections 104.003 and 103.004** above, based on a showing of financial hardship and in accordance with state laws.
- 104.012** **Division of Responsibility.** The billing and collection of fees and charges shall be under the immediate supervision and control of the Township Board. The operation, maintenance and management of the System shall be under the immediate supervision and control of the Authority.
- 104.013** **Title.** This Chapter may be known and may be cited as the "Township of Fife Lake Sanitary Sewer System Connection and Rate Ordinance."
- 104.014** **Nuisance Per Se.** 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.

CHAPTER 105 PENALTIES.

Civil Infraction. Any violation of this Article or any violation beyond the time limit provided for in Section 104.002 (1), shall be a municipal civil infraction, for which the fine shall not be less than \$100 nor more than \$500 for the first offense and nor less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the District Court, and in addition to all other costs, damages, and expenses provided by law. For the purposes of this section, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of the previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall be considered separate first offenses. Each day such violation occurs shall constitute a separate offense. Any person violating any of the provisions of this Ordinance shall, in addition, become liable for any expense, including reasonable attorney's fees, loss, damage occasioned by reason of such violation. The Township is hereby authorized to issue citations for municipal civil infractions for violation of the Ordinance.

CHAPTER 106 EMERGENCY SERVICES CHARGES.

106.001 **Purpose.** This Ordinance is adopted for the purpose of providing financial assistance to the Grand Traverse Fire Department – Rural Division (the Rural Division) of which the Township is a member by providing a method for cost recovery under certain circumstances from those receiving direct benefits from the emergency services from the Rural Division. Those emergency services include fire services and may include rescue services. It is also the intent of the Township to encourage mutual aid between fire departments during emergencies by adopting the charges for emergency services that have been set by the municipality that is assisting in the emergency. For purposes of this Ordinance, the services provided by the Rural Division and similar services provided by another fire department within the township pursuant to a request for mutual aid are called “emergency services”. In addition, the Township finds that it is not cost effective for the Township to pursue the collection of fire charges against those persons who do not have insurance coverage.

106.002 **Charges.**

1. The Township Board shall set or revise charges for emergency services that are provided by the Rural Division. The charges shall only be initially set or later revised after the Township Board has received a recommendation from the Fire Board regarding those charges. It is the intent of this Ordinance that charges for emergency services shall be uniform throughout the Rural Division. The charges shall be billed to the insurance company of the recipient of the emergency services. “Insurance company” shall mean any insurance carrier that has a legal obligation to reimburse or pay on behalf of a recipient of emergency services regardless of the type of insurance coverage.
2. If another fire department provides emergency services within the township pursuant to a mutual aid agreement or as a result of a request for assistance from a Township official or an officer of the Rural Division, then the charges set by the assisting municipality for the services which have been provided by its fire department shall be paid in the same manner as if those charges had been incorporated into this Ordinance. All charges of another fire department shall be due and payable and administratively handled as charges for emergency services that have been provided by the Rural Division.
3. Any recipient of emergency services shall provide the name, address and phone number of the recipient’s insurance company to the Rural Division or any third party acting on behalf of the Rural Division. If requested by the Rural Division or a third party acting on behalf of the Rural Division, the recipient of emergency services shall provide to the requesting party a copy of the applicable insurance policy. The recipient of emergency services shall sign any documents that the Rural Division determines is necessary to assist it in obtaining payment from the insurance company. This includes, but is not limited to an assignment of claim against the insurance company. If a recipient of emergency services fails to provide the required information or fails to sign a required document within 30 days after a request has been made as described in this Ordinance, then the recipient shall be liable personally to the Rural Division on behalf of the Township

for all charges for emergency services. This liability shall be joint and several with the insurance company.

106.003 **Exemptions.** The following properties and services shall be exempt from any charges:

1. False alarms. However, if the Rural Division responds to a false alarm at any location that has had at least three (3) false alarms in the same calendar year, then there shall be a charge as determined by the Township as described in Section 2. A. for each response which is made in the same calendar year as the three (3) false alarms.
2. Fires involving Township buildings, grounds and/or property.
3. Emergency services performed outside the jurisdiction of the Township under a mutual aid contract unless charges for such services are permitted by State law or local ordinance.

106.004 **Time for Payment for Run.** All of the charges imposed by this Ordinance shall be due and payable to the Rural Division on behalf of the township within ninety (90) days from the date the service is rendered.

106.005 **Collection of Charges.** The Rural Division shall be responsible for all billings for charges that are imposed by this Ordinance. The Rural Division may contract with a third party to handle the administrative actions relating to sending bills, receiving payment and any collection proceedings. The Rural Division or a third party acting pursuant to a contract with the Rural Division is authorized to take such legal action as may be necessary to collect any unpaid charges. The Rural Division or the third party with whom it has contracted shall be responsible for all costs and attorney fees associated with any such legal action. All charges that are imposed pursuant to this Ordinance shall be deemed assigned to the Rural Division for purposes of collection and use of all payments of the charges.

106.006 **Use of Payments.** All proceeds obtained from payments for charges after expenses of collection shall be retained by the Rural Division and shall be used only for purposes as authorized in the Intergovernmental Agreement that created the Rural Division.

106.007 **Non-Exclusive Funding.** The foregoing charges shall not be exclusive of the methods that may be used by the Township to fund a fire department, but shall only be supplemental thereto.

106.008 **Multiple Property Protection.** When an emergency service rendered by the Rural Division directly benefits more than one person or property, the owner of each property so benefited and each person so benefited where property protection is not involved shall be liable for the payment of the full charge for such service. The interpretation and application of the within section is hereby delegated to the Rural Division Fire Chief subject only to appeal, within the time limits for payment as described in Section 4 of this Ordinance, and shall be administered so that charges

shall only be collected from the insurance company of the recipients of the emergency service.

ARTICLE 200

HEALTH AND SAFETY

CHAPTER 201. WATERCRAFT

201.001 **WC-28-89-001 Fife Lake: Hours for High Speed Boating and Water Skiing.**
On the waters of Fife Lake Sections 11, 12, 13 and 14, T25N, R9W, Fife Lake Township, Grand Traverse County, and Section 18, T25N, R8W, Springfield Township, Kalkaska County, and that portion of Fife Lake located within the Village limits of Fife Lake, Michigan, it is unlawful between the hours of 6:30 p.m. and 10:00 a.m. of the following day to:

1. Operate a vessel at high speed.
2. Have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.

201.002 **Slow No Wake.** On the waters of Fife Lake, all within Section 14, Town 25 North, Range 9 West, Fife Lake Township, Grand Traverse County, State of Michigan, within the area defined by "Slow No Wake" buoys, placed at the following coordinates, it is unlawful for the operator of a vessel to exceed a slow--no wake speed.

- Buoy #1 @ N44°34.000, W85°21.198
- Buoy #2 @ N44°33.964, W85°21.206
- Buoy #3 @ N44°33.831, W85°21.247
- Buoy #4 @ N44°33.842, W85°21.290

The boundaries of the area described immediately above shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the State Uniform Waterway Marking System.

CHAPTER 202 DANGEROUS STRUCTURES

202.001 **Dangerous Structure Defined.** As used in this Chapter a "dangerous structure" means a building or structure that has one (1) or more of the following defects or is in one (1) or more of the following conditions:

1. A portion of the building or structure is damaged by fire, wind, flood, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the building code enforced within the Township for a new building or structure.

2. A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
3. A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the building code enforced within the Township.
4. The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reasons, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
5. The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
6. The building or structure is damaged by fire, wind, or flood, or is dilapidated or deteriorated and has become an attractive nuisance to children who might play in the building or structure to their danger.
7. The building or structure is vacant, dilapidated, and opened at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

202.002 **Prohibition.** No person, corporation or business organization shall own, occupy or maintain any dangerous structure within the Township.

202.003 **Notice.** If a building or structure is found to be a dangerous structure, the Township shall give the owner of the building or structure written notice of the dangerous condition and thirty (30) days to demolish and remove the dangerous structure from the property or to repair the dangerous structure to make it safe. The notice may be personally delivered to the owner or mailed to the owner by first class mail at the address shown on the assessor's rolls.

202.004 **Inspection.** Township representatives shall have the right to inspect buildings or structures to determine violations of or compliance with this Chapter. Township representatives may exercise this right to inspection by consent of the person having the right to possession of the building or structure or any part thereof, or by administrative search warrant.

202.005 **Penalty/Civil Infraction.** Any person who shall violate any provision of this Chapter shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

202.006 **Enforcement.** The Township Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Chapter to appear in court.

202.007 **Nuisance.** A violation of this Chapter is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

202.008 **Injunctive Relief.** In addition to enforcing this Chapter through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter.

202.009 **Abatement by Township.** If a Court of competent jurisdiction finds the owner or occupant of a building or structure in violation of this Chapter, the Court, in addition to ordering the owner or occupant to demolish the dangerous structure and remove it from the property or to repair the dangerous structure to make it safe, may authorize the Township to demolish the dangerous structure and remove it from the property or to repair the dangerous structure to make it safe. The Court, however, shall not authorize the Township to demolish the dangerous structure if the cost of repairing the building or structure to a safe condition is less than the state equalized value for the building or structure.

202.010 **Cost Recovery; Lien.**

1. The costs incurred by the Township in demolishing the dangerous structure and removing it from the property or repairing the dangerous structure to a safe condition, including reasonable attorney fees, shall be reimbursed to the Township by the owner or party in interest in whose name the property appears.
2. The owner or party in interest in whose name of the property appears upon the last local tax assessment roll shall be notified by the assessor of the amount of the costs of the demolition or repair of the dangerous structure by first-class mail at the address shown on the records. If the owner or party in interest fails to pay the costs within thirty (30) days after mailing by the assessor of the notice of the amount of the costs, the Township shall have a lien for the costs incurred by the Township to bring the property into compliance with this Chapter. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the State General Property Tax Act.

CHAPTER 203 FREE-STANDING WOOD BURNING FURNACES & OUTDOOR BURNING

203.001 **Purpose.** It is the purpose of this Chapter to prohibit the construction, maintenance, and operation of free-standing wood burning furnaces on smaller parcels within the Township of Fife Lake for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Township and its inhabitants. It is generally recognized that the types of fuel used, and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and other products of combustion that can be detrimental to citizen health, and can deprive neighboring residents of the enjoyment of their property. The adoption of this Chapter is based on evidence and reports concerning the adverse health effects of wood smoke, increased air pollution, and smoke as nuisance as found in studies and in reports, including “Outdoor Wood Boiler & Air-Quality Fact Sheet,” written and promulgated by the Air Quality Division of the Michigan Department of Environmental Quality.

203.002 **Definitions.** As used in this Chapter,
“Free-standing wood burning furnace” means any device or structure that meets all of the following requirements:

- (a). Is designed, intended, or used to provide heat and/or hot water to any residence or other structure;
- (b). Operates by the burning of wood or any other solid fuel, including but not limited to, coal, paper pellets, and agricultural products;
- (c). Is not located within a residential structure or other structure for which it is providing heat and/or hot water.

“Person” means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

“Refuse” means any material that when burned, creates a foul or offensive odor or that causes smoke emissions that are reasonably offensive to the occupants of surrounding property, including but not limited to, construction and demolition waste; hazardous substances such as batteries, chemicals, pesticides, used oil, gasoline, paints, varnishes and solvents; furniture and appliances; plastics; and tires.

“Township” means Fife Lake Township.

203.003 **Regulations.**

- 1. Except as provided herein, a person shall not construct, maintain, or operate or permit another person to construct, maintain, or operate a free-standing wood burning furnace within the Township.
- 2. A free-standing wood burning furnace is permitted on parcels of five (5) acres or more within the Township when all of the following requirements are met:

- a. Unless reduced by the zoning administrator as provided herein, the free-standing wood burning furnace is located no less than 200 feet from the property boundary on which it is located. The zoning administrator may reduce this distance to no less than 75 feet if he or she determines that there is sufficient spatial separation between the chimney or smokestack of the free-standing wood burning furnace and the property boundary so that any combustion gases, smoke or odor will not cause an objectionable impact on any adjoining public or private property.
 - b. All required state and local building and fire code standards will be met in conjunction with the installation, maintenance, and operation of the free-standing wood burning furnace.
 - c. The free-standing wood burning furnace shall be limited to the heating and/or supply of hot water to a single structure.
 - d. The zoning administrator issues a permit for the installation of the free-standing wood burning furnace prior to such installation.
3. A person shall not burn refuse in a free-standing wood burning furnace or in any fire outdoors.

203.004 **Exceptions.**

1. The regulations of this Chapter shall not prohibit fire pits and other permitted fires in the Township, so long as they are safely constructed and attended in accordance with the authorized burning regulations of the Michigan Department of Natural Resources, including the issuance of a burning permit for said fire pit and other permitted fires, and so long as no refuse is burned in the fire pits and other permitted fires.
2. The regulations of this in Chapter shall not apply to an industrial manufacturer or processor operating lawfully under the Fife Lake Township zoning ordinance which produces wood waste products in its manufacturing or processing operations.

203.005 **Violations and Penalties.**

1. Any person who violates any provision of this Chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Chapter is violated shall be considered as a separate violation.
2. The zoning administrator and other officials designated by the township board are hereby designated as the authorized township officials to issue municipal civil infraction citations directing alleged violators of this Chapter to appear in court.

3. In addition to enforcing this Chapter through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter.

CHAPTER 204 MICHIGAN BUILDING CODE

204.001 **Agency Designated.** Pursuant to the provisions of the Michigan Building Code, in accordance with Section 8b(6) of 1972 PA 230, the Building Code Official of the Township of Fife Lake is hereby designated as the enforcing agency to discharge the responsibility of the Township of Fife Lake under 1972 PA 230, State of Michigan. The Township of Fife Lake assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

CHAPTER 205 RACETRACKS

205.001 **Title.** The Chapter may be known and cited as the Township of Fife Lake Racetrack Control Ordinance.

205.002 **Purpose.** Recognizing the Township of Fife Lake's agricultural and residential nature, this Chapter is designed to protect and promote the health, safety and general welfare of the inhabitants of Fife Lake by limiting and controlling unsafe and undesirable activities associated with the use and operation of racetracks located within the Township of Fife Lake.

205.003 **Application.** The provisions of this Chapter shall apply to the hours and days of operation, lighting, dust control, traffic control, first aid, fire protection, crowd control and sanitary facilities in conjunction with racetrack facilities located within the Township of Fife Lake.

205.004 **Definitions.** Whenever used in this Chapter, except when otherwise indicated by the context:

1. The term "Township" shall be construed to mean the Township of Fife Lake.
2. The term "Board" shall be construed to mean the Township Board of Fife Lake.
3. The term "Racetrack" shall be construed to mean any real property situated in the Township of Fife Lake upon which mechanized vehicles shall be raced for the purposes of public entertainment or amusement.
4. The term "Proprietor" shall be construed to mean the owner of the real property upon which a racetrack is located and any lessee of a racetrack engaged in the business of conducting organized races for the public's entertainment or amusement.

5. The term "Pit Areas" shall be construed to mean that portion of the racetrack upon which vehicles involved in racing shall be tuned, repaired and serviced before, after or during races.
6. The term "Race/Racing" shall be construed to mean both time trials, practice and other preliminary events as well as actual races.

205.005 **Hours.** No races shall be held except during the hours hereinafter stated without the prior approval of the officer designated to enforce this Chapter. Racing shall be permitted on one weekend day per week on either Friday evening or Saturday afternoon. Racing shall be permitted on the day preceding a legal holiday in either the evening or afternoon. Racing shall be permitted on three (3) Thursday evenings per year. The Proprietor shall notify the Township Clerk in writing of a proposed Thursday night race at least fourteen (14) days before the race. Afternoon shall be defined as beginning at 12:00 p.m. and ending at 6:00 p.m. Evening shall be defined as beginning at 6:00 p.m. and ending at midnight. The final race shall be commenced prior to the ending time of afternoon or evening racing. Ending times may be extended one-half (1/2) hour in the event of inclement weather which delays the start of the race or causes a race to be halted prior to its completion.

205.006 **Track Surface.** Any racetrack upon which the racing surface has not been paved with asphalt or concrete shall be treated with water or a substance approved by the Michigan Department of Natural Resources with such frequency and in such amounts as shall be sufficient to prevent dust from being introduced into the atmosphere as a result of the racing.

205.007 **Lights.** Lights installed in and around any racetrack shall be positioned so as to shine upon the property upon which the racetrack is located and shall not be directed towards any adjoining properties or highways not constituting part of the racetrack. Lights shall be operated only on the nights upon which racing shall take place and shall be shut off one hour after termination of racing.

205.008 **Parking.** Proprietors of all racetracks located within the Township of Fife Lake shall provide parking on site for the vehicles of persons attending the races. Persons retained and equipped to direct traffic shall be available thirty (30) minute prior to and for thirty (30) minutes after the conclusions of racing for purposes of directing traffic in and out of the racetrack facilities and for purposes of directing parking upon the racetrack facilities. There shall be only one designated entrance and exit to the property for vehicles which shall be clearly marked. Entrance and exit lanes shall be contiguous and in total width shall be twenty (20) feet. Parking shall be permitted only in the designated parking area.

205.009 **Flammable Materials.** The overnight storage of motor vehicle fuel shall not be permitted. Any tanks or containers used for the purpose of holding and storing flammable materials, including but not limited to gasoline, shall meet the requirements of the State Fire Marshall. Motor vehicle fuel shall not be permitted outside the pit area except for transportation to and from the pit area.

- 205.010** **Sanitation.** Sanitary facilities approved by the Tri-County Department of Health and the Michigan Department of Health shall be provided for spectators and participants in races conducted upon the racetrack.
- 205.011** **Storage.** The storage of refuse, including but not limited to oil, shall not be permitted on the grounds. Any and all debris and refuse resulting from operation of the racetrack shall be stored in containers and shall be removed periodically from the racetrack. No vehicles, except track maintenance vehicles, or parts shall be stored on the racetrack for a period in excess of 72 hours. The proprietors of racetracks shall be responsible for causing such vehicles to be removed by their owners within said period of time. The pit area shall be gated and locked at all times when the racetrack is not in operation.
- 205.012** **Fire Prevention.** It shall be the responsibility of the proprietors to provide fire protection for the participants and spectators during races. No race shall be conducted unless a vehicle equipped with chemical fire retardants suitable for the extinguishment of gasoline fires and persons trained in the operation of said equipment shall be present upon the racetrack premises during the race.
- 205.013** **First Aid.** No races shall be conducted unless there shall be present an emergency medical technician and an attendant licensed under Act 368 of the Public Acts of 1978. The proprietor shall provide at his expense such first aid equipment as shall be required by the emergency medical technician. The emergency medical technician shall remain at a clearly designated first aid station accessible to spectator and racing areas during races and for thirty minutes preceding and following racing. The proprietor shall maintain an operable telephone on the racetrack for purposes of making emergency calls.
- 205.014** **Fencing.** The track upon which the race is conducted shall be fenced so as to prevent spectators from obtaining access to the track from the stands. The vehicle entrances to the racetrack shall be secured by gates 20 feet in width so as to prevent the use of the racetrack for racing at any dates or times except herein provided. Areas for spectators, pits and racing shall be fenced with four foot high six inch weave woven wire fence topped with a double strand of barbed wire spaced at six inch intervals so as to preclude trespass on adjoining properties by spectators or participants. In the event that access points develop to the property, other than the designated vehicle entrance, the proprietor shall erect fences, or take such other steps as are reasonable to prevent access by pedestrian or vehicular traffic to the property at any other designated vehicle entrance and to prevent trespass of adjoining properties.
- 205.015** **Screening.** In the event the racetrack or the pit area or any portion thereof shall be visible from any adjoining property, the proprietors shall cause the racetrack to be screened by fence or by trees so as to preclude any adjoining property owner from having a view of the track upon which the racing is conducted. Such screening shall not be required at the allowed entrance and exit to the racetrack property.

- 205.016** **Alcohol.** The proprietors for the racetrack shall not knowingly allow any person to enter or remain in the spectator area in possession of alcohol other than beer and wine. Beer and wine shall be permitted in the spectator area only in containers of a size twelve inches by twelve inches or smaller. No alcohol of any kind shall be permitted in the pit area. Signage shall be located expressing these prohibitions at the entrances to the spectator area and the pit area. The proprietor shall cause inspections to be conducted at the entrance to the spectator area to prevent violations of this Article.
- 205.017** **Crowd Control.** The proprietors shall be responsible for crowd control and shall notify in writing the Gand Traverse County Sheriff's Department of racing dates and hours of operation at least seven days prior to each racing date.
- 205.018** **Enforcement.** The provisions of this Article shall be enforceable through the bringing of appropriate action for injunction, mandamus, or otherwise in any court having jurisdiction. Any violation of this Chapter is deemed to be a nuisance per se. The Township Constable, and in the absence of the Constable, the Township Supervisor, is hereby designated to enforce and administer this Chapter.
- 205.019** **Violation.** It shall be a violation of this Chapter for any person to perform any act which is contrary to provisions of this Chapter or to fail to perform any act which is required by the provisions of this Chapter. In the case of a continuing violation, each 24 hour period in which the violation exists shall constitute a separate violation.

CHAPTER 206 PRIVATE WELL LOCATIONS.

- 206.001** **Legislative Findings.** The Fife Lake Township Board hereby makes the following legislative finds:
1. The Fife Lake Area Utility Authority currently operates a wastewater treatment facility on a forty (40) acre parcel in Section 2 of Fife Lake Township. As part of the wastewater treatment process, effluent is sprayed onto the ground within approximately fifty (50) feet of property lines of this parcel.
 2. At the time the wastewater treatment facility began operations, the minimum isolation between private water wells and a sewage lagoon effluent land application area was fifty (50) feet. However, since that time, the minimum isolation distance has been increased to 300 feet.
 3. Because of these State mandated minimum isolation distances, private water wells cannot be located within 250 feet of the property lines of the parcel on which the wastewater treatment facility is located. Moreover, restrictive covenants cannot be forced on private landowners. As a result, this regulatory Ordinance is the most feasible method of protecting the public health.
- 206.002** **Definitions.** As used in this Chapter:

1. Impact Area - means the land within 250 feet of the perimeter of a parcel situated in the Township of Fife Lake, Grand Traverse County, Michigan, and described as follows:

The Southwest one-quarter (SW 1/4) of the Southeast one-quarter (SE 1/4), Section 2, Town 25 North, Range 9 West, EXCEPTING Warranty Deed dated August 8, 1977, Liber 421, Page 890.

2. Private Water Well - means a water well that provides water for drinking or household purposes to only one (1) living unit.
3. Township - means the Township of Fife Lake, Grand Traverse County, Michigan.

206.003 **Private Water Wells Prohibited in Impact Areas.** No person, firm, association, limited liability company, corporation, or any other entity shall install, construct, develop, maintain or use a private water well within the impact area for any purpose whatsoever, except for the purpose of monitoring groundwater contamination.

206.004 **Notification to the Department of Environmental Quality.** If the Township ever intends to amend or repeal this Chapter, it shall notify the Michigan Department of Environmental Quality, or its successors, of its intentions no less than thirty (30) days before such amendment or repeal is enacted.

206.005 **Nuisance per se.** A violation of this Chapter is hereby declared to be a public nuisance or nuisance per se and is declared to be offensive to the public health, safety and welfare.

206.006 **Court Action for Abatement of Nuisance.** The Township may take civil action requesting injunctive relief against any person, firm, association, limited liability company, corporation, or any other entity found to be in violation of this Chapter. This abatement action shall be in addition to any penalty imposed by **Chapter 105 of Article 100 of this Code of Ordinances.**

206.007 **Enforcement.** The Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

CHAPTER 207 STORM WATER CONTROL ORDINANCE

207.001 **Incorporated by Reference.** The Storm Water Control Ordinance, adopted by Township Board Resolution No. 05-2007, is hereby incorporated into the Fife Lake Township Code of General Law Ordinances by reference. The Storm Water Control Ordinance provides for storm water management practices and review of storm water management plans in conformance with standards adopted by the Grand Traverse County Drain Commissioner.

ARTICLE 300

NUISANCES

CHAPTER 301 JUNK

301.001 **Definitions.** As used in this Ordinance the following terms shall have the meanings prescribed in this section.

1. "Building materials" includes but is not limited to lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in construction of any structure.
2. "Garbage" means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables. "Garbage" does not include one (1) compost pile consisting of decaying organic substances intended for fertilizing land; provided, however, that the compost pile is no larger than five feet (5') square and is located on the property so that it cannot be seen from any public highway or seen from any adjoining land owned by another person.
3. "Junk" - By way of example and not limitation the term shall include used or salvaged metals and their compounds or combination, used or salvaged rope, rubber, tires or car parts.
4. "Liquid industrial wastes" means any liquid brine, by-product, industrial wastewater, leachate, off-specification commercial product, sludge, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity except any liquid brine normally used or stored in regard to oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.
5. "Rubbish" means nonputrescible solid wastes including ashes, paper, cardboard, metal containers, glass, bedding, crockery, bags, rags, and demolished materials.
6. "Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.
7. "Sealed container" means a covered, closable container which is rodent-proof, fly-proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.
8. "Totally closed structure" means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

301.002

Nuisances. The following are hereby declared to be nuisances:

1. The keeping or storage of building materials outside on private property six (6) months after an occupancy permit is issued by the Fife Lake Township Building Department. This subsection, however, shall not apply to building materials kept or stored outside on private property if the building material is kept or stored in an orderly fashion. As used in this subsection, the phrase "building material kept or stored in an orderly fashion" shall mean that all building material of the same type, including but not limited to lumber (both stick and sheet wood), cement blocks, bricks, roofing material, and siding shall be kept or stored together and not kept or stored intermingled with building material of a different type and shall be stacked in an organized fashion customary for that type of building material. By way of example and not limitation, stick lumber shall be piled with all sticks substantially parallel to one another, sheet wood shall be piled one on top of another with the area of one sheet covering as much as possible the area of the sheet beneath it, cement blocks and bricks shall be stacked in the shape of a cube in such a manner that they will not fall off the stack, and siding shall be piled with each piece substantially parallel to one another.
2. The keeping or storage of ashes, junk, garbage or rubbish outside of a totally enclosed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage, or rubbish.
3. The placing of ashes, junk, garbage or rubbish on private property without the owner's permission or on public property. This provision applies regardless of whether the ashes, junk, garbage or rubbish is in a sealed container.
4. The keeping or storage of junk, garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitation of insects, rodents or vermin.
5. Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.
6. The existence of any structure or damaged partial structure which because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, nor currently useful for any other purposes for which it may have been intended.
7. The existence of any vacant building, garage, house or outbuilding unless such structure is kept secure from entry by the public.
8. The distributing, placing, posting, or affixing of posters, notices, or handbills on private property without consent of the owner or occupant except as authorized or required by law.

- 301.003** **Prohibition.** No person shall commit, create, or maintain any nuisance. No person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person. Each day a nuisance shall exist shall be construed as a separate violation.
- 301.004** **Industrial Usage.** The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property.
- 301.005** **Penalty/Civil Infraction.** Any person who shall violate any provision of this Chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Chapter is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.
- 301.006** **Enforcement.** The Zoning Administrator is hereby designated as the authorized township official to issue municipal civil infraction citations directing alleged violators of this Chapter to appear in court.
- 301.007** **Abatement by Township.** If the owner or possessor of any property on which a nuisance exists fails to eliminate a nuisance after having received Notice from the Township of the existence of the nuisance, the Township Zoning Administrator, after receiving authorization by the Township Board, may take such steps as are necessary to abate or eliminate the nuisance. The Notice shall describe the location of the property, describe the nature of the nuisance and give ten (10) days in which the owner or possessor may eliminate the nuisance without intervention by the Township. The written Notice may be served personally or may be sent by first-class mail to the last known address of the owner or occupier of the premises. The time period shall commence on the date of the personal service or in the case of mailing service shall be deemed to have taken place on the date of mailing.
- The cost of elimination of the nuisance by the Township, including reasonable attorney fees, may be collected in a lawsuit against the owner and/or possessor of the property on which the nuisance existed and/or against the person who committed, created, or maintained the nuisance.
- 301.008** **Validity.** If any section, provision or clause of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Chapter which can be given effect without the invalid portion or application.
- 301.009** **Separate Court Action.** Nothing in this Chapter shall prohibit the Township or any interested party from seeking such other relief as may be permitted in law or

in equity regarding the existence of a nuisance. A violation of this Chapter is deemed to be a nuisance per se.

301.010 **Effective Date.** This Chapter shall become effective thirty (30) days after being published in a newspaper of general circulation within the township.

CHAPTER 302 SEXUALLY ORIENTED BUSINESSES

302.001 **Legislative Findings.** The Township Board of Fife Lake Township has reached the following findings:

1. Sexually oriented business requires special supervision in order to protect and preserve the health, safety and welfare of the patrons of such business as well as the citizens of the communities where they locate.
2. There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing business around them and the surrounding residential areas adjacent to them, causing increased crime and downgrading of property values.
3. It is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area.
4. The Township of Fife Lake desires to prevent these adverse affects and thereby protect the health, safety and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight.
5. It is not the intent of this Chapter to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact a content neutral ordinance which addresses the adverse secondary effects of sexually oriented businesses.
6. It is not the intent of the Township of Fife Lake to condone or legitimize the distribution of obscene material, and the Township recognizes that State and Federal law prohibits the distribution of obscene materials and expects and encourages State enforcement officials to enforce State and Federal obscenity statutes against any such illegal activities within the Township of Fife Lake.

302.002 **Purpose and Intent.** It is the purpose of this Chapter to regulate sexually oriented businesses and related activities to promote the health, safety and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this Chapter do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not

the intent of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Chapter to condone or legitimize the distribution of obscene materials.

302.003

Definitions.

1. Adult Bookstore or Adult Video Store - means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas;" or

b) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and may still be categorized as an adult bookstore or adult video store. The sale or rental of those items described in subparagraphs a) and b) above shall be deemed to constitute a principal business purpose of an establishment if it comprises 50% or more of sales volume or occupies 50% or more of the floor area or visible inventory within the establishment.

2. Adult Motion Picture Theater - means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

3. Adult Mini Theater - means a commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."

4. Adult Entertainment Establishment - means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee and which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

5. Permittee - means a person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an applicant on the application for a permit.
6. Permit - means a special use permit for the operation of a sexually oriented business and issued pursuant to this Sexually Oriented Business Ordinance.
7. Nudity or State of Nudity - means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast with a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if completely and opaquely covered.
8. Person - means an individual, proprietorship, partnership, limited liability company, corporation, association or other legal entity.
9. Sexually Oriented Business - means an adult bookstore or adult video store, adult motion picture theater, adult mini-theater, or adult entertainment establishment.
10. Specified Anatomical Areas - include:
 - a) less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
 - b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
11. Specified Sexual Activities - include:
 - a) acts of human masturbation, sexual intercourse, or sodomy;
 - b) fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
 - c) human genitals in a state of sexual stimulation or arousal.
12. Transfer of Ownership or Control of a Sexually Oriented Business - means and includes any of the following:
 - a) the sale, lease, or sublease of the business;
 - b) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;
 - c) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

302.004 Permit and/or License Required.

1. It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued by the Zoning Administrator.
2. An application for a permit must be made on a form provided by the Township of Fife Lake. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
3. Applications for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:
 - a) The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has such a driver's license.
 - b) The name and street address (and mailing address, if different) of the owner(s), if different.
 - c) The name under which the establishment is to be operated and a general description of the services to be provided.
 - d) The telephone number of the establishment or, if unavailable, the operator's.
 - e) The address, and legal description, of the tract of land on which the establishment is to be located.
4. The fact that a person possesses other types of State or County permits and/or licenses does not exempt that person from the requirement of obtaining a sexually oriented business permit from the Township.
5. The application shall be accompanied by the following:
 - a) Payment of the application fee in full;
 - b) Proof of current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
 - c) If the persons identified as the fee owner(s) of the tract of land in item b) are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.

6. The application shall contain a statement under oath that:
 - a) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 - b) The applicant has read the provisions of this article.

302.005

Issuance of Permit.

1. The Zoning Administrator shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of an application unless he finds one or more of the following to be true:
 - a) An applicant is under eighteen (18) years of age.
 - b) An applicant is overdue in his/her payment of taxes, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
 - c) An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
 - d) An applicant who has been denied a permit by the Township to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 - e) The premises to be used for the sexually oriented business have not been approved by the Health Department for the use intended, if applicable, or any occupancy permit has not been issued by the County Building or Inspections Department, if applicable.
 - f) The permit fee required by this Chapter has not been paid.
 - g) An application for the proposed establishment is in violation of or is not in compliance with any of the provisions of this Chapter.
 - h) An applicant has been convicted of any of the following criminal offenses in any jurisdiction:
 - 1) prostitution, procuring a prostitute, or solicitation of a prostitute;
 - 2) sale, distribution or display of obscene material;
 - 3) soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
 - 4) possession, sale or distribution of child pornography;
 - 5) public lewdness;
 - 6) indecent exposure;

- 7) indecent conduct with a child;
- 8) sexual assault or rape;
- 9) incest;
- 10) sexual solicitation of a child.

The applicant shall certify, as a part of the application, that he/she/it has not been convicted of any one or more of the foregoing criminal offenses.

- 2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- 3. In the event that the Zoning Administrator determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within thirty (30) days of the receipt of its application by the Zoning Administrator, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at anytime before the notice is issued in order to make modifications necessary to comply with this Chapter.
- 4. An applicant may appeal the decision of the Zoning Administrator regarding a denial to the Fife Lake Township Zoning Board of Appeals by filing a written notice of appeal within twenty-one (21) days after the applicant is provided with notice of the Zoning Administrator's decision.
- 5. The Zoning Administrator may also take all steps necessary to revoke a permit if he determines that a permittee gave false or misleading information in the material submitted during the application process.

302.006 **Inspection.** An applicant or permittee shall allow the Township Zoning Administrator or representatives of the Township Code Enforcement Office to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

302.007 **Enforcement.** The Zoning Administrator shall take enforcement action, including the commencement of suit-seeking revocation of a permit, if any of the following occurs:

- 1. A permittee gave false or materially misleading information in the application process.
- 2. A permittee has been convicted of using and/or allowing the use of controlled substances within the establishment.
- 3. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution, within the establishment or elsewhere.

4. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.
5. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
6. There has been a transfer of ownership or control of an establishment without the prior consent of the zoning Administrator, as required herein.

302.007 **Transfer of Permit.** A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Permittee must complete application.

302.008 **Location Restrictions.**

1. A sexually oriented business may not be operated within 750 feet of:
 - a) a church, synagogue or regular place of religious worship;
 - b) a public or private elementary or secondary school;
 - c) a boundary of any residential zoned district or any residential structure within or without a zoned area;
 - d) a public park;
 - e) a licensed day-care center; and/or
 - f) another sexually oriented business.
2. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
3. For the purpose of this Chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day-care center.
4. For purposes of Subsection 3 of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.

302.009 **Regulations Pertaining to Adult Entertainment Establishments:**

1. A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an

audience which has paid or promised to pay an admission fee and which depicts specified sexual activities or displays specified anatomical areas, shall comply with the following requirements:

- a) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.
- b) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- c) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection b) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection a) of this section.
- d) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.
- e) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

- f) The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.

302.010 **Exterior Portions of Sexually Oriented Businesses.**

1. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
2. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Chapter.
3. Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the enterprise.

302.011 **Persons Younger than Eighteen Prohibited from Entry - Attendant Required:**

1. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business' regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
 - a) A valid operator's, commercial operator's, or chauffeur's license; or
 - b) A valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.

302.012 **Exemption.** It is a defense to prosecution under this Chapter that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

302.013 **Notices.**

1. Any notice required or permitted to be given by the Township or other agency under this Chapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Township, or any notice of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Township shall cause it to be posted at the principal entrance to the establishment.
2. Any notice required or permitted to be given to the Township by any person under this Chapter shall not be deemed given until and unless it is received in the principal office of the Township.
3. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Township in writing of any change of residence or mailing address.

302.014 **Non-Conforming Uses.** Any business lawfully operating on the effective date of this Chapter that is in violation of the location or structural configuration requirements of this Chapter shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 750 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or residential structure, within 750 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

302.015 **Injunction.** A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license or otherwise violates this Chapter shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by the Township Zoning Ordinance.

CHAPTER 303 DISMANTLED OR INOPERABLE MOTOR VEHICLES

303.001 **Definitions.**

1. "Motor vehicles" are hereby defined as any wheeled vehicle which is designed to be self-propelled.
2. "Inoperable motor vehicles" are defined as motor vehicles, which by reason of dismantling, disrepair, lack of licensing or other cause are either incapable of being propelled under their own power or are prevented by law from being propelled on a public highway.
3. "Dismantled and partially dismantled motor vehicles" are defined as motor vehicles from which a part or parts integral to the operation of such motor vehicle, or a part or parts required by any law or regulation to be present on a motor vehicle, has been removed or is missing.
4. A "junk dealer" is a person who owns or operates a lawful junkyard located within the Township.
5. "Farm operation" means an active enterprise primarily involving the commercial production, harvesting, and storage of plant and animal products useful to human beings on a site or sites within the Township having a combined area of ten (10) or more acres.
6. A "person" means an individual, firm, corporation, partnership, association, limited liability company, limited partnership, or any other legal entity.
7. "Public Highway" is any publicly maintained way upon which any part thereof is open to the use of the public for the purposes of vehicular travel.

303.002 **Prohibition.** No person shall park or store, or knowingly allow another person to park or store for a period of thirty (30) consecutive days, one (1) or more dismantled, partially dismantled or inoperable motor vehicles outside a building such that the dismantled, partially dismantled, or inoperable motor vehicles can be seen from any public highway or seen from any adjoining land owned by another person. This section shall not apply to junk dealers, farm operations, or to garages and service stations openly and actively engaged in making service repairs for the public.

303.003 **Nuisance.** A violation of **Section 303.002** of this Chapter is hereby declared to be a public nuisance, a nuisance per se and is hereby further declared to be offensive to the public health, safety and welfare.

303.004 **Penalty.** Any person who shall violate any provision of this Chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan

Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Chapter is violated shall be considered as a separate violation.

- 303.005** **Enforcement Officer.** The Zoning Administrator is hereby designated as the authorized township official to issue municipal civil infraction citations directing alleged violators of this Chapter to appear in court.
- 303.006** **Civil Action.** In addition to enforcing this Chapter through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter.
- 303.007** **Severability.** If any section, provision or clause of this Chapter or the application thereof to any person or circumstance shall be invalid, such invalidity shall not effect any remaining portion or application of this Chapter which can be given effect without the invalid portion or application.
- 303.008** **Effective Date.** This Chapter shall become effective thirty (30) days after being published in a newspaper of general circulation within the township.

ARTICLE 400
LAND DIVISIONS

CHAPTER 401 LAND DIVISIONS

401.001 **Title.** This Chapter may be known and cited as the Fife Lake Township Land Division Ordinance.

401.002 **Purpose.** The purpose of this Chapter is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

401.003 **Definitions.** For purposes of this article certain terms and words used herein shall have the following meaning:

1. **“Applicant”** – a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
2. **“Development site”** - any parcel or lot on which exists or which is intended for building development other than the following:
 - a) Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains; feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.
 - b) Forestry Use involving the planting, management, or harvesting of timber.
3. **“Divided” or “Division”** – the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.
4. **“Exempt split” or “exempt division”** – the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities

from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

5. **“Forty acres or the equivalent”** – either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
6. **“Parcel”** - a continuous area or acreage of land which can be described as provided in the Land Division Act.
7. **“Parent parcel” or “parent tract”** - a parcel or tract, respectively, lawfully in existence on March 31, 1997.
8. **“Tract”** - two or more parcels that share a common property line and are under the same ownership.
9. **“Township Board”** – the Township Board of Fife Lake Township.

401.004 **Prior Approval Required.** Land in the Township shall not be divided without the prior review and approval of the Fife Lake Township Assessor, with recommendation by the Zoning Administrator, in accordance with this Chapter and the State Land Division Act; provided that the following shall be exempted from this requirement:

1. A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.
2. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
3. An exempt split as defined in this Chapter.

401.005 **Land Division Applications.** An applicant shall file all of the following with the Fife Lake Township Assessor for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

1. A completed application on such form as may be provided by the Township.
2. Proof of fee ownership of the land proposed to be divided.
3. A tentative parcel map drawn to scale including an accurate legal description of each proposed division and the remaining parcel, and showing the boundary lines, approximate dimensions, and the accessibility of each division for vehicular traffic and public utilities. Land divisions to be accessed via a private road may not be approved until a private road has been approved in accordance with Section 4.46 of the Fife Lake Township Zoning Ordinance.
4. Proof that all standards of the State Land Division Act and this Chapter have been met.

5. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability for the proposed division rights transfer.
6. The fee as may from time to time be established by resolution of the Township Board for land division pursuant to this Chapter to cover the costs of review of the application and administration of this Chapter and the State Land Division Act.
7. An application for a land division shall be accompanied by documentation of approval by the Grand Traverse County Road Commission of the proposed land division(s) for access and safe sight distance.

401.006 Review of Land Division Applications.

1. The Township Assessor, with recommendation of the Zoning Administrator, shall approve or disapprove the land division applied for within forty-five (45) days after receipt of the application package conforming to the requirements of this Chapter and the State Land Division Act, and shall promptly notify the applicant of the decision and, if denied, the reasons for the denial.
2. Any person or entity aggrieved by the decision of the Assessor or designee may, within 30 days of said decision, appeal the decision to the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
3. Upon approval of a land division under the terms of this Chapter and the recordation of said land division, the applicant shall provide the Township with a copy of a survey of the resulting land divisions including the remaining portion of the parent parcel. Such survey shall be prepared by a professional surveyor licensed to practice in Michigan.
4. The Township Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
5. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations or constitute buildable lots.
6. The Township and its officers and employees shall not be liable for damages in connection with the approval of a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or because any aspect of the land divided hereunder shall be found to fail to comply with any provision of the Township's Zoning Ordinance or any other state, county or local statute, ordinance or regulation, and any notice of approval shall include a statement to this effect.

401.007 **Standards for Approval.** A proposed land division shall be approved if the following criteria are met:

1. All the parcels to be created by the proposed land division(s) shall fully comply with the applicable lot (parcel), yard and area requirements of the Township Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area and proper access.
2. The proposed land division(s) shall comply with all requirements of the State Land Division Act and this Chapter.
3. The ratio of depth to width of any parcel created by the division shall not exceed four to one exclusive of access roads, easements, or non-buildable parcels created under **Section 401.008** of this Chapter and parcels added to contiguous parcels that result in all involved parcels complying with said ratio. The permissible depth of a parcel created by a land division shall be the distance between the front and rear lot lines, measured along the median between the side lot lines. The permissible minimum width shall be as defined in the Township Zoning Ordinance.
4. All parcels created and remaining shall have adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

401.008 **Parcel Combinations and Parcel Line Adjustments.** Any change in the boundaries of existing parcels, including combining two or more adjacent parcels or adjusting parcel boundaries such that parcel dimensions are changed but no additional parcels are created shall require the submittal of a Land Division Application including the information set forth in **Section 401.005, 1, 2 and 3** of this Article as well as a fee as may from time to time be established by resolution of the Township Board for the review of parcel boundary adjustments. The Township Assessor, with recommendation of the Zoning Administrator, shall approve or disapprove parcel combinations and parcel line adjustments within fifteen (15) days after receipt of the application package conforming to the requirements of this Chapter.

CHAPTER 402 SUBDIVISIONS (RESERVED)

ARTICLE 500
UTILITIES AND FRANCHISES

CHAPTER 501 GRANT OF ELECTRIC FRANCHISE AND USE OF PUBLIC RIGHT OF WAY

501.001 **Grant of Electric Franchise and Consent to Laying of Pipes, Etc.** Subject to all the terms and conditions mentioned in this Franchise, consent, permission, right and authority is hereby given to Great Lakes Energy Cooperative, a corporation organized under the laws of the State of Michigan (the “Company”), and to its successors and assigns to lay, maintain, operate and use electric lines, poles, cables, conduits, appliances, buildings and other necessary works, in the highways, streets, alleys and other public places in the Township of Fife Lake, Grand Traverse County, Michigan, (the “Township”) and a non-exclusive franchise is hereby granted to the Company, its successors and assigns, to transact local business in the Township for the purposes of producing, storing, transmitting, selling and distributing electricity into and through the Township and all other matters incidental thereto.

501.002 **Use of Streets and Other Public Places.** The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within the Township and shall within a reasonable time after making an opening or excavations, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its successors and assigns shall use due care in exercising the privileges herein contained and shall be liable to the Township and to every owner of property abutting the Company’s electrical lines or other facilities, for all damages and costs arising from the default, carelessness, or negligence of the Company or its officers, agents and servants.

No road, street, alley, or highway shall be opened for the laying of electrical lines except upon application to the Grand Traverse County Road Commission or the Township or other authority having jurisdiction in the premises (whichever is applicable), stating the nature of the proposed work and the route. Upon receipt of such application by the Grand Traverse County Road Commission, it shall be the duty of the Grand Traverse County Road Commission to issue a permit to the Company to do the work proposed.

501.003 **Force Majeure.** The Company shall not be under any liability for failure to furnish electric service as herein provided, or for any breach of the Company’s obligations hereunder, if such failure or breach is caused by acts of God, labor troubles, riot, or any other causes or contingencies not reasonably within the control of the Company.

501.004 **Indemnity.** As part of the consideration for the granting of this Franchise, the Company (indemnitor) shall, at its sole cost and expense, fully indemnify and

hold the Township (indemnitee), its officers, boards, commissions, agents and employees, harmless against any and all claims, demands, lawsuits, actions, liability and judgments for damages arising out of the granting or operation of this Franchise, including but not limited to liability for damages to any former holder of a public utility franchise whose franchise may have been revoked and superseded by this Franchise. In further consideration for the granting of this Franchise, the Company shall pay actual attorney's fees, costs and expenses which may be incurred by the Township in defense of or in response to any claim, demand, lawsuit, action or administrative proceeding arising out of the granting of this Franchise or the revocation of prior franchises, whether or not judgment is entered against the Township.

- 501.005** **Effective Date; Term of Franchise; Acceptance by the Company.** This Franchise shall take effect the day following the date of publication thereof, which publication shall be made within thirty (30) days after the date of its adoption, and shall continue in effect for a period of thirty (30) years thereafter; provided, however, that when this Franchise shall become effective the Township Clerk shall deliver to the Company a certified copy of the Franchise accompanied by written evidence of publication thereof as required by law, and the Company shall, within sixty (60) days after receipt of the above documents, file with the Township Clerk its written acceptance of the conditions and provisions hereof.
- 501.006** **Franchise Not Exclusive.** The rights, power and authority granted by this Franchise are not exclusive, and nothing contained herein shall prevent the Township from granting other non-exclusive electric franchises.
- 501.007** **Franchise Revocable.** This Franchise shall be revocable upon sixty (60) days notice during its term at the will of the Township.
- 501.008** **Effect and Interpretation of Franchise.** All other franchises, ordinances and resolutions, and parts thereof, which conflict with any of the terms of this Franchise are hereby rescinded, to the extent of such conflict. The catch line headings which precede each section of this Franchise are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this Franchise.
- 501.009** **Successors and Assigns.** The words "Great Lakes Energy Cooperative" and the "Company," wherever used herein, are intended and shall be held and construed to mean and include both Great Lakes Energy Cooperative and its successors and assigns, whether so expressed or not.

CHAPTER 502 GRANT OF CABLE FRANCHISE AND USE OF PUBLIC RIGHT OF WAY

502.001 **This Franchise Agreement.** This Franchise Agreement (“Franchise”) is between the Township of Fife Lake, Grand Traverse County, Fife Lake, Michigan 49633, hereinafter referred to as the “Grantor” and CC MICHIGAN, LLC d/b/a CHARTER COMMUNICATIONS, hereinafter referred to as the “Grantee.”

502.002 **Definitions.**

1. “Cable Act” means the Cable Communications Policy Act of 1984, P.L. 98-549, 47 U.S.C. §521 Supp., as it may be amended or superseded.
2. “Cable System,” “Cable Service,” “Cable Operator” and “Basic Cable Service” shall be defined as set forth in the Cable Act.
3. “Council/Board” means the governing body of the Grantor.
4. “Franchise” means the authorization granted hereunder of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a Cable System within the Service Area.
5. “Service Area” shall mean the geographic boundaries of the Grantor.
6. “Streets” means the public streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, alleys, all other rights-of-way and easements, and the public grounds, places or water within the geographic boundaries of Grantor.
7. “Subscriber” means any person lawfully receiving any Cable Service from the Grantee.

502.003 **Granting of Franchise.** The Grantor hereby grants to Grantee a non-exclusive Franchise for the use of the Streets and dedicated easements within the Service Area for the construction, operation and maintenance of the Cable System, upon the terms and conditions set forth herein. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal or state law.

502.004 **Term.** The Franchise shall be for a term of one (1) year, commencing on September 1, 2006. In light of the term of this contract, Charter Communications continues to reserve all rights under the formal procedures of Section 626 of Title VI of the Communications Act of 1934, as amended and do not waive any rights related thereto.

502.005 **Use of the Streets and Dedicated Easements.**

1. Grantee shall have the right to use the Streets of the Grantor for the construction, operation and maintenance of the Cable System, including the

right to repair, replace and enlarge and extend the Cable System, provided that Grantee shall utilize the facilities of utilities whenever practicable.

2. The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground.
3. Grantee shall have the right to remove, trim, cut and keep clear of the Cable System, the trees in and along the Streets of the Grantor.
4. Grantee in the exercise of any right granted to it by the Franchise shall, at no cost to the Grantor, promptly repair or replace any facility or service of the Grantor which Grantee damages, including but not limited to any Street or sewer, electric facility, water main, fire alarm, police communication or traffic control.

502.006 **Maintenance of the System.**

1. Grantee shall at all times employ ordinary care in the maintenance and operation of the Cable System so as not to endanger the life, health or property of any citizen of the Grantor or the property of the Grantor
2. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.
3. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may, from time to time, be amended.

502.007. **Service.**

1. The Grantee shall make Cable Service distributed over the Cable System available to every residence within the Service Area where there is a minimum density of at least thirty (30) residences per linear strand mile of cable (excluding any home subscribing to any satellite service) as measured from Grantee's closest trunk line or distribution cable that is actively delivering Cable Service as of the date of such request for service. If such residence is located within 125 feet of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rates for standard installation. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, or into any annexed area which is not contiguous to the present Service Area of the Grantee. Grantee

shall not be obligated to provide Cable Service into any area which is financially or technically infeasible.

2. The Grantor shall provide prior notice to the Grantee of its annexation of any contiguous territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of the franchise which previously covered that area throughout the term of this Franchise, although the Grantor will replace the previous franchise authority. Grantee shall pay the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in the Service Area and in any area annexed by the Grantor if the Grantor has provided written notice to the Grantee prior to the date of such annexation
3. Grantee shall provide Basic Service and one free outlet to each of the following public facilities located within one hundred twenty-five (125) feet of existing service lines of the Grantee and within the jurisdictional limits of the Grantor: Fife Lake Township Hall, Fire Department, Police Department and public schools. No monthly service fee shall be charged for such outlet. Grantee shall provide Basic Service to new construction hereafter for similar public facilities; provided they are within one hundred twenty-five (125) feet of the existing service lines of Grantee.

502.008 Insurance/Indemnity.

1. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The Grantor shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Grantor. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.
2. Grantee hereby agrees to indemnify and hold the Grantor, including its agents and employees, harmless from any claims or damages resulting from the actions of Grantee in constructing, operating or maintaining the Cable System. Grantor agrees to give the Grantee written notice of its obligation to indemnify Grantor within ten (10) days of receipt of a claim or action pursuant to this section. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of Grantor or for the Grantor's use of the Cable System.

502.009 Revocation.

1. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances

of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If Grantee has not cured the breach within such sixty (60) day time period or if the Grantor has not otherwise received a satisfactory response from Grantee, the Grantor may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.

2. At the hearing, the Grantor shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript and a certified copy of the findings shall be made available to the Grantee within ten (10) business days. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Grantor de novo.
3. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place.

502.010

Equal Protection.

1. The Grantor agrees that any grant of additional franchises, licenses, consents, certificates or other authorizations by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way, shall require that service be provided for the same territorial area of the Grantor as required by this Franchise and shall be competitively neutral and not be on terms and conditions (including, without limitation, the service area, PEG capital grants and the franchise fee obligations) more favorable or less burdensome to the Person(s) of any such additional franchise, licenses, certificates or other authorizations, than those which are set forth herein.
2. If another provider of Cable Services, video services or other television services utilizing any system or technology requiring use of the public rights of way in the Service Area, is lawfully authorized by any governmental entity or otherwise exempt from obtaining a franchise to provide such services Grantor hereby agrees that, upon a request from Grantee, as a matter of law, Grantee's Franchise is modified within thirty (30) days of the granting of such authorization or exemption for the purpose of establishing the same terms and conditions as such Person(s) on a competitively neutral basis.
3. In the event federal, state or local law, rules or regulations are amended, modified or created that have the lawful effect of modifying the terms and conditions of this Franchise, during the Term or any extension thereof, the

Grantee has the sole option to terminate this Franchise upon ninety (90) days notice to the Grantor.

4. Grantee shall have the right to terminate this Franchise and all obligations hereunder with ninety (90) days written notice to the Grantor, if Grantee does not in good faith believe it has maintained a commercially feasible level of Subscriber penetration on Grantees Cable System. Grantee may consider Subscriber penetration levels outside the Franchise Area and other relevant considerations in making this determination. Notice to terminate under this Section shall be given to the Grantor in writing, with such termination to take effect no sooner than one hundred and twenty (120) days after giving such notice. Grantee shall also be required to give its then current Subscribers not less than ninety (90) days prior written notice of its intent to cease operations.

502.011 **Confidentiality.** If Grantee provides any books and records to the Grantor, the Grantor agrees to treat as confidential such books, records or maps that constitute proprietary or confidential information. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential to any Person.

502.012 **Notices, Miscellaneous.**

1. Every notice served upon the Grantor shall be delivered or sent by certified mail, return receipt requested, to:

Fife Lake Township
Supervisor Toni Larson
134 Morgan
Fife Lake, MI 49633

and every notice served upon Grantee shall be delivered or sent by certified mail, return receipt requested, to:

Charter Communications
701 S. Airport Road
P.O. Box 1029
Traverse City, MI 49686

with copies to:

Charter Communications
12405 Powerscourt Drive
St. Louis, MO 63131

Attention: Vice President of Government Affairs

2. All provisions of this Franchise shall apply to the respective parties, their lawful successors, transferees and assigns.
3. If any particular section of this Franchise shall be held invalid, the remaining provisions and their application shall not be affected thereby.
4. In the event of any conflict between this Franchise and any Grantor ordinance or regulation, this Franchise will prevail.

502.013 **Force Majeure.** The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

502.014 **Effective Date.** The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. This Franchise shall expire on September 1, 2007 unless extended by the mutual agreement of the parties.

502.015 **Acceptance and Entire Agreement.** The Grantor and the Grantee, by virtue of the signatures set forth below, agree to be legally bound by all provisions and conditions set forth in this Franchise. The Franchise constitutes the entire agreement between the Grantor and the Grantee. No modifications to this Franchise may be made without an appropriate written amendment signed by both parties.