

**PUBLIC WORKS
SEWER CONNECTION AND RATE ORDINANCE
TOWNSHIP OF PORTER
COUNTY OF CASS
STATE OF MICHIGAN**

Minutes of a regular meeting of the Township Board of the Township of Porter, County of Cass, State of Michigan, held in the Township Hall located in said Township, on the 12th day of April, 2005, at 7:00 p.m., Local Time.

PRESENT: Members: Fields; Russell; McCammon; Konneck; Harvey

It was moved by Member Harvey and supported by Member Konneck that the following Ordinance be adopted under the authority of the Revenue Bond Act of 1933, being Act 94 of the Public Acts of Michigan of 1933, as amended.

ORDINANCE NO. 2-1-04

AN ORDINANCE TO REGULATE PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION, CONNECTION AND REPAIR OF BUILDING SEWERS AND THE DISCHARGE OF WATERS AND WASTES INTO THE CASS COUNTY SANITARY SEWAGE DISPOSAL SYSTEM (PORTER TOWNSHIP SECTION) TO PROVIDE FOR THE CONNECTION TO AND THE FIXING AND COLLECTION OF RATES AND CHARGES FOR THE USE OF THE SEWER SYSTEM, THE ALLOCATION AND USE OF REVENUES DERIVED THEREFROM AND THE ADMINISTRATION OF THE SYSTEM; AND TO PROVIDE PENALTIES FOR ORDINANCE VIOLATIONS AND OTHER MATTERS PERTAINING THERETO.

The Ordinance was then read and discussed.

Upon roll call, the vote upon motion adopting said Ordinance was as follows:

YEAS: Members: Russel, McCammon, Konneck, Harvey

NAYS: Members: Fields

The Township Clerk declared the Ordinance adopted.

The following is Ordinance No. 2-1-04 as adopted.

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THE TOWNSHIP OF PORTER ORDAINS:

ORDINANCE NO. 2-1-04

AN ORDINANCE TO REGULATE PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION, CONNECTION AND REPAIR OF BUILDING SEWERS AND THE DISCHARGE OF WATERS AND WASTES INTO THE CASS COUNTY SANITARY SEWAGE DISPOSAL SYSTEM (PORTER TOWNSHIP SECTION); TO PROVIDE FOR THE CONNECTION TO AND THE FIXING AND COLLECTION OF RATES AND CHARGES FOR THE USE OF THE SEWER SYSTEM, THE ALLOCATION AND USE OF REVENUES DERIVED THEREFROM AND THE ADMINISTRATION OF THE SYSTEM; AND TO PROVIDE PENALTIES FOR ORDINANCE VIOLATIONS AND OTHER MATTERS PERTAINING THERETO.

ARTICLE I

SHORT TITLE; FINDINGS; PURPOSE

Section 101. Short Title. This Ordinance shall be known as the “Porter Township Sewer Connection and Rate Ordinance” and may be cited as such.

Section 102. Objectives Re: Contract Requirements. The Cass County Sanitary Sewage Disposal System (Porter Township Section) [as defined in Section 201(20), the “Public Sewer System”] was established in accordance with the Cass County Sanitary Sewage Disposal System (Porter Township Section) Contract dated January 14, 2004 [as defined in Section 201(5), the “Contract”], by and between the County of Cass [as defined in Section 201(6), the “County”] and the Township of Porter [as defined in Section 201(34), the “Township”] to promote the health and welfare of the residents of the Township. The Township is required by the terms of the Contract to operate, maintain and administer the Public Sewer System as the agency for the County and to pay all costs related to the Public Sewer System including debt service on the bonds issued by the County in accordance with the Contract. Accordingly, it is necessary for the Township to establish rates and charges for services to persons using the Public Sewer System in amounts necessary to operate, maintain and administer the Public Sewer System and to pay debt service on the bonds issued by the County in accordance with the Contract, and to adopt an ordinance that requires users of the Public Sewer System to pay rates and charges for sewer collection and disposal services. It is the purpose of the Township by enacting and keeping in force and effect this Ordinance to comply with the foregoing requirements of the Contract and to protect and promote the health and welfare of the residents of the Township.

Section 103. Objectives Re: State and Federal Law Requirements. This Ordinance, together with the Sewer Use Ordinance, sets forth uniform requirements for User of the Public Sewer System and enables the Township to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251, et seq.).

Section 104. Findings Re: Public Health, Safety and Welfare The Township hereby determines that the Public Sewer System is immediately necessary to protect and preserve the public health, safety and welfare of the Township. This determination is based upon:

- a.) The recommendation set forth in A Comprehensive Area-Wide Plan for Water and Sewer Services for Cass County, Michigan prepared in 1967 for the Cass County Planning Commission by Williams & Words that a sanitary sewer system should be considered for the Porter Township area based upon the findings that the Porter Township area, including the Town of Union, Birch Lake, Shavehead Lake, Baldwin Lake, Long Lake, Coverdale Lake, and Indiana Lake is one of the fastest growing areas in Cass County and that this growth is expected to continue in the future. Factors contributing to this growth were identified in the Plan as including the favorable access to state and federal highways, the proximity with convenient commuting distance to South Bend, Mishawaka, and Elkhart, Indiana, the attractiveness of the area lakes, the availability of natural gas service, industrial growth and the amount of land subdivision activity in Porter Township. The Plan stated that the provision of public utilities to the “growth areas” in Cass County would protect the public health and welfare, protect the lakes from eutrophication caused by nutrients from sewage effluent, attract industrial and commercial development, thereby enhancing the tax base of the County, preserve existing property values, encourage stable development and eliminate resistance to higher density residential land use.
- b.) Records obtained from the Cass County Health Department over the past three years show a very large number of septic tank replacement permits issued. The replacements were needed due to septic tank failures, tile field saturation and/or leaching of the system. The primary cause as outlined by the Health Department is small lot size, high water tables, slopes, unsuitable soils and the increasing number of summer homes being used as year-round residences in lake areas.
- c.) The 1999 Water and Sewer Master Plan prepared for Cass County by Wightman Associates, Inc., stated that:

“Cass County is fortunate to have a variety of natural features including lakes, streams, forests, and parks which have attracted and will continue to attract a significant residential development. This is best exemplified by the urbanized development surrounding most of the lakes within the county. Existing commercial and industrial development provides jobs for residents and others. With the anticipated growth in commercial and industrial jobs, additional residential development is needed.” and made the following finding:

“It has been concluded that the construction of public wastewater collection and treatment systems to serve the urbanized areas of Cass County is a necessity to protect the surface waters for future generations and to protect the ground waters for continued use as a potable water source.”

In addition, the Master Plan recommended that the Southeastern Cass County Area (including the Town of Union and Porter Township) be considered for construction of a wastewater system by 2004.

- d.) The determinations of the Porter Township Planning Commission through the Porter Township Master Land Use Plan, stated that the construction of a Public Sewer System would protect the area's "lakes, ground water, wetlands and streams," "minimize the impact of current and future development on water quality within the Township," "preserve the Township lakes as "important natural features within the Township" and "protect them from deterioration," is warranted by "existing population densities and natural resource conditions," and is prudent to protect the public health, safety and welfare.
- e.) The express determination of the State Legislature set forth in Section 12752 of the Michigan Public Health Code and which reads as follows:

"**Sec. 12752.** Public sanitary sewer systems are essential to the health, safety, and welfare of the people of the state. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of this state. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination."

Section 105. Findings Re: Useful Life of Public Sewer System. Based upon the written certification of Wightman Associates, Inc., the consulting engineer that designed the Public Sewer System, assets which comprise a significant portion of the Public Sewer System have a useful life of twenty (20) years or less. Accordingly, the Debt Service Charge and Connection Fees established in accordance with this ordinance are intended to pay a corresponding portion of the cost of debt service on the bonds issued by the County in accordance with the Contract.

ARTICLE II

DEFINITIONS

Section 201. Definitions Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as defined in the Sewer Use Ordinance as follows:

- 1) **Available Public Sanitary Sewer System:** A Public gravity flow sanitary sewer system (tapped or untapped) located in a right of way, easement, highway, street, or public way which crosses, adjoins, or abuts upon waterfront properties and, with respect to properties which are not waterfront properties, passes not more than 250 feet at the nearest point from a Structure in which Sanitary Sewage Originates.

- 2) **Building Drain:** That part of the lowest horizontal piping of a drainage system which receives the discharge of Sewage inside of the walls of the building and conveys said discharge to the Building Sewer.
- 3) **Building Sewer:** The extension from the Building Drain which conveys the discharge of Sewage to the Service Connection or other place of disposal.
- 4) **Connection Fees:** The charge imposed by the Township to grant permission to connect a Building Sewer, either directly or indirectly, to the Public Sewer System. This fee represents a portion of the cost attributable to each Premises for making the System available to service said premises and may consist of two fees as defined below:
 - a.) A base assessment fee charged to all premises;
 - b.) A Lake Assessment fee charged to all premises that have lake frontage or access.
(See direct connection and indirect connection).
- 5) **Contract:** The Cass County Sanitary Sewage Disposal System (Porter Township Section) Contract dated January 14, 2004, by and between the County and the Township.
- 6) **County:** The County of Cass, Michigan, acting by and through its Board of Public Works pursuant to Act 185 of the Public Acts of Michigan of 1957, as amended.
- 7) **Cost of Operation and Maintenance:** All costs, direct and indirect, inclusive of all expenditures attributable to administration, Cost of Replacement, treatment and collection of Sewage, necessary to insure adequate collection, transportation and treatment of Sewage on a continuing basis in conformance with the Discharge Permit, and other applicable local, state and federal regulations.
- 8) **Cost of Replacement:** Expenditures and costs for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the System to maintain the capacity and performance for which the System was designed and constructed.
- 9) **Debt Service Charge:** The amount charged to Users of the Public Sewer System to pay principal, interest and administrative costs of retiring a portion of the debt incurred for construction of the Public Sewer System.
- 10) **Direct Connection:** The connection of the Building Sewer directly to the Public Sewer System.
- 11) **Dwelling Unit:** For purposes of assigning units, a “dwelling” unit shall contain, at a minimum; sleeping facilities, a toilet, bath or shower and a kitchen.
- 12) **Health Department:** Cass County Health Department.
- 13) **Indirect Connection: Section 201. Definitions.** The connection of a Building Sewer to a sewage collection system which is installed to applicable Township specification and approval and paid for by special assessment or private funds, which sewage collection

system serves multiple Users and is, after construction, turned over to the Township and becomes part of the Public Sewer System (e.g. if a developer constructs a sanitary sewer in a plat and connects the collection sewers to the Public Sewer System, the connection of each lot in the plat may be an Indirect Connection.) Amended 4/13/08 at 7:00 pm.

- 14) **Inspection Fee:** The amount charged, to each applicant by the Township at the time an application is made to the Township for connection, disconnection or reconnection to the Public Sewer System, to cover the routine cost of inspecting and approving the physical connection of a Building Sewer and Service Connection to the Public Sewer System, and the issuance of a connection permit.
- 15) **May:** May means the act referred to is both permissible and approved.
- 16) **MDEQ:** Michigan Department of Environmental Quality.
- 17) **Miscellaneous Customer Fee:** The amount charged to Users for miscellaneous services and related administrative costs associated with the System.
- 18) **Natural Outlet:** Any outlet into a Watercourse, pond, ditch, lake or other body of surface or ground water.
- 19) **Nuisance:** Without limitation, any condition where Sewage or the effluent from any Sewage Disposal Facility is exposed to the surface of the ground; or is permitted to drain on or to the surface of the ground or into any Natural Outlet.
- 20) **Public Sewer System or System:** The sanitary sewer collection and interceptor system, known generally as the Cass County Sanitary Sewage Disposal System (Porter Township Section), including all publicly-owned Service Connections, mains, lift stations, odor control facilities, and all appurtenances thereto.
- 21) **Receiving Fund:** The fund established pursuant to Article VIII to receive collections of Sewer Rates and Charges.
- 22) **Septic Tank:** A watertight tank or receptacle used to receive Normal Domestic Sewage and intended to provide for the separation of substantial portions of the Suspended Solids in such Sewage and the partial decomposition by bacterial action on solids so separated.
- 23) **Service Connection:** The portion of the Public Sewer System which extends either to or onto parcel of land adjacent to the path of the Public Sewer System, and includes the tee/wye, the Sewer Lateral, and appurtenances. The Service Connection does not include the Building Sewer.
- 24) **Service District:** The lands located in or adjacent to the Township and served by the Public Sewer System.

- 25) **Sewer Lateral:** That portion of the Service Connection which connects to the sewer main located in the public right-of-way and extends there from to the property line.
- 26) **Sewage Disposal Facilities:** Any Septic Tank, Subsurface Disposal System or other devices used in the disposal of Sewage and which are not part of the Public Sewer System.
- 27) **Sewer Rates and Charges:** The Connection Fee, Inspection Fee, User Charge, User Surcharge, Debt Service Charge, Miscellaneous Customer Fee, Pretreatment Rates and Charges, and the civil penalty imposed pursuant to Section 306.
- 28) **Sewer Use Ordinance:** Township Ordinance No. 2-2-04 as amended, a/k/a the Sewer Use Ordinance.
- 29) **Shall:** Shall means that the act referred to is mandatory.
- 30) **Special Assessment District:** All Special Assessment Districts determined at any time by the Township Board within the Service District for the provision of sanitary sewer service by the Public Sewer System.
- 31) **Special Assessment Roll:** All Special Assessment Rolls confirmed at any time for a Special Assessment District by the Township Board.
- 32) **Structure in which Sanitary Sewage Originates:** A building in which a toilet, kitchen, laundry, bathing, or other facilities which generate Sewage or Industrial Wastes are used or are available for use for household, commercial, industrial, or other purposes.
- 33) **Subsurface Disposal System:** An arrangement for distribution of septic tank effluent beneath the ground surface (also referred to as a “drain field system,” “title field” or a “soil absorption system”).
- 34) **Township:** The Township of Porter, located in Cass County, Michigan, and/or its duly authorized agent or representative.
- 35) **Township Inspector:** The person responsible for inspecting connections of Building Sewers and Service Connections to the Public Sewer System as designated by the Township.
- 36) **EPA:** The United States Environmental Protection Agency
- 37) **Unit or Units:** A standard basis of measuring the relative quantity of Sewage including the benefits derived from the disposal thereof, arising from the occupancy of a freestanding single-family residential dwelling (but such term shall not necessarily be related to actual use arising from any particular dwelling). A listing of the relative relationships between various Users of the System is hereby determined by the Township and is set forth in Appendix I to this Ordinance. The assignment of Unit(s) to a particular User shall be determined from time to time by the Township, based upon the use to the User’s property. Each User shall be assigned a minimum of one (1) Unit. A building containing multiple

Users shall be assigned a minimum of one (1) Unit for each User. The assignment of Unit(s) for any use not enumerated in Appendix I shall, in the sole discretion of the Township, be based upon the most similar use enumerated in Appendix I.

- 38) **User:** A person who introduces into or discharges into, including both the owner and occupant of real estate from which is introduced or discharged into the Public Sewer System, any substance whatever.
- 39) **User Charge:** A charge levied on Users of the System which represents that User's share of the Cost of Operation and Maintenance (including Cost of Replacement) of the System.
- 40) **User Class:** The classification of Users connected to sanitary sewers including but not limited to residential, industrial, commercial, institutional and governmental.

Residential User: Shall mean a User of the System whose premises or buildings are used primarily as a domicile for one or more persons including Dwelling Units such as detached, semi-detached and row houses, mobile homes, apartments or permanent multi-family dwellings (transient lodging is not included, it is considered a Commercial User).

Industrial User: Shall mean a User of the System which discharges Industrial Wastes as distinct from its employees' Normal Domestic Sewage.

Commercial User: Shall mean an establishment listed in the Office of the Management and Budget's "Standard Industrial Classification Manual" (the "SICM"), involved in a commercial enterprise, business or service which, based on a determination by the Township, discharges primarily segregated Normal Domestic Sewage and which is not a Residential User or an Industrial User.

Institutional User: Shall mean any establishment listed in the SICM involved in a social, charitable, religious or educational function which, based on the determination by the Township, discharges primarily segregated Normal Domestic Sewage.

- 41) **User Surcharge:** A charge imposed on a User of the System for discharges of Sewage that are in excess of Normal Strength Sewage.
- 42) **Wastewater Treatment Plant:** The publicly-owned physical plant and appurtenances designated to receive and treat the raw, untreated Sewage of the properties located in the Service District and served by the Public Sewer System, and owned by the Township.
- 43) **Watercourse:** A channel in which a flow of water occurs, either continuously or intermittently.

ARTICLE III

USER OF PUBLIC SEWER SYSTEM REQUIRED

Section 301. Discharge of Sewage No Person shall discharge to any Natural Outlet within the Service District any Sewage, Industrial Wastes, or other polluted waters except where suitable treatment has been provided in accordance with standards established by the Township, the MDEQ, U.S. EPA, and this Ordinance.

Section 302. Sewage Disposal Facilities. Except as provided in this Ordinance, no Person shall construct or maintain in the Service District any Sewage Disposal Facilities.

Section 303. Mandatory Connection of Properties in Special Assessment District. All owners of Structures in which Sanitary Sewage Originates, now situated or hereafter constructed within the Special Assessment District, are hereby required at their expense to install suitable plumbing fixtures and connect such facilities directly with the Available Public Sanitary Sewer System in accordance with the provisions of this Ordinance. The Township may require any such owners, pursuant to the authority conferred upon the Township by law or ordinance, to make such installations or connections which must have the approval (during and after construction) of the Township Inspector.

Section 304. Connection of Existing Improved Properties Outside Special Assessment District. Owners of all presently situated Structures in which Sanitary Sewage Originates, which are located outside the Special Assessment District and which are currently served by private Sewage Disposal Facilities, shall not be required to connect to the Available Public Sanitary Sewer System until such time as:

- (a) New private Sewage Disposal Facilities are required
- (b) The existing private Sewage Disposal Facilities fail (as determined by the Health Department), or
- (c) Connection of all improved properties within the area in which said premises are located is declared a necessity by the Township for the public health and welfare.

Upon the occurrence of any such event, connection shall be made to the Public Sewer System in accordance with Sections 303 and 305. In the alternative, an owner of property subject to this Section 304, may connect to the Public Sewer System at any time in compliance with the terms of this ordinance.

+Section 305. Connection Deadline. As a matter of public health, all connections to the Public Sewer System required hereunder, shall be completed no later than ninety (90) days after the last to occur of the date of official notice by the Township to make said connections or the modification of a structure so as to become a Structure in which Sanitary Sewage Originates. Newly constructed structures required to connect shall be connected prior to occupancy thereof. Persons who fail to complete a required connection to the Public Sewer System within such ninety (90) day period shall be liable for a civil penalty equal in amount to the User charges and Debt Service Charges that would have accrued and been payable had the connection been made as required.

Section 306. Enforcement in the Event of a Failure to Connect. In the event a required connection to the Public Sewer System is not made within the time provided by Section 305, 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 the approximate location of the Available Public Sanitary Sewer System and shall advise the owner of the affected property of the requirement and enforcement provisions provided by the Township ordinance and state law. In the event the required connection is not made within 90 days after the date of mailing or posting of the written notice, the township may bring an action in the manner provided by law in a court of competent jurisdiction for a mandatory injunction or court order to compel the property owner to immediately connect the affected property to the Available Public Sewer System.

Section 307. Extensions of Public Sewer System to Service New Developments.

(a) The owners of premises not served by an Available Public Sanitary Sewer System may elect to extend the Public Sewer System and connect his premises thereto, subject to the conditions for sewer extensions set forth in Section 308.

(b) The owner (or developer) of lands proposed for development (whether by site condominium, subdivision, land division or otherwise) for which land use approval is received after the effective date of this Sewer Connection and Rate Ordinance, shall be required to extend the Public Sewer System and connect the premises so developed to the Public Sewer System subject to the conditions for sewer extensions set forth in Section 308 if the distance measured in feet from the nearest edge of the proposed development to the nearest point of the Public Sewer System when divided by the number of Units proposed for the development equals one hundred feet or less. This subsection 307(b) shall not apply to lands improved by one single family residence located adjacent to the then-existing terminus of the Public Sewer System.

Section 308. Conditions for Extension of Public Sewer System by Property Owner.

If connection to the Public Sewer System is required by this Ordinance, but there is no Available Public Sanitary Sewer System adjacent to the premises, or if a property owner elects to extend the Public Sewer, such extension shall be in accordance with the following requirements, unless modified by the terms of a written agreement between Township and the property owner pursuant to Section 309:

(a) The sewer main shall be extended to the premises in a public right-of-way or in an easement owned by the public to the premises in question. If the sewer is to be extended for the purpose of serving a new development, including but not limited to a site condominium, subdivision, or division of land which involves the installation of a new public or private road, the sewer main shall be extended throughout such new road so that the sewer abuts all units or lots within the developments, within an easement dedicated to the public if not located in a public street right of way.

(b) If a sewer main is extended to a premise, the main shall be installed across the entire frontage of the premises served, to the border of the adjacent premises. For developments for which a new public or private road is constructed, the sewer main shall be extended across

the entire frontage of the development on the existing adjacent public or private road, in addition to being extended within the new road to all lots or units within the development. All sewer main extensions shall be located within an easement dedicated to the public, if not located in a public street right of way.

(c) The sewer main shall be constructed in accordance with specifications approved by the Township.

(d) Upon completion of the sewer main, verification by the Township Inspector that it has been constructed, and proof that all contractors have been paid for the cost thereof (including lien waivers if requested), the sewer main shall be dedicated to the Township, without cost to the Township. Upon acceptance of dedication, the Township shall thereafter be responsible for maintenance of the sewer main. The Township shall be assigned, or be a third party beneficiary of, all construction contracts and materials and equipment warranties.

(e) The person responsible for installing the sewer shall also reimburse the Township for the cost of acquisition of right-of-way, if necessary, including attorney fees, appraisal fees, cost of land title research and all other expenses of any condemnation proceedings. The person responsible for installing the sewer shall pay an amount to the Township, in advance, at least equal to the estimated fees for such acquisition. Any excess not required to complete the improvements shall be refunded to the responsible party; any shortfall shall be paid before connection of any premises is permitted.

(f) The entire cost of installation of the sewer main, including but not limited to engineering, construction, permits and restoration shall be paid by the owner of owners of the premises to whom sewer is being extended.

(g) In addition to the extension of a sewer main as required, the owner of premises to be connected to the System shall reimburse the Township for the cost of making improvements to downstream facilities, which are necessary as a result of the additional connections proposed to be made by the owner of the premises or by a development which will be provided with public sewer, including but not limited to increasing the size of downstream mains to provide sufficient capacity, increase in the capacity of lift stations, and increase in treatment capacity of the Wastewater Treatment Plant. In such a situation, the responsible party and the Township shall enter into an agreement whereby the responsible party pays to the Township, in advance, an amount equal to at least the estimated cost of making such improvements. Any excess not required to complete the improvements shall be refunded to the responsible party; any shortfall shall be paid before connection of any premises is permitted.

(h) In its discretion, the Township Board may require the person requesting the extension or required to construct an extension to provide at the sole expense of said person an engineering report by a consulting engineer acceptable to the Township addressing the cost and feasibility of the proposed extension in the context of the foregoing conditions.

Section 309. Sewer Extension Agreements. The Township shall have the authority to negotiate agreements for sewer extensions with landowners, developers and other municipalities, which agreements may take into consideration issues of demand, benefit, capacity, necessity, timing and funding and may provide for construction advances, prepayment of rates and charges, pay back arrangements of up to 10 years and similar matters.

ARTICLE IV

PRIVATE SEWAGE DISPOSAL

Section 401. Private Sewage Disposal Facilities. If a Public Sewer System is not available to a parcel of land in accordance with the provisions of Article III, the Building Sewer shall be connected to private Sewage Disposal Facilities constructed in compliance with requirements of the Health Department and the MDEQ.

Section 402. Operation and Maintenance. The owner shall operate and maintain the private Sewage Disposal Facilities constructed in compliance with requirements of the Health Department and the MDEQ.

Section 403. Government Requirements. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Township, the Health Department, the MDEQ or any governmental agency with jurisdiction.

Section 404. Connection to Public Sewer System; Abandonment. At such time as the Public Sewer System becomes available to a parcel served by private Sewage Disposal Facilities in accordance with Article III, the Building Sewer shall be connected to the Public Sewer System in compliance with this Ordinance and the private Sewage Disposal Facilities shall be abandoned for sanitary use in the manner required by the Health Department.

ARTICLE V

BUILDING SEWERS AND CONNECTIONS

Section 501. Permit Requirement. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any portion of the Public Sewer System without first obtaining a written permit from the Township in accordance with Section 502.

Section 502. Permit Application. A property owner or his agent shall submit a permit application to the Township prior to making a connection to the Public Sewer System. This permit application shall be on a form furnished by the Township and shall be accompanied by payment in full of the applicable fees determined in accordance with Section 702, the Inspection Fee and any civil penalty which has accrued pursuant to Section 305 above, the plans and specifications of all plumbing construction within the premises (when requested), and all other information required by the Township. A permit for a Service Connection must be obtained prior to filing an application with the Township for a building permit. If the building permit expires prior to commencement of construction, then the permit for Service Connection shall also be deemed to have expired.

Section 503. Approval of Application. The approval of a Service Connection permit application shall be subject to:

(a) compliance with all terms of this Ordinance and the Sewer Use Ordinance, including, without limitation, Section 502, above, and the rules and regulations of the Health Department, the Township, and the MDEQ,

(b) the availability of capacity in the System, including Compatible Pollutant capacity, and

(c) compliance of the plans and specifications for connection with the following standards for construction:

(i) The design, installation and connection of the Building Sewer and Service Connection to the Public Sewer System shall conform to requirements of the building and plumbing code or other applicable rules and regulations of the Township (including, if applicable, recommendations of the Township engineer). Any deviation from the prescribed procedures and materials must be approved by the Township Inspector.

(ii) The size of the Building Sewer for gravity installation shall not be less than four (4) inches in diameter, and for on-site pump installation, shall not be less than two (2) inches in diameter, and is subject to inspection by the Township Inspector at the time of connection to the Service Connection. In the event such inspection reveals a deficiency or non-conformity in the Building Sewer, the connection of the Building Sewer to the Service Connection shall not be completed or approved until the owner has corrected the said deficiency or non-conformity to the satisfaction of the Township Inspector.

(iii) Whenever possible the Building Sewer shall be brought to the building at an elevation below the basement floor. No Building Sewer shall be laid parallel to and within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. Where this depth cannot be obtained, the Building Sewer shall be laid at a minimum grade of one-quarter (1/4) inch per foot, sloping towards the Service Connection.

(iv) In all buildings in which any Building Drain is too low to permit gravity flow to the Service Connection, the Sewage carried by the Building Drain shall be lifted by means acceptable to the Township and discharged to the Service Connection. However, operation and maintenance of all on-site lift pumps and ejectors shall be the responsibility of the property owner.

(v) Where the Public Sewer is more than twelve (12) feet deep measured from established street grade, a riser may be constructed on the Service Connection using methods and materials approved by the Township.

(vi) All joints and connections shall be gastight and watertight.

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

Section 504. Building Sewer Replacement.

(a) Building Sewers which do not meet the standards for construction provided by Section 503(c), including in particular Building Sewers which are not watertight and as a result either discharge Sewage to the ground or the groundwater or admit groundwater to the Building Sewers are hereby declared to be a Nuisance contrary to the preservation and protection of the public health, safety and welfare of the Township.

(b) In the event the Township determines that a Building Sewer constitutes a Nuisance in accordance with Section 504(a), the owner of record of the affected Premises shall replace the Building Sewer within ninety (90) days after written notice of said determination is given by the Township and in such event the owner of the Premises shall pay all costs and expenses related to the Building Sewer replacement.

Section 505. Excavations, Pipe Laying and Backfill. All excavations, pipe laying and backfill required for the installation of Building Sewers and Service Connections shall be done to conform to requirements and standards approved by the Township. No backfill shall be placed until the work has been inspected and approved by the Inspector.

Section 506. Connection of Building Sewer. The connection of the Building Sewer to the Public Sewer System shall be made at the Service Connection.

Section 507. Connection of Certain Drains is Prohibited. No Person shall make connection of roof downspouts, exterior footing or foundation drains, areaway drains, storm drains, or other points of entry of surface runoff or groundwater to a Building Sewer or Building Drain which in turn is connected directly or indirectly to the Public Sewer System.

Section 508. Public Safety Requirements: Restoration. All excavations for Building Sewer Installation and connection to the Public Sewer System 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 at the cost of the property owner in a manner satisfactory to the Township and all other governmental entities having jurisdiction.

Section 509. Cost of Installation of Building and Sewer Connection to Public Sewer: Indemnification. All costs and expenses incidental to the installation of the Building Sewer and the connection thereof to the Public Sewer System shall be borne by the owner of the property being connected. No such work shall be commenced before such owner obtains any necessary permission

to work in the public right-of-way from the Township. Said owner shall indemnify the Township from all loss or damage that may directly or indirectly be caused by the installation and connection of the Building Sewer to the Public Sewer System.

Section 510. Inspection. A Service Connection permittee shall notify the Township Inspector when the Building Sewer and Service Connection are ready for inspection. The excavation shall be left open until inspection is complete. If the Township Inspector determines that the Building Sewer and Service Connection have been constructed and installed in accordance with the requirements of the Ordinance, the Building Sewer shall then be connected with the Service Connection under the observation of the Township Inspector. The inspection shall include the installation of all required components of the Service Connection. The inspection required by this Section shall include the abandonment of the private Sewage Disposal Facilities in the manner required by the Health Department.

Section 511. Township's Responsibility for Repairs, Operation and Maintenance.

The cost of all repairs, operation, maintenance and replacement of the Public Sewer System, as well as each Service Connection, shall be borne by the Township as part of the Township's budgeted annual expense of the System, subject to the right of the Township to impose a Miscellaneous Customer Fee in accordance with Section 705, below.

Section 512. Property Owner's Responsibility for Repairs, Operation and Maintenance.

The cost of all repairs, operation, maintenance and replacements of Building Sewers (even if located in a public right-of-way), Building Drains, interior plumbing and the connection of Building Sewers to the Public Sewer System shall be borne by the property owner.

ARTICLE VI

USE OF THE PUBLIC SEWER SYSTEM

Section 601. Sewer Use Ordinance. Discharges to and use of the Public Sewer System shall be subject to the terms and conditions of the Sewer Use Ordinance.

ARTICLE VII

SEWER RATES AND CHARGES

Section 701. Public Utility Basis: Fiscal Year. The System shall be operated and maintained by the Township on a public utility basis pursuant to State of Michigan law under the supervision and control of the Township Board, subject to the terms of the Contract. The Township Board may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The System shall be operated on an April 1 to March 31, fiscal year. The Township shall annually, on or before February 1 of each year, submit for information a report to the County on the revenues and expenditures of the System, including a projected budget for the ensuing fiscal year and recommendations for the Sewer Rates and Charges for such ensuing year.

Section 702. Connection Fee. The owner of all premises required by Article III to connect to the System shall pay a Connection Fee and an Inspection Fee.

(a) Computation. The base assessment fee and lake frontage or lake access fee shall be computed in the following manner:

(i) For a Direct Connection to the Public Sewer System, the base assessment and lake frontage or lake access fees shall be a rate per Unit established by resolution of the Township Board from time to time.

(ii) For an Indirect Connection to the Public Sewer System, the base assessment and lake frontage or lake access fees shall be a rate per Unit established by resolution of the Township Board from time to time.

(b) Cost and Expense of Service Connection. In addition to the Connection Fees as computed in (a) above, the owner of the premises shall be liable for the costs and expenses of acquiring and installing the Service Connection pursuant to Township specifications on file at the Township.

(c) Special Assessments. Those parcels located in the Special Assessment District and subject to a full special assessment on the Special Assessment Roll shall be deemed to have paid the Connection Fee and the cost of acquiring and installing the Service Connection.

(d) Multiple Unit Users.

(i) A single family residence (including condominiums) with related outbuildings improved by kitchen, sleeping or bath facilities as detailed on the Schedule of Residential Equivalent Factors attached to this Ordinance As Appendix I shall be

charged a Connection Fee based upon the Unit(s) assigned to such uses on said schedule.

(ii) A System User which is not described in Section 702(d)(i) shall be charged a Connection Fee based upon the Unit(s) assigned to the User based upon the Schedule of Residential Equivalent Factors attached to this Ordinance as Appendix I.

(e) Cash Payment. The Connection Fee shall be paid in cash unless the parcel was included on the Special Assessment Roll for a full assessment in accordance with Appendix I prior to issuance by the Township of a Service Connection permit to connect to the Public Sewer System pursuant to Article V.

(f) Hardship Deferment. The owner or owners of a single family residence, in which residence said owner or owners reside and upon which a Connection Fee has been imposed, may submit a hardship application to the Township seeking a deferment in the partial or total payment of the Connection Fees provided for herein, and based upon a showing of financial hardship, subject to and in accordance with the following:

(i) The owners of the premises shall, under oath, complete a hardship application provided by the Township Board, and file said application, together with all other information and documentation reasonably required by the Township, with the Township Board not less than 60 days prior to the due date of the Connection Fees. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, excepting financial institutions having only security interests in the premises.

(ii) Hardship applications shall be reviewed by the Township Board, and after due deliberation of hardship applications, the Township Board shall determine, in each case, whether there has been an adequate showing of financial hardship, and shall forthwith notify the applicants of said determination.

(iii) An applicant aggrieved by the determination of the Township Board may request the opportunity to appear before the Township Board in person for the purpose of showing hardship and presenting any argument or additional evidence. A denial of hardship following such a personal appearance before the Township Board shall be final and conclusive.

(iv) In the event that the Township Board makes a finding of hardship, the Township Board shall fix the amount of partial or total deferment of the Connection Fees, and in so doing, shall require an annual filing of financial status by each applicant, providing that upon a material change of financial status of an applicant, said applicant shall immediately notify the Clerk of the Township so that a further review of the matter may be made by the Township Board, and provided further that the duration of the deferment granted shall be self-terminating upon the occurrence of any one of the following events:

- A. A change in the financial status of any applicant which removes the basis for financial hardship;
- B. A conveyance of any interest in the premises by any of the applicants, including the execution of a new security interest in the premises or extension thereof;
- C. A death of any of the applicants.

(v) Upon a determination of the Township Board deferring all or part of the Connection Fees, the owners of the premises shall, within one month after such determination, execute and deliver to the Township as the securing party a recordable security instrument covering the premises, guaranteeing payment of the deferred amounts on or before the death of any of the applicants or, in any event, upon the sale or transfer of the premises. The security interest shall secure payment to the Township of an amount necessary to cover all fees and charges deferred and all costs of installation and connection to the Public Sewer System, if applicable. The consideration for the security interest shall be the grant of deferment pursuant to this Ordinance.

Section 703. User Charge; Debt Service Charge.

(a) Computation. A User Charge and Debt Service Charge shall be charged in arrears to each premise within the District connected to the Public Sewer System as follows:

(i) User Charge: a rate per month per Unit established by resolution of the Township Board from time to time.

(ii) Debt Service Charge: a rate per month per Unit established by resolution of the Township Board from time to time.

(b) Normal Domestic Sewage. The User Charges imposed pursuant to this Section are applicable only to Users who discharge Normal Domestic Sewage. A user who discharges toxic pollutants or sewage into the system that does not qualify as Normal Domestic Sewage shall also pay a User Surcharge determined pursuant to Section 704 below.

(c) Accrual Date. User Charges and Debt Service Charges shall begin to accrue as of the day of the connection of the Building Sewer to the Public Sewer System in accordance with Article V, above.

Section 704. User Surcharge. The User Surcharge payable pursuant to Section 703(b) above, shall be determined from time to time by resolution of the Township Board and shall be sufficient to provide for the distribution of the increased expense of Cost of Operation and Maintenance of the System. Factors such as Sewage strength, volume, and discharge flow rate characteristics, the increased expense of the Public Sewer System for the transportation and

treatment of non-qualifying Sewage and the requirements of the Sewer Use Ordinance shall be considered and included as a basis for determining the User Surcharge.

Section 705. Miscellaneous Customer Fee. The Township shall, from time to time, establish by resolution of the Township Board and impose on one or more Users a Miscellaneous Customer Fee, as necessary, for miscellaneous service, repairs and related administrative costs associated with the System and incurred, without limitation, as a result of the intentional or negligent acts of such User or Users, including for example, excessive inspection services not covered by the Inspection Fee, costs of repairing and/or replacing a damaged Service Connection, costs of abating a nuisance pursuant to Section 1005 hereof, and costs incurred by the Township to shut off and turn on sewer service.

Section 706. Inspection Fee. The Inspection Fee shall be determined from time to time by the resolution of the Township Board and shall be based, in part, upon the actual cost incurred by the Township for the Township Inspector.

Section 707. Bill of Sewer Rates and Charges. The Township shall bill and collect all Sewer Rates and Charges on a monthly basis. The Township shall mail each User a bill on or before the 1st day of the first month in the billing period. The bill shall separately itemize the Sewer Rates and Charges. Payment of the bill which is rendered by the Township is due and payable on or before the 15th day of the month. Payment of said bill shall be made at a location designated by the Township.

Section 708. Unpaid Sewer Rates and Charges; Time Price Differential. If Sewer Rates and Charges are not paid on or before the due date, then a penalty in the amount of 10% shall be added to the balance due and thereafter a time price differential of 1% per month or fraction of a month shall be charged on the outstanding balance, exclusive of penalty, until paid.

Section 709. Unpaid Sewer Rates and Charges; Remedies. If Sewer Rates and Charges are not paid on or before the due date, the Township, pursuant to Act 178 of the Public Acts of Michigan of 1939, as amended, may:

- (a) discontinue the services provided by the System by disconnecting the Building Sewer from the Service Connection, and the service so discontinued shall not be reinstated until all sums then due and owing, including time price differential, penalties, interest and all expenses incurred by the Township for shutting off and turning on the service, shall be paid to the Township;
- (b) institute an action in any court of competent jurisdiction for the collection of the amounts unpaid, including penalties, interest and reasonable attorney fees; or
- (c) enforce the lien created in Section 710 below.

These remedies shall be cumulative and shall be in addition to any other remedy provided in this ordinance or now or hereafter existing at law or equity.

Under no circumstances shall action be taken by the Township to collect unpaid Sewer Rates and Charges, time price differential, penalties and interest, invalidate or waive the lien created by Section 710 below. Before disconnecting service, the Township shall give thirty (30) days written notice to the User at the last known address according to the Township records and the Township Tax Assessment Roll. The notice shall inform the User that the User may request an informal hearing to present reasons why service should not be disconnected.

Section 710. Lien. The Sewer Rates and Charges shall be a lien on the respective premises served by the System. Whenever Sewer Rates and Charges shall be unpaid for ninety (90) days or more, they shall be considered delinquent. The Township shall certify all delinquent Sewer Rates and Charges and time price differential thereon, annually, or on or before November 1, of each year, to the tax-assessing officer of the Township, who shall enter the delinquent Sewer Rates and Charges, time price differential, interest and penalties upon the next tax roll as a charge against the premises affected and such charge shall be collected and the lien thereof enforced in the same manner as ad valorem property taxes levied against such premises. Amended 2/1/04.

Section 711. No Free Service. No free service shall be furnished by the System to any Person, public or private, or to any public agency.

Section 712. Rental Properties. A lien shall not attach for Sewer Rates and Charges to a Premises which is subject to a legally-executed lease that expressly provides that the tenant (and not the landlord) of the Premises or a dwelling unit thereon shall be liable for payment of Sewer Rates and Charges, effective for services which accrue after the date an affidavit is filed by the landlord with the Township. This affidavit shall include the names and addresses of the parties, the expiration date of the lease and an agreement by the landlord to give the Township thirty (30) days written notice of any cancellation, change in or termination of the lease. The filing of the affidavit by the landlord shall be accompanied by a true copy of the lease and a security deposit in the amount equal to the Debt Service Charge and the User Charge for the preceding four (4) quarterly billing periods. Upon the failure of the tenant to pay the Sewer Rates and Charges when due, the security deposit shall be applied by the Township against the unpaid balance, including time price differential, interest and penalties. The tenant shall immediately make sufficient payment to the Township to reinstate with the Township the amount of the security deposit so advanced. Upon the failure of the tenant to do so within ten (10) days of said advance, the penalties, rights and remedies set forth in Sections 709 and 710 of this Article shall be applicable with respect to the unpaid Sewer Rates and Charges, including time price differential, interest and penalties. The security deposit shall be held by the Township without interest and shall be returned to the landlord upon proof of termination of the lease.

Section 713. Cancellation of Permits; Disconnection of Service. Applications for connection permits may be canceled and/or sewer service disconnected by the Township for any violation of any part of this Ordinance, including, without limitation, any of the following reasons:

- (a) Misrepresentation in the permit application as to the nature or extent of the property to be serviced by the System.
- (b) Nonpayment of Sewer Rates and Charges.
- (c) Failure to keep Building Sewers in a suitable state of repair.
- (d) Discharges in violation of this Ordinance or the Sewer Use Ordinance.
- (e) Damages to any part of the Public Sewer System or the Publicly Owned Treatment Works.

Section 714. Security Deposit. If the sewer service supplied to a User has been discontinued for nonpayment of Sewer Rates and Charges, service shall not be reestablished until all delinquent Sewer Rates and Charges, time price differential, interest and penalties, and the turn on charge have been paid. The Township may, as a condition to reconnecting said service, require that a sum equal to the Debt Service Charge and the User Charge for the preceding four (4) quarterly billing periods be placed on deposit with the Township for the purpose of establishing or maintaining any User's credit. Said deposit shall not be considered in lieu of any future billing for Sewer Rates and Charges. Upon the failure of the User to pay the Sewer Rates and Charges when due, the security deposit shall be applied by the Township against the unpaid balance, including time price differential, interest and penalties. The User shall immediately make sufficient payment to the Township to reinstate with the Township the amount of the security deposit so advanced. Upon failure of the User to do so within ten (10) days of said advance, the penalties, rights and remedies set forth in Sections 709 and 710 of this Article shall be applicable with respect to any unpaid Sewer Rates and Charges, including time price differential, interest and penalties. The security deposit shall be held by the Township without interest and shall be returned to the User upon continued timely payments by the User of all Sewer Rates and Charges as and when due, for a minimum of twelve (12) months.

Section 715. Billing Address. Bills and notices relating to the Public Sewer System will be mailed to the User at the address listed on the permit application filed pursuant to Article V unless a change of address has been filed in writing at the business office of the Township. The Township shall not otherwise be responsible for delivery of any bill or notice and the User shall not be excused from non-payment of a bill or from any performance required in said notice.

Section 716. Interruption of Service; Claims. The Township shall make all reasonable efforts to eliminate interruption of service, and when such interruption occurs, will endeavor to reestablish service with the shortest possible delay. Whenever service is interrupted for purpose of working on the System, all Users affected by such interruption will be notified in advance whenever it is possible to do so. The Township shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

ARTICLE VIII

REVENUES

Section 801. Estimated Rates; Sufficiency. The rates to be fixed hereunder shall be sufficient to provide for the cost of Operation and Maintenance of the System and the Publicly Owned Treatment Works, as are necessary to preserve the same in good repair and working order. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on this audit, rates for sewage services shall be reviewed annually and revised as necessary to meet system expenses and to insure that all User Classes pay their proportionate share of the cost of Operation and Maintenance.

Section 802. Revenues; Depository. The revenues of the System shall be set aside, as collected, and deposited in a separate depository account in a bank duly qualified to do business in Michigan, in an account to be designated PORTER TOWNSHIP SEWER SYSTEM RECEIVING FUND (the “Receiving Fund”) and said revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at the time hereafter specified.

(a) Operation and Maintenance Fund. Out of the revenues in the Receiving Fund, there shall be first set aside quarterly into a separate depository account, designated “Operation and Maintenance Fund,” a sum sufficient to provide for the payment of the next quarter’s current expenses of administration and operation of the System and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

(b) Contract Payment Fund. There shall next be established and maintained a depository account, to be designated “Contract Payment Fund,” which shall be used solely for the payment of the Township’s obligations to the County pursuant to the Contract. All collections of special assessments and Debt Service Charges shall be deposited into the Contract Payment Fund. The Township shall also deposit in the Contract Payment Fund collections of Connection Fees to the extent necessary to provide funds, which, together with Collections of special assessments and Debt Service Charges then on deposit, will be sufficient to pay when billed by the County the principle, interest and bond service charges on the bonds issued by the County for the Public Sewer System. Should the revenues of the System prove insufficient for this purpose, such revenues may be supplemented by any other funds of the Township legally available for such purpose. Any surplus remaining in the Contract Payment Fund after payment in full of the principle and interest on bond service charges on the County bonds, or provisions therefore, shall be used as determined by the Township for any lawful purpose relating to the Public Sewer System.

(c) Renewal, Replacement and Improvement Fund. There shall next be established and maintained a separate depository account, designated “Renewal, Replacement and Improvement Fund,” which shall be used solely for the purpose of making repairs, replacements, improvements, enlargements or extensions or the System or for any other lawful purpose relating to the System, as determined by the Township. A sub-account shall be established and maintained as part of this fund for equipment replacement. There shall be set aside into said fund, after provision has been made for the Operation and

Maintenance Fund and the Contract Payment Fund, such revenues as the Township Board shall deem necessary for this purpose.

(d) Surplus Moneys. Moneys remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing funds, may, at the option of the Township Board, be transferred to the Improvement Fund or used in connection with any other project of the Township reasonably related to purposes of the System.

(e) Bank Accounts. All moneys belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the moneys shall be allocated on the books and records for the Township within this single bank account, in the manner above set forth.

(f) Sub-account for Payback Agreements. Notwithstanding the foregoing, revenues from Connection Fees (or portions thereof) payable in part or in whole as payback payments pursuant to a payback agreement approved by the Township Board pursuant to which a landowner, developer or other municipality has advanced all or a portion of the cost of construction of an extension of the Public Sewer System shall be set aside in a separately designated sub account of the Receiving Fund and held therein until due in accordance with the terms of the payback agreement.

Section 803. Transfer of Funds. In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, any moneys and/or securities in other funds of the Debt Service Charges System, except sums in the Contract Payment Fund derived from special assessment collections, Debt Service Charges or as valorem tax levies, shall be transferred to the Operation and Maintenance Fund, to the extent of any deficit therein and there monies shall be replaced in the next operating year. User Charges shall then be adjusted to the extent that such transfers are not required.

ARTICLE IX

SEWER BOARD; ADMINISTRATIVE APPEALS; BOARD OF APPEALS

Section 901. Sewer Board. A Sewer Board is hereby established. The Sewer Board shall have five at-large members. One member of the Township Board shall attend all meetings in an advisory capacity. The terms of office for members of the Sewer Board appointed by the Township Board shall be for staggered three year terms on the basis of the Township's fiscal year. Any three members of the Sewer Board shall constitute a quorum. The Sewer Board shall elect a chairperson. The Sewer Board shall meet periodically as needed but not less often than quarterly. The meetings of the Sewer Board shall be held in accordance with the Open Meetings Act. Minutes of the Sewer Board meetings shall be taken and maintained by the chairperson. The Sewer Board shall act in a non-binding advisory role to the Township with respect to matters pertaining to the Public Sewer System, the Sewer Use Ordinance and the Sewer Connection and Rate Ordinance. The Sewer Board shall hold informal hearings in the manner provided by

Section 902. All decisions of the Sewer Board, except for decisions made by the Sewer Board following an informal hearing in accordance with Section 902, shall be ratified by the Township Board at a regular or special meeting before implementation. The Sewer Board shall consult with engineers, attorneys and other consultants as needed. Composition of the members shall be established by the Township Board by Resolution which can be amended from time to time.

Section 902. Informal Hearing. In order that the provision of this Ordinance and the Sewer Use Ordinance may be reasonably applied and substantial justice done in instances where this Ordinance or the Sewer Use Ordinance is misapplied or unnecessary financial hardship would result from carrying out the strict letter of this Ordinance or the Sewer Use Ordinance, in informal hearing before the Sewer Board may be requested in writing by any Person or User deeming itself aggrieved by a citation, order, charge, fee, surcharge, penalty or action within thirty (30) days after the date thereof, stating the reasons therefore with supporting documents and data. The informal hearing shall be scheduled at the earliest practicable date, but not later than fifteen (15) days after receipt of the request, unless extended by mutual written agreement. The hearing shall be conducted on an informal basis at the Township Hall or at such place as designated by the Sewer Board. The Sewer Board may grant the appeal, reject the appeal or schedule a second informal hearing not more than 10 days after the initial hearing to allow time for study or to gather additional information. At the conclusion of the informal hearing, the Sewer Board shall vote on the appeal in the presence of the appellant. The Sewer Board shall issue a written statement of its decision within fifteen (15) business days after the informal hearing.

Section 903. Board of Appeals. The Township Board shall serve as a Board of Appeals. The duty of such Board shall be to consider appeals from the decision of the Sewer Board and to determine, in particular cases, whether this Ordinance or the Sewer Use Ordinance has been misapplied or any deviation from strict enforcement will violate the intent of this Ordinance or the Sewer Use Ordinance or jeopardize the public health or safety. In all appeals, the appellant shall have the burden of proof.

Section 904. Appeals from Informal Hearing. Appeals from the written decisions of the Sewer Board may be made to the Township Board, acting as a Board of Appeals, within thirty (30) days from the date of the written decision of the Sewer Board. Such appeal may be taken by any person aggrieved. The appellant shall file a Notice of Appeal with the Sewer Board and with the Board, specifying the ground thereof. Prior to a hearing, the Sewer Board shall transmit to the Board a summary report of all previous action taken, including any report prepared by a minority of the Sewer Board dissenting from the written decision. The Board may, at its discretion, call upon the Sewer Board to explain the action. In order to find for the appellant, a majority of the Board must concur. The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give due notice thereof to interested parties, and decide the same within a reasonable time. The final disposition of the appeal shall be in the form of a resolution. Within the limits of its jurisdiction, the same Board of Appeals may reserve or affirm, in whole or in part, or may make such order, requirements, decision or determination as, in its opinion, ought to be made in the case under consideration, and to that end have all the powers of the Sewer Board from whom said appeal is taken. The decision of said Board of Appeals shall be final.

The Board of Appeals shall meet at such times as the Board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public in accordance with applicable laws. The Board of Appeals shall adopt its own rules or procedure and keep a record of its proceedings, showing findings of fact, the action of the Board, and the vote of each member upon each question considered. The presence of three (3) members shall be necessary to constitute a quorum.

Section 905. Payment of Amounts Outstanding. All Sewer Rates and Charges outstanding during any appeal process shall be due and payable to the Township. Upon resolution of any appeal, the Township shall adjust such amounts accordingly; however, such adjustments shall be limited to the previous one year's billing unless otherwise directed by court order.

Section 906. Effect of Administrative Action. If any informal or formal hearing is not demanded within the periods specified herein, such administrative action shall be deemed final. In the event either or both such hearings are demanded, the action shall be suspended until a final determination has been made, except for an immediate cease and desist order issued pursuant to this Ordinance or the Sewer Use Ordinance.

Section 907. Appeal from Board of Appeals. Appeals from the determinations of the Board of Appeals may be made to the Circuit Court for the County of Cass within twenty (20) days as provided by law. Such appeals shall be governed procedurally by the Michigan Administrative Procedures Act of 1969, as amended.

ARTICLE X

ENFORCEMENT

Section 1001. Inspection by Township. The duly authorized representatives, employees or agents of the Township including, but not limited to, the Township Inspector, the Township's engineer, the Health Department, the Superintendent and representatives of the MDEQ and the EPA bearing proper identification shall be permitted to enter at any time during reasonable or usual business hours in and upon all properties in the Service District for the purposes of inspection, observation, measurement, sampling, testing and emergency repairs in accordance with the provisions of this Ordinance. Any person who applies for and receives sewer services from the Township or owns real property in the Service Area shall be deemed to have given consent for all such activities including entry upon that person's property.

Section 1002. Damage to System. No unauthorized Person shall maliciously, willfully, recklessly or negligently break, damage, destroy, uncover, deface, or tamper with, climb upon, or enter into any structure, appurtenance, or equipment of the Public Sewer System or the Publicly Owned Treatment Works or connect or disconnect any Building Sewer to the Public Sewer System or tamper with or modify any pump, valving appurtenance, flow control section, meter or sampling equipment so as to have the effect of rendering inaccurate any meter or other monitoring equipment.

Section 1003. Notice to Cease and Desist. Except for violations of Section 1002 hereof, any Person found to be violating any provision of this Ordinance 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.

Section 1004. Civil Infraction. Any violation of Section 1002, or any violation beyond the time limit provided or in Section 1003, shall be a municipal civil infraction, for which the fine shall not be less than \$100.00 nor more than \$500.00 for the first offense and not less than \$200.00 nor more than \$2,500.00 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, “subsequent offense” means a violation of this Ordinance committed by the same person within 12 months of a 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 that 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 or damage occasioned by reason of such violation. The Supervisor is hereby authorized to issue citations for municipal civil infractions for violation of the Ordinance.

Section 1005. Nuisance; Abatement. Any Nuisance or any violation of this Ordinance is deemed to be a nuisance per se. The Township in the furtherance of the public health may enforce the requirements of this Ordinance by injunction or other remedy and is hereby empowered to make all necessary repairs or take other corrective action necessitated by such nuisance or violation. The Person who violated the Ordinance or permitted such nuisance or violation to occur shall be responsible to the Township for the costs and expenses, including reasonable attorney’s fees, incurred by the Township in making such repairs or taking such action as a Miscellaneous Customer Fee.

Section 1006. Liability for Expenses. Any Person violating any of the provisions of this Ordinance shall become liable to the Township and their authorized representatives for any expense, including reasonable attorney’s fee, loss or damage incurred by the Township by reason of such violation as a Miscellaneous Customer Fee.

Section 1007. Remedies Are Cumulative. In addition to the remedies provided in this Ordinance, the Township shall have for violations of this Sewer Connection and Rate Ordinance, the remedies set forth in the Sewer Use Ordinance. The remedies provided by this Ordinance shall be deemed to be cumulative and not mutually exclusive with any other remedies available to the Township.

ARTICLE XI

MISCELLANEOUS

Section 1101. Repeal of Conflicts. All ordinances or parts of ordinances other than the Sewer Use Ordinance in conflict herewith and relating to the Public Sewer System are hereby repealed. In the event of a conflict between the terms of this Sewer Connection and Rate Ordinance and the Sewer Use Ordinance, the provisions of the Sewer Use Ordinance shall control.

Section 1102. Severability. The validity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Section 1103. State and Federal Law Requirements. If any provision of applicable state or federal law imposes greater restrictions than are set forth in this Ordinance then the provision of such state or federal law shall control.

Section 1104. Article and Section Headings. The Article and Section headings used in this Ordinance are for convenience of reference only and shall not be taken into account in construing the meaning of any portion of this Ordinance.

Section 1105. Reservation of Right to Amend. Subjected to the obligations of the Township set forth in the Contract the Township specifically reserves the right to amend this Ordinance 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 Sewer Rates and Charges herein provided.

ARTICLE XII

PUBLICATION AND EFFECTIVE DATE

Section 1201. Publication. A true copy or a summary of the amendments to this Ordinance shall be published in the Elkhart Truth, a newspaper of general circulation within the boundaries of the Township of Porter qualified under state law to publish legal notices within thirty (30) days after the adoption of the Ordinance by the Township. This Ordinance shall be recorded in the minutes of the Township Board of the meeting at which this Ordinance was adopted and, in addition, shall be recorded in the Ordinance Book of the Township.

Section 1202. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its publication as provided by law. Passed and adopted by the Township Board of the Township of Porter, County of Cass and State of Michigan on April 12, 2005 and approved by the supervisor, Robert Fields on April 12, 2005.

Attest

Marty Russell, Clerk
Township of Porter

Marty Russell, Clerk
Township of Porter

I hereby certify that the forgoing is a true and complete copy of an Ordinance adopted by the Township Board of the Township of Porter, County of Cass, State of Michigan, at regular meeting held on April 12, 2005, and that public notice of said meeting was given pursuant to the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and such recording has been authenticated by the signatures of the supervisor and the Township Clerk.

Marty Russell, Clerk

CERTIFICATION OF PUBLICATION

I, the undersigned, Township Clerk of the Township of Porter, County of Cass, Michigan, hereby certify pursuant to MCL 41.184 that the Amended Sewer Connection and Rate Ordinance (Township Ordinance No. 2-1-04) or a summary of the amendments thereof was published in the Elkhart Truth on April 28, 2005.

Dated: May 4, 2005

Marty Russell, Township Clerk

APPENDIX I
PORTER TOWNSHIP
WASTEWATER COLLECTION AND TREATMENT SYSTEM
SCHEDULE OF RESIDENTIAL EQUIVALENT FACTORS

<u>Occupation Use</u>	<u>Units</u>	<u>Unit Factor</u>
Apartments	0.50	Per dwelling unit
Auto Dealers - New and/or Used	1.00	Per unit
Auto Repair/Collision	1.00	Per unit
Auto Wash (coin operated do-it-yourself 10 gallons or less per car)	1.00	Per stall
Auto Wash (mechanical-over 10 per car) - Recycled	5.00	Per stall or production line including approach and drying area
Bar	2.00	Per unit
Barber Shop	1.00	Per shop
Beauty Shops	1.00	Per shop
Bed and Breakfast	0.25	Per room
Bowling Alleys (no bar)	1.00	Per premise plus bar and restaurant
Campground	0.15	Per site
Churches	1.00	Per unit
Cleaners (pick-up only)	1.00	Per shop
Cleaners (cleaning and pressing facilities)	1.00	Per shop
Clinics (medical or dental)	1.00	Per premise plus 0.5 per exam room
Community Building/Club	1.00	Per unit
Condominium	0.50	Per condominium

Convalescent or boarding homes	1.00	Per premise plus 0.25 per bedroom
Convents	1.00	Per premise plus 0.25 per bedroom
Country Clubs and Athletic Clubs	1.50	Per 1,000 square feet of clubhouse plus restaurant and bar
Dry Goods (clothing store)	1.00	Per unit
Factories (without employee showers) 1.00 unit/60,000 gallons/year	1.00	Per 9.2 employees plus process waste at
Fire Station	1.00	Per unit
Funeral Home	1.50	Per unit plus residence
Grocery Stores and Supermarket	2.00	Per unit
Hardware Store	1.00	Per unit
Hospitals	1.10	Per bed
Hotels/Motels	0.40	Per bedroom plus restaurant and bar
Laundry (self serve)	1.00	Per premise plus 0.25 per washer
Market (Fruit and Vegetable)	1.00	Per unit
Mini-Mart/Gas Station	2.00	Per unit
Mobile Homes (free standing)	1.00	Per unit
Mobile Home (parks) laundry and office to be computed separately	0.75	Per pad at indirect connection rate plus
Multi Use Building	0.50	Per tenant
Multiple Family Residence Duplex or Row Houses	1.00	Per dwelling unit
Professional Office	1.00	Per unit
Public Institutions	1.00	Per unit
Restaurants (meals only)	1.00	Per unit

Restaurants (meals and drinks)	3.00	Per unit
Retail Store (other than listed)	1.00	Per unit
Seasonal Cottages	0.25	Per unit in addition to main residence
Schools	0.50	Per classroom
Service Stations	1.00	Per unit
Single Family Residential apartment	1.00	Per residence plus 0.50 per additional
Snack Bars, Drive-ins, etc	1.00	Per unit
Theaters (drive-in)	1.00	Per site
Theaters	0.04	Per seat
Two Family Residential	1.00	Per unit
Post Office	1.00	Per unit
Veterinary Facility	1.50	Per facility
Veterinary Facility with Kennel	1.50	Per facility plus 0.5 per 5 kennels
Warehouse and Storage	1.00	Per unit

NOTE: Minimum charge for any connection is 1.00 unit.