

**TITLE II
UTILITIES AND SERVICES**

Chapter 20

GARBAGE COLLECTION

20.100 Definitions. In the interpretation of this Article the following definitions shall apply unless the context clearly indicates otherwise:

(1) The term “garbage” means animal or vegetable wastes which arise from the use, preparation or storage of food for human consumption, and all discarded material that has come in direct contact with the foregoing wastes in the process of handling, processing, storage, preparation, serving and consumption of food.

20.101 License Required. No one shall engage in the business of garbage collection within the City of Harbor Springs without obtaining a license therefor from the City Clerk.

20.102 Fee. The charge for a license shall be set from time to time by resolution of the City Council.

20.103 Requirements. No license shall be issued for the business of garbage collection unless the applicant owns, leases, or has control of and will use in the business, at least one truck which shall have a metal-lined body, be watertight, be so constructed that no leakage can escape from said vehicle, and have equipment for mechanical loading and compaction of garbage. The City Clerk shall determine that the applicant has complied with the requirements of this paragraph before issuing any license.

20.104 Equipment. The business of garbage collection shall be carried on only by means of such a truck with mechanical loading and compaction equipment.

Any such truck must be covered and enclosed in a manner so that no garbage will be ejected while the truck is in operation and so as to reduce the odors of such garbage.

20.105 Identification. The name, address and phone number of the person carrying on the business of garbage collection shall be painted in clearly readable letters, not less than three (3) inches high on each side of every vehicle used for this purpose.

20.106 Service Required. Any person licensed to carry on the business of garbage collection shall provide service to any residential, commercial and industrial establishments within the City of Harbor Springs desiring such service, without discrimination.

Chapter 21

CITY WATER SERVICE

21.100 Definitions. In the interpretation of this Chapter the following definitions shall apply unless the context clearly indicates otherwise:

- (1) The term “water main” shall mean that part of the water distribution system located within the easement lines of streets designed to supply more than one (1) water connection.
- (2) The term “water connection” shall mean that part of the water distribution system connecting the water main with the premises served.
- (3) The term “Department” shall mean the City Department of Water and Sewer.

21.101 Service Connections. Application for water connections shall be made to the Department on forms prescribed and furnished by it. Water connections and water meters shall be installed in accordance with rules and regulations of the Department and upon payment of the required connection fee and meter installation fee. All meters and water connections shall be the property of the City. Connection fees and meter installation charges shall not be less than the cost of materials, installation and overhead attributable to such installations.

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

21.103 Water Meters. All premises using water shall be metered, except as otherwise provided in this Code. No person, except a Department employee, shall break or injure the seal, or change the location of, alter, or interfere in any way with any water meter.

21.104 Access to Meters. The Department shall have the right to shut off the supply of water to any premises where the Department is not able to obtain access to the meter. Any qualified employee of the Department shall at all reasonable hours have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing or inspecting same and no person shall hinder, obstruct or interfere with such employee in the lawful discharge of his duties in relation to the maintenance and reading of such water meter.

21.105 Reimbursement for Damages. Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant, or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the City on presentation of a bill therefor; and in cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the City.

21.106 Meter Failure. If any meter shall fail to register properly, the Department shall estimate the consumption on the basis of former consumption and bill accordingly.

21.107 Inaccurate Meters. A consumer may require that the meter be tested. If the meter is found accurate, a reasonable charge for inspection will be assessed, based on actual cost to remove, ship and test the meter. This charge will be assessed against the consumer. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.

21.108 Accuracy Required. A meter shall be considered accurate if when tested it registers not to exceed two (2%) percent more or two (2%) percent less than the actual quantity of water passing through it. If a meter registers in excess of two (2%) percent more than the actual quantity of water passing through it, it shall be considered “fast” to that extent. If a meter registers in excess of two (2%) percent less than the actual quantity of water passing through it, it shall be considered “slow” to that extent.

21.109 Bill Adjustment. If a meter has been tested at the request of a consumer and shall have been determined to register “fast” the City shall credit the consumer with a sum equal to the percent “fast” multiplied by the amount of all bills incurred by said consumer, within the six (6) months prior to the test, and if a meter so tested is determined to register “slow”, the Department may collect from the consumer a sum equal to the percent “slow” multiplied by the amount of all the bills incurred by the consumer for the prior six (6) months. When the Department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due the City for water used by him as above provided, if the meter is found to be “slow.”

21.110 Hydrant Use. No person, except an employee of the City in the performance of his duties, shall open or use any fire hydrant except in case of emergency, without first securing a written permit from the Department and paying such charges as may be prescribed.

21.111 [Water Scarcity.] Whenever the City Manager determines that the demand for water from the City Distribution System is such that unless the usage is regulated, the public health, safety and general welfare is likely to be endangered, the City Manager shall prescribe, in a written notice signed by the City Manager, rules and regulations to regulate the water usage in the City during such emergency. Any person violating any such rule or regulation after service of such notice as provided in Section 1.109 of this Code, shall, upon conviction

thereof, be punished as prescribed in Chapter 1 of this Code.]⁵⁶

21.112 Additional Regulations. The City Manager may make and issue additional rules and regulations concerning the Water Distribution System, connection thereto, meter installations and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent herewith. Such rules and regulations shall be effective upon approval by the City Council. The rules and regulations now in effect shall continue until changed in accordance with this section.

21.113 Injury to Facilities. No person, except an employee of the City in the performance of his duties, shall willfully or carelessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the City Water Distribution System.

21.114 Cross Connections.

(1) The City of Harbor Springs adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Public Health, being R 325.431 to R 325.440 of the Michigan Administrative Code.

(2) It shall be the duty of the City to cause inspection to be made of all properties served by public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential hazards involved shall be as established by the City and as approved by the Michigan Department of Public Health.

(3) Representatives of the City shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the City thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such

information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

accordance with the provisions of this Chapter, when given official notice to do so.]¹³

(4) The Department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this Section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of non-compliance with the provisions of this Section.

(5) The potable water supply made available on the properties served by the public water system supply shall be protected from possible contamination as specified by this Section and by the State Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

**W A T E R U N S A F E
F O R D R I N K I N G**

(6) This Section does not supersede the State Plumbing Code or other provisions of this Code relating to plumbing.

(7) Any person or customer found guilty of violating any of the provisions of this Section, or any written order of the City Manager, in pursuance thereof, shall be deemed guilty of a violation of this Code, punishable as prescribed in Chapter 1 hereof.

21.115 [Connection to Water Distribution System.] The owner of a house, building or property used for human occupancy, employment, recreation or other purposes situated within the City or any area under the jurisdiction of the City, which is located within three hundred (300) feet of a line connected to the Water Distribution System, is hereby required at the owner's own expense to install a suitable water line and facilities, to connect such facilities directly with said water line in

Chapter 22

CITY SEWER SERVICE

ARTICLE 1 SEWER USE

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

(1) “Authority” shall mean the Harbor Springs Area Sewage Disposal Authority which, jointly with the City, has jurisdiction over the use and operation of the Treatment Works.

(2) “B.O.D.” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter.

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

(4) “Building Sewer” shall mean the extension from the building drain to the public sewer or other place of disposal.

(5) “City” shall mean the City of Harbor Springs as represented by the City Council.

(6) “City Manager” shall mean the City Manager of the City of Harbor Springs.

(7) “Classes of Users” shall mean the division of sanitary sewer customers into classes by similar process or discharge flow characteristics, as follows:

(a) “Residential User” shall mean an individual home or dwelling unit including mobile homes, apartments, condominiums or

multi-family dwellings that discharge only segregated domestic wastes or wastes from sanitary conveniences.

(b) “Commercial User” shall mean any retail or wholesale business engaged in selling merchandise or a service and that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(c) “Institutional User” shall mean any educational, religious or social organization such as a school, church, nursing home, hospital or other similar entity that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(d) “Government User” shall mean any Federal, State or local government office or government service facility that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(e) “Industrial User” shall mean any manufacturing establishment which produces a product from raw or purchased material. This category shall also refer to any user of the publicly owned Treatment Works identified in the Standard Industrial Classification Manual, 1972, under Divisions A, B, D, E or I, excluding those users already identified in one of the other user classes. A user may also be excluded from the “Industrial User” class if it is determined that such user will discharge only segregated domestic wastes or wastes from sanitary conveniences.

(8) “Compatible Pollutant” shall mean biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus any additional pollutants identified in the NPDES permit if the Treatment Works was designed to treat such pollutants, and in fact can remove such pollutants to a substantial degree. The term “substantial degree” generally means removals in the order of eighty (80%) percent or greater.

(9) “Combined Sewer” shall mean a sewer receiving both surface run-off and sewage.

(10) “Garbage” shall mean solid wastes from the domestic and commercial preparation,

cooking, and dispensing of food, and from the handling, storage and sale of produce.

(11) “Incompatible Pollutant” shall mean any pollutant that is not a compatible pollutant, as defined in subsection (8) above.

(12) “Industrial Cost Recovery” shall mean the recovery from each Industrial User, as defined, a portion of the U.S. Environmental Protection Agency grant which is allocable to the construction of facilities for the treatment of wastes from said industries.

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

(14) “Infiltration/Inflow” shall mean the total quantity of water from both infiltration and inflow.

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

(16) “Inspector” shall mean any person or persons authorized by the City or the Authority to inspect and approve the installation of building sewers and their connection to the public sewer system.

(17) “Major Contributing Industry” shall mean an Industrial User, as defined, that discharges (a) a flow of fifty thousand (50,000) gallons or more per average workday, (b) a flow exceeding five (5%) percent of the total treatment plant flow, (c) toxic pollutants in toxic amounts as defined in the NPDES permit, or (d) a flow with a significant impact on the treatment plant when considered alone or in combination with other Industrial Users.

(18) “Manager” shall mean the Manager of the Harbor Springs Area Sewage Disposal Authority, or his authorized deputy, agent or representative.

(19) “Natural Outlet” shall mean any outlet into a water-course, pond, ditch, lake or other body of surface or groundwater.

(20) “Normal Strength Sewage” shall mean a sanitary wastewater flow containing an average daily B.O.D. of not more than 200 mg/1 or an average daily suspended solids concentration of not more than 250 mg/1.

(21) “NPDES Permit” shall mean the permit issued pursuant to the National Pollution Discharge Elimination System for the discharge of wastewaters into the waters of the State.

(22) “Operation and Maintenance Costs” shall mean all costs, direct and indirect (other than debt service), necessary to insure adequate wastewater treatment on a continuing basis, conform with all related Federal, State and local requirements, and assure optimal long-term facility management (these O & M costs include depreciation and replacement costs).

(23) “Person” shall mean any individual, firm, company, association, society, corporation or group.

(24) “PH” shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

(25) “Pretreatment” shall mean the treatment of extra strength industrial wastewater flows in privately owned pretreatment facilities prior to discharge into the public sewer.

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

(27) “Public Sewer” shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by the City of Harbor Springs or the Authority.

(28) “Replacement” shall mean necessary expenditures made during the service life of the Treatment Works to replace equipment and plant appurtenances required to maintain the intended performance of the Treatment Works.

(29) “Sanitary Sewer” shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

(30) “Sewage” shall mean a combination of the liquid and water-carried wastes from residences, commercial buildings, institutions and industrial establishments (including polluted cooling water) together with such ground, surface and storm waters as may be present. The three most common types of sewage are:

(a) “Sanitary sewage” shall mean the combination of liquid and water carried wastes discharged from toilet and other sanitary plumbing facilities.

(b) “Industrial sewage” shall mean a combination of liquid and water carried wastes, discharged from any industrial establishment, and resulting from any trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).

(c) “Combined sewage” shall mean wastes including sanitary sewage, industrial sewage, stormwater, infiltration and inflow carried to the wastewater treatment facilities by a combined sewer.

(31) “Sewage Treatment Facility” shall mean any arrangement of devices and structures used for treating sewage.

(32) “Sewage Works” shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(33) “Sewer” shall mean a pipe or conduit for carrying sewage.

(34) “Shall” is mandatory; “May” is permissive.

(35) “Significant Industry” shall mean any industry which contributes greater than ten (10%) percent of the design flow or design loading of the Treatment Works.

(36) “Slug” shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operations.

(37) “Storm Drain” (sometimes termed “storm sewer”) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(38) “Superintendent” shall mean the Superintendent of Water and Sewage Works of the City of Harbor Springs, Emmet County, Michigan.

(39) “Suspended Solids” shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(40) “Treatment Works” shall mean all facilities for collecting, pumping, treating and disposing of sewage, as defined in subsection (32) above.

(41) “User O & M Charge” shall mean the charge levied on all users of the Treatment Works for the cost of operation and maintenance, including replacement and depreciation, of such Treatment Works.

(42) “User Debt Retirement Charge” shall mean the charge levied on all users of the

Treatment Works for the cost of any bond debt of which debt repayment is to be met from the revenues of such works.

(43) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

USE OF PUBLIC SEWERS REQUIRED

22.101 Disposition of Waste. It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the City of Harbor Springs, Emmet County, Michigan, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste which ordinarily would be regarded as sewage or industrial wastes.

22.102 Discharge of Untreated Sewage. It shall be unlawful to discharge to any natural outlet within the City of Harbor Springs or in any area under the jurisdiction of said City, any sanitary sewage, industrial sewage, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

22.103 Privies Prohibited. 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.

22.104 Toilets and Connections Required. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the City or any area under the jurisdiction of the City, and abutting any street, alley or right of way, in which, within one hundred (100) feet at the nearest point from the structure in which sewage originates, there is now located or may in the future be located a public sewer or combined sewer of the City, is hereby required at his own expense to install suitable toilet

facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter when given official notice to do so, provided that such connection shall not be required to be made less than one (1) year after the sewer, so located, is constructed and made available for connection thereto.

22.105 Industrial Sewage. Any industry or structure discharging process flow to the sanitary sewer, storm sewer or receiving stream shall file the material listed below with the Superintendent and Manager.

The City Council may require each person who applies for or receives sewer service, or through the nature of the enterprise creates a potential environmental problem, to file the material listed below and to do the following acts:

- (1) File a written statement setting forth the nature of the enterprise, the source and amount of water used, the amount of water to be discharged with its present or expected bacterial, physical, chemical, radioactive, or other pertinent characteristics of the wastes.
- (2) Provide a plan map of the building, works, or complex, with each outfall to the surface waters, sanitary sewer, storm sewer, natural water course or groundwaters noted, described, and the waste stream identified.
- (3) Sample test, and file reports with the Superintendent, Manager and the appropriate State agencies on appropriate characteristics of wastes on a schedule, at locations, and according to methods approved by the Superintendent and Manager.
- (4) Place waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities.

(5) Provide a report on raw materials entering the process or support system, intermediate materials, final product, and waste by-products as those factors may affect waste control.

(6) Maintain records and file reports on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents or other wastes.

(7) If any industrial process is to be altered as to include or negate a process waste or potential waste, written notification shall be given to the Superintendent and Manager and no such alteration shall be done without their approval.

PRIVATE SEWAGE DISPOSAL

22.106 Installation. Where a public sanitary or combined sewer is not available under the provisions of Section 22.104, the building sewer shall be connected to a private sewage disposal system complying with all requirements of the Michigan Department of Public Health.

22.107 Maintenance. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City or the Authority.

22.108 Connection to Public Sewer. At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Section 22.104, a direct connection shall be made to the public sewer in compliance with this Chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

22.109 State Requirements. No statement contained in this Chapter shall be construed to interfere with any additional requirements that may be imposed by the Michigan Department of Public Health.

BUILDING SEWERS AND CONNECTIONS

22.110 Connection Permits Required. No person shall uncover, make any connections with, or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the City unless that person has received a general authorization from the City. Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have filed with the City of Harbor Springs a Certificate of Insurance indicating that compensation and public liability coverage along with property damage coverage is in force and is in amounts and for a length of time as required by the City at the time of application.

22.111 Classes of Permits. There shall be two (2) classes of building sewer permits: (a) for residential, commercial, institutional, and governmental service, and (b) for service to establishments producing industrial waste. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent and City Manager. A permit and inspection fee in an amount as required by the City at the time the owner or his agent makes application, shall be paid to the City Clerk at the time the application is filed.

22.112 Costs to be Borne by Owner. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for said owner shall indemnify said City from any loss or damage that may directly or indirectly be occasioned by said installation.

22.113 Separate Sewer for Each Building, Exception. A separate and independent building sewer shall be provided for every

building; except where one building stands at the rear of another on an interior lot and no 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. Other exceptions will be allowed only by special permission granted by the City.

22.114 Old Sewers. Old building sewers or portions thereof may be used in connection with new buildings only when they are found on examination and test by the Inspector to meet all requirements of this Chapter.

22.115 Specifications. The building sewer shall be constructed of either of the following types of pipe meeting the current A.S.T.M. Specifications:

- (1) Plastic (ABS) ASTM D 1527 Schedule 40.
- (2) Plastic (PVC) ASTM D 1785 Schedule 40.
- (3) Vitrified Clay (VC) ASTM C-700 Extra Strength.
- (4) Asbestos-Cement (AC) ASTM C-428 C1-2400.
- (5) Cast Iron Extra Heavy ASTM A-74.

If installed in filled or unstable ground, the building sewer shall be of cast iron extra heavy pipe, except the other types of pipe may be used if laid on a suitable improved bed or cradle as approved by the Superintendent.

22.116 Joints. All joints and connections shall be gas tight and water tight and shall conform to the requirements of the current building and plumbing codes.

22.117 Size and Slope. The size and slope of the building sewers shall be subject to the approval of the Inspector, but in no event shall

the diameter be less than four (4) inches. Minimum grade shall be as follows:

- (1) 6" pipe - 1/8" per foot or 1" per 8 feet
- (2) 4" pipe - 1/4" per foot or 2" per 8 feet

22.118 Sewer Locations. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Inspector. Pipe laying and backfill shall be performed in accordance with current A.S.T.M. specifications except that no backfill shall be placed until the work has been inspected by the Inspector or his representative.

22.119 Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such drains shall be lifted by approved artificial means and discharged to the building sewer.

22.120 Connection to Public Sewer. The connection of the building sewer into the public sewer shall be made at the "Y" branch designated for that property, if such branch is available at a suitable location. Any connection not made at the designated "Y" branch in the main sewer shall be made only as directed by the Inspector and approved by the Superintendent.

22.121 Inspection. The applicant for the building sewer shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector or his representative.

22.122 Excavations. 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 City.

22.123 Limit on Connections. No connections will be allowed unless there is capacity available in downstream sewers, pump stations, interceptors, force mains and treatment facility, including capacity for B.O.D. and suspended solids in the sewage treatment facility.

USE OF THE PUBLIC SEWERS

22.124 Discharges Prohibited. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewers.

22.125 Storm Water and Similar Discharges. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the appropriate State agency. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the appropriate State agency, to a storm sewer or natural outlet.

22.126 Discharge Restrictions. Except as hereinafter provided by specific limits, no person shall discharge any of the following described waters or wastes to any public sewers:

- (1) B.O.D.5 in excess of 200 mg/1.
- (2) COD in excess of 450 mg/1.
- (3) Chlorine demand in excess of 15 mg/1.
- (4) Color, as from but not limited to dyes, inks, vegetable tanning solutions, shall be controlled to prevent light absorbency which would interfere with treatment plant processes or that prevent analytical determinations.

(5) Explosive liquid, solid, or gas, gasoline, benzene, naphtha, fuel oil or other flammable, shall not be admitted.

(6) Garbage not properly shredded (no particle size greater than 1/2 inch) shall not be allowed.

(7) Grease, oils, wax, fat, whether emulsified or not, in excess of 50 mg/1; or other substances which may solidify or become viscous at temperatures between 32 degrees F. and 150 degrees F. shall not be admitted to the sanitary sewer.

(8) Industrial wastes in concentrations above those listed below shall not be allowed to enter sanitary sewers.

Cd	Limitations set forth by
CN+6	appropriate State agencies
Cr	to comply with Federal
Cr Total	Guidelines for protection
Cu	of treatment plant and
Fe	receiving water course,
Ni	and limitations set forth in
Pb	the NPDES permit
Phenols	
Zn	

or any other metallic compounds in sufficient quantity to impair the operations of the sewage treatment processes.

(9) Inert suspended solids (such as but not limited to Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate) in unusual concentrations shall not be allowed.

(10) Insoluble, solid, or viscous substances such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, tar, feathers, plastics, wood, hair, fleshings, etc., shall not be admitted to sanitary sewers.

(11) Noxious or malodorous gas, such as but not limited to Hydrogen Sulfide, Sulphur Dioxide, or Oxides of Nitrogen, and other

substances capable of public nuisance shall not be allowed.

(12) pH less than 5.5 or greater than 9.5 shall not be allowed.

(13) Radioactive wastes or isotopes of such half-life or concentration which may exceed limits established by applicable State and Federal regulations, shall not be allowed.

(14) Suspended Solids in excess of 250 mg/l.

(15) Temperature of wastes less than 32 degrees F. or greater than 150 degrees F. shall not be allowed.

(16) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

22.127 Industrial Wastes. The City reserves the right to contract with any Industrial User to allow said industry to use available excess capacity for discharging wastewaters that exceed the limits of "Normal Strength Sewage." If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 22.126, and which in the judgment of the Superintendent or Manager may have a deleterious effect upon the Sewage Works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City of Harbor Springs may:

- (1) Reject the wastes.
- (2) Require pretreatment to the level defined as "Normal Strength Sewage."
- (3) Require pretreatment to an acceptable level for discharge to the public sewers.

(4) Require control over the quantities and rates of discharge.

(5) Require all industrial customers or industries with significant changes in strength or flow to submit prior information to the City and Authority concerning the proposed flows.

If the Superintendent and Manager permit the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and Manager and subject to the requirements of all applicable codes, ordinances and laws.

22.128 Grease Traps. Grease, oil and sand interceptors shall be provided when, in the judgment of the Superintendent and Manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City of Harbor Springs, and shall be located as to be readily and easily accessible for cleaning and inspection.

22.129 Maintenance of Preliminary Treatment Facilities. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation, by the owner at his expense.

22.130 Control Manholes for Industrial Wastes. When required by the City of Harbor Springs, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the

Superintendent and Manager. 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.

22.131 Standards of Measurements. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Chapter shall be determined in accordance with the most recent edition of the "Standard Methods for the Examination of Water and Sewage" and shall also conform with the Federal Register reprint of October 16, 1973 (40 CFR 136) which establishes guidelines for testing procedures for analysis of pollutants. All measurements, tests and analyses shall be determined at the control manhole and upon suitable samples taken at said manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected.

Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the Sewage Works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether grab sample or samples should be taken.

22.132 Cooling Water, Industrial. Industrial cooling water containing such pollutants as insoluble oils or grease or other suspended solids shall be pretreated for removal of the pollutants and then discharged to the storm sewer.

22.133 Inspection. Agents of the City, Authority, Michigan Department of Natural Resources or U.S., Environmental Protection Agency shall have the right to enter all properties for the purpose of inspecting, measuring, sampling and testing the wastewater discharge.

22.134 Protection from Damage. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Sewage Works. Any such action shall be considered and shall constitute disorderly conduct, subject to the penalties therefor as provided in the General Code of the City of Harbor Springs, and any person violating this provision shall be subject to immediate arrest.

22.135 Powers and Authority of Inspectors. The Superintendent, Manager, Inspector and other duly authorized employees of the City and 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 Chapter.

22.136 Penalties.

(1) Any person found to be violating any provision of this Chapter except Section 22.134 shall be served by the City 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 22.136(1) shall be guilty of a violation of this Code and upon conviction thereof shall be punished as prescribed in Chapter 1 hereof 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 City for any expense, loss, or damage occasioned the City or the Authority by reason of such violation.

22.137 Conditions of Service.

- (1) The customer shall install and maintain the building sewer at his expense.
- (2) The City or Authority 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.
- (3) The premises receiving sanitary sewer service shall at all reasonable hours be subject to inspection by duly authorized personnel of the City or Authority.
- (4) These rules may be changed or amended.

22.138 Nuisance Per Se. Every violation of the provisions of this Chapter and every failure to comply with any notice given under authority of this Chapter shall constitute a nuisance per se, and shall be enforceable as provided in Chapter 1 of this Code.

**ARTICLE 2
INDUSTRIAL COST RECOVERY SYSTEM**

22.200 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as defined in Article 1 of this Chapter.

22.201 User Classes. All customers of the Sewage Works will be included in a user class and each user class will pay for its proportionate use of the Sewage Works in terms of volume and pollutant loading. Sewer user charges are levied to defray the cost of operation, maintenance (including replacement and depreciation) and debt retirement of the Sewage Works. The classes of users of the Sewage Works for the purpose of determining the user charges, shall be as follows:

Class I - Residential - shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and are defined as "Residential Users" in the municipal sewer use ordinance.

Class II - Commercial - shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and are defined as "Commercial Users" in the municipal sewer use ordinance.

Class III - Institutional - shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and are defined as "Institutional Users" in the municipal sewer use ordinance.

Class IV - Governmental - shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and are defined as "Governmental Users" in the municipal sewer use ordinance.

Class V - Industrial - shall include those customers which discharge "industrial sewage" and are defined as "Industrial Users" in the municipal sewer use ordinance.

Sewer Works user charges shall be levied by user class to defray the cost of administration, operation and maintenance (including replacement and depreciation) and debt retirement. All customers of the Sewage Works shall be included in a user class as specified in the City Sewer Use Ordinance. Each user class shall pay its proportionate share, in terms of volume and pollutant loading, of the cost of operation of the Sewer Works.

The annual audit provided for in Section 22.210 shall determine that rates established and revenues collected from each user class are proportionate to their respective use of the Sewage Works.

22.202 Industrial Users.

(1) Each Industrial User, as defined above, shall pay its share of the operation, maintenance, replacement and depreciation costs for treatment of the industrial sewage, plus an amount that may be paid by Industrial Users for the recovery of the portion of Federal grants allocable to the treatment of industrial sewage.

(2) Each industrial sewer customer that discharges to the system process wastewater which does not exceed the limits of "normal strength sewage" shall be charged in accordance with the volume discharged.

(3) Each Industrial User that proposes to discharge to the system process wastewater which exceeds the limits of "normal strength sewage" will be required to either:

(a) Provide satisfactory pre-treatment to reduce the strength of the wastewater to "normal strength sewage", or

(b) Pay a surcharge expressed as an increase in the commodity charge rate determined by the relative concentration of B.O.D., suspended solids, or other pollutant as compared to "normal strength sewage."

22.203 Rate Adjustment. The total commodity charge rate adjusted to include the surcharge shall be determined by the following relationship, but in no case be less than the base Commodity Charge rate.

$$Ca = Cb (.4 \frac{B}{200 \text{ mg/l}} + .3 \frac{S}{250 \text{ mg/l}}) \times P$$

Ca = Adjusted commodity charge rate

Cb = Base commodity charge rate

B = Concentration of B.O.D. discharged by user (mg/l) - value not to be less than 200 mg/l

S = Concentration of suspended solids discharged by user (mg/l) - value not to be less than 250 mg/l

P = Concentration of any pollutant discharged by user (mg/l)

Pn = Concentration of any pollutant determined to be acceptable as "normal strength sewage"

X = Factor to be determined on an individual basis

22.204 Discharge Permit. Prior to discharging to the system process wastewater which exceeds the limits of "normal strength sewage", permits must be obtained from the City of Harbor Springs and the Harbor Springs Area Sewage Disposal Authority.

22.205 Industrial Cost Recovery System.

(1) Each Industrial User, as defined above and in Article 1 hereof, that discharges to the system will be subject to an industrial cost recovery charge equal to each Industrial User's allocable share of the Federal construction grant received after March 1, 1973, based on pollutant loading, volume and delivery flow rate.

(2) An Industrial User for the purpose of the "Industrial Cost Recovery System" shall be as defined in Article 1.

(3) A Non-Industrial User is any user of the Treatment Works that is not an Industrial User. Non-Industrial Users are not subject to the industrial cost recovery system.

(4) The Industrial cost recovery period is the time period that is provided to allow Industrial Users to pay their total industrial cost recovery charge. The period of time shall be equal to thirty (30) years or the useful life of the Treatment Works, whichever is less, as determined by the City.

(5) The Industrial cost recovery charge for each Industrial User shall be a portion of the Federal construction grant amount equal in proportion to the industrial share of the total capacity of the Treatment Works in terms of strength, volume and delivery flow rate.

Specifically, the industrial share of the total capacity shall be determined by one of the three (3) following relationships, whichever produces the largest value.

(a) Industrial Volume contribution per unit of time/Plant design volume per unit of time.

(b) Industrial B.O.D. contribution per unit of time/Plant B.O.D. design capacity per unit of time.

(c) Industrial Suspended Solids contribution per unit of time/Plant Suspended Solids design capacity per unit of time.

(6) Industrial cost recovery charges shall be calculated and paid annually in an amount equal to the total industrial cost recovery charge for any Industrial User divided by the number of years in the cost recovery period.

22.206 Industrial Cost Recovery Account.

Costs recovered from Industrial Users shall be deposited by the City in a separate account identified as the Industrial Cost Recovery Account. Funds shall be distributed from the industrial cost recovery account in accordance with U.S. Environmental Protection Agency rules and in the following manner:

(1) The City shall retain fifty (50%) percent of the total recovered amount. The remainder, together with any interest earned thereon, shall be returned to the U.S. Treasury on an annual basis.

(2) Eighty (80%) percent of the retained amount, together with interest earned thereon, shall be used solely for the eligible costs of expansion or reconstruction of the Treatment Works. The remainder of the retained amount may be used as the City sees fit.

(3) Pending use, the City shall invest the retained amounts for expansion and reconstruction in: (a) obligations of the U.S. Government or (b) obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof, or (c) shall deposit said amounts in accounts fully collateralized by

obligations of the U.S. Government or by obligations fully guaranteed as to principal and interest by the U.S. Government or any agency thereof.

22.207 ICR Charge Adjustments. The City of Harbor Springs shall have the right to adjust the industrial cost recovery charges to any Industrial User that makes a significant change in the volume, strength or delivery flow rate. Industrial Users will only be required to pay for those years of the cost recovery period that they use the system and only at an annual rate in proportion to the length of the entire recovery period.

22.208 Sewer Rates - Customer Notification.

Notwithstanding any ordinance to the contrary, sewer rates for customers shall be established by resolution of the City Council. The City Clerk shall publish in a newspaper of general circulation a schedule of sewer rates established by the City Council for each customer class. Further, each sewer customer of the City shall be notified at least once each year, in conjunction with the regular billing process, of the rates charged for Sewage Works services.

22.209 Appeal of Administrative Decisions.

Notwithstanding any ordinance to the contrary, any customer or user of the City Sewer Works may appeal any dispute related to Sewer use billings or administrative decision of the City to the City Manager. The City Manager may resolve any dispute between a Sewage Works user and the City. The decision of the City Manager shall be binding on the customer and the City.

22.210 Annual Audit.

The Water and Sewer Fund of the City of Harbor Springs shall be audited on an annual basis by an independent auditor hired by the City Council. The annual audit shall determine that the separate water service related functions and the separate sewer related functions are self-supporting.

Chapter 23
CITY UTILITY RATES

ARTICLE 1
WATER AND SEWER RATES AND FEES

23.100 [Definitions.] Unless the context indicates otherwise, the meanings of terms used in this Chapter shall be as follows:

(1) "Premises" shall mean each lot or parcel of land, building or premises having any connection to the Water Distribution System of the City, or the Sewage Disposal System of the City.

(2) "Person" shall mean any individual, firm, association, public or private corporation or public agency or instrumentality.

(3) A "Direct Connection Fee" shall mean the fee that is to be paid to the City to defer the City's costs for construction, repair and renovation of the Water Distribution System and Sewer Disposal System. The Direct Connection Fee shall be paid whenever a person connects directly to the Water Distribution System or the Sewer Disposal System.

(4) "Indirect Connection Fees" shall mean fees that are charged to a person (a "developer") for water or sewer service to a development or structure which will contain more than one water or sewage service units (i.e., more than one Water Meter Equivalent Unit and/or REU).

(a) An Indirect Water Connection Fee shall be charged to a developer for each metered unit exceeding one which is to be served by the Water Distribution System.

(b) An Indirect Sewer Connection Fee shall be charged to a developer for each additional REU exceeding one which is to be served by the Sewage Disposal System.

(c) If the service lines for the additional service units are located in a private street, or the developer owns and maintains the system, the Indirect Connection Fees shall be paid at the time the first connection is made to the City's Water Distribution System or Sewer

Disposal System. If the service lines for the additional service units are located in a public right-of-way and are owned and operated by the City, payment of the Indirect Connection Fees may be deferred until water or sewer service is to be established for the additional units within the developer's system.

(5) A "Tap Fee" shall be a fee to be paid to the City based on the estimated cost of the City for labor and materials to connect a customer to the Water or Sewer System.

(6) A "Water Meter Equivalent" shall be based on the standard one-inch water meter, the same being the normal residential-size meter within the City's Water Distribution System. The number of "Meter Equivalents" for billing purposes for water meter sizes exceeding one inch shall be based on the cross-sectional area of the larger meters in relationship to the one-inch meter. The Chart attached hereto as Exhibit "1" shall be used by the City to determine Water Meter Equivalents for customers for billing purposes, and shall be incorporated into this definition by reference.

(7) A "Residential Equivalent Unit ("REU")" shall mean an average single-family residential user's annual water consumption. For purposes of billing, each single-family home or residential user in the City is rated as one REU. The chart attached hereto as Exhibit "2" shall be used by the City to determine the REUs for non-residential customers for billing purposes, and shall be incorporated into this definition by reference.]¹⁴

23.101 [Fixing Rates and Fees.] The rates and fees to be charged for water service and sewer service furnished by the City shall be as prescribed by the City Council by resolution which may also prescribe billing procedures and penalties for late payment.]¹⁵

23.102 [Free Service Prohibited.] No free water or sewer service shall be furnished by the City to any person, or to any public or private agency. In addition, the City shall charge an

annual fire hydrant rental charge to each person benefitted by a fire hydrant in such amount as shall be determined by resolution of the City Council.

23.103 Billing for Water and Sewer Service.

Billing for Water and Sewer service shall begin and end at the following times:

(1) Billing for Water service shall commence at the time a water meter is set by the DPW and is operational and the curb stop valve is turned on by the DPW.

(2) Billing for Sewer service shall commence at the time:

(a) For a Sewer customer with metered Water service, billing for Sewer service shall commence at the time billing for Water Service commences;

(b) For a Sewer customer on a non-City water supply (e.g., a well water supply), billing for Sewer service shall commence at the time that the customer's connection to the City Sewer system has been inspected and approved by the DPW.

(c) For a Sewer customer with a metered Sewer discharge, billing for Sewer service shall commence at the time the customer's connection to the City Sewer system has been inspected and approved by the DPW.

(3) Billings for Water service shall continue until the structure being served by the Water service is razed or otherwise removed. At such time as a structure being served by Water service is razed or otherwise removed, billing for Water service shall end at the time that the water meter is removed and the water service is turned off at the curb stop by the DPW.

(4) Billings for Sewer service shall continue until the structure being served by Sewer service is razed or otherwise removed. At such time as a structure being served by Sewer service is razed or otherwise removed, billing for Sewer service shall end at the time:

(a) For a Sewer customer with metered Water service, billing for Sewer service

shall end at the time the Water service is turned off at the curb stop by the DPW;

(b) For a Sewer customer on a non-City water supply (e.g., a well water supply), billing for Sewer service shall end at the time the customer's connection to the City Sewer system has been disconnected and capped by the DPW.

(c) For a Sewer customer with a metered Sewer discharge, billing for Sewer service shall end at the time the customer's connection to the City Sewer system has been disconnected and capped by the DPW.

(5) Seasonal Water and Sewer customers are subject to the flat charges of the Water and Sewer systems each month of the year, regardless of the volume usage of such customers.]⁵⁷

23.104 Collection. The City Clerk is hereby authorized to enforce the payment of charges for water or sewer service to any premises by: (1) initiating a legal action for collection of such charges against the person or persons benefitting from such water and/or sewer services; and/or (2) discontinuing the water service and/or sewage system service to such premises. Service discontinuation shall be subject to the provisions of Section 23.300, et seq., of this Code. Instituting a legal action for collection of such charges and/or termination of service as aforesaid, shall not impair the lien hereinafter provided for such charges, or waive the right to enforce such lien, all such rights and remedies being cumulative remedies and not alternative remedies.

23.105 The Statutory Lien. Pursuant to Act 178, Public Acts of 1939 (MCL 123.161 et seq., MSA 5.2531(1) et seq.), the City shall have a lien, as security for the collection of water or sewage system rates, or any assessments, charges, or rentals due or to become due, respectively, for the use of sewage system services or for the use or consumption of water supplied to any house or other building or any premises, lot or lots, or parcel or parcels of land, upon the house or other building and upon the premises, lot or lots, or parcel or parcels of land

upon which the house or other building is situated or to which the sewage system service or water was supplied. This lien shall become effective immediately upon the distribution of the water or provision of the sewage system service to the premises or property supplied, but shall not be enforceable for more than 3 years after it becomes effective.

23.106 Evidence and Notice of the Lien. The official records of the Water and Sewer Department of the City shall constitute evidence of the amount of, and of the pendency of, said lien.

23.107 Priority of the Lien; Exception.

(1) The lien created based on the charges for water and sewage disposal service shall have priority over all other liens except taxes or special assessments, whether or not such other liens accrued or were recorded prior to the accrual of the water or sewage disposal service lien herein created.

(2) The only exception from the attachment of the statutory lien shall be as follows: When the owner of any premises has leased the premises to a tenant who has agreed, pursuant to a written lease agreement, to be responsible for payment of water and/or sewer charges provided to such premises, the owner may relieve the premises subject to the lease agreement from the statutory lien by filing an affidavit with the City Clerk in such form as is prescribed by the City Clerk, which: (1) states that such a lease has been executed; and (2) states the expiration date of the lease term. Relief from the lien shall be effective for charges accruing after the date the affidavit is filed with the City Clerk as aforesaid, until the expiration of the lease term, provided: if the owner of the premises shall fail to give at least 20 days advance notice to the City Clerk of: (1) any early cancellation or termination of the lease agreement; or (2) the tenant's abandonment of the premises during the lease term, the statutory lien shall attach to the premises for any unpaid water and/or sewer

charges, without exception, the provisions of this section 23.106(2) notwithstanding.

23.108 Assessment of Unpaid Charges. The City Clerk shall annually, on May 1, certify to the City Council all unpaid charges for water and sewage disposal services to any premises on which a lien for unpaid utility charges exist, and which have remained unpaid for a period of six (6) months. The City Council, at its first regular meeting in May of each year, after review and approval of the unpaid charges, shall direct the City Assessor to place the same on the next tax roll of the City, to be collected in the same manner as general City taxes.

23.109 Deposits. Deposits shall be required for payment of water and sewer charges as provided in Section 23.400, et seq., of this Code.²⁰

**ARTICLE 2
OTHER PUBLIC UTILITY RATES**

23.200 Definition. The term "other public utility service" as used in this Article shall mean any public utility service furnished by the City other than water or sewer service, including but not limited to electrical service provided through the City's electrical distribution system.

23.201 Free Service Prohibited. No free utility service shall be furnished by the City to any person, or to any public or private agency.

23.202 Collection. The City Clerk is hereby authorized to enforce the payment of charges for other public utility service to any premises by: (1) initiating a legal action for collection of the charges resulting from such service against the person or persons benefitting from such service; and/or (2) discontinuing the utility service to such premises. Service discontinuation shall be subject to the provisions of Section 23.300, et seq., of this Code. Instituting a legal action for collection of such charges and/or termination of service as aforesaid, shall not impair the lien hereinafter provided for such charges, or waive the right to enforce such lien, all such rights and

remedies being cumulative remedies and not alternative remedies.

23.203 Fixing Rates and Fees and Penalties.

The rates and fees to be charged for other utility services furnished by the City, including but not limited to Electric service, shall be as prescribed by the City Council by resolution which may also prescribe billing procedures and penalties for late payment.

23.204 Billing for Electric Service. Billing for Electric service shall begin and end at the following times:

(1) Billing for Electric service shall commence at the time an electric meter is set by the DPW and is operational.

(2) Billings for Electric service shall continue until the structure being served by Electric service is razed or otherwise removed. At such time as a structure being served by Electric service is razed or otherwise removed, billing for Electric service shall end at the time the electric meter is removed and the electric service is disconnected at the pole by the DPW.

(3) Seasonal Electric service customers are subject to the flat charges of the Electric systems each month of the year, regardless of the volume usage of such customers.]⁵⁸

23.205 The Statutory Lien. Pursuant to Act 94, Public Acts of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), the City shall have a lien, as security for the collection of charges for other public utility service, or any assessments, charges, or rentals due or to become due, respectively, for the use of other public utility services, or for the use or consumption of other public utility services supplied to any house or other building or any premises, lot or lots, or parcel or parcels of land, upon the house or other building and upon the premises, lot or lots, or parcel or parcels of land upon which the house or other building is situated or to which the other public utility service was supplied. This lien shall become effective immediately upon the

distribution of other public utility service to the premises or property supplied, but shall not be enforceable for more than 3 years after it becomes effective.

23.206 Evidence and Notice of the Lien. The official records of the utility department of the City shall constitute evidence of the amount of, and of the pendency of, said lien.

23.207 Priority of the Lien; Exception.

(1) The lien created based on the charges for other public utility rates shall have priority over all other liens except taxes or special assessments, and the lien for water or sewer charges as provided in Section 23.100, et seq., whether or not such other liens accrued or were recorded prior to the accrual of the other public utility services lien herein created.

(2) The only exception from the attachment of the statutory lien shall be as follows: When the owner of any premises has leased the premises to a tenant who has agreed, pursuant to a written lease agreement, to be responsible for payment of such other public utility charges, the owner may relieve the premises subject to the lease agreement from the statutory lien by filing an affidavit with the City Clerk in such form as is prescribed by the City Clerk and which: (1) states that such a lease has been executed; and (2) states the expiration date of the lease term. A copy of the lease must also be provided. Relief from the lien shall be effective for charges accruing after the date the affidavit and a copy of the lease is filed with the City Clerk as aforesaid, until the expiration of the lease term.

23.208 Assessment of Unpaid Charges. The City Clerk shall annually, on May 1, certify to the City Council all unpaid charges for other public utility services to any premises on which a lien for unpaid utility charges exist, and which have remained unpaid for a period of six (6) months. The City Council, at its first regular meeting in May of each year, after review and approval of the unpaid charges, shall direct the City Assessor to place the same on the next tax

roll of the City, to be collected in the same manner as general City taxes.

23.209 Deposits. Deposits shall be required for payment of other public utility charges as provided in Section 23.400, et seq., of this Code.]²¹

ARTICLE 3

TERMINATION OF UTILITY SERVICE

23.300 Notice of Termination. the provisions of this Section shall govern all terminations of utility service for nonpayment of utility charges and/or installments and surcharges. If by the payment date shown on the City's utility bill, the City has not received complete payment of the amounts shown on the bill, the City, in its discretion, may mail to, or personally serve upon the customer a notice of termination, to be mailed or served at least three (3) days after the payment date. The notice of termination shall contain the following:

The date;

The amount to be paid;

The proposed date of termination, which shall be at least fifteen (15) days from the date of notice of termination;

Notice that unless the City receives complete payment of the amount shown prior to the date of termination, utility services shall be terminated;

Notice that in lieu of paying the entire amount shown, a customer, within ten (10) days of the date of the notice, may notify the utility that he disputes the correctness of all or part of the amount shown.

23.301 Time for Termination. If, prior to the date of termination, the City has not received complete payment of the amount shown on the notice of termination, or the customer has not timely notified the City that he disputes the correctness of all or part of the amount shown on

the notice of termination, then the City may terminate utility service provided to the customer on the date of termination. The City shall terminate utility service for nonpayment of utility charges and/or installments and surcharges only during the hours of 9:00 a.m. to 3:00 p.m., Monday through Thursday. No terminations shall be permitted on a legal holiday or on the day before a legal holiday.

23.302 Timely Payment. If the City receives payment of the entire amount shown on the notice of termination prior to the date of termination, such payment shall be considered a timely and complete payment for purposes of this Section.

23.303 Disputed Bills. At any time within ten (10) days after the date of the notice of termination, a customer may dispute the correctness of all or part of the amount shown in accordance with the provisions of this Section. A customer shall not be entitled to dispute the correctness of all or part of the amount if all or part of the amount was the subject of a previous dispute. The procedure for customer disputes shall be as follows:

(1) Within ten (10) days after the date of notice of termination, the customer shall notify the City, in writing, that he disputes all or part of the amount shown on the utility bill or the notice of termination, stating as completely as possible the basis for the dispute.

(2) If the City determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amount shown, the utility shall mail to the customer a notice stating that the present dispute is untimely or invalid. The utility shall then proceed as if the customer had not notified the utility of the present dispute.

(3) If the City determines that the present dispute is timely, the City, within three (3) days after receipt of the customer's notice, shall arrange an informal meeting between the customer and the City Clerk, being the official

hereby designated by the City to resolve disputes between the City and its customers relating to utility charges.

(4) Based on the City's records, the customer's allegations, and all other relevant materials available to the City Clerk, the City Clerk shall resolve the dispute, attempting to do so in a manner satisfactory to both the City and the customer.

(5) Within two (2) days after completion of the meeting, the City Clerk shall mail to the customer a copy of his decision resolving the dispute. His decision shall be final and binding on the City and the customer.

23.304 Termination Postponed - Second Notice. Until the date of the City Clerk's decision, the utility shall not terminate the utility service of the customer and shall not issue a further notice of termination to him solely for nonpayment of the disputed amounts. If the City Clerk determines that the customer must pay some or all of the disputed amount, the utility shall promptly mail to, or personally serve upon the customer, a second notice of termination, which shall contain the following:

The date;

The amount to be paid;

The date of termination, which shall be at least fifteen (15) days after the date of the second notice of termination;

Notice that unless the utility receives complete payment of the amount shown prior to the date of termination, utility service shall be terminated.

If, prior to the date of termination, the City has not received complete payment of the amount shown on the second notice of termination, then the utility may terminate utility service provided to the customer on the date of termination.

23.305 Suit for Collecting Utility Charges.

The City may institute suit for the collection of rates which have been unpaid for a period of sixty (60) days after the due date thereof in any court of competent jurisdiction, but no attempt to collect such public utility rates, by any process, shall in any way invalidate or waive the lien provided for herein.

**ARTICLE 4
DEPOSITS**

23.400 [General Rule as to Deposits. Deposits for water, sewer, electric or other public utility service shall be required in three (3) cases:

(1) [If the City provides any utility service to a customer located outside of its City limits, unless the City has a contract or franchise agreement with the municipality where such service is provided that requires said municipality to place a delinquent utility billing lien on the customer's property taxes in said municipality.

(2) If an owner of property within the City limits files an affidavit as to the lease of the premises as provided in Section 23.106(2) and Section 23.205(2) of this Code; or,

(3) If any customer is delinquent in paying utility bills and as a result thereof, the City terminates utility service to such customer pursuant to Section 23.300, et seq., of this Code.]⁵⁹

23.401 [Amount of Deposit. The amount of the deposit shall be determined by resolution adopted from time to time by the City Council. In the event a late payment deposit is necessary due to the termination of utility services, the late payment deposit shall be the sum of the highest consecutive three months' utility billings over the prior two years, or three times the required deposit, whichever is greater.

23.402 Return of Deposit. A deposit under this Article shall be returned to the customer, or at the option of the City, applied to the

customer's final billing, upon termination of utility service to the customer. At the discretion of the City Administration, a late payment deposit may be returned to the customer if the customer timely makes all utility payments on or before the date a penalty applies, for a period of two consecutive years.]⁶⁰

23.403 General Rules as to Utility Deposits held by the City. All utility deposits shall be pooled and held in a non-interest bearing account, provided the City Clerk shall be required to maintain sufficient records to identify the customers in whose names such deposits are being maintained.

23.404 Savings Clause. No deposit shall be required for any existing residential or commercial utility customer located outside the City limits, who owns the property where utility service is being presently provided, and who is not delinquent in utility payments to the City, determined as of the effective date of the Ordinance adopting the revised deposit rules contained in this Article 4 of Chapter 23, Title II, of the Harbor Springs City Code. However, upon the transfer of ownership of any property outside the City limits to a new owner, a deposit shall be required and paid to the City by the new owner pursuant to the provisions of this Article, whether such person is or was a current customer of the City at the time such Ordinance was adopted.]²¹

Chapter 24
[TELECOMMUNICATIONS]

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

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

24.102 Terms Defined. The terms used in this Chapter shall have the following meanings:

(1) “Act” means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

(2) “City” means the City of Harbor Springs.

(3) “City Council” means the City Council of the City of Harbor Springs or its designee. This Section does not authorize delegation of any decision or function that is required by law to be made by the City Council.

(4) “City Manager” means the City Manager or his or her designee.

(5) “Permit” means a non-exclusive permit issued pursuant to the Act and this Chapter to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

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

(6) “Authority” means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

(7) “MPSC” means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term “Commission” in the Act.

(8) “Person” means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(9) “Public Right-of-Way” means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

(10) “Telecommunication Facilities” or “Facilities” means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

(11) “Telecommunications Provider”, “Provider” and “Telecommunications Services” mean those terms as defined in Section 102 of the Michigan telecommunications act, 1991 PA

179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this Chapter only, a provider also includes all of the following:

(a) A cable television operator that provides a telecommunications service.

(b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(c) A person providing broadband internet transport access service.

24.103 Permit Required.

(1) **Permit Required.** Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the City for its telecommunications facilities shall apply for and obtain a permit pursuant to this Chapter.

(2) **Application.** Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(3) **Confidential Information.** If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act,

1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(4) **Application Fee.** Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.

(5) **Additional Information.** The City Manager may request an applicant to submit such additional information which the City Manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(6) **Previously Issued Permits.** Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan telecommunications act but after 1985 shall satisfy the permit requirements of this Chapter.

(7) **Existing Providers.** Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the City as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit to the City an application for a permit in accordance with the requirements of this Chapter. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00

application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act.

24.104 Issuance of Permit.

(1) Approval or Denial. The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to Section 15(3) of the Act, the City Manager shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 24.103(2) of this Chapter for access to a public right-of-way within the City. Pursuant to Section 6(6) of the Act, the City Manager shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Manager shall not unreasonably deny an application for a permit.

(2) Form of Permit. If an application for permit is approved, the City Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(3) Conditions. Pursuant to Section 15(4) of the Act, the City Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(4) Bond Requirement. Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original

condition during and after the telecommunications provider's access and use.

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

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

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

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

24.109 Establishment and Payment of Maintenance Fee. In addition to the non-refundable application fee paid to the City set forth in subsection 24.103(4) above, a telecommunications provider with telecommunications facilities in the City's public rights-of-way shall pay an annual maintenance

fee to the Authority pursuant to Section 8 of the Act.

24.110 Modification of Existing Fees. In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee with a copy of this Chapter, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error.

24.111 Savings Clause. Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 24.110 above shall be void from the date the modification was made.

24.112 Use of Funds. Pursuant Section 10(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the City from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the City under Act No. 51 of the Public Acts of 1951.

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

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

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

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

(1) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in Section 24.103(3) of this Chapter;

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 24.103(6) of this Chapter;

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 24.103(7) of this Chapter;

(4) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with Section 24.104(1) of this Chapter;

(5) Notifying the MPSC when the City has granted or denied a permit, in accordance with Section 24.104(1) of this Chapter;

(6) Not unreasonably denying an application for a permit, in accordance with Section 24.104(1) of this Chapter;

(7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 24.104(2) of this Chapter;

(8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with Section 24.104(3) of this Chapter;

(9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 24.104(4) of this Chapter;

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 24.105 of this Chapter;

(11) Providing each telecommunications provider affected by the City's right-of-way fees

with a copy of this Chapter, in accordance with Section 24.110 of this Chapter;

(12) Submitting an annual report to the Authority, in accordance with Section 24.113 of this Chapter; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 24.114 of this Chapter.

24.117 Reservation of Police Powers.

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

24.118 Authorized City Officials. The City Manager or his or her designee is hereby designated as the authorized City official to prosecute violations under this Chapter as provided by the City Code.

24.119 Penalty for Violation. A violation of any provision of this Chapter shall be a violation of the City Code.]⁴⁰